UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc.	))	**Docket Nos. ER20-1723-000 ER20-1724-000**
LSP Transmission Holdings II, LLC **Cardinal Point Electric, LLC** **LS Power Midcontinent, LLC**	))))	**Docket No. EL19-79-000**
v.	))	
Midcontinent Independent System Operator	)))))	**(Not Consolidated)**

MOTION TO CONSOLIDATE AND PROTEST
OF LSP TRANSMISSION HOLDINGS II, LLC,
CARDINAL POINT ELECTRIC, LLC, LS POWER MIDCONTINENT, LLC,
THE COALITION OF MISO TRANSMISSION CUSTOMERS,
THE INDUSTRIAL ENERGY CONSUMERS OF AMERICA,
AND GRIDLIANCE HEARTLAND LLC

In their third attempt to revise planning for regionally beneficial economic projects, Midcontinent Independent System Operator, Inc. ("MISO") and certain incumbent MISO transmission owners[1] have filed an unjust and unreasonable proposal.[2] There are two problems with this third try. First, the Filing Parties do not lower the voltage threshold to 100 kV for

1 The MISO transmission owners joining the filing are referenced in footnote 1 of the filing. For ease of reference, we refer collectively to MISO and certain MISO transmission owners as the "Filing Parties."

2 *Midcontinent Indep. Sys. Operator, Inc. and the MISO Transmission Owners*, "Proposed Revisions to Tariff Module A, Attachment FF and New Attachments FF-7 to Expand and Clarify Market Efficiency Project Selection and Cost Allocation," Docket Nos. ER20-1723-000 and ER20-1724-000 (Apr. 30, 2020)("Third Economic Project Filing" or the "Filing").

Market Efficiency Projects ("MEP") even though the evidence provided in their first two tries, and the evidence provided in the complaint filed by LSP Transmission Holdings II, LLC, Cardinal Point Electric, LLC and LS Power Midcontinent, LLC[3] (collectively, "LS Power") in Docket No. EL19-79,[4] shows that economic projects between 100 kV and below 230 kV have regional benefits. Despite this evidence, the Filing Parties only seek to lower the MEP threshold to 230 kV, leaving regionally beneficial economic projects between 100 kV and below 230 kV in the "Other Projects" category with costs allocated only to the zone where the "Other Project" is physically located. This restrictive cost allocation for regionally beneficial economic projects between 100 kV and below 230 kV has been twice rejected by the Commission.[5]

Second, the Filing Parties propose an exemption from Order No. 1000[6] competition for so-called "Immediate Need Reliability Projects".[7] However, the Filing Parties have not demonstrated that the exemption is limited to truly "immediate" circumstances or that the "exception" would not subsume every MEP with a reliability component because of the short

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3 LSP Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC filed on May 5, 2020 a doc-less intervention in Docket Nos. ER20-1723-000 and ER20-1724-000.

4 *LSP Transmission Holdings, II et al. v Midcontinent Independent System Operator, Inc*., "Complaint" filed June 5, 2019 in Docket No. EL19-79. The Complaint (i) lowers the threshold for MEP projects from 345 kV to 100 kV and (ii) allocates the costs of those projects to those that benefit (hereinafter the "Economic Projects Complaint").

5 *Midcontinent Indep. Sys. Oper., Inc.*, 167 FERC ¶ 61,258 (2019)("First Order Rejecting Filing"); *Midcontinent Indep. Sys. Oper., Inc.*, 170 FERC ¶ 61,241 (2020)("Second Order Rejecting Filing").

6 *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir.2014).

7 As proposed in Attachment FF, Section VIII.A.3 of the MISO Tariff, an Immediate Need Reliability Project is a project that has a reliability-based need-by date within 36 months of the project's approval by the MISO Board of Directors ("MISO Board"). This exception will be referred to as the "Immediate Need Reliability Exception" throughout this filing.

term manner in which MISO plans Baseline Reliability Projects ("BRPs").[8] The Commission should not accept the proposed Immediate Need Reliability Exception without proof that MISO actually approves the majority of BRPs more than three years before their expected in-service date, otherwise it is not an "exception" at all but a wholesale exclusion from competition. Further, in determining whether it is feasible for MISO to competitively bid the project, the Filing Parties propose to use a need-by date rather than the later of (i) the need-by date or (ii) expected in-service date of the project. The Filing Parties also do not require a showing that MISO could not take operational measures to extend the need-by date in order to accommodate competition through a modified proposal window.

LS Power, together with the Coalition of MISO Transmission Customers[9] ("CMTC"), the Industrial Energy Consumers of America[10] ("IECA"), and GridLiance Heartland LLC[11] ("GridLiance Heartland") (collectively, "Joint Protesters") request that the Commission (i) consolidate the Economic Projects Complaint with this Filing, (ii) reject this Filing, and (iii) grant the Complaint to lower the MEP voltage threshold to 100 kV. In granting the Complaint, the Commission can set a just and reasonable cost allocation methodology for MEPs between 345 kV and 100 kV. In setting the just and reasonable cost allocation methodology for MEPs between 100 kV and below 345 kV, the Commission can require (i) the addition of two additional metrics to identify, on a more granular basis, the beneficiaries of MEP: (1) Avoided

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8 *ISO New England Inc., et al.*, 169 FERC ¶ 61,054 (2019)("Show Cause Order").

9 Coalition of MISO Transmission Customers filed on May 1, 2020 a doc-less intervention in Docket Nos. ER20-1723-000 and ER20-1724-000.

10 Industrial Energy Consumers of America filed on May 27, 2020 a doc-less intervention in Docket Nos. ER20-1723-000 and ER20-1124-000.

