

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Entergy Arkansas, Inc.'s Notification )  
Of Intent to Change Functional Control of its Missouri )  
Electric Transmission Facilities to the Midwest )  
Independent Transmission System Operator, Inc. ) **Case No. EO-2013-0431**  
Regional Transmission System Organization or )  
Alternative Request to Change Functional Control )  
and Motions for Waiver and Expedited Treatment )

**MIDCONTINENT INDEPENDENT SYSTEM OPERATOR (MISO)  
AMICUS CURIAE RESPONSE TO MOTION TO DELAY  
AND REQUEST FOR LEAVE TO FILE**

COMES NOW the Midcontinent Independent System Operator, Inc. (hereinafter referred to as "MISO" and formerly known as Midwest Independent Transmission System Operator, Inc.), and: (1) respectfully petitions the Commission for leave to file a response as an *amicus curiae* in this case; and (2) submits to the Commission, for its consideration, this *amicus curiae* Response to the *Motion to Delay Commission Decision* ("*Motion to Delay*") filed by Intervenors on August 20, 2013. MISO supports the position taken by the Staff of the Missouri Public Service Commission in the *Staff's Response to August 21, 2013, Order Directing Filing* filed in this docket on August 27, 2013, and the position taken by Entergy Arkansas, Inc. (EAI) in its *Response* filed on August 26.

**PETITION FOR LEAVE TO FILE RESPONSE AS AN *AMICUS CURIAE*:**

1. The Midcontinent Independent System Operator, Inc. (MISO) is a FERC-approved Independent System Operator (ISO) and the Regional Transmission Organization (RTO) that provides open-access transmission service and monitors the high voltage transmission system throughout the Midwest United States (including portions of Missouri) and Manitoba, Canada.

2. MISO was established in 1998 as an ISO and was approved as the nation's first RTO by the Federal Energy Regulatory Commission (FERC) in 2001. The organization is headquartered in Carmel, Indiana with operation control centers in Carmel and St. Paul, Minnesota. The principal place of business address for MISO is: 720 City Center Drive, Carmel, Indiana (IN) 46032.
3. MISO is an independent, member-based non-profit organization. Its members include 35 transmission owners with more than \$17 billion in transmission assets. Members include investor-owned utilities, public power utilities, and cooperatives.<sup>1</sup>
4. MISO is named in the caption of this case as the organization into which EAI seeks to integrate its transmission facilities. MISO is in the midst of coordinating the complex and multifaceted process of integrating the transmission facilities of the Entergy Operating Companies, including those of EAI, into MISO by December 19, 2013.
5. MISO states that it supports the integration of transmission facilities proposed by EAI and, like Commission Staff, opposes any delay in Commission consideration of Case No. EO-2013-0431.
6. For these reasons, MISO respectfully requests leave of the Missouri Public Service Commission to submit this Response as a "Friend of the Commission."

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<sup>1</sup> MISO serves members in the states of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Montana, North Dakota, South Dakota and Wisconsin, in addition to Manitoba, Canada. In December 2013, it will add members in Arkansas, Louisiana, Mississippi and Texas.

**RESPONSE OF THE MIDCONTINENT INDEPENDENT SYSTEM  
OPERATOR (MISO) TO INTERVENORS' *MOTION TO DELAY***

**I. CASE NOS. EO-2013-0396 AND EO-2013-0431 ARE SEPARATE AND  
DISTINCT CASES**

Although Case Nos. EO-2013-0396 and EO-2013-0431<sup>2</sup> were set on a joint hearing schedule by the Commission, they are separate and distinct cases and the subject matter of each is unique. Over the course of the last several months, however, Intervenor's filings in these cases have consistently been a single document bearing both case numbers, despite the Commission's clear statement in its *Order Directing Filing* of May 10, 2013 that the cases had not been consolidated. This practice may have fostered confusion about the unique status of each case. For ease of reference, we will refer here to Case No. EO-2013-0396 as the "ITC Transfer Case" and Case No. EO-2013-0431 as the "MISO Integration Case."

