UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc.	**)** **)**	**Docket No. _____**

PETITION FOR DECLARATORY ORDER OF THE MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC.

The Midcontinent Independent System Operator, Inc. ("MISO") respectfully submits this petition[1] ("Petition") requesting that the Commission issue a declaratory order confirming that: (1) MISO's Independent Market Monitor ("IMM"), Potomac Economics, Ltd.'s ("Potomac") unsolicited[2] transmission planning and monitoring activities[3] are outside the scope of Potomac's engagement under MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff");[4] and (2) MISO has no obligation

[1] Pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.207(a)(2) (2024).

[2] The term "unsolicited" refers to neither the Markets Committee of the Board nor MISO Staff requesting Potomac to initiate or engage in such activity. MISO acknowledges that Potomac engages in other activities explicitly within the scope of Module D and Attachment S-1 of the Tariff that the Markets Committee of the Board or MISO Staff may not request, but such activities are specifically solicited from Potomac as a part of its engagement as the MISO IMM under Module D and Attachment S-1 of the Tariff. MISO further understands that Potomac reserves its right to clarify it view this transmission planning-related activity within its scope under Module D and Attachment S-1 of the Tariff.

[3] The term "transmission planning and monitoring activities" is used to generally refer to unsolicited monitoring, evaluations, and/or analyses of MISO's Long Range Transmission Planning ("LRTP"), as well as advocating for Potomac's positions, while seeking reimbursement for these activities from MISO.

[4] Module D to the Tariff is entitled "Market Monitoring and Mitigation Measures" and provides the market monitoring plan for the MISO Region. Attachment S-1 to the Tariff is the Independent Market Monitor Retention Agreement or "IMM Agreement" through which MISO retains Potomac, as an independent contractor, to perform services as requested by MISO. References to the "Tariff" when referring to the engagement of Potomac herein refer to Module D and the IMM Agreement unless otherwise specified. Unless otherwise specified herein, all capitalized terms shall have the meaning as set forth in the Tariff.

to reimburse Potomac for such unsolicited transmission planning and monitoring activities at the expense of Tariff customers.

To be clear, MISO is not requesting an order that would preclude future consideration of monitoring and oversight of MISO's transmission planning process from an independent transmission monitor. To that end, MISO continually provides opportunities for stakeholders to propose possible prospective changes to the Tariff and business practices.[5] Moreover, MISO is not seeking to limit the activities of Potomac, such as participating in stakeholder processes, separate and apart from its role as the hired IMM for MISO. In fact, MISO has had a constructive, cooperative relationship with Potomac for many years, and this relationship has fostered a number of improvements to MISO's Markets. With that said, this Petition is necessary to remove uncertainty regarding the scope of Potomac's authority as the MISO IMM, and the obligations of all Tariff customers to reimburse Potomac for unsolicited services outside the defined scope of Potomac's engagement in the Tariff.

Finally, while the Tariff does not provide authority for the IMM to undertake unsolicited transmission planning and monitoring activities, MISO recognizes the concerns expressed by Potomac and other stakeholders regarding MISO's calculation of the cost-benefit analysis associated with the LRTP process.[6] Although MISO believes its

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[5] Consideration of monitoring and oversight of MISO's transmission planning process should originate either through a Commission's notice of proposed rulemaking process or through a MISO petition for Tariff revisions that reflects a comprehensive MISO stakeholder process involving the MISO Board of Directors, the Organization of MISO States ("OMS"), and other interested stakeholders.

[6] *See e.g.,* Motion to Intervene and Comments of the MISO Independent Market Monitor, Docket No. EL22-83-000 (Mar. 13, 2025), the IMM's "Comments on LRTP Trance 2 Benefit Analysis" https://cdn.misoenergy.org/20241030%20System%20Planning%20Committee%20of%20the%20BOD%20Item%2003a%20IMM%20LRTP%20Feedback655623.pdf, and MISO's written response to the IMM's comments, which is available on the MISO website at

calculation of benefits provides a balanced view and demonstrates estimated LRTP benefits even under low load growth, low-end bookend scenarios,[7] MISO commits to engaging an independent, third party to assess and validate the sufficiency of processes used to capture the value of transmission and to evaluate the key metrics used to define the benefits in the cost-benefit analyses undertaken. This assessment will be undertaken on a periodic, prospective basis to inform the LRTP processes. The third-party assessment will also help ensure the benefit methodology is independently substantiated and the processes appropriately capture the value LRTP portfolios can provide for customers, as well as assist stakeholders with their own evaluations.

I. INTRODUCTION AND STATEMENT OF THE ISSUE

This Petition requests definitive guidance from the Commission to remove uncertainty as to the scope of, and related compensation for, Potomac's unilateral authority over transmission planning and related transmission studies under the Tariff. The Markets Committee, which engages MISO's IMM, has historically afforded Potomac the opportunity to voice its position on system planning issues as a stakeholder. However, beginning in 2023, MISO and MISO members identified that Potomac was expanding the scope of its activities by initiating unsolicited monitoring, evaluations, and analyses of

https://cdn.misoenergy.org/20241030%20System%20Planning%20Committee%20of%20the%20BOD%20Item%2003a%20Market%20Monitor%20Feedback%20on%20LRTP%20Memo655619.pdf

[7] LRTP Tranche 2 Robustness Testing: Low-End Bookend, MISO (Jan. 26, 2024), *available at* https://cdn.misoenergy.org/20240126%20LRTP%20Workshop%20Item%2005%20Tranche%202%20Robustness%20Testing%20Low-End%20Bookend631474.pdf

MISO's LRTP, as well as advocating for its positions, while seeking reimbursement for these activities from MISO.

In addition to Potomac's actions exceeding the scope defined in the Tariff, Potomac's actions are neither supported by the Commission's Policy Statement on Market Monitoring Units,[8] nor Order No. 719.[9] Consequently, the activities have put the Markets Committee [10] in a challenging position of trying to meet Potomac's requests for compensation for unsolicited activities while also needing to adhere to the Tariff.

The Commission is empowered to issue declaratory orders "to terminate a controversy or remove uncertainty" under Rule 207(a)(2) of its Rules of Practice and Procedure and Section 554(e) of the Administrative Procedure Act.[11] MISO respectfully requests the Commission issue an order to clarify that Potomac's transmission planning and monitoring activities and associated requests for compensation exceed the scope of its Tariff-based authority as the IMM and, therefore, MISO is not obligated to compensate Potomac. Removing the uncertainty in the manner requested by MISO is vital: (1) in light of MISO's role of being a prudent steward of its Tariff customers' funds; (2) to enable

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8 *Market Monitoring Units in Regional Transmission Organizations and Independent System Operators*, 111 FERC ¶ 61,267 (2005).

9 *Wholesale Competition in Regions with Organized Elec. Mkts*., Order No. 719, 125 FERC ¶ 61,071 (Oct. 28, 2008).

10 The primary function of the Markets Committee is to assist the Board of Directors in fulfilling its oversight responsibilities by reviewing the activities in the markets operated by MISO and the reports and other information provided to MISO or its IMM to any governmental body or the public.

11 18 C.F.R. § 385.207(a) (2025); 5 U.S.C. § 554(e).

