



**ORGANIZATION OF MISO STATES, INC.
Special Board of Directors Meeting
Conference Call Minutes
January 31, 2013**

Approved February 14, 2013 with correction

Kari Bennett, President of the Organization of MISO States, Inc. (OMS), called the January 31, 2013 special meeting of the OMS Board of Directors to order via conference call at approximately 9:00 am (CST). The following board members or their proxies participated in the meeting:

John Colgan, Illinois
Kari Bennett, Indiana
Libby Jacobs, Iowa (later in meeting, Janet McGurk served as proxy)
Talina Mathews, proxy for Linda Breathitt, Kentucky
Eric Skrmetta, Louisiana (later in meeting, Paul Zimmering served as proxy)
Orjiakor Isiogu, Michigan
David Boyd, Minnesota (later in meeting, Burl Haar served as proxy)
Chad Allen, proxy for Brandon Presley
Robert Kenney, Missouri
Kirk Bushman, Montana (later in meeting, Brian Dekiep served as proxy)
Phil Movish, proxy for Cynthia Hedge-Morrell, City of New Orleans
Brian Kalk, North Dakota (later in meeting, Jerry Lein served as proxy)
Greg Rislov, proxy for Gary Hanson, South Dakota
Ken Anderson, Texas
Eric Callisto, Wisconsin

Absent

Manitoba

Agency members participating

Colette Honorable, Dave Slaton, Bert Finzer - Arkansas
Randy Rismiller – Illinois
Melissa Watson - Louisiana
Bill Bokram, Chris Devon – Michigan
Burl Haar – Minnesota
Joshua Harden – Missouri
Brian Dekiep – Montana
Don Neumeyer – Wisconsin

Others on the call

Bill Smith, Julie Mitchell – OMS Staff

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

President Bennett introduced Chairman Colette Honorable and several staff members of the Arkansas Public Service Commission who were joining the meeting. President Bennett then recognized and welcomed Commissioner Kirk Bushman, the new OMS Director from the Montana Public Service Commission.

Before the business portion of the meeting began, President Bennett asked Vice President Eric Callisto to start the meeting on her behalf. It was difficult for her to speak as her voice was strained.

BUSINESS

1. Hot Topic for February 20, 2013 MISO Advisory Committee

Don Neumeyer, chair of the OMS Resources work group, updated directors on what the work group is preparing for the February hot topic which is **Coordinated Regional Resource Assessment**. Don highlighted the Resource Adequacy survey which the OMS Board at its Planning Meeting on December 12, 2012, asked the Resources Work Group to conduct. MISO and OMS have begun a dialogue on information needs regarding the cumulative amount of resources available when the requirements of all reasonably anticipated EPA rules have their effect on the MISO generation fleet. Gathering information on this issue will assist OMS and MISO in its continuing work in this area. Surveys were emailed to all OMS members. Neumeyer is still waiting for some members to return their surveys that were due COB January 23. Members were encouraged to send their responses ASAP. The Resources WG will host a conference call Monday, February 4, to compile responses for the other stakeholders waiting to hear from OMS. The Hot Topic is due February 13.

2. Action Item – OMS-OPSI Joint Comments on Capacity Deliverability

Chairman Phil Montgomery, chair of the OMS States' Seams work Group, introduced the draft comments, Docket AD 12-16, prepared by his work group and distributed to all members. OMS approval of the document, would give OPSI the go ahead to consider the joint draft at their meeting, February 4. After some discussion, a motion was entertained.

John Colgan moved to approve the joint comments as presented. Orjiakor Isiogu seconded the motion. A voice vote was taken. The comments were approved unanimously with Manitoba absent for the vote, and Louisiana abstaining.

3. Action Item – OMS Comments on Section 205 Filing Authority

President Kari Bennett introduced the document for consideration (docket ER13-708) on 205 filing rights for cost allocation issues. She reminded members that a draft set of the comments had been voted on at the Board meeting January 17. Ten members had abstained or been absent from the meeting, and reserved the option to email vote. Since then OMS had requested and received an extension of the filing deadline from FERC to February 8. Both Indiana and Wisconsin provided written versions of their edits to the draft originally distributed to members. Directors reviewed and discussed each of the edits suggested. Once agreement was reached on the changes, President Bennett asked the directors to state their general feelings toward the document.

A draft of the OMS Comments on Section 205 filing authority was considered with edits from the meeting to be added and the document re-circulated by OMS staff. Voting was deferred by electronic mail upon receipt of the final edited version of the draft. (A post-meeting draft was emailed to directors Friday, January 31, with a voting reply requested by February 8 to meet the FERC deadline.)

The result of the February 8 email vote is as follows:

Illinois -	Yes
Indiana -	Yes
Iowa -	Yes
Kentucky -	Yes
Louisiana -	abstain
Manitoba -	abstain
Michigan -	Yes
Minnesota –	abstain*
Mississippi -	Yes
Missouri -	Yes
Montana –	Yes
New Orleans -	Yes
North Dakota –	abstain*
South Dakota -	abstain*
Texas -	Yes
Wisconsin -	Yes

**The motion passed with 11 aye's, 0 no's and 5 abstentions.
*with footnote**

ADJOURNMENT

This Special OMS Board of Directors meeting adjourned at 11:20 a.m. CST.

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

Capacity Deliverability Across the Midwest)	
Independent Transmission System Operator,)	Docket No. AD12-16-000
Inc./PJM Interconnection, L.L.C., Seam)	

**JOINT COMMENTS OF THE
ORGANIZATION OF PJM STATES, INC.
AND THE ORGANIZATION OF MISO STATES**

The Organization of PJM States, Inc. (“OPSI”) and the Organization of MISO States (“OMS”) submit these Joint Comments regarding the Midwest Independent Transmission System Operator, Inc. (“MISO”) filing submitted in the above-captioned docket on January 3, 2013. In its January 3 Filing, MISO requested that the Commission expedite issuance of an order directing MISO and the PJM Interconnection, L.L.C. (“PJM”), to “remove barriers to generation capacity deliverability” between those two regional transmission organizations and establishing a process to produce that result. The purpose of these Joint Comments is to clarify the positions of OPSI and OMS in this matter.

MISO’s January 3 Filing is outside the Commission’s established procedural schedule for this proceeding.¹ OPSI and OMS submit that these Joint Comments to clarify the record, prevent confusion as to the OPSI and OMS position relative to MISO’s January 3 Filing, and assist the Commission’s decision-making in this case. As MISO’s January 3 Filing proposes a specific role for OPSI and OMS in the process for resolving the capacity deliverability issue, and OPSI and

¹ See http://elibrary.ferc.gov/idmws/File_list.asp?document_id=14030058 which is FERC Notice establishing August 10, 2012, as the deadline for comments, and August 27, 2012, as the deadline for reply comments in this proceeding.

OMS are in a unique position among the parties in this case, Commission acceptance and consideration of these Joint Comments will be particularly helpful in the Commission's decision-making process in this case.

II. Position and Recommendation of OPSI and OMS

While MISO has requested that the Commission expedite issuance of an Order in this case with respect to process, as explained below, OPSI and OMS do not believe it is necessary for the Commission to take expedited action in this matter at this time. OPSI and OMS believe that progress has been made and continues to be made on the capacity deliverability issue in the ongoing MISO/PJM Joint and Common Market ("JCM") stakeholder process. As explained below, further improvements to the JCM process may soon be voluntarily adopted and implemented by the JCM participants. OPSI and OMS suggest that MISO might better accomplish useful inter-regional initiatives through the JCM process² and by continuing to work with OPSI, OMS, PJM and the stakeholders of both MISO and PJM.

MISO did not communicate with either OPSI or OMS prior to submitting its January 3 Filing or on either of the process options described by MISO in that filing³ (including Option 1 which would assign a central role for OPSI and OMS). OPSI and OMS do not support implementation of either of those process options at this time, and particularly, would not welcome a Commission Order directing OPSI and OMS to perform any particular role under either of those options. MISO asserts that the December 14, 2012 Letter from Chairman Montgomery of the Wisconsin Public Service Commission and Commissioner White of the

² MISO reveals the low level of esteem it holds for the JCM process by suggesting that, if FERC does not expeditiously act, the capacity deliverability issue will be "relegate[d]" to the JCM process. (MISO's January 3 Filing at 3).

³ MISO January 3 Filing at 7-8.

Michigan Public Service Commission⁴ represents “clear indication” that OPSI and OMS are interested in performing the role that MISO asks the Commission to assign to OPSI and OMS under Option 1.⁵ MISO is mistaken in this regard and in attributing positions to OPSI and OMS without prior discussion and agreement.⁶

Assuming that the stakeholders in the JCM process develop a role for OPSI and OMS that is then approved by the respective OPSI and OMS Boards as envisioned in the Montgomery/White Letter described below and that OPSI and OMS continue to receive full cooperation from MISO and PJM in the JCM initiative, OPSI and OMS feel confident that the capacity deliverability issue will receive, in the JCM process, the attention that it deserves on a schedule that it deserves. Accordingly, Commission action is not needed in this case at this time. Nevertheless, as the OMS stated in its August 17, 2012 comments in this case, “because PJM and MISO have indicated that they have different priorities with respect to the pursuit of solutions for the capacity deliverability issue, it may be useful for the Commission, if it has a position on what priority this issue should be given, to make that position known.”⁷

⁴ Letter from Chairman Montgomery and Commissioner White, dated December 14, 2012.

<https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/Special%20Meetings/JCM%20Initiative/2013/20130129/20130129/20130129%20MISO%20PJM%20JCM%20Initiative%20Item%20004%20Montgomery-White%20Letter%2020121214.pdf>

⁵ MISO January 3 Filing, at footnote 15. The role for OPSI and OMS envisioned in the Montgomery/White Letter is different from the role described by MISO in their Option 1. One important difference is that, under MISO’s vision, the Commission would be ordering OPSI and OMS to perform a particular role. OPSI and OMS do not believe such an Order would be appropriate.

