UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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| Midcontinent Independent System Operator, Inc. and the MISO Transmission Owners | ) ) ) | Docket No. ER20-862-000 |

**NOTICE OF INTERVENTION AND PROTEST OF THE MICHIGAN PUBLIC SERVICE COMMISSION**

The Midcontinent Independent System Operator, Inc ("MISO") and certain MISO Transmission Owners ("TOs") (jointly "Applicants") are proposing amendments to Attachment FF of the MISO Open Access Transmission, Energy and Operating Reserves Markets Tariff ("Tariff"), including definition changes. The proposed amendments would modify the cost-allocation method that MISO uses to calculate its share of certain Interregional Economic Project ("IEP") costs that benefit MISO and the PJM Interconnection L.L.C. ("PJM")—costs that MISO splits with PJM. Concerning lower-voltage IEPs with voltages 100 kilovolts ("kV") or above but below 345 kV, the Commission has directed MISO to "either confirm that the existing Market Efficiency Project cost allocation method will apply to MISO's share of the cost of [these projects] . . . or to propose tariff revisions to apply a different regional cost allocation method for MISO's share of the cost of such projects."[1] This is the Applicants' second attempt to revise the Tariff and modify

[1] *N. Ind. Pub. Serv. Co. v Midcontinent Indep. Sys. Operator*, Docket No. EL13-88-001, 158 FERC ¶ 61,049 at P 51 (2017) ("2017 *NIPSCO* Order"), *aff'g on reh'g and clarifying*, 155 FERC ¶ 61,058 (2016).

the cost-allocation method that MISO uses to calculate its share of certain IEP costs.

The Applicants believe that their filing in this case complies with the Commission's directives, but the Michigan Public Service Commission ("MPSC") disagrees. While the MPSC supports most of the Applicants' proposal, it files this Protest[2] to the proposed IEP cost-allocation method for those projects that are built in MISO or PJM and are cost allocated to only one Transmission Pricing Zone ("TPZ") without consideration of the benefits that might accrue to other TPZs. The Applicants' IEP cost-allocation proposal is virtually identical to the cost-allocation proposal that the Commission rejected in Docket No. ER19-1156-000. Like the Applicants' earlier proposal, their proposed cost-allocation method in the present case conflicts with the Federal Energy Regulatory Commission's ("FERC" or "Commission") transmission-planning and cost-allocation principles contained in Order Nos. 890 and 1000 and is potentially discriminatory.

The proposal will also erect a new barrier to developing lower-voltage IEPs contrary to the Commission's directives in the April 2016 Order in Docket No. EL13-88-000.[3] Finally, the proposal does not have the support of a substantial portion of affected state authorities or of the non-TO MISO stakeholder community.

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[2] Consistent with Rules 211 and 214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214(a)(2) (2019), the MPSC files its Notice of Intervention and Protest.

[3] *N. Ind. Pub. Serv. Co. v Midcontinent Indep. Sys. Operator*, Docket No. EL13-88-000, 155 FERC ¶ 61,058 at P 131 (2016) ("2016 *NIPSCO* Order"), *aff'd on reh'g and clarified*, 158 FERC ¶ 61,049 (2017).

## I. NOTICE OF INTERVENTION

The MPSC is a statutorily created agency in the State of Michigan, created by 1939 Public Act 3, MICH. COMP. LAWS § 460.1 et seq. The MPSC is the Michigan regulatory agency having jurisdiction and authority to control and regulate rates, charges, and conditions of service for the retail sale of natural gas and electricity in the State of Michigan. The MPSC is also a "state commission" as defined in 16 USC § 796(15) and 18 CFR § 1.101(k) and has an interest in this proceeding that cannot be adequately represented by another party.

As a state commission, the MPSC enters this Notice of Intervention. Copies of all pleadings, correspondence, and other communications concerning this proceeding should be directed to:

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## II. BACKGROUND

The costs of lower-voltage IEPs (below 230 kV but at or above 100 kV) are split among MISO and PJM. The Applicants propose a new method for allocating MISO's share of these costs. According to the Applicants, their proposal does not affect how Regional Transmission Organizations ("RTOs") allocate IEP costs among regions, so no changes are allegedly needed to the rules for inter-RTO cost allocation described in the MISO's Joint Operating Agreements ("JOAs") with PJM.