MISO to act consistently with the filed rates, terms and conditions of the Tariff; and (3) to resolve the ongoing uncertainty and conflict among stakeholders regarding the issue.

II. THE PARTIES

A. Midcontinent Independent System Operator, Inc.

MISO is the nation's first Commission approved Regional Transmission Organization ("RTO") and is responsible for operating the electric grid and administering wholesale electricity markets for the central United States.[12] MISO is a non-stock, not-for-profit corporation. MISO operates independently of any market participant and is a "public utility" under the Federal Power Act, with its activities and Tariff subject to the Commission's exclusive oversight and regulation.[13] Within its geographical footprint, MISO is responsible "for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades . . . and [to] coordinate such efforts with the appropriate state authorities."[14]

B. Potomac Economics, Ltd.

Potomac is a firm specializing in economic analysis and monitoring of wholesale electricity markets. Potomac has served as the IMM for MISO's markets since 2002. In addition to MISO, Potomac also serves as the independent market monitor for the New York ISO ("NYISO"), ISO New England, and the Electric Reliability Council of Texas.

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[12] *See Midwest Indep. Transmission Sys. Operator, Inc*., 97 FERC ¶ 61,326 (2001).

[13] *See* 18 C.F.R. § 35.34(j)(1) (2025); 16 U.S.C. § 824(e).

[14] 18 C.F.R. § 35.34(k)(7) (2025).

III. FACTUAL BACKGROUND

A. MISO's Transmission Planning Process.

Commission regulations require RTOs to be independent.[15] As a Commission-approved RTO, one of MISO's core functions is to independently address transmission planning, expansion, and upgrade issues within the MISO region.[16] MISO is registered with the North American Electric Reliability Corporation ("NERC") as a Planning Coordinator and, as such, fully evaluates and plans for the reliability of the Transmission System in accordance with NERC's planning standards. MISO's transmission planning process is primarily addressed the Transmission Owners Agreement ("TOA") and in Tariff Attachment FF – Transmission Expansion Planning Protocol ("Attachment FF").[17]

The TOA provides that, "[t]he planning function of MISO shall be the responsibility of the MISO Planning Staff[.]"[18] The TOA continues to state that, "MISO shall be organized to engage in such planning activities as are necessary to fulfill its obligations under the Agreement and the Tariff."[19] The TOA also confirms that, while MISO bears responsibility for transmission planning, "[t]he process for carrying out the planning of MISO shall be collaborative with Owners, Users, the OMS Committee, and other interested parties." Appendix B of the TOA explains that the MISO Planning Staff, working in collaboration with representatives of the Owners, the OMS Committee, and the Planning Advisory Committee, develops the comprehensive MISO-wide transmission plan,

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15 18 CFR § 35.34(j)(1) (2025).

16 18 CFR § 35.34(k)(7) (2025).

17 *See* Agreement of Transmission Facilities Owners to Organize the Midcontinent Independent System Operator, Inc. A Delaware Non-Stock Corporation, Rate Schedule 01; MISO Tariff - Attachment FF.

18 *See* TOA, Appendix B.

19 *Id.*

consistent with Good Utility Practice and taking into consideration long-range planning horizons, as appropriate.[20] This multi-party collaborative process is designed to ensure the development of the most efficient and cost-effective MISO transmission plan that will meet reliability needs and expand trading opportunities, better integrate the grid, and alleviate congestion, while giving consideration to the inputs from all stakeholders.[21]

Attachment FF, in turn, governs MISO's transmission expansion planning protocol and sets forth the process to be used by MISO to develop the MISO Transmission Expansion Plan ("MTEP").[22] Attachment FF states that MISO "shall develop the MTEP, consistent with Good Utility Practice and taking into consideration long-range planning-horizons, as appropriate."[23] Like Appendix B to the TOA, Attachment FF emphasizes that the transmission planning process is collaborative, stating that MISO will develop the MTEP "in collaboration with representatives of the Transmission Owners, OMS, and the Planning Advisory Committee."[24]

The long-standing goal of the MTEP process is to develop a comprehensive expansion plan that meets reliability, economic and public policy needs. MTEP projects include local reliability planning, economic planning, and interregional planning. The MTEP process also includes MISO's LRTP, which focuses on developing regional transmission solutions to ensure the transmission system is reliable, economic, and compliant for the next 20 years and beyond.

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20 *Id.*

21 *Id.*

22 Attachment FF, § I.

23 *Id.* § I.C.

24 *Id.* § I.C.

As a Commission-approved RTO, MISO independently undertakes the planning and expansion of the MISO Transmission System through the MTEP. As a part of the MTEP, MISO solicits alternatives from stakeholders for more cost-effective solutions for both regional and local planning processes and MISO also independently identifies alternatives that are more efficient or cost effective.[25] At the end of the process, MISO Staff independently determines the preferred solutions consistent with Attachment FF, for both local and regional projects. Projects proposed to move forward are reviewed with stakeholders through the Planning Advisory Committee, where they have a final opportunity to submit comments on the MTEP process and the recommended projects to the MISO Board of Directors.

The MISO Board of Directors' role in the transmission planning process is a key component of the independence of the process. First, pursuant to MISO's Principles of Corporate Governance, as well as MISO's TOA and Bylaws, all Directors (who are not an officer or employee of MISO) are required to comply with independence requirements, including: (1) not being a director, officer, or employee of a MISO member, user, or affiliate of a member or user for one year prior to election; and (2) not having a direct financial interest in or a conflict of interest with any member, user, or affiliate of a member or user.[26] Second, Directors are required to possess the highest personal and professional ethics, integrity, and values.[27] In addition, specific qualifications are required for Directors: (1) six of the Directors are required to have expertise in, among other things, corporate

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25 Over the 18-month process, more than 75 stakeholder meetings are held.

26 MISO's Principles of Corporate Governances § I.A.1, *available at* https://cdn.misoenergy.org/MISO%20Principles%20of%20Corporate%20Governance110859.pdf (last visited May 6, 2025).

27 *Id.* § I.

leadership, engineering, or utility laws and regulation; and (2) three of the Directors are required to have expertise in the operation of electric transmission systems, the planning of electric transmission systems, and in commercial markets and trading, and associated risk management.[28] Third, the System Planning Committee of the MISO Board of Directors is tasked with: (1) overseeing system planning matters affecting transmission expansion; (2) monitoring the development and implementation of the MTEP; (3) making recommendations to the Board of Directors; and (4) reporting to the Board of Directors regarding the progress of achieving expansion plans. Following the final stakeholder review, MISO Staff provides a final list of recommended projects to the System Planning Committee.[29] The System Planning Committee reviews stakeholder and MISO Staff comments before making recommendations to the Board of Directors for approval. Thereafter, the MISO Board of Directors considers approval of the MTEP portfolio of projects.[30]

As demonstrated above, the transmission projects that result from the MTEP, including the LRTP, reflect the outcome(s) of an independent, Commission-accepted, fully vetted, transparent planning process that prudently meets the needs of the MISO transmission system, as well as the needs of Transmission Owners and stakeholders. Moreover, the MTEP process, including LRTP Tranche 1 and Tranche 2.1, ensures that needs are met in an efficient and cost-effective manner.

