**ORGANIZATION OF MISO STATES, INC.**
**Board of Directors Meeting**
**Conference Call Notes**
**March 9, 2006**

Steve Gaw, President of the Organization of MISO States, Inc. (OMS), called the March 9, 2006 Meeting of the OMS Board of Directors to order via conference call at approximately 2:00 p.m. (CST). The following board members or their proxies participated in the meeting:

Kevin Wright, Illinois
Bob Pauley, proxy for David Hadley, Indiana
John Norris, Iowa
Jeff Johnson, proxy for Mark David Goss, Kentucky
Laura Chappelle, Michigan
Ken Nickolai, Minnesota
Steve Gaw, Missouri
Greg Jergeson, Montana
Tim Texel, proxy for Eugene Bade, Nebraska
Susan Wefald, North Dakota
Kevin Holtsberry, proxy for Judy Jones, Ohio
Kim Pizzingrilli, Pennsylvania
David Sapper, proxy for Dan Ebert, Wisconsin

Absent
Manitoba, South Dakota

State Agency members participating
Randy Rismiller, Bill VanderLaan - Illinois
Brad Borum - Indiana
Nancy Campbell, Burl Haar - Minnesota
Andy Tubbs, Sheryl Delozier, Kim Joyce - Pennsylvania
Don Neumeyer - Wisconsin

OMS Staff participating - Bill Smith, Julie Mitchell

The directors and proxies listed above established the necessary quorum for the meeting of at least eight directors being present.

## Approval of Minutes of the February 9, 2006 Meeting

Ken Nickolai moved for approval of the February 9, 2006 OMS Board of Directors Meeting minutes as distributed to board members. Kevin Wright seconded the motion. The minutes were approved by a unanimous voice vote of the directors.

## Treasurer's Report - February 2006

OMS Treasurer Kim Pizzingrilli presented the February 2006 Treasurer's report.

**<u>Transition</u>**
A process has been set up with Pennsylvania PUC Audit Bureau to assist Commissioner Pizzingrilli with the Treasurer duties. All needed information has been shared and reviewed.

**<u>Cash On Hand</u>**
The beginning balance as of February 1 for the Wells Fargo Business Performance Savings Account was $77,597.33. There was a transfer of $50,000 to checking on February 24, 2006 and a $15 transfer fee assessed on February 28. Interest earned for this month was $117.68. The February 28, 2006 balance was $27,700.01.

The beginning balance as of February 1 for the Chase Bank One Checking account was $26,045.86. The total disbursements from the checking account for February 2006 were $22,640.05 and a deposit was made for $50,000 from Savings. As of February 28, 2006, the checking account bank balance was $55,123.86 (with $1,703.16 checks still outstanding) for a book balance of $53,420.70.

The total certificates of deposit, savings and checking account balances as of February 28, 2006 is $183,073.09.

Kim Pizzingrilli reminded board members to be certain to disconnect phone lines after OMS conference calls, to avoid excess charges being added to the OMS conference call statements.

Laura Chappelle moved to accept the February 2006 treasurer's report as presented. Ken Nickolai seconded the motion. The treasurer's report was accepted by a unanimous voice vote of the directors.

**Review of Actions of the Executive Committee on February 28, 2006**
Bill Smith highlighted business items of the February Executive Committee meeting:

- Kevin Wright explained the personnel process that would be used to evaluate Bill Smith.
- Discussed the meeting decision process - i.e. how to deal with drafts.
- Steve Gaw's desire is to have each of the work groups have a set of bullet point principles to develop their comments around as projects come up.
- Discussed a process to develop OMS stakeholder comments.
- Reviewed the JCM principles for the March OMS board meeting.

**Business Items**
**1. MISO Advisory Committee Issues -** Kevin Holtsberry, Ohio

Kevin Holtsberry presented the March MISO AC agenda and motions that might require voting. He highlighted the following motions:

- <u>Item C 9 - Planning Advisory Committee Structure</u>. David Sapper indicated that at an earlier OMS board meeting, the OMS reps were instructed to vote that the PAC members report to the entire MISO Board and not the Committee on Structure and Planning. That option failed at the committee level. PAC's membership has nine members and allows split voting within the PAC. What resulted was the OMS fall-back option. Reps were requested to vote yes.

- <u>Item C11 - Resource Sufficiency Guarantee Recommendation Motion</u>. David Sapper and John Harvey offered information about this issue. Ken Nickolai felt OMS should not agree to anything it was not certain about and suggested abstaining. President Gaw asked for board action. This issue has been discussed for months at the Market Subcommittee, but has not come to a vote. John Harvey, Iowa, offered to send Board members more information on this issue as did Angie Butcher, chair of the Market WG. This additional information should help the reps individually with their votes.

- Item C22- Retirement of Eastern Interconnection Phasor Project Task Force. Discussion by the board indicated that this was a fairly innocuous issue, and the OMS reps should approve it.

- Cost Benefit Issue - David Sapper mentioned that this is another issue that will likely be discussed, but will not be voted on. He indicated the need for transparency on the appropriate costs.

Ken Nickolai brought up the need of someone serving as his proxy at the MISO Advisory Committee meeting in March. President Gaw suggested the Executive Director Bill Smith serving as Ken's proxy. Susan Wefald moved that Bill Smith serve for Ken for the March meeting only, and Ken Nickolai seconded the motion. The motion carried by a unanimous voice vote of the directors present.

President Gaw promised that a permanent solution would take place before the next MISO Advisory Committee meeting.

**2. OMS Comments to FERC on Long Term FTR NOPR - Mike Proctor, Missouri**

Mike Proctor gave a brief explanation of the background of these comments.
Mike explained the background for the comments and defined "FTR" as "Financial Transmission Rights." FTRs relate to financial transmission rights, not physical, and only applies to markets with RTOs and ISOs. The purpose of this NOPR is to deal with FERC guidelines.

**Kevin Wright moved to approve the comments (sent Mar. 7 and 9 to all directors) and John Norris seconded approval of the draft to file with FERC.**

The directors began discussing the document with various changes offered to improve it. After some discussion, an individual vote was taken on the motion.

**Move to file comments**

| | |
|---|---|
| **Illinois -** | **Yes** |
| **Indiana -** | **Yes** |
| **Iowa -** | **Yes** |
| **Kentucky -** | **No** |
| **Manitoba -** | **ABSENT** |
| **Michigan -** | **Yes** |
| **Minnesota -** | **Yes** |
| **Missouri -** | **Yes** |
| **Montana -** | **Abstain** |
| **Nebraska -** | **Abstain** |
| **North Dakota -** | **Yes** |
| **Ohio -** | **Abstain** |
| **Pennsylvania -** | **Abstain** |
| **South Dakota -** | **ABSENT** |
| **Wisconsin -** | **Yes** |

**Yes, file comments= 8**
**No, do not file = 1**
**Abstain = 4**
**Absent = 2**

**The result of the director's vote was to approve filing the OMS comments (with corrections approved at this meeting) to the FERC on Long Term FTR NOPR by Monday, March 13.**

3. **Plans for OMS Participation and Statement at MISO Stakeholder Meeting, April 19**
   (This business item was not discussed due to time constraints.)