⁶ Chairman Montgomery and Commissioner White submitted an additional letter to MISO and PJM on January 23, 2013, indicating their concerns with the MISO January 3 Filing.

<https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/Special%20Meetings/JCM%20Initiative/2013/20130129/20130129/20130129%20MISO%20PJM%20JCM%20Initiative%20Item%20004%20%20Montgomery-White%20Letter%2020130123.pdf>

⁷ Comments of the Organization of MISO States, at 5.

III. Comments

On December 14, 2012, Michigan Commissioner Greg White (on behalf of OPSI) and Wisconsin Commission Chairman Phil Montgomery (on behalf of OMS) sent a joint letter to MISO and PJM. That letter stated in relevant part:

. . . we respectfully request that the RTOs agree to a more formalized role [for state regulators] in the JCM process and the JCM meetings. Specifically, we would like to participate in the development of meeting agendas to ensure that issues identified by regulators are addressed. Further, where appropriate, we would like the opportunity to assist in leading some discussions at the JCM meetings to help facilitate the identification and implementation of solutions.⁸

PJM and MISO appropriately responded to this letter by placing the topic of state regulator involvement in the JCM process on the agenda for the January 29, 2013, meeting of the JCM.

The JCM group (comprised of MISO and PJM stakeholders representing various sectors) has been working on a stakeholder-prioritized list of MISO-PJM seam issues since July of 2012. This list, which includes capacity deliverability, was prioritized by the JCM stakeholders in terms of short, medium and long term goals, with their focus being to first develop recommendations that maximize operational efficiencies across the MISO-PJM seam. At this point, substantial progress on short-term projects has been achieved and MISO and PJM have made presentations to the JCM group concerning medium and long term seams issues. Work on many other seams issue solutions is still in progress and not yet finalized, such as aligning MISO and PJM outage coordination and implementing enhanced real-time and market flow data exchanges. As the JCM group identifies and agrees upon solutions, it brings those

⁸ Montgomery/White December 14, 2012, Letter, emphasis added.

recommendations to the individual MISO and PJM stakeholder processes to be finalized with RTO-specific details and tariff revisions.⁹

The December 14, 2012, Montgomery/White letter was spurred by a sense among some state regulator participants in the JCM process that the JCM process could perhaps become even more productive by having an increased formalization of framework in the JCM process and a more visible role for state regulators in the process, perhaps including OPSI and OMS Commissioners and staff should such a role be approved by the Boards of these organizations. MISO, apparently, shares some of this perception regarding the JCM process because MISO complains that the JCM has “no oversight or firm timeframes imposed pursuant to its statutory authority.”¹⁰ Chairman Montgomery and Commissioner White look forward to discussing with stakeholders, MISO, and PJM, the state regulators’ perception of the JCM process thus far and the ideas and concepts offered in the Montgomery/White letter to remedy any shortcomings that may exist in the current JCM process. OPSI and OMS are confident that wisdom of the group will produce adjustments in the JCM process that will lead to even more improvements.

OPSI and OMS State commissions have dedicated significant time and resources to the JCM process and Chairman Montgomery and Commissioner White (along with state commission staff) have made significant contributions to that process.¹¹ It would be unfortunate if MISO’s January 3 Filing were permitted to undermine, disrupt or divert the progress that has

⁹ See <http://www.jointandcommon.com/working-groups/joint-and-common-wg.aspx> for documentation of JCM meetings.

¹⁰ MISO January 3 Filing, at 3.

¹¹ One of those contributions is development of a “gross energy transfer capability number” which was developed by PJM and MISO at the behest of Chairman Montgomery and in conjunction with representatives of OPSI and OMS. OPSI and OMS object to MISO’s characterization of the “gross energy transfer capability number” which is referred to on page 10 of MISO’s January 3 Filing. That number was specifically acknowledged by Chairman Montgomery as not representing an indication of capacity transfer capability, or even an indication of energy transfer capability that could be sustained for any identifiable period of time.

been made and that will be made in the JCM process on the full range of MISO/PJM seams issues (including capacity deliverability).

IV. Conclusion

OPSI and OMS appreciate the Commission's consideration of these comments. For the reasons described above, OPSI and OMS do not believe the Commission needs to take expedited action in this case at this time, as MISO has requested.

Respectfully Submitted,

Gregory V. Carmean
Gregory V. Carmean
Executive Director
Organization of PJM States, Inc.
249 East Main Street – Suite 1
Newark, Delaware 19711
Tel: 302-266-0914

William H. Smith, Jr.
William H. Smith, Jr.
Executive Director
Organization of MISO States, Inc.
100 Court Avenue, Suite 315
Des Moines, Iowa 50309
Tel: 515-243-0742

Dated: February 5, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.
Dated at Des Moines, Iowa, this 5th day of February, 2012.

William H. Smith, Jr.
William H. Smith, Jr.

Sent Via Electronic Mail

December 14, 2012

Mr. Andy Ott
Senior Vice President – Markets
PJM
955 Jefferson Ave.
Norristown, PA 19403

Mr. Richard Doying
Executive Vice President of Operations
MISO
P.O. Box 4202
Carmel, IN 46082-4202

RE: Request for Formalized Role for State Regulators Joint and
Common Market Initiative

Messrs. Ott and Doying:

As you know, State Commissioners and Staff have been closely following the Joint and Common Market (JCM) issues. As State regulators in both the MISO and PJM areas, we are vitally involved in efforts between regional transmission organizations (RTOs) to make their operations more efficient and to bring additional value to ratepayers. We have also been working to increase awareness among and to educate our colleagues on the issues that have impacts on the energy markets and customers in our states. We believe that a well-informed regulatory community is necessary to help identify and implement JCM improvements.

To that end, we have been providing Commissioner-level leadership and input to stakeholders and State Commission Staff in the JCM initiative (namely PJM, MISO, OPSI, OMS Commissioners and staff) to address issues related to energy and capacity transfers between the RTOs. Through this process, we have worked to identify, model and define a Gross Energy Transfer Capability between the two regions.¹ Most importantly, this work has provided an opportunity for all stakeholders involved to gain a better understanding of the modeling processes, including the inputs and assumptions used, and to also understand the differences between processes in each RTO. The initiative has been an educational one for all stakeholders, and the process has been collaborative and performed on specific timelines. In many ways, the educational benefits were the key outcomes of our collaboration.

We believe that our small group's input has been beneficial to the JCM initiative as a whole and is a model for enhanced state regulatory involvement in regional and inter-regional processes as outlined by FERC in Order 1000. Therefore, we respectfully request that the RTOs agree to a more formalized role in the JCM process and the JCM meetings. Specifically, we would like to participate in the development of meeting agendas to ensure that issues identified by regulators are addressed.

¹ The working group agreed to the following definition: Gross Energy Transfer Capability (GETC) – Represents the amount of energy that can be reliably transferred between regions under a narrow set of transfer scenarios that represent specific sets of operating conditions. This number does not represent the volume of capacity that could be deemed deliverable to load across the seam. Additional analysis is required to determine if individual units are deliverable across the seam. The stakeholder community should also recognize that this value does not represent and should not be confused with current industry defined terms such as ATC/TTC, Deliverability or Transfer Capability.

Mr. Andy Ott
Mr. Richard Doying
December 14, 2012
Page 2

Further, where appropriate, we would like the opportunity to assist in leading some discussions at the JCM meetings to help facilitate the identification and implementation of solutions.

We believe that a JCM initiative with active regulatory participation and leadership when needed will bring a number of benefits to the table. First, the regulator community would be represented through OMS and OPSI and will be reporting back to those organizations. As we have heard through this process, having regulators involved at all levels of the stakeholder process can reap benefits in the long-term. Additionally, as we have demonstrated through the success in our small group, we have the ability and duty to balance a variety of interests, which adds to the stakeholder process overall. Third, we have identified the ability to work on issues with specific timelines. We believe that these benefits will help to move issues into solutions more quickly and comprehensively in the JCM initiative.

The importance of ensuring regulator involvement became even more apparent at the November 30 JCM meeting where questions about JCM governance and the decision-making process were raised throughout the meeting. Given our diverse constituencies and perspectives, regulators from the territories that you serve will assist in moving issues through the JCM process, to the benefit of all stakeholders.

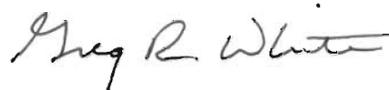
Like you, we want the JCM initiative to be productive, open and transparent. Having Commissioners from both OMS and OPSI share some duties of JCM leadership will ensure that the various interests from both sides of the seam are identified and addressed throughout the process. We are requesting your support in taking the idea of a more active role for regulators to the JCM stakeholder community. We would like to have this concept addressed in the JCM process. We will plan to address this issue at the next JCM meeting and ask that you include us on the agenda.

We appreciate the work that both PJM and MISO have performed to date and believe there is great value for ratepayers and market participants in making the management of the RTO seam more efficient. We look forward to continuing this work and working with you to find a larger role for state regulators in the process. Please contact us if you have any questions.

Sincerely,



Phil Montgomery
Chairman
Public Service Commission of Wisconsin



Greg White
Commissioner
Michigan Public Service Commission

cc: Chairman Jon Wellinghoff, Commissioner Philip Moeller, Commissioner John Norris,
Commissioner Cheryl LaFleur, Commissioner Tony Clark

Sent Via Electronic Mail

January 23, 2013

Mr. Andy Ott
Senior Vice President – Markets
PJM
955 Jefferson Ave.
Norristown, PA 19403

Mr. Richard Doying
Executive Vice President of Operations
MISO
P.O. Box 4202
Carmel, IN 46082-4202

RE: Reaction to *Request for Expedited Issuance of Order of the Midwest Independent Transmission System Operator*, Federal Energy Regulatory Commission Docket No. AD12-16-000.

