

## OMS PROPOSAL ON ENHANCED OMS PLANNING AUTHORITY

Adopted July 6, 2012

### **Background**

This draft identifies changes in the planning process that would enhance the role of OMS in MISO planning, and act as a further step towards compliance with FERC *Order 1000*. It is an attempt to find compromise between three separate proposals on this topic: the Iowa Utilities Board proposal of 5/29/12 (IUB Proposal), the Public Service Commission of Wisconsin proposal of 6/7/12 (PSCW Proposal), and the MISO proposal of 6/8/12 as captured in the letter of that date from Clair Moeller to Commissioner Kenney (MISO Proposal). It is further informed by the discussions that occurred at the public OMS meeting of 6/13/12 in Des Moines.

In broad terms, this proposal captures most of what is contained in the MISO Proposal and the IUB Proposal, with the addition of the “yellow light” element found in the PSCW Proposal. It is intended to provide a firm opportunity for OMS input at multiple stages of the MTEP process and an opportunity for OMS to raise concerns about a portfolio of MTEP projects prior to those projects being presented to the PAC. The structure is intended to provide ample opportunity for OMS involvement early on so as to avoid exercise of the yellow light at the end. The OMS voting structure on these topics reflects that construct, with a higher hurdle required to exercise the yellow light.

The Illinois Commerce Commission suggested a stronger role for state regulatory authorities. Comment is invited on its suggestions, which are attached as an Appendix to this document.

### **Proposal**

1. Opening of the Planning Year: OMS shall have a right to review and raise concerns to the Planning Committee of the Board of Directors during the annual consideration of the planning principles, and objectives for the planning year. OMS’s right will be embodied in MISO’s tariff.

Compromise: Derived from MISO Proposal, first bullet, and IUB Proposal at V.b and c.

Comment: Purpose is permit OMS to address with the MISO Board the annual reevaluation of strategic concepts, such as planning principles, planning objectives, and perhaps models, if that is of a strategic character. Any other “strategic element” could be included.

2. Opening and During the Planning Year: OMS shall have a right, during the MISO Transmission Expansion Plan scope development phase, to identify to MISO staff specific additional scope elements to be addressed based on any specific additional state jurisdictional needs. OMS’s right will be

embodied in MISO's tariff.

Compromise: Derived from MISO Proposal, second bullet point.

Comment: To specify the role OMS may elect each year to seek additional MISO analysis with respect to state requirements.

3. Opening and During the Planning Year: OMS shall have a right to present specific modeling inputs, without limitation, to MISO for consideration by MISO staff and to the PAC prior to the PAC's final review of the MTEP modeling inputs. OMS's right will be embodied in MISO's tariff.

Compromise: Derived from MISO Proposal, third bullet point, and IUB Proposal, at V.b. Provided as an alternative to the PSCW Proposal language which gave stronger rights to OMS to pick specific inputs to, or cost allocation treatment of, the models and their results.

Comment: To specify the role OMS may elect each year to provide input with respect to primary, driving variables in the top-down planning and modeling process. Provides a broader, less prescriptive, opportunity for input than the PSCW Proposal.

4. During Planning Year Processes: OMS shall have a right during the planning year to raise concerns to MISO staff about general or specific MTEP issues. MISO will timely and substantively respond to concerns raised by OMS. OMS's right will be embodied in MISO's tariff.

Compromise: Derived loosely from the MISO Proposal, second and third bullets, and IUB Proposal at V.b and V.d., but does not include V.c. from the IUB Proposal which would create a separate OMS "parallel process."

Comment: To give a meaningful process during the planning year for OMS to raise, and MISO to address, legitimate OMS concerns with the ongoing progress and results of the planning process. This will further reduce the likelihood that OMS will use its newly proposed right to ask for projects to go through additional MTEP review at the end of the process. Eliminating the parallel process concept will ensure that OMS, MISO, and stakeholder resources are used effectively, and recognizes the general acceptance of the planning process.

5. Close of Planning Year Process - Process Assessment: At the conclusion of the planning year process, but prior to the plans being considered by the MISO Board of Directors, the OMS shall have the opportunity to assess the planning process and the outcomes, concurrent with the PAC review process. Specifically, this assessment should review and raise any concerns regarding the process, models, inputs, and assumptions used in the planning process. The assessment shall be provided directly to the PAC,

MISO staff and the MISO System Planning Committee of the Board of Directors. OMS's right will be embodied in MISO's tariff.

Compromise: Derived from MISO Proposal, last bullet, and IUB Proposal, at V.d.

Comment: To provide an opportunity near the end of the process for OMS to raise process concerns to the stakeholder and MISO. This is a form of quality control, and will be of value in the MTEP in which the comments are raised and in future MTEPs.