4. **Discussion of EPACT status** (This business item was not discussed due to time constraints)
   - Joint Board Meeting February 12
   - National Interest Corridors - Technical Conference March 29

5. **OMS Process for FERC Filings** (This business item was not discussed due to time constraints)

6. **Approval to Plan and Fund a Generation Capacity Conference for OMS** - Susan Wefald

   **Susan Wefald moved that Bill Smith, with the assistance of the RAWG members, plan a one day conference in spring 2006 on Resource Adequacy. The OMS would fund two people per state; one staff person and a commissioner or a designate. Laura Chappelle seconded the motion. The motion was approved by a unanimous voice vote of the directors.**

7. **Adoption of Common Principles Concerning MISO and PJM Joint and Common Market Development -** Steve Gaw
   President Gaw referred to the document prepared by the Market WG listing their work group principles as an example of what he would like to see all the work groups do in the process of drafting comments.

   **Susan Wefald moved to adopt the Common Principles Concerning MISO and PJM Joint and Common Market Development. Jeff Johnson seconded the motion. The motion to adopt the principles was approved by a unanimous voice vote of the directors.**

**Executive Director's Report -** Bill Smith
This report was not presented at the meeting, but was distributed to all directors. It follows the minutes.

**Announcements**:
- Deadline to register for the ICF study process is March 10, 2006.
- OPSI is interested in hiring an Executive Director. Description of the position is available on the OMS website.
- The White House has nominated two new FERC Commissioners: Phil Moeller and Jon Wellinghoff.
- Confidential Data - certification and non-disclosure agreement forms are on the OMS website.
- The next OMS Executive Committee Meeting will be held Tuesday, March 28 at 2:00 pm (CST). (Actual date: April 4, 2006 at 2:00 pm CDT)
- The next OMS Board Meeting will be held Thursday, April 13 at 2:00 pm (CDT).
- March 15 MISO Advisory Committee meeting
- March 29 DOE Technical Conference in Chicago on National Interest Electricity Corridors: Registration Information: http://www.energetics.com/1221technicalconference/
- April 19 MISO Annual Stakeholder Meeting (Carmel)

Prior to adjournment:
- Laura Chappelle asked if MISO could provide OMS a Day 2 Market summary for the next OMS Board meeting.

- President Gaw mentioned the questionnaire he is about to send out concerning resource adequacy - there are three questions. It is not binding, but it will help in the planning of the conference.

**Meeting adjourned at 4:00 pm CST**

OMS

**Organization of MISO States**
**Report of the Treasurer**
**Kim Pizzingrilli, Pennsylvania PUC**
**to the**
**Board of Directors**
**March 9, 2006**
**Report for February 2006**

## TRANSITION

We have set up a process with Pennsylvania PUC Audit Bureau to assist Commissioner Pizzingrilli with the Treasurer duties. All needed information has been shared and reviewed.

## CASH ON HAND

The beginning balance as of February 1 for the Wells Fargo Business Performance Savings Account was $77,597.33. There was a transfer of $50,000 to checking on February 24, 2006 and a $15 transfer fee assessed on February 28. Interest earned for this month was $117.68. The February 28, 2006 balance was $27,700.01.

The beginning balance as of February 1 for the Chase Bank One Checking account was $26,045.86. The total disbursements from the checking account for February 2006 were $22,640.05 and a deposit was made for $50,000 from Savings. As of February 28, 2006, the checking account bank balance was $55,123.86 (with $1,703.16 checks still outstanding) for a book balance of $53,420.70.

The total certificates of deposit, savings and checking account balances as of February 28, 2006 is **$ 183,073.09.**

*OMS*

**TREASURER'S REPORT**
**Organization of MISO States**
**February 28, 2006**

## Certificates of Deposit

| | | | | | | TOTALS |
|---|---|---|---|---|---|---|
| Balance as of 2/1/06 | | | | $ | 101,952.38 | |
| Certificates of Deposit Balance as of 2/28/06 | | | | | | $ 101,952.38 |

## Wells Fargo Business Performance Savings Account

| | | | | | | |
|---|---|---|---|---|---|---|
| Balance as of 2/1/06 | | | | $ | 77,597.33 | |
| 2/24/2006 | WD | Transfer to Checking | | $ | (50,000.00) | |
| 2/24/2006 | WD | Wire Transfer Fee | | $ | (15.00) | |
| 2/28/2006 | DEP | Interest on Savings | | $ | 117.68 | |
| Business Performance Savings Account Balance at 2/2/8/06 | | | | | | $ 27,700.01 |

## Chase Bank One Commercial Checking with Interest

| | | | | | |
|---|---|---|---|---|---|
| Balance as of 2/1/06 | | | $ 26,045.86 | | |
| 2/24/2006 | DEP | Transfer from Business Performance Savings | | | 50,000.00 |
| 2/28/06 | DEP | Interest on Checking | | $ | 14.89 |
| | | Total Deposits | | $ | 50,014.89 |

## Checks and Charges

| Date | Check # | Descriptions | | |
|---|---|---|---|---|
| 2/10/06 | W/D | Paychex Fee for January | $ | 140.60 |
| 2/15/06 | 1890 | Wall Street Journal Subscription | $ | 215.00 |
| 2/16/06 | 1891 | Energy bar Association - Midwest Energy | $ | 295.00 |
| 2/16/06 | 1892 | The Company Corporation - Registered Agent | $ | 150.00 |
| 2/16/06 | 1893 | Infomax Office Systems - Copier rental March | $ | 172.31 |
| 2/16/06 | 1894 | 100 Court Investors - Office rent and parking | $ | 874.21 |
| 2/16/06 | 1895 | Chase Card Services - OMS VISA | $ | 2,255.19 |
| 2/16/06 | 1896 | Qwest - Office Phone, Fax, DSL Jan 2006 calls | $ | 206.87 |
| 2/16/06 | 1897 | DWX Internet - OMS Web Hosting | $ | 35.00 |
| 2/16/06 | 1898 | IA - Travel OMS WG Chair and MISO AC Mtgs March 14-15, 2006 | $ | 250.00 |
| 2/16/06 | 1899 | IA - Travel MISO stakeholders Mtg Feb 6-7, 2006 Carmel | $ | 360.00 |
| 2/16/06 | 1900 | MO - Travel MISO Market Subcommittee and OMSFTR WG Mtgs Jan 10 - 11, 2006 | $ | 253.89 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 2/16/06 | 1901 | IA - travel MISO Mtg Jan 31, 2006 Carmel | $ | 385.21 | | |
| 2/16/06 | 1902 | IA - Travel MISC Mtg Jan 10, 2006 Carmel | $ | 789.13 | | |
| 2/16/06 | 1903 | Ohio Public Utilities Commission - Travel MISO AC and BOD Mtgs Jan 17 - 18, 2006 Carmel | $ | 129.42 | | |
| 2/16/06 | 1904 | OH - Travel MISO AC and BOD Mtg Jan 18, 2006 Carmel | $ | 121.42 | | |
| 2/16/06 | 1905 | Minnesota Public Utilities Commission - Travel MISO AC Jan 18, 2006 Carmel | $ | 508.21 | | |
| 2/16/06 | 1906 | VOID | | | | |
| 2/17/06 | 1907 | VOID | | | | |
| 2/17/06 | 1908 | ED - Travel Expenses-OMS Annual Mtg& MISO AC-12/08/05 | $ | 104.40 | | |
| 2/17/06 | 1909 | Intercall - Conference calls OMS BOD& Ex Com | $ | 675.42 | | |
| 2/28/06 | W/D | ED - Deferred Compensation Deposit (Inc. | $ | 1,916.67 | | |
| 2/2/8/06 | W/D | OM- Deferred Compensation Deposit (Inc. | $ | 750.00 | | |
| 2/28/06 | W/D | February Payroll (Inc. Employer & Employee | $ | 12,052.10 | | |
| | | Total Checks and Charges | | | $ 22,640.05 | |
| CHECKING ACCOUNT BALANCE 2/28/06 | | | | | | $ 53,420.70 |

