

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

Midcontinent Independent System)
Operator, Inc.) Docket No. ER19-637-000

**PROTEST OF THE AMERICAN WIND ENERGY ASSOCIATION AND
CLEAN GRID ALLIANCE**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ the American Wind Energy Association² and the Clean Grid Alliance (“CGA”)³ submit this protest in response to the Midcontinent Independent System Operator, Inc.’s (“MISO”) December 20, 2018 filing under Section 205 of the Federal Power Act (“FPA”) to change the requirements for financial milestones and site control for MISO’s Generator Interconnection Procedures (“GIP Proposal”).

I. INTRODUCTION

AWEA and CGA have concerns that MISO’s proposed changes to the financial milestone requirements for its GIP will put Interconnection Customer’s (“ICs”) deposits at risk beyond what is reasonable, and will reintroduce the problem of putting significant cash at risk without an estimate of the Network Upgrades (and hence financial viability) of the project, which MISO’s 2017 Queue reform intended to fix.

¹ 18 C.F.R. § 385.211 (2018).

² AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States.

³ CGA is a non-profit organization whose 40+ members include wind, solar and energy storage developers and manufacturers, non-profit environmental, public interest and clean energy advocacy organizations, farmer organizations, and other businesses that support renewable energy. Until September 2018, CGA operated under the name Wind on the Wires.

For these reasons and those described in detail below, AWEA and CGA request that the Commission reject MISO's proposed changes to its financial milestones.

II. COMMENTS

A. The Proposed Milestone Changes were Generally Not Supported by Stakeholders.

None of the proposed milestone changes MISO introduced in the GIP Proposal ever gained significant support. In fact, the stakeholder process, surrounding this proposal, only focused on site control reform as it relates to interconnection queue processing delays, and only in the waning days of this process did MISO introduce the proposed milestone reforms—providing little time for stakeholder discussion. While some of the changes to site control entry requirements to eliminate duplicative requests on overlapping/same sites⁴ had support among stakeholders throughout this process, the milestone change is unsupported by the majority of MISO stakeholders.

B. MISO's Proposed Changes to its Financial Milestones are not Supported by the Evidence in the Record and are Premature.

In late 2018, the Commission approved MISO's proposed changes to remove some Phase 1 studies, requiring ICs to put capital at increased risk through the queue process with less information about the potential impacts and upgrades associated with their projects.⁵ The removal of those studies was intended to expedite the interconnection study process, and those changes have not yet had a chance to be evaluated to see if they achieve the same purpose as MISO's current GIP Proposal. Aside from the site control issue, which has yet to be addressed in

⁴ Ability to submit Interconnection Requests on same/overlapping land sites has been permitted in MISO via the "cash in lieu" provision since MISO's first published Attachment X procedures.

⁵ See *MISO*, 164 FERC ¶ 61,234 (Sept. 28, 2018).

any previous MISO proposed policy changes, MISO's previous reforms to interconnection policy appear to be working and have not been given time to be fully implemented in a queue cycle nor evaluated. Therefore, it is premature for MISO to now propose further additions to the financial milestones.

MISO has yet to substantiate its claim that the current milestone structure is not working and justify why further milestone changes, beyond those in its aforementioned reform effort, are needed now. Since the recent "phase-in" of its major queue overhaul implemented in 2017, data points now exist that can help evaluate whether the previous round of changes have improved queue processing in all of MISO regions. As MISO acknowledges, a vast majority of projects are indeed withdrawing at Decision Points I and II,⁶ significantly reducing the number of unplanned restudies as MISO intended with the 3-phase process.⁷

In light of the fact that the queue appears to be working as intended in this respect, MISO has provided no evidence that the proposed changes to the existing milestone payments and risk structure are justified and necessary. In particular, MISO has provided no evidence that the proposed milestone changes are appropriate for its stated intention of reducing the number of "speculative" projects that enter the queue but ultimately withdraw. Indeed, MISO has provided no evidence that its proposal will limit "speculative" projects while letting ready projects proceed.