11 GridLiance Heartland LLC filed on May 6, 2020 a doc-less intervention in Docket Nos. ER20-1723-000 and ER20-1124-000.

Reliability Project Savings and (2) MISO-Southwest Power Pool ("SPP") Settlement Agreement Costs; and (ii) use these enhanced benefits metrics to allocate the costs of these MEPs to the identified beneficiaries consistent with the Commission's and the courts' long-standing precedent on cost allocation.[12]

I. BACKGROUND

The Filing represents the Filing Parties' third try at a Section 205 filing to revise the cost allocation and eligibility requirements for MEPs. Each of the three tries were structured in the same fashion with one key exception – how to handle regionally beneficial economic projects operating between 100 kV and below 230 kV with one goal in mind – to avoid competition to the maximum extent possible. In each filing, the Filing Parties proposed positive changes, including (i) eliminating the 20% postage stamp allocation, *i.e.,* the 20% allocation of all MEP costs across all of MISO for MEPs and (ii) adding two additional metrics to identify the beneficiaries of MEP Applicants: (1) Avoided Reliability Project Savings and (2) MISO- SPP Settlement Agreement Costs. They also recognized that there are regionally beneficial economic projects below 345 kV, but only lowered the threshold for MEPs from 345 kV to 230 kV. Each also proposed to reclassify regionally beneficial economic projects operating between 100 kV and below 230 kV as "Local Economic Projects", a new category of economic projects, and create a new exemption from MISO's already limited Competitive Developer Selection Process,[13] for so called

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12 The Commission's duty in allocating costs is to "compar[e] the costs assessed against a party to the burdens imposed or benefits drawn by that party." *Illinois Commerce Commission v. FERC*, 576 F. 3d 470 (7th Cir. 2009)(citing therein *Midwest ISO Transmission Owners v. FERC,* 373 F.3d 1361, 1368 (D.C.Cir.2004)).

13 Due to the many limitations, MISO has only conducted two Competitive Developer Selection Processes in the approximately 10 years since Order No. 1000.

"Immediate Need Reliability Projects," defined as a BRP that qualifies as a MEP and have a reliability-based need-by date within 36 months of the project's approval by the MISO Board.

Each of the three Filings differed in the manner it sought to exclude regionally beneficial economic projects operating between 100 kV and below 230 kV from being allocated to those that benefit from such projects and not be subject to competition. In the Filing Parties' first try, there would be no MEPs operating between 100 kV and below 230 kV. Instead, the Filing Parties proposed a new category of projects called Local Economic Projects for regionally beneficial economic projects operating between 100 kV and below 230 kV.[14] Although the Filing Parties proposed to calculate the economic benefits of the new category of Local Economic Projects using the same benefit metrics used to calculate the benefits of MEPs, including using the two new economic benefit metrics discussed above, costs would be allocated exclusively to the zone where the project is located.[15] Numerous parties protested, arguing that the allocation of costs was not just and reasonable and that the solution was to lower the voltage threshold for MEPs to 100 kV instead of creating a new category for regionally beneficial economic projects operating between 100 kV and below 230 kV.[16]

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14 *Midcontinent Indep. Sys. Operator, Inc. and the MISO Transmission Owners*, "Proposed Revisions to Tariff Module A, Attachment FF and New Attachments FF-7 and FF-8 to Expand and Clarify Economic Project Selection and Cost Allocation," Docket Nos. ER19-1124-000 and ER19-1125-000 (Feb. 25, 2019)("First Rejected Filing").

15 *Id.* at 35.

16 *Comments and Limited Protest of the American Wind Energy Association and Clean Grid Alliance*, Docket Nos. ER19-1124-000, ER19-1125-000, and ER19-1156-000 filed on March 27, 2019 at 5; *Protest of LSP Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC*, Docket Nos. ER19-1124-000 and ER19-1125-000 filed on March 27, 2019 at 5-19; *Joint Protest of the Protesting Transmission Owners*, Docket Nos. ER19-1124-000 and ER19-1125-000 filed on March 27, 2019 at 5-15; *Protest of Industrial Customers*, Docket Nos. ER19-1124-000 and ER19-1125-000 filed on March 27, 2019 at 6-10.

In response to assertions that the Commission could not lower the voltage threshold for a MEP below the filed 230 kV in a Section 205 filing,[17] LS Power filed the Economic Projects Complaint on June 5, 2019. LS Power filed the Economic Project Complaint in order to "fully address the deficiencies in MISO's existing MEP planning process and that the concerns of LS Power and others on the deficiencies of the Section 205 filing are not disregarded for want of proper procedures."[18] LS Power requested the Commission lower the voltage threshold for MEPs to 100 kV with costs allocated to beneficiaries.[19] The Economic Projects Complaint is pending.

The Commission rejected the Filing Parties' first try, finding that the proposed cost allocation method for Local Economic Projects was not just and reasonable.[20] The Commission found the proposed Local Economic Project category unjust and unreasonable because it would calculate the regional benefits yet ignore those benefits and allocate the costs of a project exclusively to the zone where the project is located.[21] Because the Commission rejected the cost

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17 *Motion For Leave To Answer And Answer Of The Midcontinent Independent System Operator, Inc. And MISO Transmission Owners*, Docket Nos. ER19-1124-000 and ER19-1125-000 filed on May 10, 2019 at 8-9; *Motion For Leave To Respond and Response Of The MISO South Regulators,* Docket Nos. ER19-1124-000 and ER19-1125-000 filed on April 11, 2019 at 5, 14-15.

18 Economic Projects Complaint at 4.

19 *Id.* at 4.

20 *First Order Rejecting Filing*, 167 FERC ¶ 61,258 at P 56.

21 *Id.* at P 56. As the Commission explained:

> In this case, Filing Parties do not contend that they are unable to calculate the distribution of benefits for Local Economic Projects with the same granularity as MEP. Instead, Filing Parties' proposal suggests the opposite conclusion—that, if MISO implements the proposed benefits metrics, it will be able to more precisely calculate the distribution of benefits. In fact, Filing Parties state that their proposal to use two new benefit metrics will "improve the alignment of costs and benefits by further identifying benefits and beneficiaries, allowing for a more granular allocation of costs." Thus, every time MISO approves a Local Economic Project in its MTEP, it will first identify all benefitting zones in the same manner it does for MEPs.

allocation for Local Economic Projects between 100 kV and below 230 kV, it rejected the entire filing.[22] The Commission did not address the Complaint in its Order.

In their second try, the Filing Parties retained the ill-fated Local Economic Project category.[23] In an effort to justify allocating the costs solely to the zone where the project is physically located, the Filing Parties took an unusual approach. While they proposed to identify the beneficiaries using the more precise and granular benefit metrics proposed for MEPs, when it came to cost allocation, they proposed to ignore the analysis of beneficiaries and allocate the costs solely to the zone where the Local Economic Project was physically located.[24]

Unsurprisingly, the Commission rejected that gambit (and thus the entire filing) concluding MISO "determines benefits outside of the local Transmission Pricing Zone where the Local Economic Project is located, but then disregards these benefits by allocating costs for the project solely within that Transmission Pricing Zone."[25]

With this third try, the Filing Parties have abandoned adding a new project category for regionally beneficial economic projects between 100 kV and below 230 kV. Instead of creating a new category, regionally beneficial economic projects operating between 100 kV and below 230 kV would continue to be "Other Projects." The catch-all category of "Other Projects" is any network upgrade included in the MTEP that is not a BRP, New Transmission Access Project,

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22 *Id.* at P 66.