The Applicants' proposed method is solely designed to allocate MISO's share of the costs, within the MISO footprint, for certain lower-voltage IEPs. These are projects that benefit MISO and PJM; they can be located wholly within MISO or PJM, but they have a termination in MISO (i.e., a tie-line connecting PJM and MISO). The Applicants' proposal for lower-voltage IEPs mirrors its proposal in Docket No. ER19-1156-000 that the Commission rejected.

The Applicants propose that for lower-voltage IEPs located wholly within PJM with no direct tie-line into MISO, 100 percent of the costs would be assigned only to the TPZ impacted the most—at least by a factor of 1.25 under a Benefit/Cost ("B/C") ratio—using the Line Outage Distribution Factor ("LODF") method.[4] For lower-voltage IEPs wholly within MISO or with a termination in MISO, 100 percent of the projects' costs would be allocated exclusively to the one TPZ where the project is physically located if it meets a B/C ratio of at least 1.25 in the TPZ(s) where the project is physically located.[5]

[4] Docket No. ER20-862, Transmittal Letter (January 22, 2020), at 4. The LODF method is a three-step process: "First, the LODF method will determine the impact of a new project facility by comparing two powerflow models, with and without the new project, and then calculating the change in flows on the existing facilities of a defined model region (e.g., the MISO system). The change in flows are then divided by a reference value, such as the flow on the new project facility, to determine the LODF of each existing model facility. Finally, the LODFs are multiplied by the line mileage of their respective facilities and aggregated to the respective Transmission Pricing Zones." Docket No. ER20-862, Tab A, Jesse Moser testimony, at 17–18.

[5] MISO Tariff, Attachment FF, Section II.B.1.c, proposed.

In short, costs for lower-voltage IEPs located wholly or partially inside MISO or PJM would be assigned exclusively to one TPZ regardless of how many other zones benefit, or by how much, in excess of costs. This is similar to MISO's proposed tariff revisions in Docket Nos. ER20-857-000 and ER20-858-000 ("Regional Cost Allocation Filing") that would modify its cost-allocation method for regional Market Efficiency Projects ("MEPs") and Local Economic Projects ("LEPs"). Indeed, according to the Applicants, "The instant filing is designed to work seamlessly with the revisions proposed in the Regional Cost Allocation Filing."[6]

## III. PROTEST

The Commission should reject the Applicants' proposed cost-allocation method for lower-voltage IEPs for the same reason it rejected this method in Docket No. ER19-1156-000. In Docket No. ER19-1156-000, the Commission noted, "Filing Parties' proposal includes references to, and relies upon, provisions that Filing Parties proposed in the Regional Cost Allocation Filings in Docket Nos. ER19-1124-000 and ER19-1125-000."[7] Because the Commission rejected the Applicants' regional cost-allocation proposal, it also rejected their interregional cost-allocation proposal, which "rel[ied] on definitions and provisions that the Commission is rejecting in Docket Nos. ER19-1124-000 and ER19-1125-000."[8] Similarly, in this

[6] Transmittal Letter at 3.

[7] *Midcontinent Indep. Sys. Operator*, 167 FERC ¶ 61,259 at P 20 (2019).

[8] *Id.*

case, the Applicants' interregional cost-allocation method is "designed to be consistent with and complement" their regional cost-allocation proposal.[9] Thus, if the Commission rejects the Applicants' regional cost-allocation proposal, as the MPSC urges it to do in a separate protest, it should reject the Applicants' interregional cost-allocation proposal as well.

The similarities between the Applicants' interregional proposal in the present case and their regional proposal are enough, standing alone, to reject the interregional proposal (assuming the Commission also rejects the regional proposal). Besides this, there are five flaws in the Applicants' proposed cost-allocation method for IEPs between 100 kV and 230 kV: 1) it does not conform to the first cost-allocation principle in Order 1000—that costs must be allocated in a way that is roughly commensurate with benefits[10]; 2) it does not conform to the transmission-planning principles established in Order 890 and is potentially

[9] Transmittal Letter at 3.