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28 *Id.* § I.B.

29 *Id.* § IV.A.

30 TOA, Appendix B.

B. The IMM's Role in Monitoring and Reporting on the MISO Markets and Services.

The IMM's role and responsibilities are set forth in two sections of the Tariff: (1) Module D – Market Monitoring and Mitigation Measure; and (2) Attachment S-1 – Independent Market Monitor Retention Agreement.[31]

Module D was developed through an extensive and robust stakeholder process that included establishing the IMM's specific rights and obligations.[32] Module D identifies MISO's Independent Market Monitoring Plan (the "Plan" as it is defined in Module D), which is intended "to provide for the independent, impartial, effective monitoring and reporting on the Markets and Services as a whole."[33] Module D provides that the IMM, "shall be responsible for the implementation of the Plan" and that the IMM's "mission shall be to pursue the purposes and objectives of the Plan, including the protecting of both consumers and Market Participants by identification and reporting of market design flaws and market power abuses, in a manner consistent with the Tariff."[34] Module D requires that the IMM "have experience and expertise appropriate to the analysis of competitive conditions in markets for Energy, Ancillary Services, and transmission rights, and to such other responsibilities as are assigned to the IMM under this Plan."[35]

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31 *See* Module D; IMM Agreement. As discussed further below, the IMM Agreement is implemented through Statements of Work ("SOW"), which delineate the types of services to be undertaken for the calendar year.

32 Upon review, MISO cannot find documentation from the stakeholder process regarding the inclusion of monitoring, evaluation, and/or analyses of MISO transmission planning in the scope of Module D.

33 Module D, Section I.

34 *Id.*

35 *Id.*, Section 52.1.

Module D delineates the IMM's specific rights and obligations under the Tariff. Module D tasks the IMM with implementing the Market Monitoring Plan, conducting preliminary investigations into Market Participants' conduct, and responding to requests from regulators for data or analysis.[36] Module D also tasks the IMM with monitoring the Markets and Services provided by MISO, including the imbalance energy market, any congestion management market or system, any Ancillary Services market, any market for the purchase or sale of transmission rights, Planning Resource Auction, and any other market administered, coordinated or facilitated by MISO.[37]

Module D also delineates the IMM's core functions and responsibilities.[38] For example, Module D provides that the IMM shall:

> i. Evaluate existing and proposed market rules, Tariff provisions and market design elements and recommend proposed rule and Tariff changes … ;
> ii. Review and report on the performance of the Markets to the Transmission Provider, FERC, and other interested entities … ;
> iii. Identify, and notify the FERC Office of Enforcement, Office of Energy Markets and Reliability, the Commission General Counsel's Office, or other successor organization(s), of instances in which a Market Participant's behavior, or that of the Transmission Provider, may require investigation … ;
> iv. Assist in the development of [the] Plan … ;
> v. Recommend to the Transmission Provider modifications to market rules or tariffs to improve the compatibility of, and the efficiency of trading between, the Transmission Provider and adjacent RTOs or Balancing Authorities; and
> vi. Have such other duties and responsibilities as specified in [the] Plan, as it may be amended from time to time.[39]

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[36] *Id.*, Section 50.1.

[37] *Id.*, Section 50.2.

[38] *Id.*, Section 52.3.

[39] *Id.*, Section 52.3

The IMM's obligations are further delineated through the IMM Agreement. The IMM Agreement requires the IMM to review market power and other competitive conditions in the MISO markets and make reports as appropriate, perform all tasks required of the IMM under Module D, and undertake any related tasks that fall under the normal responsibilities of a market monitor, such as filing testimony or working on design improvements.[40] The IMM Agreement also provides that the IMM may not change the scope of work set forth in Module D unless the Commission first issues an order approving such a change.[41] Similar to other consulting engagements, the IMM Agreement is implemented through SOW that are updated annually to detail specific IMM activities and associated budget, as agreed to by Potomac and the Markets Committee. Consistent with the requirements of Module D, the IMM Agreement requires the IMM to notify the Commission of any significant market problems that may require further investigation, Tariff changes, or Commission action.[42]

C. Recovery of Costs for Market Monitoring Functions and Transmission Planning Charges Are Separate and Distinct Under the Tariff.

The IMM is reimbursed for its market monitoring functions under Tariff Schedule 17 – Energy and Operating Reserve Markets Support Administrative Service Cost Recovery Adder ("Schedule 17").[43] Schedule 17 provides that MISO, as the Transmission

40 IMM Agreement at p. 1.

41 *Id.* at p. 2.

42 *Id.*

43 *See* Schedule 17.

Provider, recovers all cost incurred by the IMM in performing its market monitoring functions:

> This Energy and Operating Reserve Markets Support Administrative Service Cost Recovery Adder provides for the recovery of all costs incurred by the Transmission Provider in providing the Service, inclusive of all costs resulting from the assignment or allocation of costs to the Service. The Transmission Provider's costs incurred in providing the Service include, but are not limited to, costs associated with: … 5) ***market monitoring functions***; … . (emphasis added).[44]

Schedule 17 is specifically designed to recover the costs incurred by the IMM for its market monitoring functions from Market Participants based upon their market activities. Put simply, if the IMM charges MISO for market monitoring services, the IMM is paid by Market Participants through MISO.

In contrast, the costs associated with MISO's transmission planning process are recovered through Schedule 10 – ISO Cost Recovery Adder ("Schedule 10"). Under Schedule 10, MISO is generally authorized to recover the costs of operating the ISO, including costs of administering the Tariff. Charges under Schedule 10 are assessed to Transmission Customers, Transmission Owners, and Appendix I Entities. Unlike Schedule 17, Schedule 10 does not include recovery of costs incurred by MISO for the engagement of Potomac for its market monitoring functions.

D. Scope of and Annual Budget for IMM Services.

As noted above, Potomac's scope of services and associated budget are reviewed and approved annually by the Markets Committee, along with the budget for the services. Upon Markets Committee approval, MISO and Potomac negotiate SOWs prior to the start

[44] *Id.* The recovery of all costs associated with the IMM's market monitoring functions under Schedule 17 is noteworthy given MISO's revenue neutral, not-for-profit, public utility status, which requires MISO to recover the costs of all services it provides pursuant to Commission accepted rates.

of the next year's work. The SOWs delineate the types of services to be undertaken by Potomac for the calendar year. The SOWs are executed by Potomac and MISO. As relevant to this Petition, the services and budget are centered around: (1) market monitoring and data management; (2) supporting market design; (3) FERC support and investigations; (4) training for MISO participants and operators; (5) service organization control audits; and (6) IT infrastructure, security, and support. The scope of the SOWs is generally consistent year-to-year. None of the categories of services have called for transmission planning and monitoring activities. Moreover, as part of setting the budgets for Potomac's scope of services, neither MISO nor the Markets Committee received any indication from Potomac that it intends to engage transmission monitoring activities for compensation.

