

**ORGANIZATION OF MISO STATES, INC.
BOARD MEETING MINUTES
September 8, 2005**

Approved October 13, 2005

Kevin Wright, President of the Organization of MISO States, Inc. (OMS), called the September 8, 2005 Meeting of the OMS Board of Directors to order via conference call at approximately 2:00 p.m. (CDT) The following commissioners or their proxies participated in the meeting:

Kevin Wright, Illinois
David Hadley, Indiana
John Norris, Iowa
Laura Chappelle, Michigan
Ken Nickolai, Minnesota
Steve Gaw, Missouri
Greg Jergeson, Montana
Tim Texel, proxy for Louis Lamberty, Nebraska
Susan Wefald, North Dakota
Judy Jones, Ohio
Kim Joyce, proxy for Kim Pizzingrilli, Pennsylvania
David Sapper, proxy for Dan Ebert, Wisconsin

Manitoba absent
South Dakota absent
Kentucky absent

State Agency Members present:

Randy Rismiller, Illinois
Parveen Baig, Iowa
John Harvey, Iowa
Gary Stump, Iowa
Nancy Campbell, Minnesota
Bob Cupit, Minnesota
Lisa Pappas, Michigan
Candace Beery, Montana
Kevin Holtsberry, Ohio
Jack Dwyer, Iowa OCA
Bill Smith, OMS

Others present:

Warren Day, American Transmission

The directors and proxies listed above established the necessary quorum of eight board members present.

Approval of the Minutes of the June 30 and July 14, 2005 OMS Board Meetings

Ken Nickolai moved and Susan Wefald seconded the motion to adopt the minutes of the June 30, July 14 meetings as presented. By a unanimous voice vote of the directors present, the minutes of the June 30 and July 14, 2005 OMS Board meetings were approved.

Review of Actions of the Executive Committee on August 30

President Wright reviewed business items of the OMS Executive Committee at its August 30 meeting:

- OMS 2006 Budget Draft was introduced and suggested refinements discussed.
- OMS-MISO presentation to the annual stakeholders was finalized and is ready for voting approval at this meeting.
- An update from the OMS Nominating Committee was presented.
- Draft of an OMS Strategic Plan concept was emailed to the executive committee for discussion.

Treasurer's Report - Steve Gaw

This fiscal year OMS has received \$200,000.00 from MISO and is holding the remaining balance in the OMS account at Chase Bank One and in three Certificates of Deposit. Total disbursements for August 2005 were \$28,898.98. As of August 31, 2005, the OMS balance in the Chase Bank One account was \$51,941.85. The Certificates of Deposit are valued at \$100,000.00 each. The Certificates are issued by Wells Fargo Bank Iowa, West Bank and Bank of America. Total cash on hand as of August 31, 2005 was \$351,941.85.

Steve indicated the three-month short term certificate at Well Fargo Bank is scheduled to mature September 16. Ken Nickolai moved to adjust the Treasurer's report to indicate that at the time of maturity, OMS would keep 50% of the funds in a short term 90-day CD and roll the other 50% into the OMS Chase Bank One checking account. Greg Jergeson seconded the approval of this adjusted report. By a unanimous voice vote of the directors present, the treasurer's report was accepted as amended. (Treasurer's reports follow minutes.)

Business

1. Nominating Committee Report - Greg Jergeson

OMS Nominating Committee met by conference call August 15 and Greg Jergeson was elected chair. The committee reviewed matrix decisions from last year and its assumptions and then proceeded with an order of commissioners to begin calling for officers. A slate of nominees is to be ready soon.

2. MISO Advisory Committee Issues - David Sapper

There is no regular Advisory Committee meeting scheduled this month - therefore no voting items.

3. Comments on MISO's Strategic Plan - Dave Sapper

MISO has circulated its strategic plan for 2006-2008 to guide their operation that was presented by Jim Torgerson at the August MISO Advisory Committee meeting. MISO requested written comments on the plan from its stakeholders to be received by September 13. Upon review of the docket, the following were two of Dave's observations:

- There is no formal approach to estimate benefits from MISO's operation
- There is no mention of transmission expansion planning

Wisconsin prepared a draft letter to MISO's Erica Brown with comments on the strategic plan for the OMS board to consider. General consensus was reached by the directors to send the letter with amended changes to MISO. The letter is to accompany the OMS presentation. (letter follows minutes.)

4. OMS Presentation to MISO at Annual Stakeholders Meeting - Kevin Wright

President Wright thanked lead state Wisconsin and Commissioner Dan Ebert and David Sapper, the Missouri Commission and Randy Rismiller for their contributions to the OMS presentation document

to be discussed.

A draft of the OMS presentation to MISO was reviewed point by point by President Wright for comments and suggestions by board members. The Missouri commission offered a second version of comments that was discussed and changes incorporated into the original document drafted by Wisconsin. **Dave Sapper moved and Steve Gaw seconded the motion to accept the proposed draft as the OMS official presentation with the changes discussed. The directors unanimously approved the edited version as the OMS official presentation by a voice vote of the directors.** (OMS presentation to MISO follows minutes.)

5. OMS Position on RECB Issues - Randy Rismiller, OMS Pricing Work Group Co-Chair
President Wright asked Randy Rismiller to provide a status report on RECB issues with the intent of holding a special meeting prior to September 22 for the OMS to take action on any Pricing WG recommendations.