[10] *See In re Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Docket No. RM10-23-000, 136 FERC ¶ 61,051 at PP 612– 629 (2011) (Order No. 1000), *aff'd and clarified,* 139 FERC ¶ 61,132 (2012) (Order No. 1000-A), *aff'd on reh'g and clarified,* 141 FERC ¶ 61,044 (2012) (Order No. 1000- B), *aff'd sub nom. S.C. Pub. Serv. Auth. v FERC*, 762 F3d 41 (D.C. Cir. 2014).

discriminatory to the one TPZ that is allocated 100 percent of the costs[11]; 3) it is not supported on the record; 4) it establishes a high hurdle for economic transmission projects below 230kV that is not present for projects 230kV and above; and 5) it conflicts with the Commission's *NIPSCO* Orders.[12]

The MPSC has a statutory mandate to represent the interests of its electric consumers and is protesting the Applicants' proposed cost-allocation method for IEPs between 100 kV and 230 kV—whether they are built wholly within MISO or PJM or whether they have tie lines into both RTOs—that are allocated exclusively to one TPZ based on either geographic location or the LODF determination of the most impacted MISO TPZ. There is no good evidentiary or policy reason to allocate 100 percent of IEP costs to TPZs where the project is located or to the one TPZ with the highest B/C ratio, as determined by the LODF calculation. Assigning costs this way ignores the benefits observed in other MISO TPZs and frees them of any obligation to pay for these benefits.

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[11] Order 890 approved nine transmission-planning principles: coordination, openness, transparency, information exchange, comparability, dispute resolution, regional participation, congestion studies, and cost allocation. *In re Preventing Undue Discrimination and Preference in Transmission Service*, Docket No. RM05-17-000, 118 FERC ¶ 61,119 at PP 444–561 (2007) (Order No. 890), *aff'd on reh'g and clarified*, 121 FERC ¶ 61,297 (2007) (Order No. 890-A), *aff'd and further clarified*, 123 FERC ¶ 61,299 (2008) (Order No. 890-B).

[12] *See generally* 2016 and 2017 *NIPSCO* Orders (the orders are discussed in further detail later in this protest).

### A. The Applicants' proposed IEP cost-allocation method conflicts with Order No. 1000's beneficiary-pays, cost-allocation principle.

Commission Order No. 1000 requires that regional cost-allocation methods each adhere to six cost-allocation principles. The first cost-allocation principle states that "costs must be allocated in a way that is roughly commensurate with benefits."[13] The Commission held, "[T]he one factor that it weighs when considering a dispute over cost allocation is whether a proposal fairly assigns costs among those who cause the costs to be incurred and those who otherwise benefit from them."[14] More than this, a proposal must assign costs to *all* those who benefit. As the Commission recognized when it rejected the Applicants' MEP and LEP cost-allocation proposals in Docket Nos. ER19-1124-000 and ER19-1125-000, and as the D.C. Circuit Court of Appeals has held, a regional plan is invalid if it " 'denies cost sharing for *all* projects included in the Regional Plan' among those that benefit from such projects."[15] The Applicants' proposed process for determining and assigning benefits and costs for interregional economic projects 230 kV and above satisfies the first cost-allocation principle. MISO determines which TPZs will benefit from a project and by how much. It then assigns the project costs in proportion to a TPZ's net benefits. It is clear how this proposed method would allocate costs for these projects that are roughly commensurate with the benefits received. It is equally clear how the proposed cost-allocation method for interregional economic projects between 100 kV and 230 kV does not allocate costs for these projects that are roughly commensurate with the benefits received.

Under the proposed process for determining and assigning benefits and costs for higher-voltage IEPs, the footprint-wide benefits must be 1.25 times greater than the costs. If they are, MISO determines which TPZs benefits and costs are allocated to those zones in proportion to the benefits they receive. For lower-voltage IEPs, footprint-wide benefits are ignored and the project must also meet the 1.25 B/C threshold in the TPZ where it is located. In many cases this could be a higher threshold to meet than achieving a 1.25 B/C ratio region wide. The costs of lower-voltage IEPs would be allocated entirely to the TPZ(s) where the project is located or to the TPZ that MISO determines is impacted the most under the LODF method, regardless of how many other TPZs benefit.