**CERTIFICATES OF DEPOSIT, SAVINGS AND CHECKING ACCOUNT BALANCES AS OF 2/28/06** **$ 183,073.09**

## CHASE CHECKING ACCOUNT RECONCILIATION

| | Check # | | |
|---|---|---|---|
| Bank Balance | | $ | 55,123.86 |
| Checks O/S | 1891 | $ | 295.00 |
| | 1901 | $ | 385.21 |
| | 1902 | $ | 789.13 |
| | 1903 | $ | 129.42 |
| | 1908 | $ | 104.40 |
| Book Balance | | $ | 53,420.70 |

## CHASE OMS VISA CARD PURCHASES

| | | | |
|---|---|---|---|
| ED | NARUC Conference registration | | |
| ED | National Electricity Delivery Forum registration Feb 12 - 16, 2006 Washington, DC | $ | 545.00 |
| ED | Airfare DSM to Washington, DC to attend National Electricity Delivery Forum | $ | 124.09 |
| ED | "In Appreciation" plaque for Jim Torgerson | $ | 54.62 |
| ED | Rental car, lunch, gas, parking, travel agent fee, hotel (2 nights) for trip to Carmel for MISO Advisory Committee Meeting and MISO BOD meeting Jan 17 - 19, 2006 | $ | 345.60 |
| ED | Airfare and travel agent fee for travel to Carmel to attend Mar 15 - 16 MISO AC and BOD meetings | $ | 285.19 |
| ED | Airfare and travel agent fee for travel from DSM to Jacksonville to Washington, DC to Chicago to DSM to make presentations at or to attend the following meetings:<br>Generation Summit Conference Feb 26 - 28<br>CECA Fuels & technology Forum Feb 28 - Mar 1<br>Midwest Energy Conference (EBA) Mar 1- Mar 2 | $ | 754.50 |
| OM | Fed Ex postage, etc. | $ | 146.19 |
| | Total Chase Card Purchases Jan 2006 | $ | 2,255.19 |

DRAFT March 6, 2006

**UNITED STATES OF AMERICA**
**FEDERAL ENERGY REGULATORY COMMISSION**

| | | |
|---|---|---|
| Long-Term Firm Transmission Rights in Organized Electricity Markets | ) ) | Docket No RM06-8-000 |
| Long-Term Transmission Rights in Markets Operated by Regional Transmission Organizations and Independent System Operators | ) ) ) | Docket No. AD05-7-000 |

**COMMENTS OF THE ORGANIZATION OF MISO STATE**

## I. STATEMENT OF ISSUES AND SUMMARY OF COMMENTS

In this February 2, 2006 Notice of Proposed Rulemaking ("NOPR"), the Federal Energy Regulatory Commission ("FERC" or "Commission") proposes to amend its regulations in order to implement section 1233(b) of the Energy Policy Act of 2005. Specifically, the Commission would require that "long-term firm transmission rights must be made available with terms (and/or rights to renewal) that are sufficient to meet the needs of load-serving entities to hedge long-term power supply arrangements made or planned to satisfy a service obligation."[1] The Commission also states it "seeks to provide increased certainty regarding the congestion cost risks of long-term transmission service in organized electricity markets that will help load-serving entities and other market participants make new investments and other long-term power supply arrangements."[2]

### A. <u>Grid Expansion is the Primary Vehicle for Providing Long-Term Hedges for Congestion Costs.</u>

At the outset of these comments, the Organization of MISO States ("OMS") would like to reiterate one of the major points it previously has made in Docket No. AD05-7-000:

[1] Federal Energy Regulatory Commission; 18 CFR Part 40, Docket Nos. RM06-8-000 and AD05-7-000: Long-Term Firm Transmission Rights in Organized Electricity Markets; Long-Term Transmission Rights in Markets Operated by Regional Transmission Organizations and Independent System Operators; February 2, 2006; ("Long-Term Firm Transmission Rights NOPR"); ¶3.

[2] Long Term Firm Transmission Rights NOPR: ¶ 4.

> "To guarantee long-term transmission rights absent grid expansion is likely to mean shifting the congestion costs among market participants without lowering the overall level, and therefore risks, of these congestion costs."[3]

The overall objectives of long-term transmission rights ("to provide increased certainty regarding the congestion cost risks of long-term transmission service in organized electricity markets that will help load-serving entities and other market participants make new investments and other long-term power supply arrangements"[4]) can only be met with a significant expansion in the transmission system, and this expansion will not happen overnight. The OMS would note that this is consistent with the requirements of new Section 217(b)(4) of the FPA where it states:

> "The Commission shall exercise the authority of the Commission under this Act in a manner that **facilitates the planning and expansion of transmission facilities** to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs."[5] (Emphasis added)

**B. Proposed Long-Term Firm Transmission guidelines should not be interpreted to mean that a transmission provider is required to provide transmission service with no consequences related to either congestion or a requirement for the transmission user to pay for upgrades required to hedge such congestion.**

One of the themes in the NOPR is a comparison of physical firm transmission rights to financial firm transmission rights. For example, in the NOPR the Commission states:

> "… although the load serving entity must pay the demand charge whether or not it uses its full reservation, it does not have to pay additional costs associated with transmission congestion for point-to-point transmission service even when the transmission provider must redispatch its generators to honor the firm service commitment."[6]

[3] Comments Of The Organization Of MISO States On Establishing Long Term Transmission Rights In Markets With Locational Pricing, Docket No. AD05-7-000; June 30, 2005; p. 3.