Messrs. Ott and Doying:

On December 14, 2012, we sent you a letter requesting that the RTOs agree to a more formalized role for state Commissioners, (as representatives of the Organization of MISO States and the Organization of PJM States) within the JCM process and at the JCM meetings. We understand that this issue will be on the agenda for the January 29, 2013, JCM meeting, and we look forward to a robust stakeholder discussion to formalize our JCM involvement.

On January 3, 2013, MISO filed a *Request for Expedited Issuance of Order of the Midwest Independent Transmission System Operator* in Docket No. AD12-16-000 (the MISO Request). In this filing, MISO seeks to remove the issue of capacity deliverability from the JCM process and have a separate process to address this issue. MISO sets forth two options to move forward with this issue. While one of the options set forth by MISO defines a role for OMS and OPSI, which appears similar to that which was set forth in our December 14, 2012 letter, we wanted to provide our reaction to the MISO Request.

First, we want to make very clear that we did not participate in the development of the MISO Request, nor did we have any advanced knowledge of the filing. We do not believe that the bifurcated process MISO requested would be the proper avenue to pursue given the progress that has been accomplished within the JCM process. We would also like to reiterate that our request for enhanced regulatory leadership was directed within the JCM process, not outside of it. As set forth in our December 14, 2012 letter, we continue to believe that the diverse stakeholder process of the JCM is particularly well-suited for addressing all seams issues between MISO and PJM.

Second, we want to address a specific element of the MISO Request which mischaracterizes the Gross Energy Transfer Capability (GETC) joint modeling effort. *See*, MISO Request at p. 10. The GETC modeling effort was developed and defined through an ad hoc group consisting of state regulators and MISO and PJM representatives. This was both an

educational and collaborative process. In that process, all parties specifically agreed that our work would be characterized in specific ways and should not be used in a manner that would be divisive to the collaborative work that the ad hoc group accomplished.

Gross Energy Transfer Capability (GETC) – Represents the amount of energy that can be reliably transferred between regions under a narrow set of transfer scenarios that represent specific sets of operating conditions. This number does not represent the volume of capacity that could be deemed deliverable to load across the seam. Additional analysis is required to determine if individual units are deliverable across the seam. **The stakeholder community should also recognize that this value does not represent and should not be confused with current industry defined terms such as ATC/TTC, Deliverability or Transfer Capability.** [Emphasis added.]

The development and calculation of a GETC has produced a number of benefits. First, the development of the GETC provided an educational opportunity for MISO, PJM and the Commissions from Indiana, Michigan and Wisconsin to better understand the modeling process and assumptions used and to communicate that understanding to additional stakeholders. Additionally, the process provided an opportunity for PJM and MISO to share their modeling processes, understand the differences between them and identify potential coordination enhancements. Finally, the calculation of the GETC provided data that stakeholders may consider as issues are prioritized and addressed through the Joint and Common Market Initiative.¹

We believe that the MISO Request mischaracterizes the work that the ad hoc group performed to develop the GETC modeling analysis by referencing the GETC in an attempt to provide support for previous analysis of the Capacity Deliverability issue. The MISO Request asserts that the gross transfer capability number that the MISO Capacity Deliverability Whitepaper previously determined was “recently confirmed under the auspices of a joint effort, overseen by OMS and OPSI representatives.” This apparently intentional mischaracterization by the MISO Request of the GETC modeling effort severely undermines the collaborative efforts that were undertaken voluntarily, and in good faith, by the group participants.

Finally, we want to reiterate our desire and commitment to have active regulatory participation in the JCM process to help prioritize and move a variety of issues from discussion to implementation. We believe that we can have a beneficial impact on the governance of the JCM with the end goal of developing joint recommendations through the JCM process that will benefit stakeholders in both RTO areas. We continue to believe in the JCM stakeholder process and look forward to working with stakeholders to define and implement a role for state regulators within the inter-regional process of the JCM.

¹ <http://www.miso-pjm.com/~media/committees-groups/stakeholder-meetings/pjm-miso-joint-common/20121026/20121026-item-05-montgomery-presentation.ashx>

We appreciate the opportunity to share these reactions to the MISO Request with the JCM stakeholders. We ask that you post this letter along with the other meeting materials for the January 29, 2013 meeting. We look forward to continuing our efforts and working with you to find a larger role for state regulators in the inter-regional JCM process.

Sincerely,

A handwritten signature in cursive script that reads "P. L. Montgomery".

Phil Montgomery
Chairman
Public Service Commission of Wisconsin

Greg White
Commissioner
Michigan Public Service Commission

cc: Chairman Jon Wellinghoff
Commission Philip Moeller
Commissioner John Norris
Commissioner Cheryl LaFleur
Commissioner Tony Clark

MISO AC Members and Stakeholders:

To assist in providing a comprehensive response to the February 2013 Hot Topic, OMS developed a survey to gather state-specific information from OMS member states. The survey requested information on the various processes and timelines in each of the states with respect to resource adequacy decisions, specifically those related to reacting to EPA requirements.

The attached spreadsheet identifies the survey questions as well as the individual responses from OMS states. These are the raw responses that were input directly by Commission staff members from the listed states. OMS plans to have a summary of these responses to be used at the AC meeting. Additionally, OMS representatives from each of the responding states will be available during the AC meeting to address state-specific questions.

In the meantime, if you have specific questions, please send them along so we can make the AC meeting time an efficient and effective use of everyone's time.

OMS Resource Planning Survey January 2013

Feb 5 2013

	Wisconsin	Indiana	Minnesota	Michigan	Iowa	Illinois	Texas	South Dakota	Montana	Mississippi	Missouri	North Dakota
1. The EPA compliance work is likely due in 2017. MISO's EPA survey shows a number of units in an indeterminate state of whether to retire or add control technologies												
a. Does your state require a formal certificate of construction for installation of pollution control equipment, for example scrubbers on the older coal units?	yes		No. However, a utility is allowed to file an "advanced determination of prudence" regarding recovery of costs of such equipment. (Minnesota Statutes 216B.1695 ENVIRONMENTAL PROJECTS; ADVANCE DETERMINATION OF PRUDENCE.)	Michigan requires that formal permits be issued from the Michigan Department of Environmental Quality (MDEQ). [1] The MDEQ administers Rule 201 (Permit to Install or PTI), which applies to any facility (e.g., coal fired electric generating plants) that emit air contaminants and that plan to retrofit existing production systems, including environmental controls. The PTI is required in addition to facilities Renewable Operating Permit (ROP) granted by the MDEQ under Title V of the Clean Air Act, as amended, covering major sources of air emissions such as coal fired electric generating plants	(a) The Iowa Department of Natural Resources (IDNR) must issue an air construction permit to air emission sources and for the installation of pollution control equipment on those sources before they are constructed or modified. (b) In a separate process, rate regulated utilities must file with the Iowa Utilities Board Emissions Plan and Budgets (EPBs) every two years for their regulated emissions from coal fired power plants. IDNR must state whether the emissions plan and budget meets applicable state environmental requirements for regulated emissions before the IUB can approve it for rate recovery purposes.	No. The Electric Service Customer Choice and Rate Relief Law of 1997 does not require utilities to obtain a certificate of construction for the installation of pollution control equipment from the Illinois Commerce Commission. The ICC does not have jurisdiction over non-utility owned generating plants or municipally-owned or co-operatively owned generators, and so, does not have jurisdiction over their pollution control decisions. We cannot speak for any other Illinois state or local agency about any authority they may have in this regard.	No. A regulated electric utility in Texas must obtain a Certificate of Convenience and Necessity (CCN) from the PUCT before it can provide service to customers. The utility is required to amend its CCN for the addition of a new generating unit, but there is no specific requirement to amend the CCN for modifications to a generating unit. The Texas Commission on Environmental Quality (TCEQ) issues air permits for new or modified generating facilities in Texas, but a cursory review of their website suggests that they would not require permits for the modification of facilities that reduce air pollution.	The Montana Public Service Commission does not require a formal certificate of construction for installation of pollution control equipment. However, other state agencies may require some form of environmental certification and/or permitting.	Yes. The review process varies. The Mississippi Public Utility Staff (Staff) reviews all facility certificate filings for necessity and prudence. There is not a statutory or Commission imposed time limit on these proceedings. The Mississippi Public Utility Staff (Staff) is a separate entity from the Mississippi Public Service Commission. The Staff's Executive Director is appointed by the Governor whereas the Commissioners' are elected by the public. The Staff can be an intervenor or party to a case or can serve as an advisor to the Commission.	circumstantial to regulated utilities - but does not apply to coops and munis	No requirement, but utility can request an Advance Determination of Prudence for major plant investments under ND Century Code http://www.legis.nd.gov/cencode/T49C05.pdf ?201302041101 16 see North Dakota Worksheet	
If yes, 1. How long is the review process?	One to twelve months depending on the cost of the pollution control equipment. The less costly options such as Activated Carbon Injection for mercury control, SNCR for NOx control, and/or dry sorbent injection for SO2 control can be approved in a much shorter time frame. The more capital intensive projects such as a baghouse for mercury control, a SCR for NOx control, and/or a wet or dry FGD device for SO2 control typically are contested cases which have taken up to a year (or in the past longer) from application received.	The average number of days for Petition to Order is 238 over the last four or five years. In very general terms, if a utility filed for a Clean Coal Technology CPCN and files its case-in-chief at the same time, and the original procedural schedule is adhered to, it takes about 6-9 months...though lately, delays have been common because of the complexity of recent cases.		The review time for PTI applications varies by the complexity of the project, but typically take several months to process. Applications are reviewed and approved by the MDEQ Air Quality Division using a formal public comment process that sometimes requires a hearing.	(a) The IDNR air construction permit process will trigger prevention of significant deterioration (PSD) review, which means that the review process will take a minimum of 180 days. (b) The time for review by the IUB of the EPBs varies.			Unknown.	There is not a time limit for review.			
Is there a statutory time limit for review	A realistic time limit is one year. Recently, the statutory time line for regulatory approval or construction authorization has been limited by law to six months from the notice of hearing. An additional six month extension is then possible with Commission Chairperson approval.	No	However, a utility is allowed to file an "advanced determination of prudence" regarding recovery of costs of such equipment. (Minnesota Statutes 216B.1695 ENVIRONMENTAL PROJECTS; ADVANCE DETERMINATION OF PRUDENCE.)	No.	(a) There is no statutory time limit for review of air construction permit applications by the IDNR. (b) In the EPB process, the IUB has 180 days to approve or reject the plan once the IUB determines that the filing is complete.				There is not a time limit for review.			
If so, what is it?	As in response to 1.a.i.1, the longer review time occurs on the more expensive projects as it is more likely to result in a contested case on issues such as finance and environmental. Some of the decision-making authority is delegated to the senior manager in the Commission's energy division											
2. Does your state have to authorize/review the retirement of existing power plants?	No	No. However, recent environmental compliance plans being reviewed by the commission include a discussion of the planned retirements as a part of demonstrating that the plan is in the public interest.	Yes, a retirement would be part of a utility's IRP		No, but power plant retirements contribute to Board decisions.	No. Section 16-111(g)(2) of the Electric Service Customer Choice and Rate Relief Law of 1997 allows utilities to reorganize, transfer and/or retire existing plants from service without first obtaining authority from the Illinois Commerce Commission. The utilities have used the authority under that statute and currently do not own generating plants. The ICC does not have jurisdiction over non-utility owned generating plants or municipally owned or co-operatively owned generators. We cannot speak for any other Illinois state or local agency regarding any authority they may have over generating plant retirement decisions.	No. The PUCT is not required to review or authorize the retirement of an existing generating unit. However, regulated utilities, such as ETI, are expected to have enough generation resources at all times to serve their load and maintain an adequate reserve margin.	No	No, but the regulated utilities in the state have a legally mandated responsibility to provide safe, reliable electricity to their customers for a reasonable cost, which includes adequate capacity to serve load.			Yes: http://www.legis.nd.gov/cencode/T49C04.pdf ?201302041116 07 49-04-05. Commission approval required to dispose of or encumber franchises, works, or systems - Exceptions. A public utility may not dispose of, encumber, merge, or consolidate its franchise, works, or system necessary or useful in the performance of its duties to the public without prior commission approval. This section does not apply to: 1. Disposal or encumbrance of tangible property valued at less than five hundred thousand dollars. 2. Sale of securities registered with the federal securities and exchange commission.