Allocating the costs of lower-voltage IEPs to just one zone, when there are many zones that benefit, violates cost-causation principles. Applicants do not offer a compelling reason to depart from the proposed cost-allocation method for higher-voltage IEPs that, unlike the proposed cost-allocation method for lower-voltage IEPs, is clearly aligned with the beneficiary-pays principle in Order No. 1000. A transmission project's voltage level and geographic location—whether the project is located wholly or partially within MISO or PJM—should not be considered a waiver to this cost-allocation requirement.

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[13] Order No. 1000 at P 622.

[14] *Id.* at P 623.

[15] *Midcontinent Indep. Sys. Operator*, 167 FERC ¶ 61,258 (2019) (quoting *Old Dominion Elec. Coop. v. Fed. Energy Regulatory Comm'n*, 898 F.3d 1254, 1261 (D.C. Cir. 2018) (*ODEC v. FERC*)).

### B. The Applicants' proposal conflicts with the transmission planning principles established in Order 890 and is potentially discriminatory to the one TPZ allocated 100 percent of the costs.

In Order 890, the Commission held that "in an era of increasing transmission congestion and the need for significant new transmission investment," the Commission could not "rely on the self-interest of transmission providers to expand the grid in a nondiscriminatory manner."[16] What the Commission said then is just as true today. Today, the electric industry is undergoing a rapid evolution that could result in increased transmission congestion and the need for increased transmission investment. Greater use of renewable resources, energy storage, electric vehicles, and distributed resources will all require grid modifications, and in many instances grid expansions, with technologies and in voltages and places that cannot be predicted.

New investment is particularly important to open urban areas to new resources. As the Commission has found, "Transmission congestion has created fairly small local load pockets in primarily urban areas . . . ."[17] This continues to be true. In fact, there is an increasing need to transport renewable resources from areas favorable to those resources to these load pockets. To meet this need, transmission operators must consider higher-voltage transmission projects, but it is sometimes feasible, and it is certainly more cost effective, to build lower-voltage upgrades in targeted congested areas. Despite the potential widespread benefits of

[16] Order No. 890 at P 422.

[17] *Id.* at P 59.

targeted lower-voltage projects that mitigate congestion on the MISO-PJM seam, the Applicants' proposal would not allow certain IEPs to be considered in the MTEP process, even those that benefit MISO 1.25 in excess of costs, if the project did not also meet that threshold in its local zone. If adopted, the proposal could prevent best-value transmission projects from being planned despite the regional benefits they provide. This is at odds with the MPSCs efforts to ensure that ratepayer dollars are invested in the most beneficial projects.

There is no way to tell how electrical topography and congestion on the MISO transmission system or the PJM transmission system will impact where potential lower-voltage IEPs are located. Transmission facilities can become congested, not because of the generation and load separation in the immediate area of a particular facility, but because of overall power flows on the MISO transmission system, PJM transmission system, or the entire Eastern Interconnection. This could have the practical effect of multiple lower-voltage IEPs being sited within a single MISO TPZ or wholly within PJM and all of the costs being allocated to the same TPZs repeatedly, only because of the physical location of the facilities and not because of the benefits that they are providing to MISO. This scenario is inconsistent with Order 890 transmission-planning principles and the Commission's directive to remove the barriers that are preventing MISO and PJM "from being able to select

the interregional economic transmission projects that they have identified as providing benefits to both regions."[18]