23 *Midcontinent Indep. Sys. Operator, Inc. and the MISO Transmission Owners*, "Proposed Revisions to Tariff Module A, Attachment FF and New Attachments FF-7 and FF-8 to Expand and Clarify Economic Project Selection and Cost Allocation," Docket No. ER20-857-000 and ER20-858-000 (Jan. 21, 2020)("Second Rejected Filing").

24 *Id.* at 35-43.

25 *Second Order Rejecting Filing*, 170 FERC ¶ 61,241 at P 59.

Targeted Market Efficiency Project, MEP, or Multi-Value Project.[26] There are not clear criteria and procedures for identifying, evaluating and selecting Other Projects and the costs of Other Projects are allocated solely to the zone where the project is located.[27] The third try does not address the fundamental flaw of the first two tries, that they ignored the regional benefits of regionally beneficial economic projects operating between 100 kV and 230 kV.

II. MOTION TO CONSOLIDATE THE ECONOMIC PROJECT COMPLAINT WITH THE THIRD ECONOMIC PROJECT FILING

Joint Protesters move for the Commission to consolidate the Economic Projects Complaint with the Third Economic Project Filing. The Economic Project Complaint and Third Economic Project Filing raise common issues of fact and law – the eligibility and cost allocation of regionally beneficial economic projects operating between 100 kV and below 345 kV – that warrant the Commission addressing the matters in a common order.[28]

Further, the Commission cannot fully come to grips with the issues in the Third Economic Filing without addressing whether a voltage threshold of 100 kV for MEPs is a

26 The MISO Tariff defines "Other Projects" by exclusion. Attachment FF, Section III.A.2.k. ("Other Projects: Unless otherwise agreed upon pursuant to Section III.A.2.a. of this Attachment FF, the costs of Network Upgrades that are included in the MTEP, but do not qualify as Baseline Reliability Projects, New Transmission Access Projects, Targeted Market Efficiency Projects, MEPs, or Multi-Value Projects shall be eligible for recovery pursuant to Attachment O of this Tariff by the Transmission Owner(s) and/or ITC(s) paying the costs of such project, subject to the requirements of the ISO Agreement.").

27 *Id.*

28 *Sw. Elec. Power Co.*, 164 FERC ¶ 61,059, at P 22 (2018) ("Because of the existence of common issues of law and fact, we grant Minden's motion to consolidate this proceeding with the ongoing proceedings in Docket Nos. ER18-1225-000 and EL18-122-000. Therefore, in order to promote administrative efficiency, we will consolidate these filings for purposes of settlement, hearing, and decision.); *Southern California Edison Co., California Independent Sys. Operator Corp.,* 134 FERC ¶ 61,107, at P 42 (2011)(rejecting motion to consolidate because unlike here, "[t]he various proceedings which are sought to be consolidated were submitted at differing times and are subject to review and decision based upon the Commission's conduct of our business. As a result, we [the Commission] are concerned that consolidation could unreasonably truncate and complicate the Commission's review of the interconnection agreements in other proceedings, as well as SoCal Edison's petition for declaratory order in Docket No. EL11-10-000.").

necessary component of any just and reasonable MISO Tariff, an issue directly raised by the Economic Projects Complaint.[29] The Economic Projects Complaint challenges, under Section 206 of the Federal Power Act, the justness and reasonableness of the existing 345 kV voltage limitation on MEPs. The Filing Parties third try to address changes with the MEP category do not address the deficiencies in the MISO Tariff raised in the Economic Projects Complaint because it would only lower the MEP voltage threshold to 230 kV, rather than 100 kV. The result is that regionally beneficial economic projects operating between 100 kV and below 230 kV would continue to be excluded from regional cost allocation and only allocated to the zone where the project is physically located. This is the same cost allocation for regionally beneficial economic projects operating between 100 kV and below 230 kV that the Commission has twice found unjust and unreasonable. Based on the foregoing, Joint Protesters request that the Commission consolidate the Economic Projects Complaint and Third Economic Filing for resolution in a single comprehensive order.

III. THE COMMISSION SHOULD REJECT THE THIRD ECONOMIC FILING

A. It Is Unjust And Unreasonable To Not Allocate The Costs Of Regionally Beneficial Economic Projects Operating Between 100 kV And Below 230 kV To Beneficiaries Identified Using The MEP Benefit Metrics

In any case, the Commission should reject the Third Economic Filing. Leaving regionally beneficial economic projects operating between 100 kV and below 230 kV in the nebulous Other Projects category runs counter to the Filing Parties' stated purpose of the filing, which is "aimed at increasing the likelihood that more projects that provide economic benefits

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29 *East Tennessee Natural Gas Company*, 59 FERC ¶ 61,353, at 62,284 (1992)("It is appropriate to consolidate these remaining issues with East Tennessee's restructuring proceeding, since these issues bear on the final structure of East Tennessee's services and the design of its rates. These issues need to be addressed comprehensively, as part of East Tennessee's restructuring proceeding, because they must be considered in tandem with related issues that will bear on the full range of services to be offered by East Tennessee.").

will be identified and approved in MISO's planning process, costs will be allocated with greater granularity to beneficiaries, and greater transparency of the process will result."[30] Yet the proposal, without a legitimate justification, excludes regionally beneficial economic projects operating between 100 kV and 230 kV from the proper category of MEPs. Filing Parties have not claimed that they cannot use the same proposed benefit metrics used to measure the benefits of economic projects operating 230 kV and above to measure the benefits of economic projects operating between 100 kV and below 230 kV. In fact, they can. The Filing Parties twice recognized that economic projects between 100 kV and 230 kV have regional benefits (but they refused to follow through on that recognition by allocating the costs based on those benefits).[31] The Commission recognized that economic projects down to 100 kV could have regional benefits and rejected the Filings because the Filing Parties sought to nevertheless allocated the regionally beneficial economic projects locally.