Randy Rismiller offered this report on his work group's status on RECB issues:

- MISO and the stakeholders on MISO's Regional Expansion Criteria and Benefits ("RECB") Task Force are still working to develop a final policy package for cost allocation of reliability-related transmission upgrade projects and transmission upgrade projects associated with new generator interconnections. The RECB Task Force's last regularly scheduled meeting to discuss and attempt to resolve these matters is on September 9, 2005. A special meeting of the MISO Advisory Committee has been scheduled for September 22 to provide advice on MISO's proposed FERC filing. MISO is currently proposing to make its FERC filing of this material on or before October 1, 2005. Note that MISO has decided to defer development of a new cost allocation policy for "economic" transmission upgrade projects until after the results of the initial RECB project phase are filed at FERC. MISO is targeting a filing date in late Spring of 2006 date for the second phase related to "economic" projects.
- The proposed transmission cost allocation policy will become part of new Attachment FF to MISO's Energy Markets Tariff and the associated cost recovery policy will become part of new Attachment GG. As of September 6, 2005, the most recent draft of Attachment FF was distributed to the RECB Task Force members on August 17 and is now outdated and superseded by subsequent discussions.
- On August 19, the RECB task force members met and voted on seven ballot issues in an attempt to get some traction and some direction. The outcome of the voting turned the RECB in a different direction from the course that it had previously been on before that vote. The current status of the larger policy questions seems to be as follows :

Reliability Related Projects

- There will be an "exclude list" of transmission projects that will not qualify for regional and sub-regional cost sharing. That list will include all non-generator-interconnection-related projects from the 2005 Midwest Transmission Expansion Plan ("MTEP") that are on the "planned" list in that report plus some projects that are on the "proposed" list in that report.
- There will be sub-regional and regional cost allocation components, but there will not be a separate cost allocation to the local zone.
- The regional cost allocation percentage will be shared on an unadjusted load ratio share basis, rather than using some measure of imports as an adjustment to the 12 Coincident Peak loads.
- The sub-regional cost allocation method will use the sum of the absolute value of the load outage distribution factor miles (LODF-miles) on a project basis.
- Only facilities of 345kV and higher will be eligible for regional cost sharing. Costs of transmission projects between 100kV and 345 kV that are reliability-related will be allocated using only the sub-regional cost allocation method.

- For reliability-related transmission projects, the percentage of costs that will be allocated on a regional basis will be 20%. The remaining 80% will be allocated using the sub-regional allocation method.
- Small projects that fall beneath some cost (e.g., \$5 M) or cost percentage (e.g., 2.5% of gross transmission plant) threshold will not be eligible for regional or sub-regional cost allocation and the costs will stay with the local zone.

Generator Interconnection-Related Projects

- Generators whose project necessitates transmission network upgrades will be required to provide the up-front funding for 100% of the transmission network upgrade costs. Over time, MISO will refund 50% of that amount (using revenues from the regional and sub-regional charges) to the generator and 50% will not be refunded.
- For generator-interconnection related projects, there will be a direct assignment of 50% of the project costs to the generator in the form of participant funding, compared to 100% in PJM. In exchange for bearing this direct assignment of costs, generators will receive some amount of candidate FTRs for the additional transmission capacity created by the project. This 50/50 approach replaces the previously discussed approach that would have adopted a \$150,000/MW cap approach where all of the costs below the cap would have been regionally and sub-regionally shared and all of the costs above the cap would have been directly assigned to the generator. The rationale for this change is that 50% participant funding provides a sufficient price signal for generation location, and for distant resource that don't have a significant locational decision (e.g., renewable resources such as wind and hydro), it will likely provide greater regional and sub-regional funding than the \$150,000/MW cap. Recently, MISO discussed the possibility of adding a lower cap at \$25,000/MW under which 100% of the costs would be regionally and sub-regionally allocated—but no resolution was reached on that concept.
- For the 50% of project costs that are not directly assigned to the generator, and assuming facilities of 345kV or greater, 80% of those costs will be allocated using the sub-regional cost allocation method and 20% will be regionally allocated using the load ratio share method. If the facilities are between 100kV and 345kV, the 50% of project costs that are not directly assigned to the generator will be allocated using the sub-regional cost allocation method.
- The majority of the RECB task force believes a generator should be required to demonstrate some kind of commitment to the MISO market in exchange for the willingness of the participants in that market to pick up 50% of the network upgrade costs through the regional and sub-regional cost allocation formulas. However, the group has, so far, been unable to reach agreement on what form that commitment should take. The initial proposal was for a 5-year commitment as a MISO Network Resource. When some participants felt this was too long and excluded market-based resources selling into the MISO energy markets, they proposed to apply the refund to the generator on a daily basis using the percent of generator capacity offered into the MISO day-ahead market. MISO Staff expressed concerns regarding the administrative burden of this alternative proposal. At the meeting held on September 1, MISO Staff stated that they were leaning toward a one year contract commitment versus the five year commitment period previously considered.

6. OMS Budget for 2006 - Bill Smith

Bill Smith presented a revised version of the OMS Budget 2006 for the directors to consider for approval. The OMS Executive Committee met and approved the budget with suggested changes at its meeting in August. After some discussion, **Laura Chappelle moved to accept the OMS Budget 2006, as presented, to be submitted to MISO's budget process. Ken Nickolai seconded the motion. By a unanimous voice vote of the directors present, the OMS Budget for 2006 was approved.**

7. Comment on Confidential Data Access Filing - Bob Pauley, Dave Hadley

Bob Pauley reviewed the comments distributed to directors that morning. He complimented Randy Rismiller and Bill VanderLaan for their efforts to prepare the document for the directors to approve. If approved by the OMS board, these comments on confidential data will be submitted to the FERC September 9. President Wright asked for a motion to accept the comments:

Ken Nickolai moved to adopt the comments with the proviso that Bill Smith will complete the changes requested by Commissioner Gaw to amend the document. Lisa Pappas, proxy for Laura Chappelle, Michigan, seconded the motion.

Does your state approve the OMS Comments on Confidential Data Access?

Illinois - yes

Indiana - yes

Iowa - yes

Michigan - yes

Minnesota - yes

Missouri - yes

Montana - yes

Nebraska - yes

North Dakota - yes

Kentucky - absent

Manitoba - absent

South Dakota - absent

Ohio - abstain

Pennsylvania - abstain

Wisconsin - abstain

Votes: 9 - yes

3 - abstentions

3 - absent

The motion carried by result of a roll call vote of the directors present. (OMS approved comments follow minutes.)