a. Would your state like to conduct a "risk assessment survey" of these plants and hold the data confidential (to the degree possible) to allow the determination if the transmission system import/export capability of our seven resource planning zones is at risk?	yes	Yes	If such a survey were conducted, Minnesota would participate.	The Michigan Commission Staff agrees to participate in this "risk assessment" survey if it is initiated by MISO.			We are unfamiliar with nature of the study being suggested, including the time and resources that would be required to conduct the study and the nature of the results that could be expected. Therefore, we cannot comment at this time on the need for such a study.		No		Yes - Please provide further details regarding the risk assessment survey NDPSC would conduct.	
b. Would your state desire a calculation on the total MISO system capability and possible areas of risk?	yes	Yes	Yes, this information may be useful to understand how prices and reliability may be affected in the MISO region.	Yes			See response to 2a.		No		yes - please provide any calculations you may have.	
c. Would your state like to participate in a similar survey for coal units with and without SCR's for NOx control?	yes	Yes	If such a survey were conducted, Minnesota would participate.	Yes			At this time, Iowa is not able to definitively answer these questions. Further information would be needed regarding the process and objectives for the suggested surveys.		No		yes - please provide any calculations you may have.	
3. Does your state have a formal Integrated Resource Planning process?	no	yes	yes	As outlined in the summary, under PA 286 of 2008 (MCL 460.6s), Certificates of Need (CON) may be granted by the Michigan Commission under certain conditions for constructing or purchasing electric generating assets, as well as for Power Purchase Agreements for capacity. As part of this CON application process, a utility must prepare and submit an LSE-wide Integrated Resources Plan which meets the requirements set forth in Commission Order U-15896. Exhibit B of the order provides details on what should be included in this plan submission. The plan extends out at least ten years and includes forecasts of supply and demand for the filing utility.	No, but Iowa has a process to ensure resource adequacy within the state. See response to question 5	No. The Illinois Commerce Commission and the Illinois Power Agency do oversee a procurement process by which provider of last resort utilities procure capacity and energy to serve provider of last resort load.		No	1. Yes. See Montana work sheet	No, but the Commission did open a docket in 2008 to evaluate the energy resource needs of the state. This docket is still open but not active at this point in time. There is a statutory provision in Mississippi law that allows the Commission to request from the regulated utilities a 5 year resources plan.	Yes, there are formal filings.	ND Does not have a formal state-wide IRP process.
if yes, i. Is the assessment statewide, or by utility? If by utility, do all utilities submit plans, and if not, which types of utilities are covered and which are not? How much of the State load is covered by the process?			By utility. Eight utilities are currently required to prepare and submit IRPs every two years. This includes five investor-owned utilities that serve retail, two G&T rural electric cooperatives, and one G&T agency that provides wholesale service to Indiana municipal electric utilities. The specific entities are Indianapolis Power and Light Company (IPL), Indiana Michigan Power Company (I&M), Duke Energy Indiana, Northern Indiana Public Service Company (NIPSCO), Southern Indiana Gas & Electric Company (SIGECO), Hoosier Energy Rural Electric Cooperative (G&T for REMCs), Wabash Valley Power Association (WVPA, G&T for REMCs), and Indiana Municipal Power Agency (IMPA, G&T for municipal electric companies).? All load.	By utility. All "major" utilities submit plans; criteria = 100 MW and 10,000 Minnesota retail customers (directly or indirectly). This covers about 93% of Minnesota load; some load from neighboring states is also included in the process.		where the utility is part of a system, supply may be on a broader assessment. I&M, for example, includes demand for the areas it serves in both Indiana and Michigan, and projected supply from AEP and PJM, which it is part of. Only the Michigan Commission jurisdictional utility applying for the CON is required to submit an IRP. Only the incumbent utility's (LSE) load is covered under the IRP. NOTE: Under Commission Order U-15631, regulated utilities are required to submit reports assessing the efficiency of their existing coal-fired electric generating units. In addition, the Michigan Commission requires utilities and retail choice providers, and requests MISO and transmission companies, to prepare and submit forward-looking annual assessments each spring on their ability to meet expected load requirements for the coming year. The later reports expected load, resources, and reserve margin for the					The assessment is by utility	Assessment by regulated (investor-owned) utility. NDPSC Ordered one utility (MDU) to file plans and the other two regulated utilities (Otter Tail Power Company and Xcel Energy file copies of plans required in Minnesota. RECS are not required to file plans. Approximately half the load in North Dakota is served by RECS and therefore not under NDPSC jurisdiction.
ii. What time horizon is used in your planning process? In other words, how many years into the future are evaluated?		A twenty-year planning period is used at a minimum.	15 year minimum.	A long-term load growth forecast is required as part of an LSE IRP and is embedded in a ten to twenty year levelized cost analysis of various supply-side resource options, including consideration of DSM, renewable energy and transmission options. For I&M, twenty years is used because the IURC requires it.							20 years, with annual update for significant events	15 year Planning period
iii. Do all jurisdictional utilities file simultaneously, or are filings on a more staggered schedule? If staggered, what is the normal cycle for filings? If filed simultaneously, what was the date of the last report?		Until this year the eight utilities all filed November 1 in odd numbered years. The commission is developing a new rule which moves the utilities to a staggered two-year schedule – four utilities one year and four utilities the next. All eight utilities submitted IRPs in 2011. Under the new rule being developed, Duke, I&M, IMPA, and WVPA will submit IRPs on November 1, 2012/2013, and biennially thereafter. Hoosier Energy, IPL, NIPSCO, and SIGECO will submit IRPs on November 1, 2014, and biennially thereafter. November 2011. The 2011 IRPs can be accessed here IURC: Integrated Resource Plans	1. They are filed on a staggered schedule, determined by the Commission. It is typically 2 to 3 years cycle.	Not applicable. The Michigan requirement to submit an IRP depends on the filing of a CON.							There is a staggered schedule by utility every 2-3 years.	Simultaneously - last report for all three utilities was in 2011