[4] Long-Term Firm Transmission Rights NOPR, ¶ 4.

[5] Long-Term Firm Transmission Rights NOPR, ¶2.

[6] Long-Term Firm Transmission Rights NOPR, ¶ 20.

Clearly, in regions without organized electricity markets, the point-to-point transactions (whether firm or non-firm) are subject to curtailment under transmission loading relief (TLR) orders. Upon curtailment, parties to point-to-point transactions would need to provide energy from alternative sources, commonly at costs that are significantly higher than those of the curtailed transaction. While costs from these alternative sources may be subject to less uncertainty than congestion costs charged through an LMP-driven congestion management system, having outcomes be less uncertain need not translate to having them be less expensive. Moreover, without paying for required transmission upgrades, a party should not develop an expectation that it should bear no congestion-related costs.[7] Similarly, no Commission guideline should infer that a transmission provider is required to provide transmission service with no consequences related to either congestion or a requirement for the transmission user to pay for upgrades required to hedge such congestion.

Finally, it is important that the concept of making congestion costs transparent be kept distinct from the experience of higher congestion costs. Prior to the beginning of the Midwest ISO's Midwest Market Initiative (MMI), the Midwest ISO was experiencing levels of TLRs that were both unprecedented and increasing. Clearly, though the congestion costs related to those TLRs were not fully transparent, they were significant. The OMS is concerned that the institution of LMP markets may have been assumed to have caused congestion costs when, in fact, the LMP market simply revealed these costs and made them transparent.[8]

### C. Moving to An Allocation System that Requires Long-Term Firm Transmission Rights With Congestion Cost Payments that Cannot be Prorated Will Result in Cost Shifts that Are Likely To Be Unjust and Unreasonable.

[7] Through its participation in the MISO stakeholder process, the OMS is aware that the efficiency of transmission systems' use in the MISO footprint seems to have improved, reflected by lesser amounts of congestion, not more.

[8] Additionally, the overlap of increases in natural gas and coal costs with the MMI's implementation may have also confused many.

The OMS cautions the Commission and transmission system users as to expectations of outcomes from adopting the long-term firm transmission rights guidelines proposed in this proceeding. Such outcomes will result in cost shifts among transmission system users, and such shifts could be unjust and unreasonable unless extreme care is taken.

One of the greatest concerns of the OMS regarding the Commission's proposed guidelines is the requirement that congestion cost payments to holders of long-term firm transmission rights not be subject to prorated payments when the RTO/ISO has insufficient congestion revenues to fully fund all firm transmission rights.[9] In its earlier comments the OMS warned,

> "Longer-term transmission rights that are not subject to prorating require a higher risk premium (potentially much higher) than shorter-term transmission rights that are subject to prorating. This is because the longer the term for which risks are to be mitigated, the greater the amount of uncertainty and the higher the cost of mitigating that risk. Given that the OMS is not aware of any proposals or practical ways to set a higher risk premium on long-term transmission rights or exemption from pro-ration, further stakeholder input and discussion of this issue is needed at the RTO level."[10]

Unfortunately, the proposed guidelines provide no insights as to how to set a higher risk premium on long-term firm transmission rights that are not subject to prorating. The likely result of this requirement along with the priority given to long-term firm transmission rights,[11] will be that RTOs/ISOs will be extremely conservative in the level of long-term firm transmission rights that they are willing to allocate, and will have a major impact on the level of firm transmission rights that remain for annual allocation. This will further result in significant cost shifts, giving

[9] In part, proposed Guideline 2 requires "once allocated, the financial coverage provided by the right should not be modified during its term except in the case of extraordinary circumstances or through voluntary agreement of both the holder of the right and the transmission organization."

[10] Comments Of The Organization Of MISO States On Establishing Long Term Transmission Rights In Markets With Locational Pricing, Docket No. AD05-7-000; June 30, 2005; p. 3.

[11] Proposed Guideline 5 requires "load-serving entities with long-term power supply arrangements to meet a service obligation must have priority to existing transmission capacity that supports long-term firm transmission rights requested to hedge such arrangements."

holders of long-term firm transmission rights greater revenue streams from congestion payments and holders of short-term firm transmission rights lesser revenue streams from congestion payments. In this regard, new section 217(b)(4) of the Federal Power Act provides:

> "The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the **reasonable needs** of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs."[12] (Emphasis added.)

Moreover, this does not require the full funding of long-term firm transmission rights as implied by the Commission's proposed guidelines. Therefore, the OMS asks that the Commission reconsider its proposed guidelines by allowing stakeholders in each RTO/ISO the flexibility to make a regional determination regarding how to allocate under-funded firm transmission rights, and to give the stakeholder process sufficient time to work out this extremely difficult issue.[13]

The OMS urges the Commission to keep these summary comments in mind when reviewing the following specific comments regarding the Commission's proposed guidelines.

## II. AN OVERVIEW OF THE IMPLICATIONS OF THE PROPOSED GUIDELINES FOR LONG-TERM FIRM TRANSMISSION RIGHTS

### A. The Proposed Guidelines Imply a Fundamental Change in Direction for RTOs/ISOs From Allocating Short-Term to Allocating Long-Term Firm Transmission Rights.

The guidelines proposed in the Commission's NOPR require that RTOs/ISOs provide long-term firm transmission rights (to the extent available) that are requested by load-serving

[12] Long-Term Firm Transmission Rights NOPR, ¶ 2.

[13] The proposed rule only allows 180 days for RTOs/ISOs to file tariffs at the Commission for the implementation of long-term firm transmission rights.

entities that have long-term power supply arrangements to meet a service obligation.[14] In part because of the priority given to long-term firm transmission rights,[15] it is clear that long-term firm transmission rights are a superior product to short-term firm transmission rights, and it follows that all those who qualify for long-term transmission rights will request this long-term form of firm transmission rights. This makes the provision of long-term firm transmission rights a fundamental change in processes for all RTOs/ISOs that have in place mechanisms for providing these firm transmission rights on an annual (i.e., "short-term") basis. Moreover, this NOPR is not an incremental change to what is taking place today. Instead, it is a fundamental change to the way in which firm transmission rights are allocated to market participants in organized markets..

The implication is that the allocation process for all firm transmission rights <u>must</u> begin with an allocation of long-term firm transmission rights. The RTO/ISO has some latitude to reserve some of the transmission capacity for allocation for short-term firm transmission rights,[16] but in order to provide priority to long-term firm transmission rights, the allocation of short-term firm transmission rights would have to follow after the allocation of long-term firm transmission rights.

### B. <u>The Proposed Guidelines Imply a Changed Modeling Process that will Be Required for Allocating Long-Term Firm Transmission Rights.</u>

[14] Proposed Guideline 4 requires "long-term firm transmission rights **must be made available** with term lengths (and/or rights to renewal) that are sufficient to meet the needs of load-serving entities to hedge long-term power supply arrangements made or planned to satisfy a service obligation." (Emphasis added.)