8. Comment on FERC Accounting proposed rule - Bill Smith

NARUC has filed comments. Because these comments have expressed states' position, there has been nothing suggested new to add on behalf of OMS.

Administrative Update – Executive Director, Bill Smith

Bill Smith offered one item not included in the report distributed earlier to the OMS directors:

The OMS office has received eight requests for travel to the MISO Annual Stakeholders Meeting. Information from his report:

FERC Activity

- The Midwest ISO filed its compliance filing on Confidential Data issues on August 19. Comments are due September 9.
- NARUC's comment on FERC's NOPR on Accounting and Financial Reporting for RTOs was filed on August 26. The OMS Ad Hoc group will consider whether any supplementary comment by OMS is needed.
- FERC has begun actions required by the Energy Act. On September 1 it issued proposed rules on mandatory electric reliability standards and enforcement (Docket No. RM05-30-000). Comments are due October 7.

DOE Activity

- The DOE staff has begun its work under the Energy Policy Act of 2005 by requesting state input for the economic dispatch study mandated by Section 1234. Responses, due September 21, are being collated by the NARUC Electricity Committee.

OMS Activity:

- The Regional Expansion Criteria and Benefits Task Force will meet next on September 9 to review its final recommendation. A special meeting of the Advisory Committee will be held September 22 to consider the recommendation. The proposal should be filed at FERC about October 1.

Capacity Market:

- The Resource Adequacy Work Group is studying capacity approaches in other markets. It met on September 7 to discuss ERCOT's experience. A meeting with the MISO SAWG is

scheduled for September 12. MISO intends to make an informational filing on resource adequacy on September 27.

- PJM filed its Resource Pricing Model on August 31.
- Market Rules Work Group: The Joint and Common Markets discussion is still on track for a filing at the end of October.

Public Relations

Pending speaking/meeting invitations:

- September 14, President Wright will present the OMS vision to the Midwest ISO Board.
- September 13, Chicago, Mid-Continent Energy Marketers Association Fall Conference.
- October 5, Wisconsin Public Utilities Institute RTO conference.
- FERC Staff briefing, date not set.
- FERC Meetings: President Wright will meet Chairman Kelliher and Commissioner Brownell. The meeting request with Commissioner Kelly is pending.

Announcements

- The next OMS Board Meeting will be held Thursday, October 13 at 2:00 pm (CDT)
- The next OMS Executive Committee Meeting will be held Thursday, September 22 at 2:00 pm (CDT)

Adjournment

The meeting adjourned at 4:15 pm CDT.

	OMS budget for CY 2006
1	Ordinary Income/Expense
2	Income
3	MISO Grant 525,000
4	Interest - Checking Acct and CDs 2,000
5	Miscellaneous revenue 0
6	Total Income 527,000
7	Expense 0
	Personnel Compensation and Benefits
8	Compensation - Exec Director 130,000
9	Compensation - Admin Asst 66,000
10	Compensation - additional personnel 35,000
11	Other Personnel Expenses
12	Staff Training 3,000
13	Paychex Accounting Fees 1,000
14	Total Personnel Expenses 235,000
15	Office Expenses (non-personnel)
16	Computers 6,500
17	Furniture/Office Equipment 2,000
18	Miscellaneous Start Up Expenses
19	Rent, parking, other occupancy 14,000
20	Conference Calls 16,000
21	Books, subscriptions, reference 4,000
22	Equip rental & maintenance
23	Computer support 4,000
24	Web Site Hosting 1,000
25	Printer/Copier/Fax Rental 3,000
26	Postage, shipping, delivery 800
27	Printing & copying 400
28	Supplies 3,000
29	Phone, Fax, DSL 3,500
30	Miscellaneous Startup Expense 0
31	Total Office Expenses (non-personnel) 58,200
32	Organizational (corp) Expenses
33	Professional, Audit, Other 2,500
34	Total Organizational (corp) Expenses 2,500
35	Insurance
36	General Office Insurance 2,800
37	Workers' Comp 1,300
38	Directors & Officers Insurance 3,500
39	Total Insurance 7,600
40	Consultants / DC Counsel 60,000
41	OMS Travel 0
42	Officer Travel 3,000

43	Travel - Exec Dir to MISO AC,BOD	8,000
44	Travel - Exec Dir (except MISO)	10,000
45	Travel - Other Staff	3,500
46	Total OMS Officer and Staff Travel	<u>24,500</u>
47	MISO A/C Expenses	
48	Travel - MISO Committees	26,400
49	MISO BOD,AC - Lead States	20,000
50	Total MISO A/C Expenses	<u>46,400</u>
51	OMS Meetings	
52	OMS Annual Meeting	
53	Annual Meeting Travel	12,000
54	Annual Meeting Location Costs	1,200
55	Total OMS Annual Meeting	<u>13,200</u>
56	Regular OMS BOD Meeting	
57	Regular BOD Mtg Location Costs	1,500
58	Regular BOD Meeting Travel	10,000
59	Total Regular OMS BOD Meeting	<u>11,500</u>
60	OMS Executive Committee Meeting	
61	OMS Exec Com Mtg - Travel	3,000
62	OMS Exec Comm - Meeting Location	500
63	Total OMS Executive Committee Meeting	<u>3,500</u>
64	OMS Work Group Meetings	6,000
65	FERC/DOE Tech Conference Travel	37,400
66	OMS Technical Training	6,000
67	Total OMS Meetings	<u>77,600</u>
68	Total Expense	<u>511,800</u>
69	Net Ordinary Income	<u>15,200</u>
	Depreciation allowance	<u>0</u>
	Net Income	<u>15,200</u>

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission)	Docket Nos.	ER04-691-060
System Operator, Inc.,)		EL04-104-057
)		ER04-106-015

COMMENTS OF THE ORGANIZATION OF MISO STATES

I. Introduction

On August 19, 2005, the Midwest Independent Transmission System Operator (MISO or Midwest ISO) submitted to the Federal Energy Regulatory Commission (FERC or Commission) proposed revisions to the Midwest ISO's Open Access Transmission and Energy Markets Tariffs (EMT) in compliance with the Commission's June 21, 2005 and August 6, 2004 Orders in *Midwest Independent Transmission System Operator*.¹

In general, the Commission's August 6 Order accepted portions of the Midwest ISO's confidentiality proposal as an interim measure, subject to modification.² Paragraph 557 of the August 6 Order also directed the Midwest ISO to work with its stakeholders to develop a different consensus proposal regarding state access based on the approach approved by the Commission in *PJM Interconnection LLC*.³ Finally, the August 6 Order included some specific compliance directives for the Midwest ISO regarding other confidentiality-related issues.