iv. Are the filing requirements the same for all utilities, or do they vary according to some criteria?		Same, but extent of information provided in some areas varies because of differences in business structures.		Not applicable.								Simultaneously - last report for all three utilities was in 2011
If filing requirements vary, what is the basis for the differing requirements?		For example, the level of DSM involvement and planning has been a major difference traditionally because the G&Ts do not serve retail customers directly. This has changed in the last few years as the G&Ts have worked closely with their retail load serving members to develop and implement fairly extensive energy efficiency programs.	The filing requirements are the same for all utilities; the Commission may require utilities to provide additional information in some filings if needed to assess specific information for specific utilities.									
v. Is Commission action on resource plans binding on all applicant utilities, or is the Commission's review limited to being advisory in some cases?		The Commission does not approve specific resource additions or environmental compliance actions in the context of reviewing each utility's IRP. Rather, the Commission concentrates its review on whether the submitted IRP is consistent with the IRP administrative rules. Commission review of specific resource actions is handled in appropriate evidentiary hearing processes in which the utility files a petition specifically seeking approval of a certificate of need to build, buy, or lease a power plant; cost recovery of long-term purchase power contracts; approval of environmental compliance actions; approval of specific DSM programs and cost estimates, etc.	Commission action is binding for investor-owned utilities. It is advisory for cooperative and municipal G&Ts.	Not applicable.							The filings process includes: pre-planning meetings, meetings with intervenors, comments by intervenors and staff, utility response, and a final "acceptance" of completion.	The Commission has not acted on IRPs.
vi. What is the anticipated gross load, demand resources and supply resources for 2017?		see Indiana sheet	The state wide Load & Capabilities are not readily available.	The relevant filing is that of Indiana Michigan Power in case U-17026.[1] In that filing, I&M estimated gross load of about 4,400 MW, and resources of about 5,000 MW, but this is for both Michigan and Indiana; Michigan represents about 20% of the I&M total.								see attached North Dakota worksheet
vii. Do you have a formal assessment of demand side energy efficiency/conservation program potential and penetration rate? If yes, what is an example of the gross load decrease? MW? MWh?		Yes, but the information is a little stale and probably not comparable across the companies.	Each utility examines DSM as an expansion option. In general, Minnesota utilities are achieving energy savings of approximately 1% of retail sales.	No, not for long term.								No formal DSM potential assessment
viii. Please provide any product or summary of findings that indicate the planning reserve in percent and MWs.	sample attached full report http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=176432	Indiana utilities use the planning reserve requirements specified by the RTO in which they are members, MISO or PJM.	All the utilities with IRP requirement have minimum of MISO required reserve margin for all years. Excess reserve margin is not tracked at this time.	The results are for I&M, which is in PJM, not MISO. Also, the Michigan portion of I&M is a small portion of the entire state.								current reserves in North Dakota worksheet
4. Does your state have a formal strategic energy or planning assessment?	yes	No, but the State Utility Forecasting Group located at Purdue University prepares every two years a 20 year forecast of the use of electricity in Indiana. As a part of this process, SUFG also evaluates the need on a statewide basis for additional resources, both supply-side and demand-side, the timing of those resource additions, and what proportion of the resources are baseload, cycling, or peaking in nature. The most recent SUFG forecast was published September 2011 and can be accessed here SUFG 2011 Forecast.	Only as initiated by the Michigan Commission or Governor. While Michigan does not have a required, periodic statewide energy assessment process, the Michigan Commission has on occasion conducted forward-looking assessments as requested by the Governor or on its own initiative. The most recent such assessment was directed by the Governor (under executive order) to conduct the 21st Century Electric Energy Plan. We understand this question to be directed toward long-term assessments. The annual forward-looking assessments referred to in Question 3.a. are short-term assessments to ensure adequate supply for the coming year.	No	No. Illinois does not have a formal IRP requirement.	Texas completed a statewide energy plan in 2008, but it does not have a formal process for periodic assessments of energy or planning.	No	No, but the Commission did open a docket in 2008 to evaluate the energy resource needs of the state. This docket is still open but not active at this point in time. There is a statutory provision in Mississippi law that allows the Commission to request from the regulated utilities a 5 year resources plan. Also, refer to extra worksheet addendum 1 for more information.				No formal energy or planning assessment
i. What time horizon is used in your assessment process?	7 years	Twenty year forecast horizon.	Typically a ten to twenty year planning horizon is used when conducting such long term strategic electric energy resource planning. The shorter-term annual assessments are for one year.									
ii. Do all jurisdictional utilities file simultaneously, or are filings on a more staggered schedule? If staggered, what is the normal cycle for filings?	simultaneous	No filings are made. The SUFG makes an independent load forecast for the state and develops a projected need for additional resources based on this forecast.		Simultaneously when a state-wide study is conducted.								

If filed simultaneously, what was the date of the last report?	Nov. 2012												
iii. What is the anticipated gross load, demand resources and supply resources for 2017?	2017 forecast – Gross Load – 15,043 MW, all DSM – 869 MW, sale/purch. adj. - 3MW, All supply side – 16,006 MW.	Peak Demand – 21,987 MW Interruptible – 846 MW, Existing or Approved Supply Resources – 22,991 MW, Project need to add 1,490 MW		The 21st Century Electric Energy Plan projected, as of 2007, a base case that the peak demand for 2017 would be 25,924 MW for the Lower Peninsula, and 997 MW for the Upper Peninsula.[1] This projection does not reflect the reduced demand due to the economic impacts of the recession. It also does not reflect the comprehensive long-term adaptable energy policy initiative outlined by Governor Snyder in November 2012 that will focus on energy reliability, affordability, and choices.[2]									
iv. Please provide any product or summary of findings that indicate the resource levels.	In the Wisconsin is a table indicating an 11.6% reserve in 2017.												
5. Does your state rely on the new MISO Annual Planning Reserve requirement with the Annual LOLE Report as the indicator for LSEs to have the required planning reserves? Yes. And/or transmission import/export capability?	yes	Yes, Indiana utilities, depending on their RTO membership, use the MISO or PJM planning reserve requirement when planning for their resource needs.	Michigan has not objected to the MISO-set planning reserve margin for the four planning years to date. Michigan actively participates in MISO's LOLE Study each year.	Iowa does not have a formal IRP process but the utilities are required to have adequate planning reserves to continue to provide adequate and reliable service. The Board, in previous proceedings, has relied on Regional Reliability Organization requirements to determine adequate planning reserves when approving generation certificate applications. The Board's generation certificate requests and associated advance ratemaking principles requests require applicants to show that the generation addition is reasonable as compared to available feasible alternative and the applicant has a Board approved energy efficient plan. The reasonableness is also determined based on whether the facility is needed to meet future load and reserve margins. Although not required, rate regulated utilities often include a load forecast as part of the generator certificate request.	Under the Illinois Public Utilities Act, the Illinois Commerce Commission and the Illinois Power Agency both have a role in overseeing the provider of last resort utility's forecasting of provider of last resort load as well as the procurement process to obtain capacity and energy to serve that load. In the past, the MISO reserve margin has been applied to a peak estimate for provider of last resort load served by Ameren Illinois Company. Provider of last resort load is load that has not switched to an alternative retail electric supplier. With respect to the certification of alternative retail electric suppliers, which is overseen by the ICC, Section 16-115(d)(2) of the Public Utilities Act requires alternative retail electric suppliers to "comply with all applicable federal, State, regional and industry rules, policies, practices and procedures for the use, operation, and maintenance of the safety, integrity and reliability, of the interconnected electric transmission system." The ICC does not impose any particular reserve margin requirement on alternative retail electric suppliers.	Since ETI is a new member of MISO and the PUCT is a new member of OMS, we have not previously relied on the MISO annual planning reserve requirements. We anticipate learning more about them as we learn more about MISO in general.	We do not have required IRP filings. The note in the companion document is accurate: we want the utilities to file any IRPs completed for other states or prepared for other reasons. We do not (have not since I've been here – 1 year after jurisdiction taken in 1975) order any strategic assessments, DSM studies, and specific reserve requirement levels. We have depended on either MAPP (both current for the IS and in the past prior to MISO) or MISO to establish. So how have we survived? All our utilities (except for Northwestern Energy for many years) are multi-state entities, and we were only a small proportion of the system. When we took jurisdiction in 1975 much of the planning decisions had evolved and matured, (for example, our one large baseload facility - Big Stone - was already on-line) and we were not given a reason to alter what was being done. We have a relatively small load, few large customers, and reliability has never been in question	No.	Entergy Mississippi is new to MISO, so I don't think that decision has been made at this moment.	ND relies on MISO planning reserve requirements. The only other checks are ongoing informal IRP and other reviews.			
And/or transmission import/export capability?	yes			Yes since this affects the local resource zone planning reserve margin.					Currently an Independent Coordinator of Transmission provides for coordination and planning of the transmission system in the Entergy footprint. The ICT services are currently provide by MISO. Entergy must submit a 5 year plan which is a product of Entergy, ICT and stakeholder input.				
Do you have any other check on future years with the regulated LSEs for capacity or transmission import/export capability?	Wisconsin allows LSEs to add capacity or PPAs to meet a 14.5% installed planning reserve for multiple years forward for the purpose of rate cases and construction certificates.	No.	The Michigan Commission staff regularly confers with utility participants in MISO transmission and resource planning stakeholder meetings regarding capacity changes and transmission transfer capability.	The two rate regulated utilities are required to file an energy efficiency plan every five years. Plans must include a 20 year load forecast for the utility. The energy efficiency plan includes avoided cost calculations that use the utility's reserve requirements.	Regulated electric utilities are expected to perform long-term planning for both generation and transmission as part of their obligation to serve. Planning information must be provided to support a requested CCN amendment for new generating facilities or new transmission facilities. In addition, utilities provide informal updates on their long-term plans to the Commission and Staff as requested.								

ember 2012

17	2018
08	15,354
10)	(211)
59)	(661)
82	583
12)	(522)
73)	(73)
36	14,470
03	14,400
'14	1,708
90	465
58	61
60)	(235)
06	16,399
.6%	13.3%
246	246

The following information is provided at your request, but it must be kept in

WVPA –

Peak Demand – 1,857 MW

Pass-through – 249 MW

Supply Resources – 1,828 MW

Project a need to add 65 MW in 2017.

Hoosier Energy

Peak Demand – 1,558 MW

DSM – 124 MW

Supply Resources – 1,824 MW

IMPA

Peak Demand – 1,238 MW

DSM – 50 (MW) (approximate)

Supply Resources – approximately 1,400 of existing capacity

Project need to add 150 CT and 50 MW wind/renewable.

I&M

Peak Demand – 4,560 MW

Interruptible – 258 MW

DR & Energy Efficiency – 300 MW

Capacity – 4,809 MW

IPL

Peak Demand – 3,269 MW

Interruptible, DR, and EE – 338 MW

Supply Resources – 2, 711 MW

Project need to add approximately 600 MW.