[15] Proposed Guideline 5 requires "load-serving entities with long-term power supply arrangements to meet a service obligation **must have priority to existing transmission capacity** that supports long-term firm transmission rights requested to hedge such arrangements." (Emphasis/ added.)

[16] Proposed Guideline 8 requires the RTO/ISO to "balance any adverse economic impact between participants receiving and not receiving the right."

In addition to the implication of the guidelines with respect to the priority order of allocations between long-run and short-run firm transmission rights, having an allocation process for long-term firm transmission rights implies a different modeling process than what is currently used, where the topology of the transmission system and external loop flows are forecasted only on a year-ahead basis. Moreover, the provision of long-term firm transmission rights will likely require transmission rights allocation models to incorporate long-term transmission planning. This longer-term modeling introduces additional uncertainty with respect to both the topology of the transmission system (what exactly will be built – transmission and generation - and when), but also with respect to forecasts of more operational aspects of the transmission system, such as loop flows.

### C. <u>The Proposed Guidelines Imply a Fundamental Change in Approach to RTO/ISO Transmission Planning.</u>

To the extent that requests for long-term firm transmission rights cannot be fulfilled, the RTO/ISO will need to determine what transmission upgrades would be required to meet the unfulfilled requests for long-term firm transmission rights. The guidelines require the RTO/ISO to provide long-term transmission rights for those market participants that are willing to fund such transmission upgrades.[17] Thus, requests for long-term firm transmission rights would lead to additional long-term transmission planning analysis on the part of RTOs/ISOs and a needed connection between long-term transmission rights and the transmission plans of the RTOs/ISOs.[18]

[17] Proposed Guideline 3 requires "long-term firm transmission rights made feasible by transmission upgrades or expansions must be available upon request to any party that pays for such upgrades or expansions in accordance with the transmission organization's prevailing cost allocation methods for upgrades or expansions."

[18] Currently, MISO's transmission planning focuses on reliability upgrades, upgrades related to reducing congestion and upgrades required for generation interconnections. Any generator that is a network resource and is designated by a load-serving entity is eligible to be nominated in the annual financial transmission right ("FTR") allocation.

**D. The Proposed Guidelines Imply That Fewer Firm Transmission Rights Are Likely To Be Allocated And This Will Result In a Major Redistribution of These Rights**

The proposed guidelines require that holders of long-term firm transmission rights be given a guarantee of full payment of congestion costs.[19] This requirement will result in very conservative levels of transmission capacity allowed by the RTOs/ISOs to be made available for allocation to long-term firm transmission rights. This requirement also places a higher value on long-term firm transmission rights as compared to annual firm transmission rights. Thus, the Commission should expect that all load-serving entities qualifying for allocations of long-term firm transmission rights to request that their firm transmission rights be long-term rather than annual, and that the RTO/ISO will not be able to meet these requests. The result will be fewer firm transmission rights being allocated, and a likely redistribution of firm transmission rights from what is currently being allocated on an annual basis. The extent of this redistribution will be determined by the amount of transmission capacity that the RTO/ISO reserves for annual firm transmission rights.[20]

The OMS is also concerned about how RTOs/ISOs will balance the need for long-term congestion hedges of regulated states with the need for shorter-term congestion hedges of retail access states. In general, long-term FTRs would most likely conflict with the market design elements of many of the retail access states that typically are structured around shorter term contracts to minimize load-shift risk faced by potential alternative suppliers. The adoption of a proposal that gives greater preference in the long-term FTR allocation to load serving entities

[19] Proposed Guideline 2 states: "long-term firm transmission rights must provide a hedge against locational marginal pricing congestion charges (or other direct assignment of congestion costs) for the period covered and quantity specified. Once allocated, the financial coverage provided by the right should not be modified during its term except in the case of extraordinary circumstances or through voluntary agreement of both the holder of the right and the transmission organization."

[20] Proposed Guideline 8 requires "allocation of long-term firm transmission rights should balance any adverse economic impact between participants receiving and not receiving the right."

(LSEs) that have longer contract terms may well be inconsistent with the business models of retail access states that generally rely on shorter-term contracts.~~[21]~~ Any redistribution of firm transmission rights should not favor one business model over the other. In addition, the Commission's proposed definitions of "load serving entity" and "service obligation" may conflict with certain states' ~~business models~~plans for procuring supply for retail load that does not switch to alternative providers.[22] **~~[Does the ICC have an alternative definition of "load serving entity" to propose?]~~**

**E. <u>The Proposed Guidelines Imply A Lengthy and Contentious Stakeholder Process To Arrive At A Tariff Proposal for Allocating Long-Term Firm Transmission Rights.</u>**

When all of the above implications of the proposed guidelines are taken together, (i.e., new direction in allocations, new models required for allocations, new planning requirements and possible significant changes in the distribution of firm transmission rights), the Commission should expect that a lengthy and contentious stakeholder process will be required to develop the details necessary to meet the proposed guidelines. The OMS also notes that there will most likely be a need for RTOs and their stakeholders to address seams-related issues regarding the

[21]~~For example, Illinois plans to use an auction as a means for utilities to procure supply to meet the load obligations using three-year purchase contracts.~~

[22] For example, Illinois plans to use an auction as a means for utilities to procure supply to meet the load obligations using three-year purchase contracts. ~~in~~In order to allow auction winners the ability to seek financial transmission rights (FTRs), the Illinois auction process has been set up so that the auction winners will be able to participate directly in the FTR ~~auction~~allocation process of both PJM and MISO, beginning in the spring of 2007. However, the NOPR proposes to limit long term FTRs to "load serving entities~~.~~" with a "service obligation." FERC proposes to define "load serving entity" in such a way that it would not encompass Illinois' procurement auction winners (see NOPR at P 7). Therefore, ~~Under~~under the NOPR's proposed definitions, none of Illinois' ~~BGS~~auction load could be provided under contracts hedged with long term FTRs. That presents a major conflict between Illinois' auction design and FERC's long term firm transmission rights proposal. To cure this definitional problem, the definition of "load serving entity" should be modified to include reference to an authorized designated agent as follows: "a distribution utility **(or its authorized designated agent)** or electric utility **(or its authorized designated agent)** that has a service obligation." Similarly, the definition of "service obligation" should be modified as follows: "a requirement applicable to, or the exercise of authority granted to, an electric utility **(or its authorized designated agent)** under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility." The state's retail procurement auction design could then authorize the utility to name the auction winners as designated agents for FTR purposes.

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allocation of long-term firm transmission rights that will have a cross-border impact. In sum, the OMS is concerned as to whether or not 180 days after the publication of the new rule will be sufficient to work through all of the issues that will need to be addressed, and would request that the Commission allow RTOs/ISOs to report back as to the status of stakeholder processes in 180 days, and based on that report set a filing date for the tariff changes.