The June 21 Order considered the Organization of MISO States' (OMS's) Offer of Proof regarding the Midwest ISO's proposal to share information with State Commissions, and the outstanding requests for rehearing of the Commission's August 6 Order.⁴ In the June 21 Order, the Commission directed the Midwest ISO to confer with the OMS prior to Midwest ISO submitting its August 19 compliance filing.⁵ Because of those discussions, the OMS, with a few minor concerns for clarification, endorses the EMT and Non-disclosure Agreement (NDA) provisions in Midwest ISO's August 19 filing regarding State Commission access to confidential information.

¹ *Midwest Independent Transmission System Operator, Inc.*, et al., 108 FERC ¶ 61,163 (2004) ("August 6 Order"), order on reh'g, 109 FERC ¶ 61,157 (2004), order on reh'g, 111 FERC ¶ 61,043 (2005).

² August 6 Order at P 557-65.

³ *PJM Interconnection, L.L.C.*, 107 FERC ¶61,322 (2004)

⁴ *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,448 (2005) ("June 21 Order").

⁵ June 21 Order, at P. 72

DRAFT for OMS Board , September 8, 2005

On July 21, 2005, the OMS filed a limited request for rehearing regarding a limited number of issues raised by the Commission's June 21 Order. That limited request for rehearing is still pending before the Commission. Consequently, the OMS will specifically limit these comments to a few new issues raised by the Midwest ISO's August 19 compliance filing.

The Midwest ISO's August 19 filing consists of the following four parts: (1) a transmittal letter; (2) Tab A, a redlined version of the Midwest ISO tariff sheets on which Midwest ISO proposes modifications; (3) Tab B, a clean version of the Midwest ISO tariff sheets on which Midwest ISO proposes modifications; and (4) Tab C, a draft procedure for requests for information and challenges of confidentiality designations by parties other than FERC and State Commissions. In general, Midwest ISO's August 19 filing proposes to modify the following parts of the EMT: (1) Section 38.9.1; (2) Section 38.9.4; (3) Section 54.4; (4) Attachment Z; and (5) Attachment EE.

On August, 31, 2005, the Commission noticed the Midwest ISO's August 19 compliance filing and set September, 9, 2005 as the deadline for comments and protests. Accordingly, the OMS herein submits these limited Comments.

II. Comment Summary

A. The OMS understands that the Midwest ISO's intent in its August 19 filing is to provide a single process for state commissions and other parties to challenge the designation of certain information as confidential⁶ and to clarify the type of information that is likely to be accorded confidential status.⁷

B. Because of circuitous definitions inherent in such a complex and comprehensive tariff, some points in the tariff do not appear to achieve the intent stated in the transmittal letter. Section III.A of these comments explains the chain of logic that shows the ambiguous application of the Tab C procedures either to State Commissions that are Authorized Requestors or ~~State Commissions states~~ that are not Authorized Requestors. Changes are suggested to align the intent with the tariff language.

C. Provisions in the Attachment EE NDA and the EMT regarding breach are inconsistent. As discussed in Section III.C of these comments, Section 3.2 of the Attachment EE NDA should be modified to delete language permitting Midwest ISO to determine a breach on its own without consultation or receipt of notice. Such a revision would make Section 3.2 of the NDA consistent with language that already exists in Section 38.9.4.7(b) of the EMT.

D. The August 19 filing contains a proposed definition of Confidential Information that is overly broad. Accordingly, the OMS recommends minor modifications to the definition as shown in Section III.D of these comments to better align the scope of the definition with its purpose.

⁶ See paragraph A.16 at page 10 of the transmittal letter and paragraph B.3 at page 12.

⁷ These clarifications are contained in the attachments to Tab C.

E. The OMS has referred minor clerical inconsistencies in the August 19 filing to counsel for the Midwest ISO to be considered for correction in a future filing.

III. Discussion

After careful review of the Midwest ISO's August 19th filing, the OMS makes the following comments and recommendations.

A. The Proposed Tariff Language Is Inconsistent with the Intent Stated in the Transmittal Letter

At page 12 of the Transmittal Letter of the August 19 filing, the Midwest ISO states that, as required by the August 6 Order (at P 565), and reiterated by the June 21 Order (at P 127 and 13), and after stakeholder consultations, the Midwest ISO has revised Section 38.9.1 and Section 54.4 of the EMT to provide third parties an opportunity to challenge a market participant's designation of information as confidential. Midwest ISO's proposed Section 38.9.1 and Section 54.4 tariff language states that the procedures for such challenges will be "specified in the Business Practice Manuals (BPMs)." Midwest ISO submitted for informational purposes in Tab C a document titled "Draft Procedure for Requests for Information and Challenges to Confidentiality Designations," but the language does not make it as clear as it could be that Tab C is intended to be the vehicle that state commissions that are authorized requestors, state commissions that have – for whatever reason – not signed a Non-Disclosure Agreement, market participants and all other third parties to contest a designation of confidentiality to become part of the referenced Business Practices Manual.