Duke

Peak Demand – 6,935 MW

Energy Efficiency – 232 MW

DR & Interruptible – 452 MW

Supply Resources – 6,763 MW

mind that the numbers are not always comparable to each other given differences across the c

companies on how these are calculated and presented in their IRPs. For example, the WVPA ar

and Hoosier Energy peak demand numbers include REMCs in other states that are members. Also

), the I&M numbers are for both Michigan and Indiana. There are other likely anomalies but th

is gives you a flavor.

Mich

[1] http://www.michigan.gov/deq/0,1607,7-135-3310_4107---,00.html

<http://efile.mpsc.state.mi.us/efile/docs/15896/0001.pdf>

<http://efile.mpsc.state.mi.us/efile/viewcase.php?casenum=15631&submit.x=13&submit.y=17>

<http://www.dleg.state.mi.us/mpsc/electric/capacity/>

<http://efile.mpsc.state.mi.us/efile/docs/16932/0027.pdf>

<http://efile.mpsc.state.mi.us/efile/viewcase.php?casenum=17026>

<http://www.dleg.state.mi.us/mpsc/electric/capacity/energyplan/index.htm>

<http://www.dleg.state.mi.us/mpsc/electric/capacity/energyplan/index.htm>

http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-290510--,00.html

There are two DC Ties between ERCOT and SPP totaling 880 MW.

In 2011, the PUCT directed ERCOT to evaluate the potential impact of the Cross-State Air Pollu
<http://www.ercot.com/content/news/presentations/2011/ERCOT%20Presentation%20to%20PUCT%2C>

http://governor.state.tx.us/files/gcc/2008_Texas_State_Energy_Plan.pdf

tion Rule (CSAPR) on reliability in the ERCOT region. A summary of that study is available at
09-1-11%20on%20CSAPR%20Impacts.pdf

the following location:

<http://psc.mt.gov/Docs/ElectronicDocuments/getDocumentsInfo.asp?docketId=9975&do=false>. This is

<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=38%2E5.20>. This is a link to Montana's Ac

is a link to MDU's most recent IRP filing.

Administrative Rules applicable to Integrated Least Cost Resource Planning.

Addendum 1: Utility IRPs, Mississippi Law & Commission rules and regulations

Each of the two regulated utilities has an integrated resource planning process (IRP) that forms a guide for their future operations. These IRP's forecast customer load and energy requirements; evaluate the capacity available to meet the load; develop, evaluate and implement demand side management and energy efficiency programs; assess and plan for existing and anticipated environmental regulations; and when a need is identified, evaluate the resources, both demand side and supply side, available to reduce or meet such a need. The Staff regularly asks for and analyzes these documents in either a certification proceeding or in the annual review of the utility's formulary rate plan.

Also, Mississippi statute and Commission rules and regulations provide for a certification process that each electric utility must comply with in order to construct or purchase facilities. The certification process is a rigorous, thorough and deliberate process that can perform the tasks that a formal IRP process serves. Utilities bear the legal burden of proof to show that its alternative is the overall best choice for its customers. Also, this process allows the Commission and the Staff the ability to hire subject matter experts to

review the process and this increases the level of assurance that all alternatives have been completely considered.

Addendum 2: A Few Facts

There are a few facts that may (or may not) make a state like Mississippi unique that should be taken into consideration when considering a statewide integrated resource plan. First, MPSC regulates two electric utilities that serve about 519 thousand residential customers. One of these utilities, EMI, will be in MISO by December 2013 and the other will not be in any RTO. Also, the state has 25 Electric Power Associations that regulate about 650 thousand residential customers and the MPSC does not have rate regulation over these entities. These entities purchase their energy from the Tennessee Valley Authority (TVA) and they rely on the TVA to plan for and serve their energy needs. Second, Mississippi is not a populous, fast growing state and the need for additional generation only occurs at long intervals. Finally, Mississippi has 3 separate control areas that must each individually comply with NERC reliability rules and FERC transmission tariff rules. Each of the factors above may make it difficult to implement a statewide integrated resource plan.

49-05-16. Advance determination of prudence.

In this section, unless the context otherwise requires, resource addition means construction, modification, purchase, or lease of an energy conversion facility, renewable energy facility, demand response system, transmission facility, or a contract to acquire energy, capacity, or demand response for the purpose of providing electric service. A public utility that intends to make a resource addition may file an application with the commission for an advance determination of prudence regarding the resource addition. The commission shall pay the expenses associated with investigating the application made by the public utility for prudence of a resource addition from the application fee paid by the public utility in accordance with section 49-02-02.

1. The commission may issue an order approving the prudence of a resource addition if:

a. The public utility files with its application a projection of costs to the date of the anticipated commercial operation of the resource addition;

b. The public utility files with its application a fee in the amount of one hundred twenty-five thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission may waive or reduce the fee.

c. The commission provides notice and holds a hearing, if appropriate, in accordance with section 49-02-02; and

d. The commission determines that the resource addition is prudent. For facilities located or to be located in this state the commission, in determining whether the resource addition is prudent, shall consider the benefits of having the resource addition located in this state.

2. The commission order must be rendered no later than seven months after the public utility files its application requesting a prudence determination of a resource addition.

3. A resource addition approved by the commission is subject to reporting requirements until commercial operation of the resource addition. The public utility shall provide periodic reports, as directed by the commission, which must include a description of the status of the resource addition and any changes in material circumstances affecting the resource addition.

4. The commission's order determining prudence of the resource addition is binding for ratemaking purposes.

5. Following an initial commission order, the commission may, upon notice and hearing, if appropriate, in accordance with section 49-02-02 determine that continuation of a resource addition is no longer prudent or that its prior order should be modified. Expenses incurred in processing the case must be paid from the fee, including any

previously made refund thereof, filed with the prudence determination application for the resource addition.

6. The public utility may recover in its rates, and in a timely manner consistent with the public utility's financial obligations, the amounts the public utility reasonably incurred or obligated on a prudent resource addition, including accrued allowance for funds used during construction, even though the resource addition may never be fully operational or used by the public utility to serve its customers. The cost amortization period for a discontinued resource addition may not exceed five years from the date commencement of the recovery is approved by the commission. No return on amounts incurred or obligated by the public utility may be authorized for the period after the resource addition is discontinued. The public utility may request an order from the commission for deferred accounting treatment for costs incurred for a discontinued resource addition.

7. There is a rebuttable presumption that a resource addition located in the state is prudent.

The following are system wide approximations for each company. North Dakota demand jurisdictional allocations are approximately 40% for OTP, 71% for MDU and 6% for Xcel Energy (NSP). Disclaimer: These numbers will vary greatly depending on how calculated, assumptions, interpretations and other factors – suggest comparing with OTP and NSP numbers reported by MN.

System Wide Total MWs (all jurisdictions)
Forecasted 2017
Gross Load
Reserve Margin
Committed Supply
DSM goal
Surplus(+)Deficit(-)

MISO Resource Adequacy (Module E) Reporting - December 2012

Reporting Entity:	North Dakota			
Month:	Jun	Jul	Aug	
Calendar Year	2012	2012	2012	
Planning Year	2012/2013	2012/2013	2012/2013	20
A. Forecast Peak Load	1079.2	1166.7	1166.1	
B. Actual Peak Load	1273.2	1296.3	1191.4	
C. Demand Resources	22.1	22.1	22.1	
D. Net Internal Demand (A - C)	1057.1	1144.5	1144.0	
E. Full Responsibility Sales				

F. Full Responsibility Purchases				
G. Adjusted Net Demand (D + E - F)	1057.1	1144.5	1144.0	
H. Planning Reserve Margin	3.79%	3.79%	3.79%	
I. PRC Obligation (G * (1 + H))	1097.1	1187.9	1187.3	
J. Any Deficient LSE in State?	No	No	No	

Published: 1/18/20

MDU	OTP	Xcel Energy (NSP)
595.1	818.4	10238.4
13.2	10.7	
390.9	355.7	
49.5	25	91.5
-167.9	-448.4	-581

Sep	Oct	Nov	Dec	Jan	Feb	Mar
2012	2012	2012	2012	2013	2013	2013
2012/2013	2012/2013	2012/2013	2012/2013	2012/2013	2012/2013	2012/2013
1059.4	1001.0	1137.8	1246.5	1240.9	1209.8	1
1185.2	1063.6	1247.5	1390.7			
20.6	19.9	29.9	43.8	45.9	43.8	
1038.9	981.1	1107.9	1202.7	1195.1	1166.0	1

1038.9	981.1	1107.9	1202.7	1195.1	1166.0	1
3.79%	3.79%	3.79%	3.79%	3.79%	3.79%	3.79%
1078.2	1018.2	1149.8	1248.2	1240.3	1210.1	1
No	No	No	No			

013

	Apr	May
3	2013	2013
013	2012/2013	2012/2013

1117.2	986.4	939.6
29.9	29.9	20.5

1087.4	956.6	919.1

||

1087.4	956.6	919.1
%	3.79%	3.79%
1128.5	992.8	953.9

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

Midwest Independent Transmission)	
System Operator, Inc., and the MISO)	Docket No. ER13-708-000
Transmission Owners)	

**NOTICE OF INTERVENTION AND COMMENTS
OF THE ORGANIZATION OF MISO STATES**

Pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214(a)(2), the Organization of MISO States (“OMS”) respectfully submits the following comments on the January 4, 2013, filing by the Midwest Independent Transmission System Operator, Inc. (“MISO”) and the MISO Transmission Owners (“TOs”) (collectively, “Filing Parties”) of a Settlement Agreement recognizing the OMS and providing the OMS with an enhanced role in determining transmission cost allocation methodologies to be filed under Section 205 of the Federal Power Act (“January 4 Filing”). The Commission noticed January 25, 2013, as the deadline for filing comments and protests on the Settlement Agreement. On January 24, 2013, the Commission granted the OMS Motion for an Extension of Time and extended the deadline for filing comments for all parties to February 8, 2013.