MISO's own analysis has shown that economic projects operating below 230 kV can have regional benefits.[32] The Commission has found that the benefit metrics that MISO is proposing to use to measure the benefits of economic projects operating above 230 kV could be used to measure the benefits of economic projects operating between 100 kV and below 230 kV.[33] Accordingly, it is unjust and unreasonable to exclude from the MEP category economic

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[30] Third Economic Project Filing at 11.

[31] *See* First Rejected Filing at 34-36; Second Rejected Filing at 36-41.

[32] MISO, "Examples of APC Metric Applied to Sub-345kV Economic Projects" at slides 5, 7, 9, 10 (dated Aug. 16, 2016, revised Aug. 19, 2016), available at https://cdn.misoenergy.org/20160816%20RECBWG%20Item%2002b%20Analysis%20of%20Sub-345%20kV%20Economic%20Projects90177.pdf.

[33] *Second Order Rejecting Filing*, 170 FERC ¶ 61,24 at PP 66-68.

projects shown to have regional benefits simply because they operate below the proposed 230 kV voltage threshold.

The reticence to lowering the MEP voltage threshold to 100 kV is particularly egregious now that the Filing Parties have no proposal for increasing clarity and transparency around the planning, identification, and selection of regionally beneficial economic projects operating between 100 kV and 230 kV. As explained above and in the Economic Projects Complaint, currently regionally beneficial economic projects operating between 100 kV and below 230 kV are categorized as Other Projects. There are not established criteria for identifying, evaluating and selecting these Other Projects, making it less likely that regionally beneficial economic projects below the MEP voltage threshold will be identified and move forward to construction.[34] Furthermore, to the extent that a regionally beneficial economic project is identified and moves forward at all in the Other Project category, the costs are exclusively allocated to the zone where the project is located. The single zone cost allocation is contrary to the fundamental notion that all beneficiaries should share in the cost allocation of a regionally beneficial economic project operating above 100 kV. As the Commission recognized in the First Order Rejecting Filing, "under the existing process for economic Other Projects, the Transmission Owner that proposes the project would do so with the knowledge that it will be responsible for paying the project's costs and thus, in practice, is the one that voluntarily decides whether to pay for an economic Other Project even if other Transmission Pricing Zones will also benefit."[35] Besides being

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34 Order No. 1000 found that a lack of a regional planning and cost allocation methods makes it less likely that efficient and cost-effective transmission solutions will move forward to completion. *See, e.g.*, Order No. 1000, 136 FERC ¶ 61,051 at PP 42, 43, 499.

35 *First Order Rejecting Filing*, 167 FERC ¶ 61,258 at P 65. Thus, under the proposal, if a transmission owner decides not to move forward with a regionally beneficial economic project operating below 230 kV, the project will not move forward at all, to the detriment of the MISO region and ratepayers therein.

unjust and unreasonable, this creates the probability that a transmission owner would not move forward with an economic project operating below 230 kV that is regionally beneficial, but has a lower local benefit to cost ratio.

The Filing Parties seek to circumvent the issue by asserting that the threshold is "a compromise solution" and consistent with MISO's "incremental approach to planning and cost allocation."[36] This is the same assertion the Filing Parties made related to the first two attempts to modify the MEP category, which recognized that there are regionally beneficial economic projects between 100 kV and below 230 kV but sought to narrowly cost allocate those projects. Neither a supposed compromise nor incrementalism are sufficient justification for a 230 kV threshold that arbitrarily excludes regionally beneficial economic projects that operate between 100 kV and below 230 kV. While the Commission has stated a preference for proposals that result from the stakeholder process, it is not a decisive factor as the Commission "must make its own independent assessment that the policy is just and reasonable."[37] Furthermore, the Filing Parties have not explained what an "incremental approach" entails and more importantly why an "incremental approach" results in "just and reasonable rates." This is particularly true when the Filing Parties have twice demonstrated through their own filings that there are regionally beneficial economic projects between 100 kV and below 230 kV and the Commission rejected their "compromise" proposal because it included an effort to locally cost allocate those

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36 Third Economic Project Filing at 19-20.

37 *Pub. Serv. Comm'n of Wisconsin v. FERC*, 545 F.3d at 1062-65 (D.C. Cir.2008)("while the Commission may give weight to negotiated stakeholder process, it must make its own independent assessment that the policy is just and reasonable."); *see also ISO New England, Inc. & New England Power Pool Participants Comm'n New England Power Generators Ass'n*, 135 FERC ¶ 61,029, at P 41 (2011)(In discussing whether the Commission has to view a multi-part proposal as a single package, the Commission explained that compromises made during the stakeholder process does not substitute for Commission review of the individual parts.).

regionally beneficial economic projects. At this point, the only possible reason that there is a refusal to lower the voltage threshold below 230 kV is that certain transmission owners do not want economically beneficial projects operating between 100 kV and below 230 kV open to competition.

1. MISO's Analysis During The Stakeholder Process Demonstrated That Economic Projects Between 230 kV and 100 kV Have Regional Benefits

The only attempt at a justification for the 230 kV voltage limitation to be found in the Third Economic Project Filing is in Mr. Moser's testimony where he argues that the voltage threshold is appropriate because "projects operating at a voltage below 230 kV are *less likely* to provide benefits that are truly regional in scope."[38] Mr. Moser's statement concedes that there are economic projects operating at a voltage below 230 kV that may have regional benefits. Indeed, MISO's own analysis, prepared to assist stakeholders as they considered revisions to the MEP category, identifies several economic projects operating below 230 kV that benefit more than one zone.

LS Power highlighted the following examples in its earlier protests and the examples remain relevant to the Third Economic Project Filing. At the August 2016 Regional Expansion Criteria and Benefits Working Group ("RECBWG") meeting, MISO presented examples of the Adjusted Production Cost metric applied to sub-345 kV economic projects. One "key takeaway" from the analysis was that "[b]enefit distribution is more dependent on congestion and project location than the voltage level."[39] All four examples analyzed were below 230 kV, and all four

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38 Prepared Testimony of Jesse Moser on Behalf of MISO filed in this proceeding at page 31 lines 5-6 ("Moser Testimony")[emphasis added].