E. Potomac's Unsolicited Activities in the Transmission Planning Process and Demands for Reimbursement for Its Services.

In its role as the MISO IMM, Potomac has provided comments over the past several years on MISO's LRTP processes in its State of the Market reports, participated in stakeholder meetings on transmission planning issues, and provided substantive comments on both potential resource plans and MISO business cases.[45] For example, Potomac raised concerns regarding the business case for Tranche 2.1 of the LRTP, as well as the cost-benefit analyses.[46] In that case, MISO did not agree with many of Potomac's comments and provided a written response to address the major disconnects between MISO's LRTP

[45] This work can generally be referred to as Potomac's "LRTP monitoring and evaluation."

[46] *See* Memorandum from Potomac to MISO Re: Concerns and Recommendations for the Tranche 2 Benefit Methodologies, Potomac Economics (July 25, 2024), *available at* https://cdn.misoenergy.org/IMM%20Memo%20re%20Tranche2%20Benefits%20Methodologies646681.pdf; *see also* MISO IMM Comments on LRTP Tranche 2 Benefit Analysis, Potomac Economics (Oct. 30, 2024), *available at* https://cdn.misoenergy.org/20241030%20System%20Planning%20Committee%20of%20the%20BOD%20Item%2003a%20IMM%20LRTP%20Feedback655623.pdf.

process and Potomac's comments.[47] Regardless of whether Potomac's LRTP monitoring and evaluation is supportive or unsupportive of MISO's implementation of its transmission planning process, however, none of Potomac's LRTP monitoring and evaluation is authorized in the Tariff or SOWs.

The divergence between the Potomac's unsolicited actions from the Tariff and SOWs, including specifications on expertise and relevant documentation,[48] has created a paradigm where Potomac frames its LRTP comments as having equal weight as the market services comments it submits under its permitted activities in Module D and the IMM Agreement. This weight, in the context of Markets and Services, is appropriate given the defined roles of the IMM prescribed by the Tariff. However, in context of transmission planning, it strains MISO's and stakeholders' ability to appropriately weigh viewpoints from Potomac relative to other stakeholders. Accordingly, Potomac's unsolicited activities are not just contrary to its authorization under the Tariff, but also challenge the efficient implementation of the transmission planning process.

Potomac's unsolicited LRTP monitoring and evaluation has been notable, with over 600 hours being undertaken by Potomac between 2023 and 2024 at a cost of approximately $300,000. LRTP monitoring and evaluation was expected to continue and increase. Under the SOWs, if Potomac forecasts that actual costs will exceed the budget for the year (i.e.,

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47 *See* Memorandum from Jennifer Curran to the MISO Board of Directors Re: Market Monitor Feedback on LRTP (Oct. 23, 2024), *available at* https://cdn.misoenergy.org/20241030%20System%20Planning%20Committee%20of%20the%20BOD%20Item%2003a%20Market%20Monitor%20Feedback%20on%20LRTP%20Memo655619.pdf.

48 Section 52.1 of Module D states "The IMM shall have experience and expertise appropriate to the analysis of competitive conditions in markets for Energy, Ancillary Services, and transmission rights, and to such other responsibilities as are assigned to the IMM under this Plan." Because there is no defined role for the IMM in transmission planning, no similar requirements for experience or expertise exist in either Attachment FF or the TOA.

an "overage"), Potomac is to provide a forecast of the costs to be billed under the SOW for the entire year.[49] In 2023, an overage occurred of approximately $86,000. A larger overage occurred in 2024 of approximately $236,000. No overages existed in 2021 or 2022. Potomac's 2024 overage and ongoing LRTP monitoring and evaluation resulted in concerns expressed by MISO members, as well as MISO Staff. Certain stakeholders supported Potomac's engagement, yielding conflicting reactions within the stakeholder community. As a result, the Markets Committee requested information from Potomac on the drivers of the overages, as well as an explanation of the time charged on LRTP monitoring and evaluation. Potomac provided the requested information in February 2025, which included the hours noted above.[50] The Markets Committee approved the payments of the invoices for 2024,[51] but also directed MISO to seek clarity from the Commission, which has prompted the filing of this Petition. The Markets Committee further resolved and informed Potomac that it would not be compensated for any future transmission planning work until further action or an order from the Commission resolving this controversy.

IV. ARGUMENT

A. Potomac's Unsolicited Activities Are Beyond the Scope of the Tariff.

Potomac's unsolicited transmission planning and monitoring activities that give rise to this petition—while presumably well-intentioned—nevertheless exceed the scope of the IMM's duties under the Tariff. As discussed above, the IMM Agreement and associated

[49] The SOWs also provide MISO the ability to request additional information to understand the status of expenses.

[50] Potomac asserted the overages in 2023 and 2024 were not due to its LRTP monitoring and evaluation.

[51] Potomac's invoices for 2023 were previously paid.

SOWs establish the contract though which MISO engages Potomac as an independent consultant to monitor MISO's markets. This arrangement is similar to any other independent consultant engaged by MISO, whereby the scope of services provided by such consultant is limited to the agreed services in the contract governing the engagement. Allowing Potomac to unilaterally engage in activities and analysis that are not contemplated by the contract underlying the engagement and requiring MISO to pay for such services runs afoul of the basic principles of contract law and Commission precedent.[52]

There should be no dispute that the IMM's rights and obligations are exclusively found in, and constrained by, the Tariff as the Commission and courts have consistently found that market monitors are limited to the authority and scope of services established in the tariffs and agreements for their respective RTO markets.[53] In *Old Dominion Elec. Coop. v. FERC* ("*Old Dominion*"), the U.S. Court of Appeals for the District of Columbia Circuit noted that the PJM market monitor was not created by statute and that "its function is limited to monitoring, advising, encouraging compliance, and informing others through regulatory filings and other informal communications."[54] The court explained that "[t]he Monitor's role … is much in the nature of an auditor—it is largely confined to observing the market's operations and then offering recommendations to PJM."[55] The court further

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52 *See Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1233 (D.C. Cir. 2018) (holding that PJM's market monitor lacked standing to intervene in an appeal as the monitor has only the powers afforded under the tariff and its contract with PJM).

53 *See Id. See also Pub. Serv. Comm'n of W. Va. v. PJM Interconnection*, 186 FERC ¶ 61,163 (Mar. 1, 2024) (holding that the PJM tariff did not empower the market monitor to attend certain liaison committee meetings and, thus, that PJM could exclude the monitor from those meetings).

54 *Old Dominion* at 1234.

55 *Id*. at 1233.

explained that, "*[b]eyond its contractually assigned tasks, the Monitor has no independent legal interest of its own in the PJM markets*."[56] The court characterized the PJM monitor as "an outside observer hired to study and report objectively on the market's operations."[57]

The Commission has similarly constrained the scope of a market monitor's authority in other cases. In *Stony Creek Wind Farm, LLC*, the Commission observed that a market monitor likely exceeded the scope of its authority by challenging a settlement agreement.[58] The Commission held that the market monitor's function was limited to monitoring, advising, and encouraging compliance and that obstructing a settlement "drifted' beyond the monitor's intended role.[59] In *Del. Div. of the Pub. Advocate v. FERC*, the court held that PJM's "Independent Market Monitor is a neutral entity that oversees compliance with PJM's market rules."[60] And in *Pub. Serv. Comm'n of W. Va. v. PJM Interconnection* ("*PJM Interconnection*"), the Commission held that the PJM market monitor failed to show that PJM violated its Tariff by excluding the market monitor from a certain liaison committee.[61] The tariff provisions at issue authorized the monitor to participate in stakeholder working groups, committees, and processes, but did not authorize the market monitor to participate in the non-stakeholder liaison committee.[62]

Similarly, the Tariff authorizes the IMM to monitor the Markets and Services provided by MISO, but does not authorize the IMM to engage in transmission planning or

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56 *Id*. at 1233 (emphasis added).