I. Notice of Intervention

Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the OMS files its Notice of Intervention in the above-captioned proceedings. Service of all pleadings, documents, and communications in this matter should be made on the following:

William H. Smith, Jr.
Executive Director
Organization of MISO States
100 Court Avenue, Suite 315

Des Moines, Iowa 50309
(515) 243-0742

The OMS is a non-profit, self-governing organization of representatives from each state¹ with regulatory jurisdiction over entities participating in the MISO. The purpose of the OMS, acting as the regional state committee for the MISO region, is to coordinate regulatory oversight among the states; to make recommendations to MISO, the MISO Board of Directors, the Commission, other relevant government entities and state commissions as appropriate; and to intervene in proceedings before the Commission to express the positions of the OMS member agencies. It is important to note that the OMS is not a public utility under the definitions of the Federal Power Act and is not authorized to make filings pursuant to Section 205² of this Act.³

II. Background

The January 4 Filing advances a conversation that has been ongoing for over a year among OMS membership, the retail regulators of the Entergy companies, MISO, and the TOs. These discussions were recently summarized for the Commission in OMS's Comments on MISO's Order 1000 Compliance Filing.⁴ The discussions covered a more explicit role for the OMS in the MISO transmission planning process and enhanced directive filing rights under Section 205. Discussion of enhanced roles for the OMS was occasioned by Order 1000 and by the decision of the Entergy Companies to join MISO, as well as the continuing evolution of MISO and the role of state regulators in MISO's processes.

As indicated, the OMS and Entergy Regional State Committee ("ERSC") held several discussions on the Section 205 filing rights of regulators during 2012, seeking to harmonize the absence of such rights in the OMS with the rights package held by ERSC.

¹ The use of the term "state" or "states" means all retail regulators of utilities within MISO, including the City of New Orleans.

² 16 U.S.C. § 824d.

³ By contrast, the Commission has approved enhanced filing rights for the SPP Regional State Committee and for the Entergy Regional State Committee. *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at P 219, *order on reh'g*, 109 FERC ¶ 61,010 (2004); *Entergy Arkansas, Inc., et al.*, 133 FERC P 61,211, at ¶¶ 5 and 15.

⁴ Notice of Intervention and Comments of the Organization of MISO States, filed December 10, 2012, in Docket No. ER13-187.

MISO and the TOs were invited to participate in those discussions. The series of talks led to the OMS adopting, on August 16, 2012, a Proposal for Enhanced Authority for Determining Cost Allocation Methodologies to Be Filed Pursuant to Section 205 of the Federal Power Act (“OMS Proposal”).⁵ On the same date the OMS adopted a related proposal related to a more explicit role in the MISO transmission planning process. MISO filed to implement the concepts in the proposal regarding transmission planning in its Order 1000 Compliance Filing in Docket No. ER13-187, which is still pending before the Commission.

The OMS Proposal was not accepted by MISO and the TOs, and further discussions led to OMS adopting a counterproposal on August 30, 2012.⁶ MISO and the TOs also did not accept the OMS counterproposal. Subsequently, MISO made a compliance filing with the Arkansas Public Service Commission on August 31, 2012, which advanced a more limited set of authorities to direct Section 205 filings for the OMS.⁷ That set of directive filing authorities is generally what has been presented to the Commission in the January 4 Filing.

The January 4 Filing includes recognition of the OMS in the Transmission Owners’ Agreement (“TOA”). The TOA as originally filed in 1998, and as subsequently amended, provided for the “State Regulatory Authorities” as a stakeholder sector but did not mention OMS. That silence reflects only that the OMS was not established until 2003. Since its inception, the OMS has served as the vehicle through which the members of the state regulatory sector have chosen to operate in the MISO stakeholder process. The January 4 Filing also creates the right for OMS to direct certain Section 205 filings by MISO (generally referred to as “Section 205 filing rights” throughout these

⁵ The OMS Proposal can be found at:

http://www.misostates.org/images/stories/Filings/OMS_Proposal_for_Enhanced_Authority_for_Filing_under_Section_205_as_amended_August_16_2012.pdf

⁶ OMS Counterproposal for Enhanced Authority for Determining Cost Allocation Methodologies to Be Filed Pursuant to Section 205 of the Federal Power Act. It is posted at:

http://www.misostates.org/images/stories/Filings/MISO_Filing_OMSSection205CounterproposalWithLettertoJBearModified30August2012.pdf

⁷ *In the Matter of a Show Cause Order Directed to Entergy Arkansas, Inc., Regarding Its Continued Membership in the Current Entergy System Agreement, or any Successor Agreement Thereto, and Regarding the Future Operation and Control of Its Transmission Assets, Arkansas PSC Docket No. 10-011-U.*

comments). As mentioned, the OMS currently possesses no Section 205 filing rights; thus the January 4 Filing would create a role for OMS that does not now exist.

III. The Enhanced Role of State Commissions and State Committees with Respect to Transmission Cost Allocation

The OMS supports an enhanced role for state commissions and regional state committees with respect to Section 205 filing rights. However, with respect to the January 4 Filing, the OMS wishes to reiterate some observations and concerns that were identified in the OMS Comments on MISO's Order 1000 compliance filing and address several concerns with the Filing Parties' proposal to grant the OMS Section 205 filing rights.

A. The Commission Has Recognized the Unique Role of the State Regulatory Commissions in Order 1000 Compliance Processes.

The Commission has recognized and acknowledged the important and unique⁸ role of state commissions and state committees, such as the OMS, in implementing the transmission planning and transmission cost allocation goals of Order 1000. The Commission affirms that state regulators play a crucial role in transmission planning and cost allocation and that the role of state regulators is unique and distinctly different from the roles played by other stakeholders.⁹ As a result, the Commission "encourage(s) proposals that seek to establish a formal role for state commissions in the regional transmission planning process."¹⁰ The Commission reasonably concluded that the differences between state utility regulators and other stakeholders may well lead to a regional transmission planning process to treat state utility regulators differently than other stakeholders."¹¹

Although the Commission declined to dictate a particular role for state regulatory commissions, the Commission expressed a willingness to consider proposals where state committees were given a decision-making role in the regional transmission planning and cost allocation processes. The Commission clearly envisions a process that provides state

⁸ Order 1000-A at P 291

⁹ Order 1000-A at P 293

¹⁰ Order 1000-A at P290

¹¹ Order 1000-A at P293

commissions a formal role that is distinct and different from the role of other stakeholders and enables state commissions (and the OMS) to act in conjunction with MISO while providing state commissions an opportunity to make decisions about which projects will be placed in the transmission plan and how costs of such projects will be allocated.

B. MISO’s Proposal Relating to State Regulators

1. The OMS Supports the Establishment of the OMS Committee

In the January 4 Filing, MISO proposes to establish the OMS Committee, composed of the members of the Organizations of MISO States established pursuant to the bylaws of the Organizations of MISO States, having the responsibilities and rights defined in Section I.B of Attachment FF of the Tariff.¹² The OMS supports establishment of the OMS Committee.

2. The OMS Supports Authority for the OMS to Direct Certain Section 205 Filings by MISO.¹³

The January 4 Filing sets forth a process by which the OMS would be able to request that MISO file alternative tariff provisions when MISO proposes changes to its regional transmission cost allocation methodologies involving all MISO transmission project types featuring regional cost allocation, except Baseline Reliability Projects. While the January 4 Filing is correct that “OMS, MISO, and MISO’s Transmission Owners worked diligently to reach common ground”¹⁴ on the issue of OMS authority to direct MISO to submit certain Section 205 filings under certain circumstances, the OMS is not a signatory to the settlement agreement filed with the January 4 Filing and is concerned with the limited nature of some of the proposals made therein.

a. The OMS’s Section 205 Filing Rights Should Not Be Contingent on MISO Making a Filing.

Perhaps the most troubling provision of the January 4 Filing is found in section II.E.3.(e), that states:

¹² It is important to note, however, that the OMS was formed by its state and provincial members on their own initiative, and that the MISO Tariff cannot unilaterally assign responsibilities to the OMS or define the outer limits of OMS’s authority.

¹³ Shorthand phrases such as “OMS’s Section 205 filings rights” are used with full understanding that any filings under discussion would be made by MISO at the direction of the OMS.

¹⁴ Exhibit No. MTO-2, at 1.

At the end of the stakeholder process the Midwest ISO will either file with FERC a new transmission cost allocation methodology, a change to an existing transmission cost allocation methodology or will provide the OMS Committee with a written explanation of its decision not to file changes to the Tariff. If the Midwest ISO does not file changes to the Tariff, no OMS alternative cost allocation methodology will be filed with FERC by the Midwest ISO.¹⁵

This phrase can be used to neutralize any Section 205 filing rights otherwise granted by the proposal to the OMS. In other words, MISO could prevent an OMS proposal by declining to make any filing; if an OMS proposal cannot be submitted to the Commission as a Section 205 filing, it would have to be made as a Section 206 complaint with a much heavier burden. Such a provision greatly diminishes any Section 205 filing right granted to the OMS and the OMS recommends that this limitation be eliminated. Consistent with statements by the Arkansas Public Service Commission in Order No. 72 of its Entergy Docket,¹⁶ the OMS supports further discussions within the MISO stakeholder community, as well as initiating FERC settlement procedures, regarding the appropriate balance between MISO, the TOs and the OMS regarding Section 205 filing rights. The January 4 Filing is a first step in the right direction, and should be reviewed not solely as a means to integrate the Entergy Companies into MISO, but also in light of the Commission's requirements in Order 1000. The OMS supports a FERC settlement process to further clarify these roles and enhanced authorities.¹⁷

b. The Midwest ISO Should Not be Allowed to Arbitrarily Determine what Support It Will Provide the OMS.