### C. The Applicants' proposed cost-allocation method for lower-voltage IEPs is not supported on the record.

The Applicants do not explain why it is just and reasonable for the costs of interregional economic transmission projects between 100 kV and 230 kV to be allocated exclusively to the TPZ(s) that physically host the project, or the most impacted TPZ (with at least a 1.25 B/C ratio), when other TPZs may benefit. The justness and reasonableness of the cost-allocation method for higher-voltage IEPs is clear and logical: costs are spread to beneficiaries in proportion to their benefit. The Applicants offer no compelling or evidence-based reason why diverging from this method for lower-voltage projects is just and reasonable, more accurately assigns costs to beneficiaries, is preferable under Order 1000 and Order 890, or is otherwise in the public interest. Instead, the Applicants point out that lower-voltage IEPs are comparable to the regional LEPs proposed in Docket Nos. ER20-857 and ER20-858—i.e., regional economic projects between 100 kV and 230 kV. "[F]or this reason," they argue, "it is reasonable to allocate the cost of lower-voltage IEPs to the Transmission Pricing Zone(s) where they are physically located,"[19] which they claim "ensure[s] that the costs of these projects are allocated in a way

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[18] *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator*, Docket No. EL13-88-000, 155 FERC ¶ 61,058 at P 131 (2016) (April 2016 Order), *aff'd on reh'g and clarified*, 158 FERC ¶ 61,049 (2017).

[19] Transmittal Letter at 13.

that is roughly commensurate with their benefits." The MPSC respectfully disagrees.

The MPSC agrees that it makes sense to align the cost-allocation methods for lower-voltage IEPs and LEPs, but as the MPSC explained in response to the Regional Cost Allocation Filing, the cost-allocation method proposed for LEPs is also inconsistent with cost-causation principles. In Docket Nos. ER20-857-000 and ER20-858-000, the Applicants advanced policy-based arguments for their LEP cost-allocation proposal without evidentiary support to determine whether these policies are really being advanced. They argued that their proposed LEP cost-allocation method is cost based for the following reasons: 1) costs will only be allocated to the local pricing zone if it is shown that the zone's benefits will be 1.25 times greater than the costs; 2) creation of the LEP furthers the Commission's goals of open and transparent processes by removing a current ambiguity in MISO's transmission planning process surrounding lower voltage economic projects; and 3) projects operating at a voltage below 230 kV are less likely to provide benefits that are truly "regional in scope."[20]

In Docket Nos. ER20-857-000 and ER20-858-000, the MPSC explained why the Applicants did not justify using different cost-allocation methods for MEPs and LEPs.[21] The Applicants' arguments that failed to justify the LEP cost allocation

[20] Docket Nos. ER20-857-000 & ER20-858-000, Tab A, Jesse Moser testimony, at 34 (Tab A, Moser).

[21] Docket Nos. ER2019-1124 & ER19-1125, MPSC's Notice of Intervention and Limited Protest (March 27, 2019).

also do not justify using a different cost-allocation method for higher-voltage and lower-voltage IEPs. First, the local zone B/C test that is being proposed for lower-voltage IEPs will ensure that those who pay for a transmission project benefit from it, but the test will not ensure that all beneficiaries pay. The D.C. Circuit of Appeals has held that departing from the cost-causation principle "prevents regionally beneficial projects from being arbitrarily excluded from cost sharing – a necessary corollary to ensuring that the costs of such projects are allocated commensurate with their benefits."[22] A top-down regional transmission process that disregards potential beneficiaries does not ensure project costs are allocated roughly commensurate with the benefits just because the project benefits are 1.25 in excess of costs within the indistinct borders of a TPZ.

Second, the proposed LEP process is not transparent and creates additional ambiguities. In the Regional Cost Allocation Filing, the Applicants propose not to disclose to any stakeholders the benefits or costs that result from a project until it is presented to the MISO board for approval, and will never disclose to stakeholders the benefits (or costs) that result from a project in the TPZs where the LEP is not located. The proposal also leaves an uncertain and unlikely path to approval, and no just and reasonable cost-allocation method, for any transmission project between 100 kV and 230 kV where the benefits predominately accrue to TPZs beyond where it is located. A transmission owner is not likely to build an economic project between 100 kV and 230 kV if a significant amount of the benefit goes to another

[22] *Id.*

TPZ while the TPZ where the project is located is assigned all the costs. These proposed transmission planning processes cannot be described as transparent as envisioned in Order No. 1000.