57 *Id*. at 1233.

58 *Stony Creek Wind Farm, LLC*, 187 FERC ¶ 63,014, at P 23 FN 30 (May 31, 2024).

59 *Id*. (citing *Old Dominion* at 1234).

60 *Del. Div. of the Pub. Advocate v. FERC*, 3 F.4th 461, 469 (D.C. Cir. 2001).

61 *Pub. Serv. Comm'n of W. Va. v. PJM Interconnection*, 186 FERC ¶ 61,163, at P 85 (Mar. 1, 2024).

62 *Id*. at P 85.

monitoring activities. Additionally, neither the Tariff, nor the TOA, establish a role for the IMM as a part of the transmission planning function or to receive compensation for such activities. In fact, the opposite is true. MISO, as an RTO, is already tasked with independently addressing transmission planning, expansion, and upgrade issues within the MISO region.[63] The IMM, like the PJM market monitor, acts much more in the nature of an independently retained auditor of market functions—not transmission planning.

Under Module D, the IMM's "mission shall be to pursue the purposes and objectives of the [market monitoring] Plan, including the protecting of both consumers and Market Participants by identification and reporting of market design flaws and market power abuses, in a manner consistent with the Tariff."[64] Hence, the Tariff makes clear that the IMM is similar to an outside auditor tasked with identifying and reporting on market design flaws and market power abuses.

The IMM Agreement requires the IMM to review market power and other competitive conditions in the MISO markets and make reports as appropriate, perform all tasks required of the IMM under Module D, and undertake any related tasks that fall under the normal responsibilities of a market monitor, such as filing testimony or working on design improvements.[65] These are the tasks of an independent auditor, like the PJM market monitor addressed in *Old Dominion* and *PJM Interconnection*, not a transmission planner.

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63 18 C.F.R. § 35.34(k)(7) (2025) ("The Regional Transmission Organization must be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and coordinate such efforts with the appropriate state authorities.").

64 Module D, Section I.

65 Attachment S-1 at p. 1.

The IMM Agreement provides no authority for the IMM to engage in unsolicited transmission planning and monitoring activities and to seek compensation for that work.

The lack of support in the Tariff for Potomac's referenced activities is not surprising because the TOA unambiguously confirms it is *MISO's* responsibility to undertake transmission planning. The TOA states that the "planning function of MISO *shall be the responsibility of the MISO Planning Staff* (hereinafter "Planning Staff")."[66] The TOA also states that "*[t]he Planning Staff*, working in collaboration with representatives of the Owners, the OMS Committee, and the Planning Advisory Committee, *shall develop the MISO Plan*, consistent with Good Utility Practice and taking into consideration long-range planning horizons, as appropriate."[67] The TOA further sets forth the responsibilities of MISO in carrying out the transmission planning.[68]

Attachment FF, in turn, "describes the process to be used *by the Transmission Provider* to develop the MISO Transmission Expansion Plan ('MTEP'), subject to review and approval by the Transmission Provider Board."[69] Attachment FF further clarifies that "[t]he *Transmission Provider*, working in collaboration with representatives of the Transmission Owners, OMS, and the Planning Advisory Committee, *shall develop the*

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66 Transmission Owner's Agreement, Appendix B, Section II (emphasis added).

67 *Id.*, Appendix B, Section VI (emphasis added).

68 *Id.*, Appendix B, Section II ("In order to carry out this planning function, the Planning Staff shall have the following responsibilities, set forth in more detail in subsequent Sections of this Appendix B: (i) to calculate ATC in the Planning Time Horizon; (ii) to process transmission service requests in the Planning Time Horizon; (iii) to develop cost-effective plans to resolve transmission constraints that would otherwise preclude requested transmission service; and (iv) to create the MISO Plan by integrating, evaluating, and modifying the transmission plans, and other findings from (a) Facilities Studies, (b) plans and analyses developed by the individual Owners, and/or sub-regional groups, to define needs within the Owner's system(s), (c) plans and analyses developed by the Planning Staff to define regional needs, and (d) Planning Staff analyses giving consideration to information from the Planning Advisory Committee (established under this Appendix B) and other sources.")

69 Attachment FF, Section I (emphasis added).

MTEP, consistent with Good Utility Practice and taking into consideration long-range planning horizons, as appropriate."[70] Attachment FF further states that "[t]he *Transmission Provider* will develop the MTEP biennially or more frequently."[71] MISO is the Transmission Provider. Attachment FF thus requires MISO to engage in transmission planning, in consultation with other stakeholders, but does not authorize Potomac's participation in the transmission planning process in return for compensation.

Attachment FF also states that the development of the MTEP will follow specified steps that are detailed in MISO Business Practice Manual (BPM-20) and sets forth the planning functions described in detail in BPM-020—notably all of these planning functions are to be undertaken by MISO.[72] BPM-020 sets forth "General Process Responsibilities" for MISO, which includes "conducting the regional planning process, including the organization and facilitation of stakeholder meetings and committees that advise the planning staff and the Transmission Provider Board."[73] Thereafter, BPM-020 sets forth responsibilities for Transmission Owners, Generation Owners, Load Serving Entities, Transmission Customers, other RTOs, and other Stakeholders (including State Regulatory Commissions).[74] While the BPM reiterates that all MISO planning meetings are open to all stakeholders,[75] nowhere does the BPM specifically task the IMM with transmission planning oversight or management. Potomac is free to participate in the transmission

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70 Attachment FF, Section I(C) (emphasis added).

71 *Id.*, Section II.

72 *Id.*, Section I(C)(1). *See* BPM-020 at Section 2.2.1, *available at* https://www.misoenergy.org/legal/rules-manuals-and-agreements/business-practice-manuals/ (last visited Apr. 3, 2025).

73 BPM-020, Section 2.6.1.

74 *Id.*, Sections 2.6.2-2.6.7.

75 *Id.*, Section 2.6.7.

planning process as a stakeholder, but to bear its own costs of any such activity, like other stakeholders.[76]

The lack of Tariff authority for the IMM to undertake transmission planning and monitoring activities is reinforced by Schedule 17's authorization for recovery of the costs of the IMM's market monitoring functions, but the lack of corresponding recovery for IMM activities under Schedule 10 from other Tariff customers. The lack of recovery for such transmission planning and monitoring activities, as Potomac has undertaken, under Schedule 10 corroborates an intent to not include such work as a part of the market monitoring services performed by the IMM under the Tariff. Similarly, transmission planning and monitoring activities are not set forth in the SOWs that are annually developed and executed by MISO and Potomac.

