

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

MISO Transmission Owners, et al.,)	
)	
Petitioners,)	No. 16-1325
)	
v.)	
)	
Federal Energy Regulatory)	Consolidated with Case No. 20-
Commission,)	1182
)	
Respondent.)	

**MOTION TO GOVERN FUTURE PROCEEDINGS
OF THE COMPLAINANT-ALIGNED PARTIES**

This Court’s Order dated June 3, 2020, as amended by the extension of time granted on July 2, 2020, directed parties in these consolidated cases to file motions to govern future proceedings by August 10, 2020.

In response to the Court’s Order, the Complainant-Aligned Parties with intervenor status in these consolidated cases¹ hereby file this motion to govern further proceedings and move the Court to:

¹ The Complainant-Aligned Parties with intervenor status joining on this motion include: American Municipal Power, Inc.; Association of Businesses Advocating Tariff Equity, Coalition of MISO Transmission Customers, Illinois Industrial Energy Consumers, Indiana Industrial Energy Consumers, Inc., Minnesota Large Industrial Group, and Wisconsin Industrial Energy Group (collectively, “Industrial Consumer Groups”); Cooperative Energy (formerly South Mississippi Electric Power Association); Hoosier Energy Rural Electric

(1) Consolidate these cases with other timely-filed petitions for review of the Federal Energy Regulatory Commission's ("Respondent" or "FERC") orders issued in Docket Nos. EL14-12, EL15-45, and EL16-99.

(2) Grant Respondent's August 5, 2020 motion for abeyance and suspension of the requirement to file the certified index to the record until December 7, 2020.

To achieve the most efficient use of the Court's resources, as well as to maintain consistency in its decisions, this Court will generally consolidate "all petitions for review of agency orders entered in the same administrative proceeding," as well as "cases involving essentially the same parties or the same, similar, or related issues."² The administrative proceedings under FERC Docket Nos. EL14-12, EL15-45, and EL16-99 concern the applicable return on equity for transmission owners in the Midcontinent Independent System Operator's

Cooperative, Inc.; Mississippi Public Service Commission, Missouri Public Service Commission, and Missouri Joint Municipal Electric Utility Commission (collectively, "Missouri-Mississippi Parties" or "MOMs"); the Organization of MISO States, Inc.; and Southwestern Electric Cooperative, Inc. Intervenor status was granted by Order of this Court dated July 27, 2020.

The Complainant-Aligned Parties are authorized to state that the following intervenors support this motion: the Illinois Citizens Utility Board, the Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate, Michigan Citizens Against Rate Excess, the Minnesota Department of Commerce, the Missouri Office of Public Council, and the Citizens Utility Board of Wisconsin.

² D.C. Cir. Handbook of Practice and Internal Procedures at 24 ("Handbook"); *see also*, Fed. R. App. P. 3(b)(2).

(“MISO”) footprint and corresponding refunds.³ All appeals of Respondent’s orders under these administrative dockets should be consolidated to promote efficiency and consistency.⁴

Similarly, granting Respondent’s August 5, 2020 motion would promote efficiency and consistency by providing FERC with a reasonable amount of time to issue its pending order on rehearing in the underlying administrative proceedings and, potentially, allowing appeals of such a rehearing order to be consolidated with these cases.

For the foregoing reasons, the Complainant-Aligned Parties respectfully request that the Court grant this motion to govern further proceedings.

³ While the administrative proceeding in FERC Docket No. EL16-99 addressed in general the issue of refund commitments by non-jurisdictional transmission owners in MISO, FERC started this proceeding in response to protests by several MISO transmission owners filed in FERC Docket No. EL15-45 regarding refund obligations of non-jurisdictional transmission owners in the context of lowering the return on equity in MISO.

⁴ The Complainant-Aligned Parties note that Petitioner FirstEnergy Service Company filed on July 30, 2020, a motion to consolidate its appeal (Case No. 20-1227) – currently consolidated with the Complainant-Aligned Parties’ appeal (Case No. 20-1251) and the appeals of numerous petitioners (Case Nos. 20-1240, 20-1241, 20-1248, 20-1267, and 20-1275) – with the consolidated appeals filed by the MISO Transmission Owners (Case No. 16-1325 and 20-1182).

Respectfully submitted,

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Dated: August 10, 2020

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CERTIFICATE OF COMPLIANCE

I hereby certify that, pursuant to the Court's June 3, 2020 Order, as amended by the extension of time granted on July 2, 2020, the Complainant-Aligned Parties' response contains 597 words, excluding the parts exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1), as reported by the word processing system on which the response was prepared. I further certify that the response complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6).

Respectfully submitted,

/s/ Andrea I. Sarmentero Garzón

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Dated: August 10, 2020

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Appellate procedure, I hereby certify that I have this 10th day of August 2020, served the foregoing Motion of the Complainant Aligned Parties via the CM/ECF system, if they are registered CM/ECF users, or via U.S. Mail.

Respectfully submitted,

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