## III. SPECIFIC COMMENTS TO THE PROPOSED GUIDELINES

**Guideline (1): The long-term firm transmission right should be a point-to-point right that specifies a source (injection node or nodes) and sink (withdrawal node or nodes), and a quantity (MW).**

**Comments**: This guideline appears to be straightforward – it requires that the long-term FTR be matched to a specific generation source (or set of specific generation sources where the contract is "system participation"). However, there is an additional requirement that is not included in this guideline. In order to obtain a long-term firm transmission right, the transmission customer should be required to show proof of a long-term commitment to the generation resource or set of resources in the case of a system participation agreement.

There are several issues regarding the provision of long-term firm transmission rights that will factor into the design used by an RTO to provide these instruments. However, the suggestion that the RTO should extend its current one-year process to include multiple years is worth serious consideration.

As indicated previously in these comments, in order to comply with the proposed guidelines, RTOs may be required to primarily implement a system of long-term firm transmission rights. In order to accomplish this, several things will need to be done, including

1) Setting up auctions/markets for long-term firm transmission rights so that those wanting to hold firm transmission rights for shorter time periods will have that option– including safeguards to prevent initial long-term firm transmission rights holders from using the

auction to extract monopoly rents from those wanting shorter period firm transmission rights;

2) Making determinations of transmission expansions needed to provide long-term firm transmission rights that have been prorated in the allocation process – along with a method for allocating the costs of these upgrades; and

3) Possibly reserving transmission capacity for short-term firm transmission rights for those who do not have a service obligation.

**Guideline (2): The long-term firm transmission right must provide a hedge against locational marginal pricing congestion charges (or other direct assignment of congestion costs) for the period covered and quantity specified. Once allocated, the financial coverage provided by the right should not be modified during its term except in the case of extraordinary circumstances or through voluntary agreement of both the holder of the right and the transmission organization.**

**Comments:** As noted in our introductory comments, OMS understands there is no transmission construct under which a transmission customer has no responsibility to deal with congestion. Such responsibility may not be subject to LMP pricing, but there are always congestion consequences and related costs. So, the OMS is concerned when it sees a Commission suggested guideline where it appears as if absolute certainty is to be provided: "long-term firm transmission right must provide a hedge against locational marginal pricing congestion charges (or other direct assignment of congestion costs) for the period covered and quantity specified." OMS suggests that the Commission not adopt this guideline, but rather provide RTOs/ISOs an opportunity to explore and discuss constructs that provide more, but not absolute, certainty through their respective stakeholder processes.

This guideline defines the primary difference between what the FERC is calling a "long-term" firm transmission right and the firm transmission rights that have been allocated thus far in the MISO allocation process. Year-to-year allocations do not assure transmission customers that they will be able to have a firm transmission right to hedge their use from a generation source over the life (could be contract life) of that generation source. The purpose of a long-term firm transmission right is to provide that assurance.

The more difficult aspect of this guideline is that it imposes a condition that the firm transmission right will never be prorated in terms of payments. Thus, holders of long-term firm transmission rights are being given a different financial instrument from non-long-term firm transmission rights, one in which the holder has one-hundred percent assurance of payments either from, or to,[23] the RTO.

While assurance of receiving a firm transmission right is one thing, it is quite another to assure the holder of a firm transmission right that it will be fully funded. Full funding of a firm transmission right for non-base loaded generation sources goes beyond the requirements of providing transmission customers with the assurance of being hedged against congestion costs. Consider the following scenarios.

1. The generation source in question is bid into the energy market but does not fully run because the LMP at the generation source is lower than the incremental bid. The firm transmission right from that generation source to the load ensures the load-serving entity that it will in fact be able to serve its load at the LMP from the generation source. There may be congestion cost included in the generation source LMP, but there is no congestion included from that generation source to the load. Comparing this scenario to physical transmission rights, there is no assurance to a load-serving entity that it will be able to purchase off-system at a cheaper price than from its own generation. Moreover, a load-serving entity taking network service from

[23] If a generation source is likely to provide counterflow for significant enough periods that the net payments are negative, it is highly unlikely that the transmission customer would request a long-term firm transmission right for that generator.

an RTO can request on a short-term basis for a change in source to serve its load, but is only provided this service if it is available.

2. The generation source in question is bid into the energy market and does fully run, but the full amount of generation from that source is not needed to serve the load. In essence, the generator is selling incremental energy into the market. In addition to receiving payments for the LMP at the generation source, the load-serving entity is also receiving an additional payment for firm transmission rights from that generation source to its load for the incremental energy being sold into the market. In comparing this scenario to what physical transmission rights would give to a load-serving entity, the ability to sell energy to another entity is not assured, let alone an additional payment for congestion between the generator making the sale and the load.

As indicated in the NOPR, the FERC wants comments on who should pay for this one-hundred percent assurance of payments. It appears that most of the time the lack of adequate congestion revenues to fully fund firm transmission right payments are in part the result of loop flows – flows of power over the MISO system from entities outside of the MISO footprint.[24] In the case of loop flows and absent some new form of a seams agreement, the shortfall in firm transmission right revenues cannot be attributed to the cost causer.

It appears that the assurance of fully funded firm transmission right payments goes well beyond the scope of what physical transmission rights have given to transmission customers. While “price stability” is a proper goal, this goal should not be interpreted to mean going beyond an assurance that the load-serving entity can supply its load from its own generation sources. By imposing the condition that long-term firm transmission rights be fully

[24] This is not to say that other causes such as planned transmission outages don’t contribute to the lack of adequate congestion revenues to fully fund firm transmission right payments.

funded, the proposed guidelines do in fact provide additional assurance to load-serving entities with respect to both purchases and sales of energy into the spot energy markets.

- **The FERC should consider modifying Guideline 2 to only include the assurance that the holder of a long-term FTR is assured of receiving that same FTR over the contract life of the generation source.**

**Guideline (3): Long-term firm transmission rights made feasible by transmission upgrades or expansions must be available upon request to any party that pays for such upgrades or expansions in accordance with the transmission organization's prevailing cost allocation methods for upgrades or expansions. The term of the rights should be equal to the life of the facility (or facilities) or a lesser term requested by the party paying for the upgrade or expansion.**

**Comments**: The issue in this guideline is where a load-serving entity requests a new or changed designated network resource and as a result of that request MISO requires that a transmission upgrade be made. However, it is important to note that such transmission upgrades only require that the new or changed network resource be deliverable to the MISO market. The upgrade requirement is not currently linked to the ability of MISO to grant the transmission customer a financial transmission right ("FTR"). Moreover, MISO's current policy is to grant the transmission customer a candidate FTR ("CFTR") and allow the transmission customer to submit its CFTR in the annual FTR nomination process. It should be noted that if the generation source is distant from the load sink(s) of the load-serving entity, it is more likely to have significant congestion. The load-serving entity would therefore have a strong incentive to submit the CFTR in the first tier, and may have a good chance of receiving the FTR. This "distant" FTR would use significant transmission capacity and would likely mean that CFTRs submitted in later tiers would be infeasible. Thus, the current MISO policy of granting CFTRs to those who fund transmission upgrades only on the basis of deliverability to the MISO market can have an unintended consequence of restricting FTR availability to others.