6. Close of Planning Year Process - Substantive: Prior to each PAC meeting where the PAC will be voting on the projects to be forwarded to the MISO Board for inclusion in Appendix A of the MTEP, OMS shall have the right and opportunity, at its discretion, to request reconsideration by MISO staff of groups of projects receiving regional cost allocation (other than intrastate BRP (RECB I)) projects. OMS shall supply to MISO staff a statement of its reasons for requesting such reconsideration. MISO cannot forward to the PAC any projects on which OMS seeks reconsideration until MISO staff has provided a "substantive and meaningful" response to the concerns raised by OMS. OMS's right will be embodied in MISO's tariff.

Compromise: Derived from MISO Proposal, last bullet, and from PSCW Proposal, second to last bullet.

Comment: This is a "second look," or "yellow light," to be used rarely if at all. Its purpose is to bring to MISO's attention (presumably not for the first time) serious concerns held by OMS, and to alert the Board of Directors that there are such serious concerns. These concerns may result from late developing information, or other unanticipated problems. This is not a line-specific power – it may be exercised only as to groups of projects, and specifically excluded are BRPs that are internal to one state. This power ensures that only those plans with a good likelihood of success with those state commissions that grant authority to build and site transmission projects will be forwarded to the MISO Board. This is not a hard veto process, but a way to frame and record important concerns specific to the value of the projects, before the MISO Board acts.

7. OMS Voting - Majority Needed to Act in Planning, Supermajority to Exercise Close of Planning Year Yellow Light: With the exception of the proposal found at paragraph 6, OMS can exercise any of the planning rights set forth above by a simple majority of states present and voting. As to the authority found at paragraph 6, it may be exercised by 66% of the OMS states present and voting.

Compromise: The voting mechanisms come from concepts initially raised in the PSCW Proposal, and recognize elements of a supermajority vote raised by MISO in its testimony in the Arkansas case.

Comment: The voting thresholds are intended to provide OMS sufficient voting flexibility with a reasonable majority in early phases of the planning process (and the possibility for a delegation to staff), while creating a supermajority requirement for the yellow light process that comes later in the MTEP process.

Alternative voting provisions on which stakeholder comment is invited: The OMS also discussed a load-weighted voting method that would allow action by any combination of voting members having, in sum, more than 50% of the total MISO load in the last calendar year. Also, some OMS members prefer requiring a “majority of all OMS members,” rather than the less demanding “majority of those present and voting.”

8. OMS Funding: OMS shall be adequately funded, either through direct provision of funds to enable the hire of staff and/or third party assistance, or through in-kind provision of services by MISO, to allow it to adequately participate in the planning functions. OMS’s right to receive such assistance, if necessary, will be embodied in MISO’s tariff.

Compromise: Not specifically raised in any earlier proposals, but acknowledged as a legitimate concern by MISO and OMS.

## Appendix

### ICC's Recommendation on Enhanced OMS Authority With Respect to the Planning Process

June 26, 2012

OMS currently has a unique opportunity to clarify and improve its role in the transmission planning, cost allocation, and cost recovery processes of MISO. OMS would not be looking to enhance its authority with respect to these processes merely for purposes of aggrandizement. Rather, the State Regulators have a responsibility to electricity consumers which, because of the federal filed rate doctrine, can only be fulfilled through action in MISO forums.

The FERC has been quite clear that it expects State Regulators to have a significant role. In Order 1000 and 1000-A, FERC repeatedly encourages State Regulators' participation in the planning process. For example, in Paragraph 212, Order 1000 states,

We strongly encourage states to participate actively in both the identification of transmission needs driven by Public Policy Requirements and the evaluation of potential solutions to the identified needs.

FERC makes similar statements elsewhere in Order 1000. For example, paragraphs 502 and 688.

FERC urged States to try to reach agreements on transmission cost allocation stating, "agreements among states with respect to cost allocation may be particularly important for transmission facilities designed to meet transmission needs driven by Public Policy Requirements." Order 1000, Paragraph 688. FERC urged States to pursue such agreements through a "committee of state regulators."

In Order 1000-A, FERC stated,

We support states' efforts to take an active role in the regional transmission planning process and encourage proposals that seek to establish a formal role for state commissions in the regional transmission planning process as well as proposals to establish cost recovery for state regulators' participation. Order 1000-A, Paragraph 290

FERC further stated,

We understand that state regulators play a crucial role in transmission planning and that the role of state regulators is unique and distinctly different from the roles played by other stakeholders in transmission planning. Order 1000-A, Paragraph 293.

In FERC's MVP Order and MVP Rehearing Order, FERC expressed an openness for a much stronger role for the State Regulators (and OMS) in MISO's planning process. FERC stated,

[w]e expect that state regulators and other stakeholders will be actively involved in identification of MVPs, and that, as a transmission provider, Midwest ISO will be receiving input from, and acting in

conjunction with, the state commissions. We recognize the importance of involving state commissions, as well as regional state committees such as OMS, and all other stakeholders, in making decisions about projects being developed and built in the Midwest ISO region and elsewhere. This is particularly so in light of the diversity among the Midwest ISO sub-regions and its market participants. 133 FERC ¶ 61,221 at P212, emphasis added.