The lack of MISO Tariff support for Potomac's activities contrasts with, for example, the NYISO's Open Access Transmission Tariff, which explicitly provides authorization for its Market Monitoring Unit in connection with the NYISO's Reliability Needs Assessment, Comprehensive Reliability Plan, Public Policy Transmission Planning Report, and Generator Deactivation Process.[77] The Commission has noted such authority

[76] The OMS Committee is provided funding by MISO; however, unlike the IMM, the Tariff: (1) provides the OMS Committee the "opportunity to provide input into the transmission planning, resource adequacy, and transmission cost allocation approach and processes"; and (2) authorizes recovery of such funding through Schedule 10. *See* MISO Tariff, Module A, § 1.O (Definitions) (57.0.0). This type of express Tariff authority for the OMS Committee does not exist for the IMM with respect to engaging in transmission planning and monitoring activities for compensation.

[77] *See* NYISO Tariff at § § 31 (Attachment Y- New York ISO Comprehensive System Planning Process) and 38 (Attachment FF- Generator Deactivation Process). *See also* NYISO Initial Comments, Docket No. RM21-17-000, at p. 52 (Oct. 12, 2021) ("Moreover, the NYISO's independent Market Monitoring Unit ('MMU') formally reviews the NYISO's reliability, economic and public policy studies to determine the presence of market failures that are not sending appropriate price signals for investments in the New York system and whether changes should be pursued in the NYISO's wholesale electricity markets.").

in the NYISO Tariff.[78] For example, the NYISO Tariff explicitly requires the market monitor's review of a draft Public Policy Transmission Planning Report on two separate occasions:

> The draft Public Policy Transmission Planning Report shall be submitted to both TPAS and the ESPWG for review and comment. Concurrently, the draft report will be provided to the Market Monitoring Unit for its review and consideration. The Market Monitoring Unit's evaluation will be provided to the Management Committee prior to the Management Committee's advisory vote.[79] …
>
> Following the Management Committee vote, the draft Public Policy Transmission Planning Report, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the Market Monitoring Unit's evaluation will be provided to the Board.[80]

Nothing like this explicit authority in the NYISO Tariff exists in MISO's Tariff.

Additionally, Potomac has acknowledged the lack of Tariff support through its comments submitted in Docket No. RM21-17. Potomac explained that the limited functions fulfilled by market monitors do not overlap with the role of an independent transmission monitor:

> [W]hile market monitors do monitor transmission issues in the operating horizon, *our scope is generally limited in the planning horizon*. Although there may be a small overlap between the two, it is not accurate to argue that the current market monitoring scope includes the [independent transmission monitor] ITM scope proposed by the Commission. [81]

Potomac previously distinguished between the operating and planning horizons, with the operating horizon being when dispatch decisions are made and the planning horizon being

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78 *See New York Indep. Sys. Operator*, 151 F.E.R.C. ¶ 61,040, at P16 (Apr. 16, 2015); *see also New York Indep. Sys. Operator*, 143 F.E.R.C. ¶ 61,059, at P33 (Apr. 18, 2013).

79 NYISO Tariff, Section 31.4.11.1.

80 *Id.*, Section 31.4.11.2.

81 *See* Reply Comments of Potomac Economics, Ltd., Docket No. RM21-17-000, at p. 2 (Nov. 11, 2021).

when investment and retirement decisions are made.[82] Potomac, therefore, appears to acknowledge its scope does not extend to the transmission planning horizon.

Moreover, Potomac submitted additional comments in Docket No. RM21-17 in which it requested the Commission implement independent transmission system monitoring and offered steps on how such monitoring could be implemented.[83] It is irrefutable that the Commission implemented numerous transmission planning reforms in Order No. 1920,[84] but did not implement independent transmission system monitoring.[85] If Tariff authority already exists then there would be no need for the Commission to implement such oversight, as Potomac proposed.

To the extent Potomac believes its transmission planning and monitoring activities fall in the scope of the Tariff due to a potential effect on MISO's markets and market services, MISO's concern is the possible widespread and potentially detrimental consequences of adopting such a view. In particular, such an approach would not limit Potomac's authority to only transmission planning, but would conceivably expand Potomac's authority to any business area in MISO, as all business areas within MISO directly or indirectly affect MISO's markets and market services using this logic. For example, Potomac could submit comments and conduct analyses of MISO hiring decisions or the procurement practices used by MISO to the extent Potomac believes such business areas' actions affect MISO's markets and market services. Not only would such an

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82 *See* Comments of Potomac Economics, Ltd., Docket No. RM15-24-000, at p. 3 (Nov. 30, 2015).

83 *See* Comments of Potomac Economics, Ltd., Docket No. RM20-17-000, at pp. 6-8 (Aug. 3, 2022).

84 *See Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (May 13, 2024) (Order No. 1920), *order on reh'g and clarification*, Order No. 1920-A, 189 FERC ¶ 61,126 (Nov. 21, 2024) (Order No. 1920-A), appeals pending, Petition for Review, *Appalachian Voices v. FERC*, Nos. 24-1650, et al. (4th Cir. July 16, 2024).

85 Order No. 1920 at P 1632.

extensive impact be contrary to the intent of the Tariff, but also the Commission's Policy Statement on Market Monitoring Units and Order No. 719. More importantly, the extensive impact could disrupt the efficient operations at MISO and introduce unnecessary costs, which all, in turn, could impact reliability and the benefits received by MISO members. MISO respectfully cautions the Commission against adopting such an extensive reading of Potomac's Tariff authority as MISO's IMM.

For reasons discussed above, Potomac's activities that give rise to this Petition exceed the scope of the IMM's duties under the Tariff. Consequently, Potomac does not have the unilateral ability to undertake transmission planning and monitoring and demand compensation for such work. Nor does MISO have an obligation to compensate Potomac for such unsolicited work particularly as those costs would ultimately be recovered from Transmission Customers, Transmission Owners, and Appendix I entities through Schedule 10.

B. Potomac's Unsolicited Activities Are Beyond the Scope of the Commission's Directives and Precedent.

In addition to being beyond the scope of the Tariff, Potomac's unsolicited activities exceed the scope of and are inconsistent with the Commission's directives and precedent. The Commission discussed the IMM's role and authority in its Policy Statement on Market Monitoring Units, which was issued nearly twenty years ago in Docket No. PL05-1-000.[86] The Policy Statement set forth the tasks that market monitors were expected to perform and established a procedure for market monitors to refer suspected misconduct to the

[86] *Market Monitoring Units in Regional Transmission Organizations and Independent System Operators*, 111 FERC ¶ 61,267 (2005) (emphasis added) ("Policy Statement").