The *Joint Application* in the ITC Transfer Case was filed on February 14, 2013 and concerned the transfer of the transmission assets of EAI to ITC. Applications for Leave to Intervene were filed by Kansas City Power & Light (KCP&L), Kansas City Power & Light-Greater Missouri Operations (GMO), Empire District Electric Company and the Missouri Joint Municipal Electric Utility Commission (MJMEUC). After several exchanges of pleadings, supplemental filings to the applications to intervene and arguments concerning the proper

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<sup>2</sup> Counsel for MISO is aware that these cases originally bore the designation, "File No." It is counsel's understanding that "File No." is an informal designation that was meant to identify PSC dockets in which no hearing is required by law. Once the instant matters were set for hearing, they would appear to have become contested cases. Thus, this Response refers to them as Case No. EO-2013-0396 and Case No. EO-2013-0431, rather than by "File No."

scope of the proceedings in the ITC Transfer Case, the interventions were granted by the Commission on March 27, 2013.<sup>3</sup>

On March 21, 2013, EAI filed its *Notification of Intent*<sup>4</sup> in the MISO Integration Case concerning its intent to integrate its Missouri electric transmission facilities into MISO. The *Notification* included an alternative request for Commission approval of such integration and specifically requested expedited treatment of that request by June 1, 2013. Applications for leave to intervene were filed in the MISO Integration Case by the same Intervenors that had previously been granted intervention in the ITC Transfer Case (KCP&L, GMO, Empire and MJMEUC).

After additional pleadings and discussions concerning jurisdictional issues and the proper scope of each case, on April 18, 2013 the Commission issued its *Order Granting Interventions and Setting Procedural Schedule*, granting the interventions in the MISO Integration Case and setting a joint procedural schedule for the two cases. EAI sought reconsideration of that order and the Commission ordered additional filings by the parties.

In its *Order Directing Filing* of May 10, 2013, issued only in the MISO Integration Case, the Commission stated the following: “Staff correctly points out that although this case is set for hearing simultaneously with File No. EO-2013-0396, these cases are not consolidated.” (Emphasis in original text of order.) The

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<sup>3</sup> *Order Granting Applications To Intervene and Denying Motions To Limit The Scope Of The Proceedings*, MoPSC File No. EO-2013-0396, issued March 27, 2013.

<sup>4</sup> *Entergy Arkansas, Inc.’s Notification of Intent to Change Functional Control of its Missouri Electric Transmission Facilities to the Midwest Independent Transmission System Operator, Inc. Regional Transmission Organization or Alternative Request to Change Functional Control and Motions for Waiver and Expedited Treatment*, MoPSC File No. EO-2013-0431, filed March 21, 2013.

Commission directed further pleadings from Intervenors concerning the Commission's legal authority and the facts asserted to be in dispute. On June 5, 2013, in an order issued only in the MISO Integration Case,<sup>5</sup> the Commission denied EAI's motion for reconsideration and allowed the joint hearing schedule to stand.

Because the two cases involve some of the same parties and both involve the Missouri transmission facilities of EAI, the Commission set the two cases on a simultaneous hearing schedule. However, as explained above, correctly emphasized by Staff and explicitly stated by the Commission in its *Order Directing Filing* of May 10, ***the two cases are not consolidated***. They are separate and distinct.

In addition, it should be noted that EAI requested expedited treatment in the MISO Integration Case, requesting a decision of the Commission by June 1, 2013. EAI opposed the procedural schedule proposed by the Intervenors as extending too long into the summer and before, at and after hearing, proposed shortening the briefing schedule, a request that was not acted upon by the Commission. Now, almost two months after the June 1 target requested by EAI, the Intervenors seek a further delay in the MISO Integration Case without any justification as to the matters specific to this case. Any further delay of the Commission's decision in the MISO Integration Case is unfounded, unnecessary and will result in continued uncertainty for all parties impacted by the MISO integration.

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<sup>5</sup> *Order Denying Motion for Reconsideration*, Case No. EO-2013-0431, issued June 5, 2013.