C. MISO's GIP Proposal to Make the M2 Financial Milestone Fully Non-Refundable Prior to Completing a Full System Impact Study is Not Viable for Projects.

⁶ DPP 2016 August West had 3500MW of withdrawn projects at Decision Point I. See SIS Report at https://cdn.misoenergy.org/GI_DPP_2016_AUG_West%20Phase2_SIS_Public_Final305049.pdf.

⁷ See, e.g., MISO GIP Proposal at 3 (noting that "the new GIP design adopted as part of Queue Reform 2017 has been effective in incentivizing non-viable projects to exit the queue at Decision Points I and II").

The proposed increased cost in milestones combined with the non-refundability of the payments would result in untenable risk to ICs. In particular, interconnection requests submitted to the MISO interconnection queue could become economically infeasible due to required upgrades determined in interconnection studies. Indeed, if the proposal is implemented, projects may not become aware of required upgrades and their costs until after the decision to proceed and after they are required to put significant amounts of cash at risk. For example, under MISO's current proposal, a 200MW project would have to pay approximately \$2M for M2 to enter the queue, of which 50% would be immediately "at risk." At Decision Point 1, the project would have to decide whether to proceed or not and put the remaining 50% of M2 at risk, but without knowing the results of the dynamic stability, short circuit, or affected system impacts. Additionally, 10% of identified Network Upgrades (M3) will be required, if it amounts to a number higher than M2. Since MISO does not true down, the higher of 100% of M2 or 5% of Network upgrades would be "at risk." Just to proceed to a complete System Impact Study and determine whether a project is viable, a 200MW project would have to put at risk a minimum of \$2M. Putting millions of dollars at risk in order to receive a full System Impact study, which is a necessary element for an IC to evaluate if a project is economically viable, is not tenable.

Under the existing milestone structure, MISO in some cases is already holding milestones in excess of 200% of the cost of potential Network Upgrades, all of which are at risk of being non-refundable. The M2 entry milestone can be significantly higher than the M3 and M4 milestones, and MISO does not "true-down" to the nominal 10% and 20% of Network Upgrades requirements at M3 and M4, respectively. Accordingly, milestones held by MISO today can be multiples of the entire cost of the network upgrade.

Instead of addressing this problem and implementing a “true-down” mechanism as ICs have requested, MISO has proposed to move in the opposite direction and collect even higher M2 entry milestones with no cap and to hold that excess beyond the initial payment until a project’s commercial operation date (“COD”), as discussed below. This means that MISO could potentially hold milestones that are many times the cost of 100% of the upgrade, with 50% immediately at risk of being nonrefundable. By the time the IC receives a full System Impact Study to become fully informed about their project’s required interconnection upgrades, 100% of the M2 milestone (proposed to be increased to a variable number, but approximately \$10k/MW as of today) or 5% of Network Upgrades (whichever is higher), amounting to millions of dollars, will have been put at risk. These proposed milestone changes are significant and likely to be very costly to ICs who ultimately need to withdraw due to the high cost of identified upgrades.

MISO has also not provided justification for why these milestones must be non-refundable. MISO’s only explanation to stakeholders has been to create more barriers to entry for ICs in order to reduce the number of interconnection requests in the queue. While that goal may or may not serve MISO and its staff in reducing study time, it does not serve ICs who need to move through the interconnection process in order to receive information about the costs and timing to interconnect their projects.

D. MISO’s Proposal to Hold Financial Milestones Until a Project’s Commercial Operation Date Is Unreasonable.

In addition to significantly increasing the M2 entry milestone and requiring that 50% of it be immediately non-refundable, MISO also proposes that milestone amounts in excess of the Initial Payment will also be held until a project’s COD and will not be adjusted down to the 20% of Network Upgrades required at GIA execution, as is done today. As noted above, given that “at-risk” milestones held today can be multiples of the full cost of the actual Network Upgrade, it

is overly burdensome to require those milestones be held until COD and especially now that MISO proposes to require even more M2 funds. It is important that capital not be tied up at the end of the development process when the full cost of Network Upgrades are known because that needlessly impedes the ability of the market to deploy capital in other areas, including toward construction of the project. All ICs will be significantly impacted by this proposed change, but especially those that have long development cycles, such as thermal and nuclear generation facilities.