Midwest ISO states on page 13 of its Transmittal Letter that the material in Tab C is associated with the challenge language that Midwest ISO proposes to add to Sections 38.9.1 and 54.4 of the tariff. However, footnote 1 of Tab C states that the procedure therein is reserved for parties other than FERC or the Authorized Requestors. Midwest ISO attempts to clarify in footnote 21 on page 13 of the Transmittal Letter that the term "Third Parties" (capitalized) excludes Authorized Requestors/Authorized Agencies and the term "third parties" (lower case) includes them; but this attempt falls short because sections 38.9.1 and 54.4 of the tariff use the lower case term "third parties."

With this lack of clarity about the relationship between the language it proposes to add to Sections 38.9.1 and 54.4, and 38.9.4.5(f) of the tariff and the "informational" provisions in Tab C of the filing, the OMS has not developed substantive comment on those provisions. If, as suggested below, the Commission directs the Midwest ISO to resolve this ambiguity by making the Tab C provisions applicable to challenges by state commissions, the OMS suggests that additional stakeholder consideration of the procedures would be appropriate. A 30- or 45-day period is suggested to resolve these ambiguities. Such consideration would be consistent with Paragraph 565 of the August 6 order, which directed MISO "to work with its stakeholders to develop a process under which third parties may challenge disclosing parties' designation of information as Competitively Sensitive."

It also appears that under the current language in the Midwest ISO's proposal, State Commissions that, for whatever reasons, do not execute the NDA in Attachment EE might not be permitted to make Information Requests and therefore, will not be eligible to initiate a challenge

regarding the designation of information as confidential. In particular, Section 38.9.4.5(f) of the EMT states,

If the Affected Participant, the Transmission Provider or the IMM considers the information sought by the Information Request as Confidential Information, the Authorized Requestor shall be provided an opportunity to challenge the designation or classification of the requested information as Confidential Information. (underlining added)

Section 1.15 defines an Authorized Requestor as “a person who has executed a Non-disclosure Agreement...” Accordingly, the wording in Section 38.9.4.5(f), in conjunction with the definitions of Authorized Requestor and Information Request in Attachment EE work together to cover only signatories to the NDA in Attachment EE and, therefore, extend the right to challenge a market participant’s confidentiality designation only to those State Commission persons that have signed the NDA found in Attachment EE.

At first blush, Midwest ISO’s proposal appears reasonable and well intentioned. However, it may be the case that some State Commissions will find themselves, for whatever reason, unable to sign the NDA in Attachment EE. Those State Commissions may be prevented from obtaining Confidential Information under Section 38.9.4 of the Midwest ISO tariff. That result, in and of itself, is not unreasonable. However, Midwest ISO’s proposal, as written, might be construed to forbid those same State Commissions from receiving information that is improperly designated as confidential – information that, if subjected to a reasonable challenge process, would be found to not warrant the confidential designation. Under the Midwest ISO’s proposal, those State Commissions will have no right to ask for information that may have been improperly designated as confidential and no right to challenge the improper designation. This result is unreasonable and inconsistent with the aspirations articulated by the Midwest ISO in the Transmittal Letter.

B. Suggested Language to Help Accomplish the Stated Intent of the Filing

The OMS suggests that these changes to the proposed tariff language would better achieve the intent expressed in the Transmittal Letter.

1. The caption of 38.9.1 of the tariff should be revised to read “Access by Market Participants and others ~~Aeess~~”.

This proposed revision would alert users of the tariff that material under that heading may affect others than Market Participants. Specifically, section 38.9.1(b) provides for challenges by third parties. If state agencies are intended to use third party challenge procedures under some circumstances, this caption is more descriptive of that intent.

2. The OMS recommends that the Commission direct the Midwest ISO to revise Section 38.9.4.5(f) as follows:

If the Affected Participant, the Transmission Provider or the IMM considers the information sought ~~by the Information Request to be Confidential Information, State public utility commissioners, State commission staff and attorneys representing an Authorized Agency the Authorized Requestor~~ shall be provided an opportunity to challenge the designation or classification of the requested information as Confidential Information.

This proposed revision accomplishes two things. First it avoids the use in Section 38.9.4.5(f) of the defined term “Information Request” whose definition imposes unwanted implications in the challenge context. Second, it replaces the defined term “Authorized Requestor” (which requires a person to have signed the NDA in Attachment EE) with the list of the persons entitled to become an Authorized Requestor.

3. Because the actual tariff language in MISO’s August 19 filing does not appear to make State Commissions (whether or not they sign the Attachment EE NDA to become Authorized Agencies/Authorized Requestors) subject to the procedure in Tab C, the OMS is not substantively commenting on the Tab C procedures. The OMS understands that Tab C was provided to the Commission only for informational purposes. The OMS requests that the Commission not expressly endorse the procedure in Tab C because the OMS did not thoroughly evaluate that procedure, but the OMS’s cursory review of Attachment C has revealed several inconsistent and unclear language that the OMS would like to have a continued opportunity to discuss and resolve with the MISO.

For example, Tab C section (b)(vi) should be modified to make the challenge process available to a state that may not be able to execute a Non-Disclosure Agreement for a determination of whether confidential status has been appropriately applied to a particular set of information. Also, Tab C section (h) should be modified to refer to the informal challenge procedure.

C. Provisions in the Attachment EE NDA and the EMT Regarding Breach are Inconsistent

Section 38.9.4.7(b) of the EMT details the steps to be taken by the Midwest ISO or the IMM after receipt of a written notice from an Authorized Agency/Authorized Requestor or if the Commission has made a ruling that a breach has occurred. In particular, the Midwest ISO would verify the breach in consultation with the Authorized Agency prior to the termination of the NDA for an Authorized Requestor and the destruction or return of all confidential information in the possession of the Authorized Requestor. In contrast, the corresponding Section 3.2 of the NDA provides that the Midwest ISO or the IMM may determine on its own that a breach has occurred.