39 MISO Presentation, Examples of APC Metric Applied to Sub-345kV Economic Projects at slides 2, 11 available at

examples provided Adjusted Production Cost benefits to more than one transmission pricing zone.[40] Of particular note in that presentation is Example 3, a 161 kV project that provides benefits in parts of **eight states!**[41]

The examples prepared during the stakeholder process are not an anomaly. In MTEP18, MISO reviewed four project solutions related to congestion in the Wabaco area. MISO determined that a 161 kV project would provide "a 6.79 benefit-to-cost ratio to MISO and 1.53 to local [transmission pricing zone] TPZ . . .."[42] Although the regional benefits are four times higher than the "local" benefits, the Third Economic Project Filing would prohibit a similar project from becoming a MEP and instead relegating it to the Other Project category. As such, assuming the transmission owner in that zone is even willing to move forward with the project, which is unlikely if another zone receives the majority of the costs, then the transmission owner's zone would be allocated all of the costs notwithstanding that it receives only a fraction of the benefits of consumers outside the zone who would pay nothing.[43]

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https://cdn.misoenergy.org/20160816%20RECBWG%20Item%2002b%20Analysis%20of%20Sub-345%20kV%20Economic%20Projects90177.pdf (dated Aug. 16, 2016, revised Aug. 19, 2016).

40 *Id.* at Slides 5, 7, 9, and 10.

41 *Id.* at Slide 8 [emphasis added].

42 MISO 2018 Transmission Enhancement Plan at 100, available at https://cdn.misoenergy.org/MTEP18%20Full%20Report264900.pdf.

43 The United States Court of Appeals for the District of Columbia's ("D.C. Circuit) decision in *Old Dominion Elec. Coop. v. FERC,* 898 F.3d 1254 (D.C. Cir. 2018), is particularly relevant to the question of whether a physical location-based cost allocation is just and reasonable. In that decision, the D.C. Circuit was presented with a cost allocation method that allocated all costs of an entire category of projects exclusively to the zone in which the project is physically located irrespective of the fact that the benefits of some projects flowed to zones other than where the project is located. In one case, 43% of the benefits flowed to zones other than where the project was located. The Court found that this "involves a wholesale departure from the cost-causation principle, which would 'shift a grossly disproportion share of [the] costs' of the high-voltage projects into a single zone.'" *Id.* at 1261. The referenced examples demonstrate that the same mismatch is likely to occur if all economically beneficial projects operating between 100 kV and 230 kV are automatically allocated to the zone in which the project is located. Subsequently, the Commission required PJM to reallocate all of the costs of these projects using the previously

Similarly, MISO provided analysis of a 161 kV project that would fully relieve congestion on the Wilson to Matanzas and BR Tap to Paradise lines. MISO determined that the project would achieve a 3.28 benefit-to-cost ratio to the MISO footprint, with a 1.73 benefit-to-cost ratio to the local transmission pricing zone.[44] The regional benefit is almost double the local benefits. As with the project above, the Third Economic Project Filing would categorize such a project as an Other Project again raising the issue if the transmission owner in that zone moves forward with the project, why should the ratepayers in the transmission owner's zone pay all the costs when nearly half the benefits go to ratepayers in other zones benefit.

Finally, at the September 2017 RECBWG, MISO Staff presented analysis of fourteen theoretical projects.[45] Six of the projects were below 230 kV but above 100 kV, and all showed benefits to more than one transmission pricing zone. Example One was to build a new 115 kV line to S. Natchez. Over time, the project would benefit six out of ten Local Resource Zones.[46] Example Eight, a second sub-230 kV project, would benefit four of ten Local Resource Zones over time.[47]

The above examples demonstrate that the assertion in the Third Economic Project Filing that economic projects operating below 230 kV have primarily local benefits is unsupported. A single element of a project's "primary" benefits should determine the appropriate cost allocation.

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approved cost allocation method. *PJM Interconnection, L.L.C.*, 168 FERC ¶ 61,133, at P 2 (2019), *reh'g denied*, 171 FERC ¶ 61,012 (2020).

44 MISO 2018 Transmission Enhancement Plan at 106, available at https://cdn.misoenergy.org/MTEP18%20Full%20Report264900.pdf.

45 MISO, Project Benefit Distribution Presentation, available at https://cdn.misoenergy.org/20170928%20RECBWG%20Item%2006%20Project%20Benefit%20Distribution90349.pdf (Dated Sept. 28, 2017).

46 *Id.* at Slides 5-7.

47 *Id.* at Slides 20-22.

However, given that MISO's own examples, such as showing regional benefits to eight states or significantly higher regional benefits than local benefits, show that the Filing Parties' assertion is false, it is unnecessary to debate the reliance on "primary" benefits as a cost allocation metric versus allocating costs based on actual benefits. Refusing to measure regional beneficiaries does not change the fact that such beneficiaries exist. The Third Economic Filing fails to support the effort to distinguish regionally beneficial economic projects operating between 100 kV and below 230 kV through any legitimate justification; on the contrary, the Filing Parties only ask the Commission to leave these regionally beneficial economic projects in their current home, *i.e.,* as Other Projects, to prevent competition for those projects. Yet there is a complaint pending asserting that the Other Project category is an improper designation for regionally beneficial economic projects.

The current approach of designating a regionally beneficial economic project as an Other Project ensures that the project will be directly assigned to incumbent transmission owners, bypassing MISO's Competitive Developer Section Process.[48] Allowing creation of an artificial distinction that avoids regional cost allocation to bypass the Competitive Developer Selection Process[49] is detrimental to ratepayers because the benefits of competition are denied and it violates the Commission's cost causation principles.

48 Under Order No. 1000, "if any costs of a new transmission facility are allocated regionally or outside of a public utility transmission provider's retail distribution service territory or footprint, then there can be no federal right of first refusal associated with such transmission facilities . . .." Order No. 1000-A, 139 FERC ¶ 61,132 at P 430.

49 Of note, this is the same cost allocation approach that MISO and its incumbent transmission owners took in response to Order No. 1000 with respect to Baseline Reliability Projects, resulting in $4.198 billion in transmission additions being excluded from competition based exclusively on a manufactured cost allocation methodology. The level of Baseline Reliability Projects excluded from competition was established from MISO MTEP reports for 2013-2018. For MTEP 2013-2017 *see*, https://www.misoenergy.org/planning/planning-test/mtep-

2. Commission Precedent And Experience In Other Regions Demonstrates That Economic Projects Operating Below 230 kV Can Provide Regional Benefits

The Commission has previously found that projects operating between 100 kV and below 230 kV can have regional and even interregional benefits. In 2013, Northern Indiana Public Service Company ("NIPSCO") filed a complaint against MISO and PJM arguing that congestion along the MISO-PJM seam was not being addressed as viable transmission additions were not being built. NIPSCO argued that at least part of the barrier to needed transmission solutions getting built were the regions' voltage and cost restriction thresholds for economic projects.

