

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

In the Matter of the Application of Ameren)	
Transmission Company of Illinois for a)	
Certificate of Convenience and Necessity)	File No. EA-2025-0087
Under Section 393.170, RSMo relating to)	
Transmission Investments in North Central)	
Missouri)	

***Response of the Midcontinent
Independent System Operator, Inc. to
Response of Staff to MISO Motion to Submit Direct Testimony***

Summary

1. The Commission should provide each supporter of an application for approval of a transmission project with full party rights – including taking their informed testimony – if those supporters meet the requirements for intervention. In its response to MISO’s Motion to Submit Direct Testimony (“Staff Response”), Staff does not take issue with MISO’s contemporaneously filed Application to Intervene, yet argues that a supporter of the application by Ameren Transmission Company of Illinois (“ATXI”) should be limited to only testimony that rebuts ATXI’s submissions. That has not been the Commission’s practice, and affronts any notion of fair quasi-judicial decision-making. MISO’s Motion to Submit Direct Testimony (“Motion to Submit”) should be granted.

MISO as the Party Submitting the Motion

2. “MISO is a regional transmission organization (“RTO”) that monitors and controls the bulk electric system for its transmission owner members and system users, and provides all customers with open access transmission service. The Federal Energy Regulatory Commission (“FERC”) approved MISO as the nation’s first RTO on December 20, 2001.”¹ “As a functioning RTO, MISO is the sole provider of transmission service for those entities such as Ameren Transmission Company of Illinois (‘ATXI’), that have transferred functional control of their transmission assets to MISO. As the transmission service provider, MISO has a responsibility for the planning and operation of the regional transmission grid, including the development of projects like the Denny – Zachary – Thomas Hill – Maywood (“DZTM”) Project proposed by ATXI in its Application.”² MISO supports approval of the Application.³

Procedural Background

3. On December 11, 2024, ATXI filed the application in the instant case seeking a certificate of convenience and necessity. ATXI’s project is the second phase of the Missouri jurisdictional portion of the MISO Long Range Transmission Planning Tranche 1 portfolio of eighteen Multi-Value Projects (“MVPs”).⁴ ATXI filed the direct testimony of Mr. Shawn Schukar, who stated:⁵

It is ATXI’s understanding that MISO intends to move to intervene and file the direct testimony of Mr. Jeremiah Doner in support of the Application shortly after ATXI’s filing of its Application and direct testimony. All references to the direct testimony

¹ MISO Application to Intervene at Par. 2 (December 12, 2024).

² *Id.* at Par. 4.

³ *Id.* at Par. 5.

⁴ Application at 1-2.

⁵ Schukar Direct at 10, n. 3 (December 11, 2024).

of MISO witness Mr. Jeremiah Doner reflect ATXI's understanding of his forthcoming testimony.

4. MISO submitted its Application to Intervene, Motion to Submit, and attached Direct Testimony of Jeremiah Doner on December 12, 2024. Mr. Doner is MISO's Director of Cost Allocation and Competitive Transmission within MISO's Transmission Planning Department, which prepares the MISO Transmission Expansion Plan annually.

5. On December 13, 2024, the Commission issued its Order Directing Notice, Setting Intervention Deadline, and Setting Time for Responses. That Order stated that "[r]esponses to MISO's motion to submit direct testimony in support of the application shall be filed no later than January 20, 2025. . . ."

6. The Staff Response was filed on January 17, 2025, in which it opposed MISO's Motion to Submit Direct Testimony.

7. Clean Grid Alliance and Renew Missouri Advocates filed joint comments on January 20, 2025, supporting MISO's Motion to Submit.

8. ATXI filed comments on January 20, 2025, supporting MISO's Motion to Submit.

9. Commission Rule 20 CSR 4240-2.080(13) provides parties "ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission." MISO submits this pleading within the prescribed period.

The Commission's Rules Do Not Preclude Support for an Application

10. Staff fails to cite any Commission rule that precludes acceptance of pre-filed direct testimony by a supporter of an application. Staff cites Rule 20 CSR 4240-2.130,⁶ which contains mere definitions for direct, rebuttal, and surrebuttal testimony. Rule 2.130(7)(C) defines rebuttal testimony as "testimony which explains why a party rejects, disagrees

⁶ Staff Response at Par. 4.

with or proposes an alternative to the moving party's direct case." That is clearly not the testimony that MISO, and likely other intervenors who support the application, wish to file in this case. MISO's Motion to Submit seeks clarity on this matter at the onset of this case.