Section 38.9.4.7 of the Midwest ISO’s February 17 informational filing defined a breach to have occurred if both Midwest ISO and the Authorized Agency agree that a breach has occurred or if the Commission ruled that a breach has occurred. Given that there was no language in the June 21 Order directing a change to that construction, the OMS recommends that

Section 3.2 of the NDA in Attachment EE be modified to make it consistent with Section 38.9.4.7(b) as follows:

If the Transmission Provider or the IMM ~~determines on its own, or~~ agrees with an Authorized Agency, or receives from an Authorized Requestor or Authorized Agency a written notice, that a breach has occurred, or FERC has made a ruling that a breach has occurred, the Transmission Provider and/or the IMM shall terminate the Non-Disclosure Agreement and require either the immediate return of all Confidential Information obtained by the Authorized Requestor pursuant to the Non-Disclosure Agreement or a certification of its destruction.

D. The Proposed Definition of Confidential Information is Overly-Broad

Section II.B.1 of the August 19 draft transmittal letter, proposes to define the term Confidential Information as:

Confidential Information: Any proprietary or commercially or competitively sensitive information, trade secret, or information regarding a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Transmission Customer, Market Participant, or other user, which is designated as confidential by the entity supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, that is received by the Transmission Provider or the IMM and is not disclosed except under the terms of a Confidential Information policy.

The OMS is concerned with the placement of the words "or information" in the second line of the definition. The placement of those two words separates and includes in the definition of what is confidential any information relating to "a plan, specification, etc." That separation and inclusion obviates any limitation or description in the first two lines of the definition prior to those words and is so expansive in scope as to include nearly anything.

The OMS is also concerned about including the procedural protection of initial designation in the definition of confidential information without an apparent means of reversing that initial treatment. An entity's designation of information as confidential should be subject to the challenge procedures of this tariff.

Accordingly, the OMS proposes a clarifying phrase to refer to a determination following the challenge process, and the very minor modification of moving the word "or" and striking a comma as follows:

Confidential Information: Any proprietary or commercially or competitively sensitive information, or trade secret, ~~or~~ information regarding a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Transmission Customer, Market Participant, or other user, which is designated as confidential

by the entity supplying the information, unless determined not to be confidential pursuant to this tariff, whether conveyed orally, electronically, in writing, through inspection, or otherwise, that is received by the Transmission Provider or the IMM and is not disclosed except under the terms of a Confidential Information policy.

These small modifications to the definition will correct the large flaws described above.

IV. Conclusion

The OMS appreciates the opportunity to comment on the Midwest ISO's August 19 compliance filing. While the OMS endorses the aspirations for transparency contained in the Midwest ISO's Transmittal Letter and also supports the vast majority of the proposed provisions of the EMT and NDA regarding State Commission access to confidential information, for the reasons stated above, the OMS recommends that the Commission direct the Midwest ISO to make the modifications outlined above.

The OMS submits this request because a majority of the members have agreed to generally support it. The following members generally support this request. Individual OMS members reserve the right to file separate comments regarding the issues discussed in this request:

Illinois Commerce Commission
Indiana Utility Regulatory Commission
Iowa Utilities Board
Michigan Public Service Commission
Minnesota Public Utilities Commission
Missouri Public Service Commission
Montana Public Service Commission
Nebraska Power Review Board
North Dakota Public Service Commission

The following OMS members abstained from the vote for procedural reasons.

Pennsylvania Public Utility Commission
Public Utilities Commission of Ohio
Wisconsin Public Service Commission

The following OMS members did not participate in this comment:

Kentucky Public Service Commission
The Manitoba Public Utilities Board
South Dakota Public Utilities Commission

The Minnesota Department of Commerce and the Iowa Consumer Advocate, as associate members of the OMS, participated in these comments and generally support these comments.

V. Request for Waiver of Service

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The OMS hereby respectfully requests waiver of the requirements set forth in 18 C.F.R. § 385.2010. The OMS has notified all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, and Midwest ISO Advisory Committee participants of this filing. In addition, the filing has been electronically posted on the OMS website at www.misostates.org under the heading "Filings to FERC" for other interested parties.

Good cause exists for granting this waiver due to the volume of interested parties in this matter, the limited resources available to make service, and the financial burden on the OMS in copying and mailing copies of this filing. Many parties, in fact, prefer receiving their copy in electronic format or from a website and are accustomed to electronic service on Midwest ISO dockets. Paper copies will be made available to any person upon request to the OMS office.

Respectfully Submitted,

William H. Smith, Jr.

William H. Smith, Jr.

Executive Director

Organization of MISO States

100 Court Avenue, Suite 218

Des Moines, Iowa 50309

Tel: 515-243-0742

Dated: September 9, 2005

OMS

Organization of MISO States
Report of the Treasurer
Steve Gaw, Missouri PSC
to the
Board of Directors
September 8, 2005

Report for August 2005

Cash on Hand

This fiscal year OMS has received \$200,000.00 from MISO and is holding the remaining balance in the OMS account at Chase Bank One and in three Certificates of Deposit. As of August 31, 2005, our balance in the Chase Bank One account was \$51,941.85. The Certificates of Deposit are valued at \$100,000.00 each. The Certificates are issued by Wells Fargo Bank Iowa, West Bank and Bank of America. Total Cash on Hand as of August 31, 2005 was \$351,941.85.

Expenditures to Date

Total disbursements for August 2005 were \$28,898.98.