Finally, the rationale that economic projects between 100 kV and 230 kV are less likely to provide regional benefits is inadequate because 1) the Applicants offered no technical analysis in their filing, or the lengthy stakeholder process leading to the filing, showing this to be true; 2) MISO's prior analysis shows far-reaching benefits for small-scale projects below 230 kV[23]; and 3) the statement that LEPs "are *less likely* to provide benefits that are *truly regional in scope*"[24] is overbroad and nebulous since there is no analysis of LEPs' regional benefits. Furthermore, requiring a project's benefits to be "regional in scope" is a threshold even higher-voltage MEPs are not expected to meet.

Contrary to the Applicants' unsupported assertion that the proposed lower-voltage IEP cost-allocation proposal is just and reasonable because the projects tend to produce economic local benefits, it is likely that many potential lower-voltage IEPs could provide significant regional benefits. In the *NIPSCO* case, MISO, PJM, and their stakeholders performed a Targeted Market Efficiency Project analysis and

[23] 2016 *NIPSCO* Order at P 131 ("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). In fact, the Quick Hit Analysis identified interregional economic transmission upgrades: (1) below $1 million; and (2) 138 kV and above with significant economic benefits to both RTOs."), *aff'd on reh'g and clarified*, 158 FERC ¶ 61,049 (2017).

[24] Docket No. ER20-857-000, Tab A, Jesse Moser testimony, at 34 (emphasis added).

Quick Hit Study to identify transmission projects that could remedy interregional congestion issues.[25] These studies identified geographically distant TPZs receiving benefits from sub-230 kV economic projects, using only the adjusted production cost savings metric.[26] Additional metrics meant to capture additional benefits from economic transmission projects, as the Applicants propose in this case, will likely increase the potential for TPZs beyond the physical location of projects to receive net benefits.

The Commission agreed in the *NIPSCO* proceedings that projects 100 kV and above can provide interregional benefits—in other words, benefits that are outside the host TPZ.[27] If projects at 100 kV can benefit another RTO, it is safe to assume that they could also benefit other TPZs within their own planning regions. In any case, if an IEP does in fact only generate economic benefits for a single TPZ, the Applicants have not explained why the economic planning models would not confirm that to be true so costs could be allocated accordingly.

### D. The Applicants' proposal establishes a high hurdle for economic transmission projects between 100 kV and 230 kV that is not present for projects 230 kV and above.

The Applicants' proposal creates a barrier to the approval of economic transmission projects below 230 kV that is not present for projects 230 kV and above contrary to the Commission's directives in the April 2016 Order in EL13-88-

[25] 2016 *NIPSCO* Order at P 100 n175.

[26] *Id.* at P 131.

[27] *Id.*

000. In that Order, the Commission directed MISO and PJM to "remove the thresholds that are preventing them from being able to select the interregional economic transmission projects that they have identified as providing benefits to both regions."[28] In the current proposal, however, the Applicants propose that any lower-voltage IEP either wholly or partially within MISO must produce economic benefits 1.25 in excess of costs, not in the MISO region as the Commission directed, but in the TPZ where a project is physically located, or alternatively, in the most-impacted TPZ in MISO. Essentially, a lower-voltage interregional economic transmission project that would benefit both MISO and PJM will not qualify as an IEP in MISO unless it also produces economic benefits at least 1.25 in excess of costs in the MISO TPZ(s) where the facility is located or is determined to be the most impacted TPZ if the project is wholly inside of PJM.

For example, it is possible that a project benefiting PJM and MISO could be built in PJM's footprint but that a single TPZ in MISO's footprint could be allocated all of MISO's costs if it is determined to be the zone that benefits the most, even though several other zones within MISO benefit. For a project like this, while one zone may benefit more than any other individual zone, it could benefit less than other zones collectively. Yet, under the Applicants' proposal, none of the other zones would be allocated any of the costs.

Under this scenario, there are two possible outcomes. First, the sub-230 kV economic transmission project may be abandoned, as Order 890 contemplates when

[28] *Id.* at 56.

costs are not assigned to beneficiaries. Abandonment would deprive customers in both RTOs and multiple zones of the benefit of the project and of the ability to share the costs among all net beneficiaries. Second, the project may be implemented as a vague economic "Other" project and the costs would be allocated to TPZ(s) where it has already failed the local 1.25 benefit-cost test to qualify as a lower-voltage IEP, creating fertile ground for a Section 206 complaint to the Commission.