Whenever, FTRs or CFTRs are given with transmission upgrades, the MISO needs to carefully consider what upgrades are required. For example, if the CFTR is allowed to be put into the first tier or if a long-term FTR is being granted, upgrades beyond those needed for deliverability into the MISO market might be needed to assure that no harm is done to other load-serving entities.

- **In order assure no harm to other participants from the RTO/ISO granting their requests for a long-term firm transmission rights, requestors of long-term firm transmission rights should pay for the incremental transmission upgrades needed to perfectly hedge congestion from generation sources to their loads.**

**<u>Guideline (4): Long-term firm transmission rights must be made available with term lengths (and/or rights to renewal) that are sufficient to meet the needs of load-serving entities to hedge long-term power supply arrangements made or planned to satisfy a service obligation. The length of term of renewals may be different from the original term</u>.**

**Comments**: The proposed guideline lays out the principle being sought without prescribing a set length for "long-term." The proposal is to allow an RTO to make this determination through its stakeholder process. However, the NOPR holds out the possibility of setting a specific length for "long-term," and requests comments on this. Moreover, it appears that the argument that long-term should not exceed the RTO's planning horizon carriers some weight.

Currently, the manner in which the regional planning process occurs is that over the planning horizon if there is a reliability problem then the RTO would include a recommendation for how to fix such a problem as a part of its transmission expansion plan. In MISO, the cost of baseline reliability upgrades will be allocated through a cost allocation method. However, baseline reliability upgrades do not ensure that firm transmission rights will be fully allocated to market participants. Thus, it appears that if the concern is with ensuring that firm transmission rights can be fully allocated to load-serving entities requesting such assurance, then MISO will need to revise its criteria for inclusion of transmission upgrades in its transmission plan. Thus, it

**Comment [B1]:** I am not sure what is being said with this sentence? Are we saying the FTRs created with reliability upgrades are not fully allocated?

is very important to leave the specification of the length of long-term firm transmission rights up to each RTO in order that it can be properly linked to the RTO's planning process.

This will be a difficult task. The issue here is what firm transmission rights should be allowed long-term status. If all generation sources are allowed eligibility for long-term firm transmission rights status, this will mean significant levels of transmission upgrades, and such upgrades will also involve projecting loop flows from other systems in order to have simultaneous feasibility. The NOPR appears to be silent on this question. For example, should long-term firm transmission rights only be available for base-load generation sources? If this is the case, then following a tiered approach as is used in MISO could almost ensure that long-term firm transmission rights be simultaneously feasible; i.e., this would mean that only base load generation sources would be included in the first tier. Even in this instance, MISO would have to determine what transmission upgrades are necessary to ensure simultaneous feasibility of first tier firm transmission rights.

The greater the amount of generation for which long-term firm transmission rights are granted, the greater will be the transmission upgrades required to ensure that those firm transmission rights are simultaneously feasible. However, if the condition for making such upgrades is that those who initially have their long-term firm transmission rights prorated must pay for these upgrades, this would place an economic limit on the amount of long-term firm transmission rights ultimately being granted. Again, this is a difficult issue that should be addressed in the stakeholder process of each RTO.

- **The FERC needs to keep in mind the complexity associated with cost allocation and allow sufficient time for the RTOx and their respective stakeholders to work through the process that will involve the cost allocation of upgrades needed to support long-term firm transmission rights.**

**<u>Guideline (5): Load-serving entities with long-term power supply arrangements to meet a service obligation must have priority to existing transmission capacity that supports long-term firm transmission rights requested to hedge such arrangements</u>.**

**Comments**: If the initial requests for long-term firm transmission rights are not simultaneously feasible, the RTO must go through some form of allocation or prorating of what is available. This guideline could be interpreted to initially restrict requests for long-term firm transmission rights to "load-serving entities with long-term power supply arrangements to meet a service obligation," and only after that take requests from others for long-term firm transmission rights.

What is most likely to be the case is that the RTO will not be able to meet all the requests for long-term firm transmission rights coming from "load-serving entities with long-term power supply arrangements to meet service obligations," and will need to determine a method for prorating its initial allocation of long-term firm transmission rights. One such method is the tiered approach that MISO currently is using for the allocation of firm transmission rights for an upcoming year. MISO would likely have to run this same tiered process for a multi-year case in order to have some assurance that the long-term firm transmission rights allocated would be simultaneously feasible for more than a single year. The point is that through a tiered process, load-serving entities would be asked to prioritize the generation sources for which they want to request long-term firm transmission rights. The result of such a process would be that not all requests for long-term firm transmission rights would be simultaneously feasible, and the initial allocation of long-term firm transmission rights would be prorated.

Next, the MISO would need to determine transmission upgrades needed to remove the prorated amounts of the long-term firm transmission right requests, and some method for allocating the costs of these transmission upgrades would be needed. Moreover, if the cost of the upgrades outweigh the benefits from receiving the long-term firm transmission right, it is difficult to imagine that the need of the load-serving entity in such a case could or should be determined to be “reasonable” by the Commission.

**Guideline (6): A long-term transmission right held by a load-serving entity to support a service obligation should be re-assignable to another entity that acquires that service obligation.**

**Comments**: The issue of being able to reassign rights is a part of the current discussions taking place at MISO concerning using an historical test period for determining what generation capacity would be associated with specific loads. Generally, the concept is that the firm transmission rights are assignable to loads. Where the load-serving entity changes, the firm transmission right would stay with the load by going to the new load-serving entity. The crucial issue is if the load-serving entity is allowed to sell the firm transmission right because it anticipates that the sales value is higher than the revenues it would receive from congestion payments (a form of arbitrage), how does this protect the load?

In the context of traditional state regulation, states would have the ability to determine the circumstances under which it would be deemed prudent for a load-serving entity to sell a long-term firm transmission right. Moreover, it would generally be expected that a regulated utility would hold a long-term firm transmission right for the life of the generation source or generation contract. However, this does not mean that there are no circumstances under which prudent management would not sell a firm transmission right.

Regarding retail choice, whether or not a load-serving entity holds or sells a firm transmission right might not be subject to state regulation. However, one way to protect load is that when the load-serving entity is no longer serving the load for which the long-term firm transmission right was acquired, it must reimburse the new load-serving entity at the auction value of the long-term firm transmission right. It is also important to note that a new load-serving entity may not be serving the same load from the same resource used by the previous load-serving entity that acquired the long-term firm transmission right. In this case, the new load-serving entity may prefer to purchase a firm transmission right (long-term or perhaps short-term) that provides a better hedge.