MISO has provided no justification for holding money in excess of 20% of Network upgrades until COD. Instead, MISO merely asserts that this change is necessary to ensure that “gaming” does not occur by projects withdrawing after GIA execution. However, MISO has not provided any evidence that this has indeed occurred. Therefore, we request that the Commission require MISO to continue to refund milestones in excess of the 20% Network Upgrade requirement after GIA execution.

E. MISO’s Proposal to Create a Variable Entry Milestone is Inappropriate and Introduces Uncertainty and New Barriers.

MISO proposes to base the M2 entry milestone on the average cost of system-wide Network Upgrades of both preliminary and final studies over a multi-year time period. By introducing a variable number (3-year system-wide average) to calculate the M2 Milestone, MISO’s proposal creates unnecessary uncertainty and complexity. Specifically, both MISO and its ICs will have more complex accounting requirements, and it will be difficult for ICs to accurately budget and plan for costs of future interconnection requests. No other organized market in the country has a similarly variable entry fee. Since MISO is not seeking to recover

variable costs of its own through the milestone payments, it is unreasonable for MISO to put this amount of uncertainty on ICs without sufficient justification, which it does not provide.

ICs regularly enter study groups and end up withdrawing because Network Upgrades costs surpass a threshold for project viability. However, many development steps, such as site control, permitting, engineering, and financial investment, must occur just prior to entering the MISO queue. So a project that withdraws may be put on hold for resubmittal in the future, in hopes that the interconnection costs will go down. A variable and likely increasing M2 entry milestone may cause such projects to remain in earlier DPP cycles when they otherwise would not have, in order to avoid greater risk of the increased milestone requirements in a future cycle. The variability of the M2 payment may have unknown and unintended consequences.

In addition, MISO's proposed variable M2 milestone is inappropriate because it uses a system-wide number when in fact MISO divides its system into 5 study regions for Interconnection Studies. Some of these regions generally have higher costs of Network Upgrades than others due to significant new generation development and limited transmission capacity, which drives larger required upgrades. Taking an average of the upgrade costs in all MISO study regions and applying that number to calculate M2 for all projects requesting interconnection services sends the wrong signal. Projects that locate in regions or even specific locations within a single region where Network Upgrades are low will be penalized by higher milestone payments under this new proposal. Locating projects in areas where transmission capacity already exists should be encouraged, not discouraged.

If the Commission approves MISO's proposal to transition from a fixed to variable milestone structure, the milestone payment should be based on 10% of the "as-built" cost of Network Upgrades, which today would be similar to the existing fixed \$4k/MW M2 Milestone.

Under the GIP Proposal, MISO's costs of Network Upgrades (and thus the M2 Milestone) would be artificially inflated because MISO is using costs of preliminary identified network upgrades and not upgrades that have actually been built. Many interconnection studies are currently indicating the need for costly 345kV and higher upgrades, yet it is highly unlikely that transmission of that scale will be built as a Network Upgrade by interconnection customers. The "as-built" Network upgrade numbers (or even Phase 3 study results) are more reasonable to base entry milestones on. Further, as discussed above, if a variable milestone is approved, it should be done on a regional, rather than system-wide, basis. Therefore, we request the Commission reject MISO's proposal for a variable entry fee, but if approved, require MISO to use "as-built" and regional costs.

Given the proposed increased cost and non-refundability of the M2 milestone, in combination with the proposed requirement to hold it until COD, projects that are sited in areas that historically have had lower Network Upgrades will face higher milestone costs that don't relate to the real costs of their interconnections. Many of the companies with projects like these tend to be smaller developers that simply cannot bear such financial risk and burden and, therefore, will likely no longer be able to conduct business in MISO.