### E. The Applicants' proposal conflicts with the Commission's *NIPSCO* Orders.

In 2013, the Northern Indiana Public Service Company ("NIPSCO") filed a Complaint with FERC against MISO and PJM requesting that the Commission order MISO and PJM to reform the interregional, transmission-planning process contained in the MISO-PJM JOA. Among other issues, NIPSCO wanted MISO and PJM to agree on a single common set of criteria for the approval of interregional economic transmission projects between MISO and PJM. The JOA criteria did not impose a minimum voltage threshold, but PJM's criteria required a minimum voltage of 100 kV, while MISO's criteria required a minimum voltage of 345 kV. MISO also imposed a minimum $5 million threshold for interregional economic projects, while PJM and the JOA did not. NIPSCO asked FERC to order MISO and PJM to jointly develop a single set of criteria that reduces the voltage threshold to 100 kV, while other parties to the case advocated eliminating MISO's $5 million threshold.

On April 21, 2016, the Commission issued an order holding that NIPSCO had demonstrated under section 206 of the Federal Power Act that certain provisions of "the JOA and MISO tariff were unjust, unreasonable, unduly discriminatory, or preferential."[29] It reached this conclusion because MISO's cost and voltage thresholds prohibited certain transmission projects in the MISO-PJM interregional planning process that benefit both regions from being considered.[30] The Commission directed MISO to submit tariff revisions to revise the MEP thresholds by: 1) lowering the minimum voltage thresholds to 100kV; and 2) removing the $5 million minimum cost requirement.[31] MISO submitted a compliance filing, and the Commission accepted it.

Several parties filed requests for rehearing of FERC's directive to lower MISO's voltage threshold and eliminate the cost threshold, which the Commission denied. The Commission nonetheless noted that the record did not address the regional cost-allocation method that should apply to MISO's share of the sub-345 kV interregional projects. The Commission, therefore, directed MISO to either confirm that the existing MEP cost-allocation method will apply to MISO's share of the costs of sub-345 kV interregional economic projects or to propose tariff revisions to apply a different regional cost-allocation method to MISO's share of the cost of the

[29] 2016 *NIPSCO* Order at P 28.

[30] *Id.* at P 131.

[31] *Id.* at P 129.

projects.[32] The Commission also clarified that these directives to MISO are specific to the PJM seam and the MISO-PJM JOA, not the SPP seam or the MISO-SPP JOA.[33]

The proposed IEP criteria and cost-allocation method do not comply with the Commission's directives to MISO in its 2016 *NIPSCO* Order to revise the MEP thresholds used to determine projects that qualify as an interregional economic transmission project. Namely, the Commission directed MISO to: 1) lower the minimum voltage threshold for interregional MEPs with PJM to 100 kV and 2) remove the $5 million minimum cost requirement.[34] In response, MISO has proposed to lower the minimum voltage threshold for MEPs to 230 kV and create a new project category and localized cost-allocation method for sub-230 kV IEPs. MISO also proposed an additional hurdle for lower-voltage IEPs with facilities at least partially located in MISO—the local TPZ 1.25 B/C—that is not required for projects at voltages 230 kV and above. The Applicants' proposal to require that interregional projects produce benefits 1.25 in excess of costs only in the TPZ(s) where the project is located, regardless of benefits to other TPZs, is a new threshold that is a barrier to selecting interregional projects that provide benefits to both regions. This is contrary to FERC's express directives in the 2016 *NIPSCO* Order.

[32] 2017 *NIPSCO* Order at P 51.

[33] *Id.* at P 52.

[34] 2016 *NIPSCO* Order at P 129.

## IV. **Conclusion and Recommendation**

The MPSC supports most of the Applicants' current interregional planning and cost-allocation proposals; however, it requests that the Commission reject the overall proposal as unjust and unreasonable. The proposed criteria and cost-allocation methods for lower-voltage IEPs are not consistent with the interregional-planning and cost-allocation requirements in Order No. 1000 or the Commission's express directives in the 2016 *NIPSCO* Order.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION**

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Dated: February 12, 2020