When generation sources to serve load are constantly changing (e.g., retail choice or wholesale sales to municipal utilities), does having long-term firm transmission rights provide a good fit in all instances? Even if it is not always a good fit and because long-term firm transmission rights are of greater value than short-term firm transmission rights, it is clear that load-serving entities that change generation sources more frequently will want to be included in the initial process for allocating long-term firm transmission rights. Thus, it is up to the RTO to make long-term firm transmission rights work in the context of constantly changing generation sources. In order to do so, it appears that the RTO will have to set up auctions or markets for long-term firm transmission rights. Since long-term firm transmission rights have a different value than short-term firm transmission rights, these auctions/markets must be separate from the auctions/markets for short-term firm transmission rights. As noted in the discussion of Guideline 1 above, an auction process presents initial holders of long-term firm transmission rights with an opportunity to extract monopoly rents from participants seeking shorter-term financial transmission rights. This is one, of many issues, that will need to be addressed by RTOs and their stakeholders.

- **The issues raised by re-assignment of long-term firm transmission rights are extremely complex and will require significant time for RTOs and their respective stakeholders to work out.**

**<u>Guideline (7): The initial allocation of the long-term firm transmission rights shall not require recipients to participate in an auction.</u>**

**Comments**: The requirement that an ARR be able to be directly converted to an FTR is consistent with PJM's approach, and appears to be the approach that could be taken by MISO if it moves to a similar ARR approach.

**Guideline (8): Allocation of long-term firm transmission rights should balance any adverse economic impact between participants receiving and not receiving the right.**

**Comments**: Some of the issues addressed with respect to this guideline were addressed in the comments related to Guideline 6. However, the way to achieve a balance between short-term and long-term firm transmission rights has not previously been addressed.

It appears that by having a separate market for long-term firm transmission rights or ARRs this guideline can be met. However, because of Guideline 5 (priority for load-serving entities having to meet a service obligation), it appears that Guideline 8 needs to balance the possible impact on those who currently receive short-term firm transmission rights for long-term, point-to-point transmission reservations when those reservations are not directly associated with meeting a service obligation. It appears that the only way to do this is to reserve some level of firm transmission rights for this type of transmission service. However, if this is done, it must be clear that Guideline 5 is being satisfied within the context of certain trade-offs with Guideline 8. Entities not directly serving load that hold firm transmission rights today will want to maximize the amount held in reserve for them, while those wanting to hold long-term firm transmission rights will want to maximize the amount the RTO will allow to be allocated for long-term firm transmission rights.

**Comment [B2]:** I am not sure what we are saying here? The long term FTRs are to be allocated so it is not clear to me what we mean by "a separate market".

- **Determination of how much to reserve or the opposite – how much to allow for long-term firm transmission rights – will not be an easy task, and could take up significant time and debate within the stakeholder process.**

At the heart of this problem is the fact that firm transmission rights appear to be more valuable than the price that is being paid for long-term, point-to-point transmission service. The

Commission needs to keep this in mind with respect to its overall policy regarding protecting the holders of long-term, point-to-point transmission rights that are not directly serving load. Moreover, some of these long-term, point-to-point transmission rights are for through and out transactions and may well be used to meet a service obligation outside of the RTO's footprint. Other long-term, point-to-point transmission rights may be for sources and sinks within the RTO, but are being held for speculative purposes, and not being used to meet a service obligation.

- **If the Commission determines that it wants to protect holders of long-term, point-to-point transmission rights that are being held for speculative purposes, then it needs to more directly say that this is its intention. If not, then holders of these long-term, point-to-point transmission rights should be allowed to relinquish these rights**.

Comment [B3]:

With respect to firm transmission right options, the NOPR's recommendation appears to be appropriate – i.e., those wanting long-term firm transmission right options should be willing to pay for the additional cost of providing such an instrument. One possible way of doing this is to first allocate long-term firm transmission right obligations, and then allow those receiving long-term firm transmission right obligations the option of converting the firm transmission right obligation to a firm transmission right option. In order for such a conversion to take place, the RTO would determine the additional transmission capacity required for these conversions.

- **If, based on the long-term firm transmission right obligations allocated, the transmission capacity to provide requests for long-term firm transmission right options is not available, the RTO should make a determination of the cost necessary to provide the additional transmission capacity, and those requesting long-term firm transmission right options would be allocated those costs on the basis of their use of the additional capacity being added to provide hedging certainty for congestion costs.**

With respect to long-term firm transmission rights that over time have turned into an obligation to pay congestion costs rather than to receive congestion revenues, such changes can occur when generation upstream of the generator associated with the long-term firm transmission right have economically displaced generation downstream from that same generator resulting in significant flows of power in the opposite direction from the direction specified in the long-term firm transmission right. The economic incentive for the entity holding such a long-term firm transmission right is to take actions to abandon the obligation to pay these congestion charges.

- **To protect others from the actions of long-term firm transmission right holders whose obligation have turned into a requirement to pay congestion rather than receive congestion payments, the RTO should require any entity receiving a long-term firm transmission right to contract to make such payments for the life of the firm transmission right, or until it has been able to sell that long-term firm transmission right to another entity, whichever come first.**

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**OMS Executive Director Report**
**March 7, 2006**

## FERC Activity

1. The FERC issued a final rule on Reliability Organizations in Docket No. RM05-30 on February 2, 2006. Several requests for rehearing and clarification were filed.

2. The FERC is receiving comments on long-term financial transmission rights in Docket No. 06-8 on March 13. the date for reply comments was extended to April 3.

## EPACT Scorecard

The following summary lists selected items with regional impact. For a more complete list, see FERC's EPACT section at:
http://www.ferc.gov/legal/maj-ord-reg/fed-sta/ene-pol-act.asp.
The Department of Energy's corresponding list is at:
http://www.electricity.doe.gov/program/electric_oa_policy_energy_epacthome.cfm?section=divisions&level2=oandm_policy_energy.

1. The Regional Joint Board on Economic Dispatch, required by Section 1298 of the EPACT met in Washington on February 12 to review possible recommendations. The state vice-chairs have assigned the next phase of work to a core group headed by Randy Rismiller (Illinois) and John Sillin (Maryland). The core group is expected to have a draft to the Joint Board members by March 28.

## DOE Activity

1. On March 6, OMS submitted a comment to the DOE on the criteria that should be used to designate national interest transmission

corridors. A technical conference on the proposed criteria will be held in Chicago, near O'Hare Airport, on March 29, 2006. The Federal Register notice and technical conference information can be found at http://www.electricity.doe.gov/1221, including registration for the technical conference.

**OMS-MISO Activity:**

1. Advisory Committee continues to discuss recommendations to the MISO Board on the most useful ways to demonstrate RTO benefits .

**Public Relations**

1. Pending speaking/meeting invitations:
   - April 27 – American Association of Blacks in Energy (Detroit).