F. MISO's Transition Plan Requires Further Consideration.

MISO's proposed transition plan may have the unintended consequence of encouraging projects that reach Decision Point I to, in effect, "linger" in the queue. In particular, projects that reach Decision Point I under the current rules today may remain in the queue to avoid significant increases in the milestones and risk in the future. These projects may not be viable and otherwise would have withdrawn at Decision Point I but now see the risk of remaining in the queue under the old process as a lower risk than re-entering the queue as they would have otherwise. To

address this issue, the timing and applicability of the proposed transition plan should be reviewed and adjusted.

MISO's transition plan has also not reasonably considered the burden that meeting new site control requirements will be for ICs already in the queue. Projects currently in the queue will have to meet the new site control requirement in order to enter the queue or face withdrawal. Yet, as these projects have not planned for the new requirement, it may be impossible for them to achieve it. Arranging for site control is a significant effort and it can be time consuming to meet and negotiate with a variety of landowners. These projects should be given the option to reduce project size in order to meet the new requirement, and we request the Commission require MISO to address this issue in a compliance filing.

G. MISO's Milestone Proposal Does Not Address the Fundamental Problem that is Largely Responsible for the Queue Delays Today.

MISO claims the proposed changes to milestones are necessary to reduce the number of "speculative" projects that enter the queue but ultimately withdraw. However, the reality is that most projects withdraw from the queue because the Network Upgrade costs are unrealistically high.⁸ Withdrawal due to the high cost of identified upgrades does not make a project speculative.

MISO has been assigning 345kV "backbone" upgrades to generators in the Interconnection Process, rather than planning for these backbone upgrades through its Transmission Expansion Planning process. Generators are required to pay 90% of the cost of 345kV and higher upgrades assigned to them in the Interconnection process,⁹ yet they will never

⁸ See SIS Report at https://cdn.misoenergy.org/GI_DPP_2016_AUG_West%20Phase2_SIS_Public_Final305049.pdf.

⁹ The 90% number was established in the RECB Task Force and not based on actual data or benefit—it was arbitrarily set.

receive 90% of the financial benefit, given they are not the sole beneficiaries. Because of this, cost recovery of these unreasonably high network upgrade costs is typically impossible for generators, who then make the reasonable financial decision to withdraw and not proceed. Instead of working to remedy or address this underlying issue, MISO is seeking instead to increase both risk and cost significantly for ICs. In fact, under the changes in this proposal, ICs will continue to be placed in the same unworkable situation and continue to need to withdraw from the queue when 345kV and higher upgrades are assigned to them.

Under MISO's proposal, ICs will also have to put up an increased M2 "cash at risk" milestone to progress beyond Decision Point I to obtain a complete System Impact Study where these 345kV upgrades can then be identified. While MISO has claimed that many projects withdraw from its queue because they are not "ready," the reality is that a high percentage of projects are withdrawing at the Decision Points because their Network Upgrades surpass a viable \$/MW threshold due to this cost allocation approach that does not charge all beneficiaries of high-voltage Network Upgrades.

While outside of the scope of this proceeding, for the reasons discussed, if MISO is serious about reducing the number of withdrawals by ICs, we encourage MISO to systematically reevaluate its cost allocation methodology, such that ICs pay only their fair share of backbone upgrades and have other beneficiaries share in the costs. We also encourage the Commission to consider opening its own investigation, if needed. Cost allocation for high-voltage transmission should be better aligned with the financial benefits consumers receive over time from that transmission asset, rather than simply increasing the burden on ICs with higher cost and risk to progress through the interconnection process, as this proposal seeks to do so.

Again, although outside the scope of this proceeding, we also encourage MISO to remedy any perceived interconnection queue problems through improvements to its Transmission Expansion Planning process. Identification of high-voltage, backbone upgrades in the interconnection process is a symptom of a failed transmission planning process that is not accounting for the full benefits of new transmission and generation. With improved generation assumptions and expanded benefit metrics, MISO could identify backbone upgrades in the transmission planning process and leave upgrades intended to connect new generation to the backbone transmission system to the interconnection process, as it was intended to do.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, AWEA and CGA respectfully request that the Commission reject MISO's proposed milestone changes.

Respectfully submitted,

/s/ Gene Grace _____

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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 18th day of January 2019.

/s/ Gene Grace_____

Gene Grace