TREASURER'S REPORT
Organization of MISO States
August 31, 2005

TOTALS

Certificates of Deposit

\$300,000.00

Commercial Checking with Interest

Beginning Balance as 8/1/05

\$ 80,799.12

8/31/05 Interest on Checking \$ 41.71

Total Deposits \$ 41.71

Checks and Charges

Date	Check #	Descriptions	
8/8/05	1725	Combined Systems Technology - 3 mths. Postini through 11/13/05	\$ 20.67
8/8/05	1726	Triplett Office Essentials - Office Supplies	77.15
8/8/05	1727	100 Court Investors - September Rent & Parking	874.21
8/8/05	1728	Law Offices of Scott Hempling - July Professional Services	4,000.00
8/8/05	1729	InterCall - June Conference Calls	1,568.04
8/8/05	1730	InterCall - July Conference Calls	799.01
8/8/05	1731	OH - Travel to MISO A/C & BOD Mtgs. 7/19-21/05	175.43
8/8/05	1732	Public Service Commission of Wisconsin - Travel to MISO A/C & BOD Mtgs 7/20-21/05	611.85
8/8/05	1733	IA - Travel to MISO A/C, BOD & RECB Mtgs. 7/20-22/05	703.06
8/8/05	1734	ED - Travel to NARUC Mtg. - 7/24-25/05	443.81
8/8/05	1735	IA - Travel to MISO Market Subcommittee 8/1-2/05	146.75
8/8/05	1736	IA - Travel to MISO/PJM Joint & Common Market Mtg. 7/26-28/05	604.53 *
8/8/05	1737	IA - Travel to MISO Market Subcommittee Mtg. 8/1-2/05	267.01 *
8/10/05	W/D	Paychex - July Payroll Processing	167.10
8/16/05	1738	IA - Travel to MISO Market Subcommittee Mtg. 8/1-2/05	140.75
8/16/05	1739	DWX Internet - 9/05 Web Hosting	35.00 *
8/16/05	1740	Infomax Office Systems - 9/05 Copier, Printer & Fax Rental	172.31
8/16/05	1741	IA - Various Travel and Travel Advances	1,289.21 (1)
8/16/05	1742	Minnesota Public Utilities Commission - Travel to MISO A/C Mtg.	364.55
8/16/05	1743	Qwest - July Charges for Phone, Fax and DSL	205.45

8/16/05	1744	Chase Card Services - July Visa Charges	2,044.35 (2)	
8/29/05	DEP	Reimbursement of Personal Expenses	(22.70)	
8/31/05	W/D	Deferred Compensation Deposit (Inc. Employee W/H and Employer Match)	2,000.00 *	
8/31/05	W/D	June Payroll (Inc. Employer & Employee taxes)	<u>12,211.44</u>	
		Total Checks and Charges		<u>28,898.98</u>
		Net Activity		<u>28,857.27</u>
CHECKING ACCOUNT BALANCE 8/31//05				<u>51,941.85</u>
CERTIFICATES OF DEPOSIT AND CHECKING ACCOUNT BALANCES 8/31/05				<u><u>\$351,941.85</u></u>

'Notes: * Indicates that check was still outstanding at the time the Bank Account was reconciled (month end).

(1) Travel Advances for MISO Annual Stakeholder & BOD Mtg. 9/130-015/05 \$200, MISO MSC Mtg & Jt. Ancillary Serv. Task Force/Control WG Mtg. 8/29 - 30/05 \$200, MISO/PJM Joint Stakeholder Mtg. & Common Mkt. 9/20 - 21/05 \$260, and MISO/PJM Joint Stakeholder Mtg. & Comm. Mkt. 8/24 - 25/05 \$200; Travel Balance due after advances for MISO Market Subcommittee Mtg. 7/6 - 8/05 \$12, MISO AC & BOD Mtgs. 5/17 - 19/05 \$103.40, and MISO Mkt. Subcommittee 5/2 - 3/05 \$313.81.

(2) FEDEX Charges - \$99.20; Office Supplies \$26.48; Meeting Materials \$43.99; ED - DC Bar Association Dues \$173.00; ED - Travel MISO/PJM Stakeholders Mtg. on Joint and Common Market (6/1/05) \$114.40; ED - Travel National Conference of Reg. Attorneys (6/14-15/05) - \$208.33; ED - Travel to Montana Comm. (6/15-17/05) - \$164.30; ED - Travel MARC & OMS BOD and WG Chairs Mtgs. (6/19-22/05) - \$448.35; Facilities Charge for OMS WG Chairs Mtg. (6/21/05) - \$205.33.

Erica Brown
Midwest ISO
Carmel, IN

Dear Ms. Brown:

The Organization of MISO States (OMS) appreciates this opportunity to comment on the Midwest ISO 2006-2008 Strategic Plan. The OMS understands that the current draft Strategic Plan is a work in progress and that a revised version will be available for comment in October. At this time, the OMS offers two specific initial observations on the current draft of the Strategic Plan.

First, the current version of the Strategic Plan appropriately underscores the importance of Midwest ISO demonstrating that benefits from its current or new operations are commensurate with costs. The current version of the Strategic Plan does not specify an approach for demonstrating benefits, however. The importance and complexity of that exercise suggests that it could require significant staff attention and other resources on an on-going basis. Midwest ISO should carefully consider its approach to demonstrating benefits across the range of its service offerings in objective, easily understood terms.

Second, the OMS notes that the current version of the Strategic Plan does not explicitly discuss independent regional transmission planning. This area of operations is one of the core functions for Regional Transmission Organizations, as directed by FERC Order 2000. Efficient, robust, regional transmission expansion promises potentially significant benefits to electricity consumers in the Midwest ISO region. The Strategic Plan should specify how Midwest ISO will give transmission planning the attention it deserves over the next three years.

The OMS also offers its Annual Stakeholder Meeting presentation (attached) as priorities for Midwest ISO operations that the Strategic Plan should reflect.

Again, the OMS appreciates this opportunity to comment on the current version of the Strategic Plan. Please do not hesitate to contact me or Bill Smith if you have any questions.

Sincerely,

Kevin Wright
President, Organization of MISO States



Organization of MISO States

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The Organization of MISO States (OMS) appreciates this opportunity to present to the Midwest ISO Board of Directors the issues on which OMS recommends Midwest ISO focus its attention and its resources going forward. In addition OMS would like to commend the Midwest ISO and its Board in several areas.