To the extent protestors suggested that Midwest ISO and the other Filing Parties will be putting themselves in the position of state commissions, the Commission stated its expectation that state regulators and other stakeholders will be actively involved in identification of MVPs and that Midwest ISO will receive input from, and act in conjunction with, the state commissions. 137 FERC ¶ 61,074, at P151, emphasis added.

These quotes describe a role for State Regulators in making decisions within MISO's planning process and for MISO to act in conjunction with OMS. The role that FERC describes is much more than OMS merely providing advice to MISO. FERC refers to State Regulators making decisions and for MISO to act in conjunction with State Regulators, not merely to receive OMS's advice. OMS should seize the opportunity that is currently available.

**1. States to Which Transmission Costs are Allocated Must Have a Forum to Judge the Projects Proposed and the Prudence of the Costs.**

Under MISO's current FERC-approved cost allocation program which spreads costs broadly, those States in which a project is not located will, nevertheless, be required to pay for most of the costs of the project that will be located in some other State. As MISO has currently set it up, those Other States have no opportunity to have their views heard on the benefits and costs that they expect for their States from the project. There must be a forum for States who are obligated to pay project costs to have a say in the project. We propose an OMS voting mechanism. The kind of voting forum that we have in mind would be a variation of the PSEG idea that FERC discussed in Order 1000.

In Paragraph 674 of Order 1000, FERC summarized PSEG's voting proposal as follows:

PSEG Companies request that reliability and non-reliability projects be treated differently for cost allocation purposes, and they advocate adopting a voting mechanism for economic projects that would require that proposed economic upgrades be voted on by the entities that have been deemed to benefit from them and who in turn would be responsible for paying for them.

In response to PSEG's proposal FERC responded as follows in Order 1000:

In response to PSEG Companies, we clarify that a regional cost allocation method for one type of regional transmission facility or for all regional transmission facilities may include voting requirements for identified beneficiaries to vote on proposed transmission facilities. (Paragraph 689)

Therefore, FERC accepted the idea of voting on certain transmission projects and their associated cost allocation. We would suggest that the type of voting process that PSEG proposed for utilities and the "veto rights" for state regulators that FERC will allow RTOs to provide are very similar concepts. We strongly urge OMS to set up a mechanism that allows for an OMS vote on projects and their associated cost allocation, using the PSEG model that was authorized by FERC in Order 1000.

The pre-judging concern under such a voting process can be simply dealt with by allowing the States in which the project will be physically located to recuse themselves from participating in the OMS vote on those projects. Those States don't need that voting forum anyway because they can express their views about the benefits of the project for their State's consumers in their own siting/certification case. It's the Other States that need a forum to express their views about the benefits of the project, and OMS should insist that such a forum is created.

**2. OMS Should Re-Charter CARP.**

OMS should re-charter the CARP committee of Commissioners and Senior Staff. Through CARP, OMS would be able to specify scenarios, choose input variables and values of input variables. CARP would be the vehicle through which OMS would participate in the modeling and futures scenario development processes.

**3. MISO Must Be Required to File Its Approved Projects and Their Associated Cost Allocation with FERC for Approval Under Federal Power Act Section 205.**

MISO doesn't currently file the Board-approved projects or their associated cost allocation with FERC for approval. It's one thing for the states to agree on a cost allocation methodology to put in the tariff. It's another thing for MISO to apply a cost allocation method to a particular project. States need a forum to be able to protest or object to MISO's assignment of a cost allocation method to particular projects. PJM is required by tariff to file their projects and the associated cost allocation with FERC (Schedule 6 of the PJM Operating Agreement and Schedule 12 of the PJM Tariff) and parties get to comment/protest. OMS should insist that MISO adopt a project filing requirement like the one PJM currently has.

**4. The Formula Rate Protocols Must Be Amended Consistent with OMS's Recommendations.**

FERC currently has opened an investigation into MISO's formula rate update protocols. (FERC Docket No. EL12-35). The formula rate update process is not transparent and provides no opportunities to challenge the prudence of costs. OMS must insist that the MISO Transmission Owners work with OMS to correct the formula rate update protocols. This should be part of OMS's "enhanced authority."

**5. A Method to Ensure Project Cost Containment and Prudence of Project Costs Must be Adopted.**

The states need to find a way to control transmission project costs. Under FERC's rules, approval of a project by the MISO Board of Directors is the last stop and authorizes the project to be constructed and for the costs of the project to flow through into formula rates. There is no project review by FERC and the project costs need not have any relationship to the project cost estimates used in MISO's planning process. Final project costs automatically flow through into rates regardless of their magnitude. The OMS should insist that a process be developed by which States can assure themselves that project costs that will be recovered in rates are prudent.