The Commission agreed with NIPSCO, finding that:

> the Quick Hit Analysis has validated that many identified interregional economic transmission projects that are less than 345 kV and cost less than $5 million may nevertheless provide benefits to each region and should therefore not be automatically excluded from consideration.[50] We find that a majority of the identified Quick Hit projects are rated below 345 kV (i.e., 138/161 kV) and cost less than $5 million (with several costing only several hundred thousand dollars).[51]

The Commission thus required MISO to "revise its tariff to revise the Market Efficiency Project thresholds that apply to qualify as an interregional economic transmission project by (1) *lowering the minimum voltage thresholds to 100 kV* and (2) removing the $5 million minimum cost requirement."[52]

2017/#t=10&p=0&s=FileName&sd=desc. For MTEP 2018 *see* https://www.misoenergy.org/planning/planning-test/mtep-2018-test-related-docs/ .

50 *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator*, 155 FERC ¶ 61,058, at P 131 (2016), *order on reh'g & compliance*, 158 FERC ¶ 61,049 (2017)("NIPSCO Rehearing Order"). During the proceeding, MISO, PJM, and stakeholders developed the so-called, Quick Hit Analysis, which identified near-term interregional economic projects needed to remedy congestion along the MISO-PJM seam.

51 *Id*.

52 *Id*. [emphasis added]. While the Commission affirmed on rehearing that MISO must clarify that interregional economic transmission projects operating above 100 kV, but below 345 kV, can

Early this year, the Commission rejected MISO's proposal to allocate the costs of interregional economic projects operating below 345 kV between MISO-PJM solely to the zone where the project is located.[53] Instead, the Commission established that it is just and reasonable for MISO to allocate its share of a MISO-PJM interregional economic project operating between 100 kV and lower than 345 kV using the existing benefit metric for MEPs, *i.e.* Adjusted Production Cost Savings, with no region-wide cost sharing.[54] If these economic projects that operate primarily between 230 kV but above 100 kV can have interregional benefits and it is just and reasonable to allocate them using the existing Adjusted Production Cost Savings benefit metric, then it is logical to conclude that there are economic projects that operate below 230 kV that provide regional benefits.

A review of other regional transmission organizations ("RTOs") and independent system operators ("ISOs") also reveals that the voltage threshold for MEPs, both current and proposed, stands out as an anomaly. New York Independent System Operator ("NYISO") does not have a voltage threshold for economic projects.[55] California Independent System Operator ("CAISO") likewise has no voltage threshold for projects to qualify as market efficiency projects.[56] ISO

qualify as MEPs, the Commission left open the issue of what regional cost allocation method should apply to MISO's share of the cost of an interregional economic transmission project operating above 100 kV but below 345 kV. *NIPSCO Rehearing Order*, 158 FERC ¶ 61,049, at PP 50-51.

53 *Midcontinent Indep. Sys. Operator, Inc. N. Indiana Pub. Serv. Co.*, 170 FERC ¶ 61,242, at P 31 (2020).

54 *Id*. The Commission further noted that these projects will be subject to the MISO Competitive Developer Selection Process. *Id.*

55 NYISO OATT, Attachment Y, § 31.5.4.3.

56 A number of economic projects in CAISO demonstrate that projects below 230 kV can provide regional benefits. For example, in its current transmission planning process, CAISO is recommending that the Giffen Line Reconductoring Project, which would reconductor an existing 70 kV line, proceed as an economic-driven project. CAISO's analysis showed that the project would have an estimated cost of $5 million, and a $7 million annual benefit. CAISO Draft 2018-2019 Transmission Plan Presentation, at slides 25-27 (presented Feb. 14, 2019), available at

New England, Inc. ("ISO-NE") uses a 115 kV voltage threshold for its version of regional economic projects, Market Efficiency Transmission Upgrades.[57] While SPP does not have a specific category of economic projects, it allocates the costs of projects selected in its regional plan based on voltage. Only a project below 100 kV is allocated to the zone in which it is physically located.[58]

PJM also does not have a voltage threshold for economic projects and, notwithstanding reformation of aspects of its planning process, has declined to propose one. In 2016, when PJM proposed to exempt certain reliability violations on transmission facilities that operate below 200 kV from its competitive solicitation process, PJM specifically did not apply this threshold to market efficiency or public policy projects because "of the unique nature of market efficiency and public policy needs."[59] In addition, in 2018, PJM created a new task force to discuss challenges and potential improvements to the market efficiency process. The task force did not consider establishing a minimum voltage threshold for market efficiency projects.[60]

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http://www.caiso.com/Documents/Presentation-2018-2019TransmissionPlanningProcessMeeting-Feb14-2019.pdf.

57 *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 354 (2013).

58 *Sw. Power Pool, Inc.*, 144 FERC ¶ at P 61,059, n.10 (2013). Projects above 100 kV but below 300 kV are allocated one third regionally and two thirds locally.

59 PJM Transmittal, filed on April 1, 2016 in Docket No. ER16-1335-000, at 7-13 ("In recognition of the unique nature of market efficiency and public policy needs, PJM proposes that the voltage threshold will be limited to reliability projects.").

60 PJM Regional Transmission Expansion Plan Market Efficiency Process, Problem Statement & Issue Charge, posted on January 25, 2018, available at https://www.pjm.com/-/media/committees-groups/task-forces/mepetf/postings/market-efficiency-process-problem-statement-and-issue-charge.ashx?la=en.

B. The Filing Parties Have Not Shown That The Proposed Immediate Need Reliability Exception Is Just And Reasonable And Not Unduly Discriminatory Or Preferential

The Commission should reject the Filing Parties' proposal to incorporate a new right of first refusal in the Tariff by creating an entirely new excluded category called Immediate Need Reliability Projects. The Filing Parties have not presented any evidence that an exception is warranted. The Filing Parties assert that a lower MEP voltage threshold increases the possibility that a BRP will also qualify as a MEP, and that there may be one project per MTEP cycle with a short-lead time.[61] The Filing Parties provide no information about the projects they identified. An analysis of prior MTEPs from MTEP07-MTEP19 demonstrates that it is likely that any MEP that also is a BRP will be needed with 36 months.

