

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA**

FirstEnergy Service Company,)	
Petitioner,)	
)	
v.)	No. 20-1227
)	
Federal Energy Regulatory Commission,)	
Respondent.)	

**MOTION FOR LEAVE TO INTERVENE OF
THE ORGANIZATION OF MISO STATES, INC.**

Pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure and Rule 15(b) of the Circuit Rules of this Court, the Organization of MISO States, Inc. (“OMS”) hereby moves this Court for leave to intervene in the above-captioned proceeding. In support of this motion, the OMS states as follows:

- I. On June 25, 2020, FirstEnergy Service Company (“Petitioner” or “FirstEnergy”), filed with this Court a petition for review of the following orders issued by the Federal Energy Regulatory Commission (“Respondent” or “FERC”):
 1. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc., et al.*, Order on Complaint, Establishing Settlement and Hearing Judge Procedures, and Establishing Refund Effective Date, Docket No. EL14-12-000, 149 FERC ¶ 61,049 (Oct. 16, 2014) and Errata Notice (Nov. 10, 2014);

2. *Arkansas Electric Cooperative Corporation, et al., v. ALLETE Inc., et al.*, Order on Complaint and Establishing Hearing Procedures, Docket No. EL15-45-000, 151 FERC ¶ 61,219 (June 18, 2015);
3. *Arkansas Electric Cooperative Corporation, et al., v. ALLETE Inc., et al.*, Order on Rehearing and Instituting Section 206 Proceedings and Commencing Paper Hearing Procedures and Establishing Refund Effective Date, Docket No. EL15-45-001 & EL16-99-000, 156 FERC ¶ 61,061 (July 21, 2016) and Errata Notice (July 22, 2016);
4. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc., et al.*, Order on Rehearing, Docket No. EL14-12-001, 156 FERC ¶ 61,060 (July 21, 2016);
5. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc., et al.*, Opinion No. 551, Order on Initial Decision, Docket No. EL14-12-002, 156 FERC ¶ 61,234 (Sept. 28, 2016);
6. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc., et al.*, Opinion No. 551, Order Directing Briefs, Docket No. EL14-12-003 & EL15-45-000, 165 FERC ¶ 61,118 (Nov. 15, 2018);
7. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc., et al.*, Opinion No. 569, Order on Briefs, Rehearing, and Initial Decision, Docket No. EL14-12-003 and Docket Nos. EL14-12-003 & EL15-45-000, 169 FERC ¶ 61,129 (Nov. 21, 2019); and
8. *Association of Businesses Advocating Tariff Equity, et al., v. Midcontinent Independent System Operator, Inc. et al.*, Opinion No. 569-A, Order on Rehearing, Docket Nos. EL14-12-004 & EL15-45-013, 171 FERC ¶ 61,154 (May 21, 2020).

II. The OMS is a Petitioner in Case No. 20-1251, which has been consolidated with this case. However, OMS seeks leave to intervene in this case to support

Respondent with respect to arguments that FirstEnergy may raise should Petitioner be found to have standing. As required by Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Circuit Rules of this Court, a Corporate Disclosure Statement for the OMS is enclosed with this pleading.

- III. The OMS is a Non-Profit Domestic Corporation (under the Indiana Nonprofit Corporation Act of 1991), and is a self-governed, member-based organization comprised of representatives from entities with regulatory jurisdiction over utilities participating in the Midcontinent Independent System Operator, Inc. ("MISO") region.
- IV. The purpose of the OMS is to coordinate regulatory oversight among its members, including recommendations to MISO, the MISO Board of Directors, FERC, other relevant government entities, and state commissions as appropriate to promote OMS members' interests on matters such as: (i) MISO markets, (ii) MISO's operations and transmission planning, (iii) FERC matters affecting the MISO region, and (iv) the jurisdiction and role of the MISO states to regulate and promote the electric utilities and systems within their respective boundaries.
- V. In furtherance of its purposes, the OMS intervened and was an active party in the proceedings before the FERC that concluded with the orders subject to review in this case.

- VI. Further, the OMS' members have the responsibility to supervise and regulate utilities participating in MISO to ensure their operation is in the public interest, and to promote adequate, economical, and efficient delivery of utility service in their respective retail jurisdictions.
- VII. As an organization comprised of members charged with representing the public interest in their respective jurisdictional areas, the OMS has a unique interest in the outcome of this case. Because no other party can adequately represent the interests of the OMS and its members in this proceeding, the OMS should be permitted to intervene.

WHEREFORE, the OMS respectfully moves the Court for leave to intervene in support of Respondent in the context of FirstEnergy's petition for review and to participate in this matter with the rights accorded to an intervenor under the Federal Rules of Appellate Procedure and the Circuit Rules of this Court.

Respectfully submitted,

/s/ Andrea Sarmentero

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Counsel to the Organization of MISO States

Dated: July 27, 2020

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**CORPORATE DISCLOSURE STATEMENT OF
THE ORGANIZATION OF MISO STATES**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Circuit Rules of this Court, the Organization of MISO States, Inc. (“OMS”) hereby submits this Corporate Disclosure Statement.

The OMS is a Non-Profit Domestic Corporation (under the Indiana Nonprofit Corporation Act of 1991), and is a self-governed, member-based organization comprised of representatives from entities with regulatory jurisdiction over utilities participating in the Midcontinent Independent System Operator, Inc. region.

The purpose of the OMS is to promote the public interest and social welfare by providing means for its members to act in concert when deemed to be in the common interest of their affected publics.

The OMS does not issue securities to the public and is not owned by any publicly held company.

Respectfully submitted,

/s/ Andrea Sarmentero

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Dated: July 27, 2020

CERTIFICATE OF SERVICE

Pursuant to Rule 25(d) of the Federal Rules of Appellate Procedure, and Rule 25 of the rules of this Court, I hereby certify that I have, this 27th day of July 2020, caused the foregoing documents to be served upon the counsel listed in the service list for Case No. 20-1227 via the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Andrea Sarmentero

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