11. Staff eventually arrives at the heart of the matter, whether "good cause" has been presented.⁷ Good cause lies in permitting supporters of the Application to participate in proceedings, including by the submission of testimony other than that which opposes a part of an applicant's filing. The "ask" in MISO's Motion to Submit is not for admission into evidence (a matter for later determination), but only for the Commission's acceptance of the concept of fairly receiving direct testimony from a supporter of the application. Staff's position that a supporting party is only able to file rebuttal testimony⁸ confronts MISO's submission (at this time, and seemingly forever) and also the concept of fairness. A fair proceeding should welcome the additional supportive information from MISO that is contained in the pre-filed, direct testimony.

Past Practice Supports the Motion to Submit

12. Leaning again on mere definitions, Staff incorrectly states that "[t]his [is] not . . . the type of case [w]here all parties file direct testimony."⁹ The most analogous situation to that at issue is located in Case No. EA-2017-0345, which involved an application by ATXI for approval of a 345 kV transmission project that was part of an earlier portfolio of MVP projects developed as part of MISO's FERC-approved stakeholder process. The Commission accepted direct testimony from MISO in support of the application for that

⁷ *Id.* at Par. 5. It's not clear that any rule needs to be waived, but good cause has been stated if such a waiver is needed. See Commission Rule 20 CSR 4240-2.0150 ("good cause").

⁸ Staff Response at Par. 5.

⁹ *Id.* at Par. 5.

“Mark Twain” transmission project.¹⁰ Direct testimony in support of that application was also accepted by the Commission from Wind on the Wires.¹¹ The Mark Twain case is cited in the MISO Motion to Submit,¹² but Staff fails to rebut it (or even mention it) in the Staff Response.

13. Staff notes its failure to locate direct testimony from a MISO witness in Case No. EA-2015-0146,¹³ which is also cited in MISO’s Motion to Submit.¹⁴ Case Nos. EA-2015-0146 and EA-2017-0345 were companion cases that involved the Mark Twain transmission project. MISO submitted testimony labeled “Surrebuttal” in the earlier of the two cases, EA-2015-0146. That testimony rebutted previously filed testimony, but also contained background testimony analogous to that attached to the MISO Motion to Submit that did not “explain why a party rejects, disagrees, or proposes an alternative to the moving party’s direct case.”¹⁵ MISO endeavored to provide clarity to this situation in the follow-up Case No. EA-2017-0345 in which it submitted direct testimony early in the case in the same manner as in the instant case. As stated above, MISO’s motion to submit early, direct testimony was granted in Case No. EA-2017-0345, and should similarly be granted in the instant proceeding.

¹⁰ *In re Mark Twain 365 kV Transmission Project*, EA-2017-0345, Transcript at 9, line 7 (October 25, 2017).

¹¹ *Id.*, Order Granting Motion to Submit Direct Testimony (December 8, 2017).

¹² MISO Motion to Submit at Par. 5.

¹³ Staff Response at Par. 6.

¹⁴ MISO Motion to Submit at Par. 5.

¹⁵ Rule 20 CSR 4240-2.130(7)(C).

A Companion Case Lacks a Procedural Schedule that Would Permit Support

14. Staff states that “MISO’s failure to file testimony of any kind in EA-2024-0302 is particularly telling. . . .”¹⁶ A procedural order that contains a date for submissions by intervenors has not yet been issued in that case, such that MISO has not “fail[ed] to file testimony.”¹⁷ MISO has patiently waited, direct testimony at-the-ready for filing, since the latter half of 2024. The testimony of Mr. Doner in the instant case contains additional background information on MISO transmission planning and its stakeholder process that was not planned for his testimony in EA-2024-0302 since some of that background information for EA-2024-0302 was provided by the now retired ATXI witness Dodd.

Staff Fails to State Any Prejudice or Harm Resulting from an Early Filing

15. Staff argues that permitting a filing such as submitted by MISO “could lead to some truly chaotic procedural schedules. . . .”¹⁸ MISO’s Motion to Submit does not seek a procedural schedule, although MISO supports timely consideration of the applications in the instant docket and in EA-2024-0302. Staff fails to state any prejudice or harm stemming from filings that predate deadlines. Claims of prejudice are the province of parties who must deal with a party that is late in its submissions. That has not happened.

¹⁶ Staff Response at Par. 7.

¹⁷ *Id.* at Par. 7.

¹⁸ *Id.* at Par. 5.

WHEREFORE, the relief sought by MISO, for good cause shown, is acceptance by the Commission of the pre-filed Direct Testimony of Jeremiah Doner that has been early-filed in the above-captioned case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was e-mailed on this 22nd day of January 2025 to the persons on the Commission's service list in this case.

/s/ William D. Steinmeier

Attorney for Midcontinent Independent System
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