Commission.[87] The Policy Statement emphasized that market monitoring units, like the IMM, "*monitor organized wholesale markets* to identify ineffective market rules and tariff provisions, identify potential anticompetitive behavior by market participants, and provide the comprehensive market analysis critical for informed policy decision making."[88] The Policy Statement further charged market monitoring units to "evaluate the effectiveness of the markets in signaling needed investment in generation, transmission, and demand response infrastructure."[89] The Policy Statement also lists specific tasks to be performed by the market monitor.[90] Nowhere in the Policy Statement, however, did the Commission vest the IMM with oversight of the transmission planning process.[91]

In Order No. 719, the Commission expanded and updated the market monitoring functions set forth in the Policy Statement.[92] Under Order No. 719, market monitors were tasked with three additional functions: (i) evaluating market rules, tariff provisions, and market design elements and recommending proposed rule and tariff changes to the RTO/ISO and Commission Staff; (ii) reviewing and reporting on the performance of the wholesale markets to the RTO/ISO, the Commission, and other interested entities; and (iii) identifying and notifying the Commission's Office of Enforcement staff of instances in which a market participant or the RTO/ISO may require investigation.[93] The Commission noted that these revised functions, "should provide [market monitors] with ample authority

87 Order No. 719 at P 214 (citing the Policy Statement).

88 Policy Statement at P 1.

89 *Id*. at P 7.

90 *Id*. at P 2.

91 *See generally id*.

92 Order No. 719 at P 354.

93 *Id*. at P 354.

to evaluate any needed changes to the markets and bring them to the attention of concerned entities, to review and report on the performance of the markets, and to refer suspected wrongdoing to the Commission."[94] Again, however, the Commission did not direct market monitors to participate in or otherwise oversee transmission planning and monitoring activities.

The lack of Commission authority vesting the IMM with authority to monitor or oversee transmission planning is not surprising. In Order No. 890, the Commission expressly declined to require the creation of an independent third party coordinator as part of the RTO/ISO regions' transmission planning and monitoring activities.[95] In Order Nos. 1920 and 1920-A, the Commission indicated that authority over transmission planning is vested in the transmission planner, rather than a market or transmission monitor.[96] Order No. 1920, in particular, required *transmission providers* to conduct long-term planning for regional transmission facilities and determine how to pay for the costs of those investments.[97] In that rulemaking docket, Potomac and other intervenors specifically advocated for a Commission order establishing an independent transmission monitor; however, the Commission rejected the IMM's argument.[98] In Order No. 1920-A, the

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94 *Id*. at P 353.

95 *Preventing Undue Discrimination & Preference in Transmission Serv*., Order No. 890 at P 567, FERC Stats. & Regs. ¶ 31,241, (Order No. 890), order on reh'g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007) (Order No. 890-A), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008) (Order No. 890-B), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228, order on clarification, Order No. 890-D, 129 FERC ¶61,126 (2009).

96 *Bldg. for the Future Through Elec. Reg'l Transmission Plan. & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068, *order on reh'g*, Order No. 1920-A, 189 FERC ¶ 61,126 (2024).

97 *See* Order No. 1920; *see also Wilderness Line Holdings, LLC*, 190 FERC ¶ 61,037, at P 2 (2025) (outlining the transmission planning requirements imposed by Order No. 1920).

98 *See* Order No. 1920 at P 1617 (discussing IMM's comments in favor of an independent transmission monitor) and P 1648 (holding that requests for an independent transmission monitor were outside the scope of the proceeding); *see also* Comments of Potomac Economics, Ltd., Docket No. RM21-17-000,

Commission largely affirmed its findings in Order No. 1920.[99] In issuing Order No. 1920-A, the Commission again considered and rejected arguments that called for the expansion of existing independent market monitoring functions or creating an independent transmission monitor.[100]

As discussed in the Policy Statement and Order No. 719, market monitors—like Potomac—are charged with monitoring the performance of wholesale markets, identifying ineffective tariff provisions and market design elements, and reporting on market performance and participant conduct to the applicable authorities.[101] As the Commission held in Order Nos. 1920 and 1920-A, transmission providers—like MISO—are charged with conducting long-term planning for regional transmission facilities.[102] Critically absent from the Policy Statement, Order Nos. 719, 1920, and 1920-A, is any mention of the market monitors engaging in the transmission planning process and receiving payment for such engagement.

The lack of unilateral authority for Potomac to engage in transmission planning and monitoring activities and to be compensated for those services aligns with MISO's core functions as an RTO and the provisions of the Tariff and the IMM Agreement.[103]

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at p. 6 (Aug. 3, 2022) ("In the final rule, establishing requirements in RTO/ISO markets for independent transmission system monitoring of the transmission planning process and related costs would by highly beneficial."); Comments of Potomac Economics, Ltd., Docket No. RM21-17-000, at p. 9 (Oct. 12, 2021) ("Establishing requirements in RTO/ISO markets for independent transmission system monitoring of the transmission planning process and related costs would by highly beneficial.").

99 Order No. 1920-A, 189 FERC ¶ 61,126 at P 2.

100 *See* Request for Rehearing of the Industrial Customer Organizations, Docket No. RM21-17-000, at p. 28 (Jun. 12, 2024) (collecting comments filed in support of an independent transmission monitor and asserting that Order No. 1920 failed to engage those arguments); Order No. 1920-A at P 858.

101 *See* Policy Statement at PP 1-2; Order No. 719 at P 5.

102 *See* Order No. 1920 at P 2; Order No. 1920-A at PP 1-2; *see also Wilderness Line Holdings, LLC*, *supra* at P 2.

103 *See* 18 C.F.R. § 35.34(k)(7) (2025).

Consistent with the Commission's directives, MISO has engaged in transmission planning, in conjunction with interested stakeholders, while the IMM has monitored the performance of the MISO markets. As Module D makes clear, the IMM's mission is to ensure that MISO is complying with the Plan, such as by protecting consumers and Market Participants by identifying and reporting market design flaws and market power abuses.[104] Transmission planning, however, is a core MISO function that is outside of the IMM's specific rights or obligations under the Tariff. The Commission should apply its precedent here, find that the IMM's roles and responsibilities are constrained by the Tariff, and hold that MISO is not obligated to reimburse Potomac for its unsolicited transmission planning and monitoring activities.

C. An Independent Transmission Monitor Would Require Different Skills than an Independent Market Monitor.

Potomac lacks authority to serve as a transmission monitor or undertake similar functions under the Tariff and Commission precedent for the reasons set forth above. Setting those limitations aside, the role of an independent transmission monitor—if one were to be implemented in the MISO region—would require different skills and core competencies than an IMM. Among other skills, an independent transmission monitor would need to: (1) understand FERC requirements and MISO Board guidance related to transmission planning; (2) be familiar with the NERC requirements and definitions regarding reliability in the planning horizon; and (3) have independent experience or a partnership with state and Load Serving Entities regarding Integrated Resource Planning. Potomac has not been required to demonstrate that it has the prerequisite skills to be an

[104] Module D, Section I.

independent transmission monitor, and its comments to date reflect a lack of requisite expertise to be a transmission monitor.

Many of Potomac's noted disagreements with MISO's futures and LRTP focus on planning policies that are beyond the scope or control of MISO's authority. Specifically, MISO relies on guidance from FERC and the MISO Board of Directors as it fulfills its RTO transmission system expansion planning obligations. The MISO Board principles are reviewed every other year with OMS, stakeholders, and the System Planning Committee of the Board of Directors. These principles require (in part) MISO to "develop transmission plans that will enable a reliable and resilient transmission system," "support federal, state, and local energy policy and member plans" and "analyze an appropriate range of system scenarios."[105] These principles were constructed with prior Commission orders, such as Order No. 1000, and also align with the requirements in Order Nos. 1920 and 1920-A.