## **II. THE *MOTION TO DELAY* ONLY RELATES TO THE ITC TRANSFER CASE**

The entire justification offered by the Intervenors with respect to their *Motion to Delay* is related to the proposed transfer of assets from Entergy to ITC in the ITC Transfer Case, *not* to the integration of EAI transmission facilities into MISO in the MISO Integration Case. The recent and pending activities in Texas and Arkansas cited in the *Motion to Delay*, which form the basis of the *Motion*, all pertain to similar ITC transfer cases in those jurisdictions (i.e., the transfer of Entergy assets to ITC), *not* to the integration into MISO of any of the Entergy operating company assets. As Staff correctly states in its *Response* of August 27, 2013 in this case: “Although the Joint Movants have included both case nos. in the caption of their pleading to which Staff is responding here, the relief they seek is limited to Case No. EO-2013-0396, and does not include Case No. EO-2013-0431, nor should it.”

As explained fully in EAI’s *Response* to the *Motion to Delay* (filed on August 26), all other state regulatory approvals have been obtained for the scheduled integration of the Entergy Operating Companies’ assets into MISO, including EAI. In each state, including Missouri, the ITC matter is the subject of a proceeding entirely separate from the MISO integration. Moreover, EAI has made it clear that their integration into MISO is independent from the ITC transaction.

It is interesting to note that in the attachments to the *Motion to Delay*, Commissioner Anderson of Texas has stated that he sees the integration into MISO of Entergy Texas as a necessary precondition of a transfer of assets from

Entergy to ITC. One of his proposed conditions on Entergy Texas' transfer of assets to ITC is: "The Transaction shall not be consummated before ETI [Entergy Texas, Inc.] and the various Entergy operating companies are successfully integrated into the MISO transmission system." This reinforces the fact that even in Texas, where the ITC application has been withdrawn without prejudice, the merger with ITC is being treated as entirely independent of the integration into MISO.

### **III. THE INTEGRATION OF ENTERGY TRANSMISSION FACILITIES INTO MISO IS SCHEDULED TO OCCUR ON DECEMBER 19, 2013**

EAI requested expedited treatment of the MISO Integration Case and a decision by June 1 in anticipation of the December 19, 2013 integration date for Entergy Operating Company transmission facilities into MISO. This integration is a highly complex process that affects many different entities, including approximately 13 balancing authorities, 8 load-serving entities, 40 Qualified Facilities and 15 merchant generators within the Entergy Region, in addition to all of the Entergy Operating Companies.

The significance of the December 19 integration date includes the fact that, at midnight on December 18, 2013, EAI's participation in the Entergy System Agreement terminates, which potentially would have left EAI without access to the central planning and dispatch of generation that has historically occurred among the Entergy Operating Companies, as explained in the testimony of Mr. Richard Riley on behalf of EAI in this case.

Each of the state commissions that regulate Entergy retail rates, including the Arkansas Public Service Commission, has already approved MISO

integration, with conditions. The only independent party in the MISO Integration Case, the Commission Staff, has recommended that the Commission deny the *Motion to Delay* as to the MISO Integration Case and approve EAI's integration into MISO without conditions.

WHEREFORE, the Midcontinent Independent System Operator, Inc. (MISO) respectfully requests leave of the Missouri Public Service Commission to file this amicus Response to the *Motion to Delay* and urges the Commission to promptly deny the *Motion to Delay* in the MISO Integration Case and proceed forthwith to issue its order in this case.

Respectfully submitted,

***/s/ William D. Steinmeier***

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INC. (MISO)

August 30, 2013



### **CERTIFICATE OF SERVICE**

I hereby certify that the undersigned has caused a complete copy of the attached document to be electronically filed and served on the Commission's Office of General Counsel (at [staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)), the Office of Public Counsel (at [opc@ded.mo.gov](mailto:opc@ded.mo.gov)), and all counsel of record on this 30<sup>th</sup> day of August 2013.

**/s/ William D. Steinmeier**