The OMS is concerned with proposed section II.E.3(i) of the January 4 Filing, which states that:

The Midwest ISO shall provide the technical and financial support it deems necessary and appropriate to fulfill its obligations under Article II, Section E.3 of this Appendix K in order for the OMS Committee to make an appropriate

¹⁵ Section II.E.3.(e), emphasis added.

¹⁶ Docket No. 10-011-U, issued October 26, 2012.

¹⁷ In addition, the language in proposed Appendix A, Section II.E.3(a) should be clarified with respect to when a stakeholder process is required. The only circumstance under which a stakeholder process must be initiated is that circumstance delineated in Subsection II.E.3(a)(ii).

showing in support of the justness and reasonableness of any proposal provided by the OMS Committee pursuant to Article II, Section E.3 of this Appendix K.¹⁸

The phrase “it deems necessary and appropriate” was not included in MISO’s August 31, 2012, compliance filing with the Arkansas Commission, and the OMS is uncertain why it was included in the January 4 Filing. This phrase can be used to marginalize any Section 205 filing rights authority otherwise granted to the OMS, if MISO declines – as “inappropriate” – to provide the OMS with the technical and financial support necessary to show that the OMS Section 205 filing is just and reasonable. Accordingly, the words “it deems” and “and appropriate” should be removed from the first sentence of the section, so that the section reads as:

The Midwest ISO shall provide the technical and financial support ~~it deems necessary and appropriate~~ to fulfill its obligations under Article II, Section E.3 of this Appendix K in order for the OMS Committee to make an appropriate showing in support of the justness and reasonableness of any proposal provided by the OMS Committee pursuant to Article II, Section E.3 of this Appendix K.

c. The OMS’s Section 205 Filing Rights Should Not Be Contingent on the Integration of Entergy Arkansas.

Section II.E.3(e) of the January 4 Filing states:

The provisions in Article II, Section E.3 of this Appendix K are contingent upon successful integration of Entergy Arkansas transmission, generation, and load into the Midwest ISO’s markets, including receipt of any final authorization of FERC necessary to accomplish such integration.

The OMS’s Section 205 filing rights authority should not be contingent on the integration of the Entergy operating companies into the MISO markets. The OMS has consistently stated that the integration of the Entergy Companies into MISO was but one reason for pursuing enhanced state regulatory authority. Other, independent reasons exist, including FERC Order 1000’s contemplation of enhanced state authority with respect to cost allocation and transmission planning, that counsel in favor of enhanced state authority. Given that fact, making the grant of enhanced authority over cost allocation contingent upon successful Entergy integration is ill-advised. Further, if the concepts OMS has outlined are good policy with the Entergy Companies as MISO members, they are good policy without the Entergy Companies as MISO members.

¹⁸ Section II.E.3(i), emphasis added.

Including such a contingency does not properly recognize or acknowledge the independent reasons for granting the state regulators enhanced authority.

d. The OMS's Section 205 Filing Rights Authority Should Not Exclude All Baseline Reliability Projects ("BRPs").

MISO's proposed language in Section E.3.b would limit the OMS's authority to "new regional projects, other than Baseline Reliability Projects." In the OMS Proposal, OMS's Section 205 filing rights authority included Baseline Reliability Projects ("BRPs") 345 kV and above. The OMS Proposal of August 16, 2012, exempted BRPs below 345 kV in recognition of a stated concern by the settling parties regarding reliability projects for which the TOs bear NERC responsibility. Although the OMS counterproposal of August 30, 2012, further compromised by exempting all BRPs, that compromise was made in the context of trying to reach agreement with MISO and the TOs, which did not happen. The OMS believes excluding all BRPs is unnecessarily limiting. The Section 205 filing rights authority should be applicable to projects with broader multi-state cost allocation, reflecting the reason for a regional state committee like OMS in coordinating among the state commissions within MISO's footprint. The OMS recommends that its Section 205 filing rights authority apply to any new regional project that would have any portion of costs shared across more than one zone, other than BRPs below 345 kV.¹⁹ Under this proposal, the OMS would not have Section 205 filing rights authority for BRPs below 345 kV that have limited regional cost sharing based on LODF calculations.

¹⁹ The Illinois Commerce Commission and the Texas Public Utility Commission do not concur with this section. They would alternatively state:

MISO's proposed language in Section E.3.b. would limit the OMS's authority to "new regional projects, other than Baseline Reliability Projects." This restriction is unnecessarily limiting. The OMS's Section 205 directive authority should apply to any new project eligible for regional cost allocation, i.e., any project eligible to have costs allocated outside the zone in which the project will be physically located. As MISO filed it on October 25, 2012 in Docket No. ER13-187-000, the yellow light option for OMS in the transmission planning context does not exclude Baseline Reliability projects or even a subset of Baseline Reliability projects. Rather the yellow light authority applies to all "Network Upgrades eligible to receive regional cost allocation under Attachment FF." (See, MISO's proposed Section I.B of Attachment FF) The OMS's 205 directive authority should apply in a parallel fashion to cost allocation for any new project eligible for regional cost allocation and the Commission should make that change.

IV. The Standard Of Review Proposed By The TOs And MISO In Section 4.2 Of The Settlement Agreement Should Be Clarified.

In addition to the above matters, OMS is also concerned that a portion of the settlement documents may not accurately represent the intentions of MISO and the MISO TOs, and should be amended to accurately reflect their intentions and avoid potential future confusion. The language of Section 4.2, in MISO Exhibit MTO-3 is problematic.

First, the mechanics of the paragraph are unclear. OMS believes the two sentences in Section 4.2 have different functions. The first states a standard of review for both MISO and MISO TOs seeking to propose modifications to the Settlement Agreement outside the Appendix K procedure in the Transmission Owners Agreement. The second sentence states a standard of review for changes or revisions to the Settlement Agreement coming from FERC or any third-parties, such as OMS. However, the phrase “any modification to this Settlement Agreement” in the first sentence appears to functionally overlap with and subsume the changes or revisions subject to the review standard proposed in the second standard. This overlap could create interpretative confusion as to which standard of review is actually intended, and should be eliminated by an appropriate revision.

Second, the phrase “‘ordinary’ just and reasonable standard of review as clarified by *Morgan Stanley*” used in the second sentence is not clear to OMS. OMS understands that the phrase is intended to reflect the basic, equitable or fairness standard of “just and reasonable,” in contrast to the more stringent “public interest” standard in the first sentence. The problem is that *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1*, 554 U.S. 527, 546-47 (2010), does not so clearly distinguish the differences in the standards of review. The decision states the “*ordinary mode . . . is to look at whether the rates seriously harm the public interest,*” thus equating the word “ordinary” with the heightened standard. *Id.* (emphasis added). OMS believes that use of “ordinary” in conjunction with the specific reference to *Morgan Stanley* creates an unneeded risk of future controversy as to the applicable standard of review. The distinction in the second sentence should be more fully clarified, for example, by using the phrase “less stringent” before “ordinary” to distinguish between the two standards of review.

V. Conclusion

The OMS recommends Commission adoption of the above-proposed changes to the January 4 Filing.

In addition, the OMS urges the Commission to review the January 4 Filing within the multiple contexts of integrating the Entergy Companies into MISO, the section 205 filing rights granted to the ERSC and SPP RSC, the Commission's requirements under Order 1000, and the Commission's observations after ten years of experience of regional state committee operations in several RTO/ISO regions, and the OMS's performance specifically. If, as recommended by the OMS, the Commission finds that the multiple policy considerations require that the OMS's filing rights be expanded, either in accordance to the above-proposed changes to the January 4 Filing or to correspond to those of the SPP RSC and ERSC, it should set this filing for settlement judge procedures.

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

- Illinois Commerce Commission
- Indiana Utility Regulatory Commission
- Iowa Utilities Board
- Kentucky Public Service Commission
- Michigan Public Service Commission
- Mississippi Public Service Commission
- Missouri Public Service Commission
- Montana Public Service Commission
- City of New Orleans
- Public Utility Commission of Texas
- Wisconsin Public Service Commission

The Louisiana Public Service Commission abstained from voting on this pleading. The Manitoba Public Utilities Board took no part in preparing this pleading and therefore abstains.

The Minnesota Public Utilities Commission, the North Dakota Public Service Commission, and the South Dakota Public Utilities Commission, abstain, stating:

After extensive discussions on the scope of Section 205 filing rights, the OMS offered its August 30th proposal. In reaching that proposal, states were asked to compromise, so the final proposal was not every state's first

choice on every issue. However, there was agreement that the August 30th proposal was viable and would advance the efforts to enhance states' authority. On the 205 issue, in particular, OMS agreed to respect MISO's independence. During the months from that time until the January 4th filing, OMS voiced no change in position on these issues. Presumably, relying on the credibility of the OMS's public statement, the MISO and TOs incorporated the essence of the OMS August 30th proposal in their January 4th filing. Yet in the present comments, OMS raises objections to several of the very points in its public statement. To reverse course now, without having even implemented the terms adopted in August, nor having any evidence that approach would prove unworkable, is wrong. Even if it turns out there is a demonstrable problem to be solved, the path forward is not immediately to FERC, but first with those who were granted 205 filing rights when MISO was formed. For OMS to take this action now is not in the best interests of OMS, nor the broader stakeholder community. Reversals on positions OMS offered in negotiations tarnishes its standing as the MISO Regional State Committee, and makes OMS look indecisive and, worse, unreliable. It is not a position we can adopt on principle. We do not see this action as serving the public interest. Therefore, the MPUC, NDPSC, and SDPUC must abstain.

Respectfully Submitted,

William H. Smith, Jr.

William H. Smith, Jr.

Executive Director, Organization of MISO
States

100 Court Avenue, Suite 315

Des Moines, Iowa 50309

Tel: 515-243-0742

Dated: February 8, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Des Moines, Iowa, this 8th day of February, 2012.

William H. Smith, Jr.

William H. Smith, Jr.