MTEP Year	Number of BRPs Needed Within 36 Months	Number of BRPs Approved in Appendix A	Percent of BRPs Needed Within 36 Months
MTEP07[62]	63	73	86%
MTEP08[63]	95	110	86%
MTEP09[64]	53	61	87%
MTEP10[65]	37	37	100%
MTEP11[66]	38	40	95%
MTEP12[67]	27	31	87%

61 Third Economic Filing at 30, n.136.

62 MTEP07 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP07106335.zip (last accessed May 27, 2020).

63 MTEP08 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP08106341.zip (last accessed May 27, 2020).

64 MTEP09 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP09106342.zip (last accessed May 27, 2020).

65 MTEP10 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP10106343.zip (last accessed May 27, 2020).

66 MTEP11 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP11106351.zip (last accessed May 27, 2020).

67 MTEP12 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP12106353.zip (last accessed May 27, 2020).

MTEP Year	Number of BRPs Needed Within 36 Months	Number of BRPs Approved in Appendix A	Percent of BRPs Needed Within 36 Months
MTEP13[68]	75	79	95%
MTEP14[69]	49	50	98%
MTEP15[70]	82	90	91%
MTEP16[71]	93	106	88%
MTEP17[72]	69	77	90%
MTEP18[73]	66	81	81%
MTEP19[74]	62	113	55%
Total	809	948	85%

This is hardly a "limited" exception,[75] and instead would likely exempt from competition the majority of BRPs that qualify as MEPs.[76]

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68 MTEP13 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP13106354.zip (last accessed May 27, 2020).

69 MTEP14 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP14106361.zip (last accessed May 27, 2020).

70 MTEP15 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP15106362.zip (last accessed May 27, 2020).

71 MTEP16 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP16117031.zip (last accessed May 27, 2020).

72 MTEP17 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP17313547.zip (last accessed May 27, 2020).

73 MTEP18 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org/MTEP18363505.zip (last accessed May 27, 2020).

74 MTEP19 Appendix A – New Projects List, *available at* https://cdn.misoenergy.org//MTEP19%20Appendix%20A%20-%20New%20Projects382956.xlsx (last accessed May 27, 2020).

75 *See, e.g.*, *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 236 (2013)(". . . exception should be used in certain limited circumstances."; *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 248 (2013); *Southwest Power Pool*, 144 FERC ¶ 61,059, at P 195 (2013).

76 *See, e.g.*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 47; *see also ISO New England Inc.*, 143 FERC ¶ 61,150 at P 237 (The Commission rejected ISO-NE's proposal to exempt reliability projects that were needed in five or less in part based on analysis that showed the exemption would exclude the majority of projects, 42 out of 48, which the Commission found "would effectively preclude the benefits of competition in selecting the more efficient or cost-effective projects."). Furthermore, such an exception would be inconsistent with the Commission's

Even if a limited exclusion could be supported, the Filing Parties have not explained why it is necessary, or just and reasonable, to create an entirely new category of project, an Immediate Need Reliability Project, and then exclude that newly created category from competition through extensive changes in both the Tariff and ISO Agreement. As discussed below, the revisions are unjust and unreasonable.

On October 17, 2019, the Commission issued a show cause order questioning whether an immediate need reliability exception remains just and reasonable as a result of the manner in which the exception has been used to date by ISO-NE, PJM and SPP.[77] The Filing Parties aver that they modeled their Immediate Need Reliability Exception on these exceptions that are under investigation.[78] In issuing the Show Cause Order the Commission was concerned that the exception was not being used in limited circumstances as intended and solicited comments on whether "additional conditions or restrictions on the use of the exemption for immediate need reliability projects are necessary to ensure that application of the exemption is limited to appropriately balance the above-noted interests with respect to promoting competition for transmission development and avoiding delays that could endanger reliability."[79] Although the Filing Parties, like the other RTOs under investigation, claim that the exception will be rarely necessary, they nevertheless found it necessary to create an entirely new category to address the rarely used exception and to hardwire the exception into the ISO Agreement. Given that the Commission is investigating the exception and whether changes are necessary, it is simply

decision in Order No. 1000 to not exempt reliability projects from competition. *See* Order No. 1000-A, 139 FERC 61,132 at PP 85, 428.

77 *Show Cause Order*, 169 FERC ¶ 61,054.

78 *See* Filing at 30.

79 *Show Cause Order*, 169 FERC ¶ 61,054 at P 15.

premature for the Commission to approve an Immediate Need Reliability Project category in the MISO planning process that turns an exception to competition into an entirely new project category. Until the Commission determines whether the exception is just and reasonable and, if so, whether any refinements are necessary to ensure that the exception is not abused, the Filing Parties' proposal should be rejected.

This is particularly true given that there are no provisions to ensure that the exception is used in truly limited circumstances and not otherwise abused. Under MISO's proposal, if a project is needed with 36 months to solve a reliability need, then MISO will *automatically* designate the transmission owner where the project is located to develop, own, and operate the project.[80] MISO's proposal is that its Board will designate a project that is claimed necessary within 36 months for reliability reasons as an Immediate Need Reliability Project for MISO Board approval. Only **after** MISO has designated the project to the transmission owner will it post for stakeholder comment (1) an explanation of the need and (2) what other transmission and non-transmission alternatives MISO considered but rejected as insufficient.[81] This after the fact explanation is inconsistent with the immediate need exception approved in other RTOs, which are required to post an explanation of the exception from competition *before* the act of actually excluding the project.[82] Under Filing Parties' proposal, if there is a dispute over a project's

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80 *See* MISO Tariff, Attachment FF, Section VIII.A.3 (as renumbered in Attachment FF proposed). While the proposed exception requires MISO to describe the alternatives it considered, there is no information about how MISO will determine whether a transmission or non-transmission alternative could solve the need more efficiently or cost-effectively.

81 *Id*. at Section VIII.A.3.1(a). It also is problematic that MISO intends to designate the project before permitting stakeholders to comment on whether the need is immediate and whether there are alternatives.