- **OMS values operational excellence with primary attention to core Midwest ISO functions.**
 - Midwest ISO's system reliability and properly functioning market operations are equally important and go hand-in-hand.
 - Midwest ISO should continue to seek cost-effective ways of minimizing uplift charges and, where needed, improving other areas of operations. Uplift charges and transfers complicate stakeholders' assessments of the costs and benefits of membership in a regional transmission organization (RTO). Minimizing uplift charges requires Midwest ISO to fully understand the causes of uplift charges and to address operational issues that cause uplift charges.
 - Billing and settlement problems divert resources from alternative efforts that would expand benefits from RTO operations.
 - As Midwest ISO takes on additional functions (e.g., acting as a system coordinator for non-Midwest ISO members or operating a renewable energy credits exchange), focus should not be lost on Midwest ISO's core functions or reliability and markets.
 - OMS values the accessibility of Midwest ISO decision-makers and other staff.
- **Midwest ISO should demonstrate the benefits from its services to customers, local service providers, and others.**
 - Demonstrations of benefits from Midwest ISO's services in easily understandable, credible measurements are critical for strong support of Midwest ISO and the services it provides.

- Demonstrated consumer benefits should include reliability and economic benefits.
 - Midwest ISO should rely on the best objective measures available to demonstrate benefits.
 - Information regarding demonstrable benefits of RTO services would be helpful in overcoming barriers to the improvement of local investment decisions by utilities and other businesses.
 - A solid showing of benefits from RTO membership could increase RTO membership levels and could improve acceptance of movements toward regional approaches to transmission utilization, funding and expansion.
 - Midwest ISO should predicate any expansion of its service offerings on its demonstration of benefits from its current range of service offerings. This would assist States in shaping local policies and market reform efforts in ways that best serve the public interest.
- **OMS values effective control of Midwest ISO costs.**
- The Federal Energy Regulatory Commission expects the Midwest ISO board to control costs.
 - OMS recognizes that implementing Day 2 operations in the Midwest ISO region was an unprecedented accomplishment. The significance of the total cost incurred by Midwest ISO and market participants in preparation for implementing Day 2 operations nonetheless enforces the need for effective cost control going forward.
 - Effective cost control includes sufficient detail, accurate and proper budgeting, transparency, and public availability of cost information.
- **Midwest ISO should devote more resources to its regional transmission planning function.**
- Independent regional transmission planning is a critical RTO function that is required by the Federal Energy Regulatory Commission.
 - Independent regional and interregional transmission planning requires significant resources, especially with respect to the number of employees of sufficient training and expertise.

- OMS supports Midwest ISO providing a critical and independent review to the input of the plans of member transmission owners.
 - The move to a planning process in MTEP06 that will consider economic as well as reliability benefits when planning optimal grid expansion, is a very positive development.
 - Midwest ISO should consider expanding its transmission planning timeframe at least to ten years.
 - Midwest ISO should better integrate its transmission planning function with other functions of the Midwest ISO or other transmission system operators, such as resource adequacy maintenance, ancillary services markets development, and development of long-term transmission rights.
 - To the extent that reliable information is available, Midwest ISO should take account of future generator retirements in its transmission planning process.
 - In addition to its work on the issue of transmission cost allocation, Midwest ISO needs to devote efforts to identifying and addressing other barriers to efficient and cost effective regional and interregional transmission expansion.
- **OMS supports continued discussion of efficient, cost-effective, and reliable approaches to resource adequacy.**
- OMS commends MISO staff for expressly seeking OMS input to Midwest ISO's resource adequacy policy, including the new MISO staff proposal for a resource adequacy plan to meet capacity needs in Midwest ISO's wholesale energy markets.
 - To that end, the OMS Resource Adequacy Working Group has submitted an extensive enquiry to Midwest ISO staff addressing specific integral or interdependent issues raised by Midwest ISO staff's draft white paper on resource adequacy in order to better understand its foundation and its implications for electric customers in the Midwest ISO region.
 - OMS looks forward to continuing to work closely with Midwest ISO on the further development of a long-term plan for resource adequacy.

- **OMS supports cost-effective improvements in Midwest ISO's coordination with neighboring markets and transmission systems.**
 - Joint and common market development means cost-conscious development and implementation of a single, uniform method or approach to RTO functions. To the extent that the RTOs retain separate approaches to certain functions, common market development should efficiently coordinate all such RTO functions.
 - Due to the nature of the seam between Midwest ISO and PJM and the inefficiencies and lost opportunities created by that seam, cost-conscious attention should be given by Midwest ISO to developing and implementing the PJM/MISO joint and common market.
 - Even after the initial common market implementation, further joint and common market progress with PJM should be an on-going process of implementing measures that improve operating efficiencies of the markets and that improve market participants' market opportunities.
 - Midwest ISO should pursue joint and common market efforts with other non-PJM market operators on an on-going basis to improve operating efficiencies of the markets and the improve market participants' market opportunities.
 - Gantt charts with detailed tasks (method of accountability used in setting up day 2 market) are not a device appropriate for this activity.
 - Midwest ISO's efforts to reduce inefficiencies created by seams with neighboring non-market regions need to continue at the same time as joint and common market development.

- **OMS supports the Midwest ISO Board's openness.**
 - The Board's interaction with the stakeholders is valuable.
 - The Board's determination to operate in the open affirms the special relationship with stakeholders and the public service that FERC expects from RTO boards.

- **OMS appreciates Midwest ISO's support for the regional state committee concept.**
 - OMS brings value to the Midwest ISO and to its stakeholders by coordinating state input to regional decisions and by improving information flow.
 - Working collectively has given the OMS members a better regional focus and improved the quality of OMS input.
 - Midwest ISO's cooperation is critical for the effectiveness of OMS.
 - OMS values Midwest ISO's recognition of the important role state regulators play in the success of Midwest ISO's endeavors.
 - While OMS has brought great benefits, it must be remembered that each OMS state is different – for example, retail access states have different needs from non-retail access states and different needs from each other. While the formation of OMS has provided a great opportunity for the state commissions to speak with one voice, Midwest ISO should nevertheless remember to hear the individual state commission voices.