The principles diverge from the Potomac's comments that long term planning with anticipated future generation or other speculative factors is inappropriate, that changes in demand are unpredictable, and that transmission investment should only occur to the extent the savings of reducing congestion are larger than the investment costs.[106] In aggregate,

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[105] *See e.g.*, MTEP 2023 Report at p. 2, *available at* https://cdn.misoenergy.org/MTEP23%20Executive%20Summary630586.pdf (last visited May 6, 2025).

[106] Reply Comments of Potomac Economics, Ltd., Docket No. RM21-17-000, at pp. 3-4 (Nov. 11, 2021). *See e.g.*, Order No. 1920 at PP 80, 181, and 259. The Commission disagreed with Potomac's view that transmission investment should only occur to the extent the savings of reducing congestion are larger than the investment costs on the benefits of transmission, stating "We disagree with Potomac Economics' arguments that the sole benefit of transmission is alleviating congestion and that congestion is primarily an economic issue, so investment in alleviating congestion should not exceed the benefit of doing so. ... As discussed infra in the Evaluation of the Benefits of Regional Transmission Facilities section alleviating congestion is just one of many potential benefits that transmission infrastructure provides, and transmission benefits beyond solving congestion are considered by transmission providers in regional transmission planning processes today." *See* Order No. 1920 at P 123 FN 313.

this describes a position from Potomac that focuses on and advocates for near term planning, creating an incomplete viewpoint and platform to independently assess any transmission planning approach. Such a viewpoint, if applied to MISO's planning processes would limit the ability to conduct long-term planning or select a range of appropriate solutions, as long-term solutions may have an 8-10 year construction timeline.

Additionally, auditing transmission planning processes requires a robust understanding of federal, state, and local transmission planning requirements and frameworks, including the NERC Transmission Planning standards. The MTEP process relies on this foundation, both through the expertise of MISO Staff, and through the expertise nested within stakeholder community, and especially within our states and Transmission Owners. This regional, state, and local partnership is key, as the OMS provides key input into study assumptions and purposes prior to each MTEP cycle and through input to the guiding principles, and Transmission Owners: (1) are responsible for operating and maintaining their transmission facilities and for meeting NERC, state, and/or federal rules and obligations; (2) are responsible for meeting the reliability needs of all loads connected to the Transmission Owner's transmission facilities; (3) are directly responsible for meeting the local needs and will be held accountable by state regulators if such needs are not adequately addressed; and (4) know the details of the equipment that is being operated, the maintenance required, and risks that need to be mitigated with performance. No single entity, including Potomac, currently possesses this depth of expertise or insight for the entire MISO footprint simultaneously.

Finally, the advice of the IMM reaches into recommending changes to Integrated Resource Plans. The MISO region is largely comprised of vertically integrated utilities,

that have the fiduciary and regulatory responsibility to serve load obligations as determined by their respective Relevant Electric Retail Regulatory Authority ("RERRAs"). The responsibility of these utilities is overseen by the RERRAS within MISO, providing a solid framework that considers multiple parameters to determine the optimum resource plan and siting. For example, in its comments on LRTP, Potomac recommended changes to generation used in MISO's Futures, framing it as a critique of MISO's expansion or processes but also impacting member plans, siting, and goals without recognizing this impact. In contrast, when MISO develops 20-year out resource plans, it begins with resource plans provided directly by its members. MISO then creates a total resource forecast, inclusive of these member plans, shaped by system economics and member goals, and seeks feedback from members on the locations of these resources. Potomac's recommendations would alter members' plans and would be contrary to members' goals.

The examples provided above: (1) underlie a key dichotomy between market monitoring, which focuses on the near-term economic functions and uses recent behavior to recommend improvements, and long-term planning, which is nested in consideration of the resource plans and policies created by states and Load Serving Entities, in NERC reliability requirements and requires processes that accept and hedge against uncertainty; and (2) demonstrate that different skills and core competencies would be required for an independent transmission monitor.

D. Independent Evaluation of Cost-Benefit Analyses of LRTP.

The MTEP, including the LRTP, is a proven, transparent, and independent process that includes rigorous analyses to ensure that each portfolio will provide significant estimated benefits. MISO's benefit analyses are subject to a robust and transparent

stakeholder review process, with opportunities for stakeholders from all sectors to participate and provide recommended changes. These recommended changes are considered by MISO and some are implemented. The ultimate result is subject to review and approval by MISO's Board of Directors. Outside of MISO's Chief Executive Officer, all members of the MISO Board of Directors are independent, and their nomination and election are the result of a transparent and MISO stakeholder-led process.[107] The credibility of the MTEP process and the projects that are produced by it derive from MISO's execution of the Commission-accepted, Tariff-prescribed process that MISO has been executing even before the first Multi-Value Projects were approved in 2010.

Notwithstanding the above, and as discussed earlier in this Petition, MISO recognizes the concerns expressed by the Potomac and some stakeholders regarding the cost-benefit analyses undertaken for the LRTP. MISO also continually assesses opportunities to enhance all of its processes and procedures, including its planning process. Therefore, to ensure the LRTP's benefit calculation methodologies are substantiated and provide additional information for stakeholders, MISO commits to engaging an independent third party to assess and validate the sufficiency of processes used to capture the value of transmission and to evaluate the key metrics used to define the benefits in the cost-benefit analyses undertaken. This assessment will be used to inform the LRTP processes on a prospective basis and will be performed periodically.

MISO appreciates that the costs of new transmission projects, while commensurate with the size of the infrastructure required to enable member and state plans, as well as ensure future reliability, may be significant and understands the additional scrutiny and

[107] The Board Nominating Committee includes two stakeholders.

information provided by the third-party assessment will aid stakeholders in their evaluations, as well as MISO. To the extent the third party has recommendations on how the cost-benefit analysis methodologies can be improved, MISO may consider proposed modifications in a collaborative fashion with stakeholders.

V. COMMUNICATIONS

All notices and communications with respect to this proceeding should be directed to:

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VI. DOCUMENT SERVICE

MISO has served a copy of this filing electronically, including attachments upon all Tariff Customers, MISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, as well as all state commissions within the region. The filing has been posted electronically on MISO's website at https://www.misoenergy.org/legal/ferc-filings/ for other parties interested in this matter.

VII. CONCLUSION

As demonstrated in this Petition, the unsolicited transmission planning and monitoring activities undertaken by Potomac are outside the scope of Potomac's engagement under the Tariff and, therefore, MISO is not obligated to compensate Potomac for such activities. The unsolicited actions have led to concerns from some stakeholders and challenge the efficient implementation of the transmission planning process.

WHEREFORE, MISO respectfully requests that the Commission issue a declaratory order providing that Potomac lacks authority to monitor and oversee MISO's transmission planning process under the Tariff and, further, that MISO is not obligated under the Tariff to compensate Potomac for costs and expenses related to the IMM's unsolicited monitoring and oversight of MISO's transmission planning process.

Respectfully submitted,

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Document Content(s)

Petition for Declaratory Order.pdf.....1