82 At the time that the Commission approved the exception from competition in ISO-NE, PJM, and SPP, it required that they meet five criteria. *See, e.g.*, *ISO New England Inc.*, 143 FERC ¶ 61,150 at P 236; *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 248; *Southwest Power Pool*, 144 FERC ¶ 61,059 at P 196. The third criterion requires the use of an open and transparent process

designation as an Immediate Need Reliability Project, the transmission owner will continue to move forward with development and construction[83] thus ensuring that the projects will be excluded from competition regardless of the outcome of the dispute.

The Filing Parties' proposed Tariff language demonstrates that their proposal is unjust and unreasonable as it creates confusing language around the project categories included in the MISO Tariff. As Filing Parties state in the Filing, under MISO's hierarchical approach, if a BRP meets the market efficiency thresholds to be a MEP, it is designated as a MEP notwithstanding its reliability attributes. As such, while the project may have reliability attributes needed within 36 months it is a MEP under the MISO Tariff, not a BRP. Yet, the proposed Tariff revision focuses on the status as a BRP and creates a new category of projects excluded from competition for a BRP needed in 36 months "notwithstanding the fact that such project also meets the criteria set forth in Section II.B of this Attachment FF for classification as a Market Efficiency Project."[84] In laying it out this way the Tariff revisions ignore the MISO hierarchy of projects and could be read as applying the category of Immediate Need Reliability Project to any BRP needed within 36 months.[85] The Tariff revisions acknowledge this backwards approach in defining an Immediate Need Reliability Project by focusing on the BRP designation, and proposing "(c) The Transmission Provider shall post and update at least annually a list of prior

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to designate the incumbent and a post explaining why the incumbent has been designated, the alternatives that the region considered but were deemed insufficient, and the circumstances leading to the need for an immediate need reliability projects. *Id.* Criterion four requires that the information be provided in sufficient time for stakeholders to provide a response. *Id.*

83 MISO Tariff, Attachment FF, Section VIII.A.3.2.

84 Attachment FF. VIII.A.3.

85 If a new category were appropriate at all, it should be for a MEP that has a reliability component that meets the requirements as a BRP needed within 3 years to stay true to MISO's hierarchy and appropriately restrict the category as proposed in the Transmittal Letter.

years' ***designations of Market Efficiency Projects*** that met the criteria in Section VIII.A.3, for designation as an Immediate Need Reliability Project . . ..”[86] In short, the Filing Parties have not justified the need for the exception, and certainly not the need to create a new category of projects to encompass the exception as well as the proposed Tariff language and changes to the ISO Agreement.

In addition, rather than solely use the “need date” for the reliability project to determine whether the project is needed in a short-time frame, MISO should use the later of the need-by date or expected in-service date of the project to determine whether it is feasible for it to competitively bid the project. There have been a number of instances in other regions where a project has been designated as an “immediate need” project, with a “need” date of the day of the designation or even two years out, notwithstanding that *no developer*, including the incumbent, can conceivably meet the “need” date. The Filing Parties have provided the Commission no information regarding MISO's BRP planning and the “need by” dates for BRPs compared to the in-service dates. Realistic expected in-service dates are a better barometer of whether a project is truly a time-sensitive reliability project. In addition, evidence shows that BRPs with higher voltages often have longer lead times. A longer lead time gives MISO sufficient time to conduct an abbreviated competitive process for the MEP with reliability benefits without risking reliability. This approach achieves a better balance between ensuring that ratepayers receive the benefits of competition while also ensuring reliability needs are timely met.

The Filing Parties have also failed to demonstrate that MISO will consider whether there are operational measures it can take to extend the need-by date to accommodate a shortened proposal window. Although the Filing Parties point to the year-long competitive process as

[86] Attachment FF, VIII.A.3.1(c) [emphasis added].

creating the potential for delay, they have offered no evidence of efforts to streamline that process in discrete instances of MEPs that have a reliability component. There are numerous operational actions that transmission providers can take that would allow sufficient time to conduct a competitive solicitation process and complete the MEP without the need to address the reliability issues "immediately" through a hard-wired exclusion to competition. As demonstrated in the Immediate Need Show Cause Proceedings, regions routinely manage reliability through operational measures where the expected in-service date is years beyond the need-by date.[87] MISO could take the same steps. Allowing MISO to bypass potential operational actions that would extend the need for a solution would be akin to allowing RTOs and ISOs to always issue a Reliability Must Run agreement to a generator even though there may be other means to maintain reliability that are less costly and within the competitive market. In the alternative, MISO could seek a determination from the Commission on a case-by-case basis that a project should be directly assigned to the incumbent transmission owner because there is insufficient time to conduct a competitive process, rather than make that critical decision on their own..

IV. REQUEST FOR FURTHER PROCEEDINGS

After consolidating the Economic Projects Complaint under Section 206 with this Section 205 Filing, the Commission can set the just and reasonable rate for MEPs. There is ample record evidence from this Filing, the two prior filings, and the Economic Projects Complaint, to show that existing rate treatment of regionally beneficial economic projects between 345 kV and 100 kV is not just and reasonable. Once the Commission finds the existing rate unjust and unreasonable under a Section 206 complaint, it has broad authority to set the replacement rate.

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87 *Id.* at P 10.

Based on that record, the Commission should set the just and reasonable rate as follows. First, for the reasons set forth above, the Commission should reject this Filing. Second, the Commission should grant the Economic Projects Complaint lowering the voltage threshold for MEPs to 100 kV. Third, in setting the rate under Section 206 for MEPs under 345 kV, the Commission should incorporate with the Adjusted Production Cost Savings metric the two new benefits metrics proposed in this Filing, (1) Avoided Reliability Project Savings and (2) MISO-SPP Settlement Agreement Costs. Those metrics lead to greater granularity and precision in determining project beneficiaries and thus just and reasonable rates as the entities benefiting from MEPs under 345 kV will pay the costs. Finally, the Commission could address the cost allocation for MEPs operating at 345 kV and above under its Section 206 authority, if the Commission finds that the 20% postage stamp allocation is no longer just and reasonable. If this were the case, the Commission could eliminate any postage stamp allocation of MEP costs across MISO for MEP below 345 kV (and allocate the costs based on the beneficiaries identified, rather than automatically across MISO).

V. CONCLUSION

For the foregoing reasons, LS Power, CMTC, IECA, and GridLiance request that the Commission grant relief as set forth above.

Respectfully submitted,

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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 Washington, DC this 1st day of June 2020.

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