

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

Citizens Energy Task Force and)	
Save Our Unique Lands,)	
)	
Complainants,)	
)	
v.)	Docket No. EL13-49-000
)	
Midwest Reliability Organization (MRO);)	
Midwest Independent Transmission System)	
Operator, Inc. (MISO); and as Applicants)	
for the CapX2020 Hampton - La Crosse)	
Transmission Project Xcel Energy, Inc.)	
(Northern States Power Company, a)	
Wisconsin Corporation, Northern States Power)	
Company, a Minnesota Corporation, d/b/a Xcel)	
Energy); Great River Energy, a Minnesota)	
Cooperative Corporation; Dairyland Power)	
Cooperative, a Wisconsin Public Power Inc., a)	
Wisconsin corporation,)	
)	
Respondents)	

**MOTION TO INTERVENE AND COMMENTS
OF THE MISO TRANSMISSION OWNERS**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and the Commission’s March 1, 2013 Notice of Complaint, the MISO Transmission Owners¹ file this Motion to Intervene and Comments in response to the

¹ The MISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Duke Energy Corporation for Duke Energy Indiana, Inc.; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; (continued . . .)

March 1, 2013 Complaint (“Complaint”) of Citizens Energy Task Force and Save Our Unique Lands (“CETF,” “SOUL,” and collectively, “CETF/SOUL”) against Midwest Reliability Organization (“MRO”), Midwest Independent Transmission System Operator, Inc. (“MISO”), and the following parties as Applicants for the CapX2020 Hampton - La Crosse Transmission Project (“Hampton - La Crosse Project” or the “Project”² and “CapX2020 Applicants”): Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc. (collectively, “Xcel Energy”); Great River Energy (“GRE”); Dairyland Power Cooperative (“Dairyland”); and Wisconsin Public Power Inc. (“WPPI”). The Hampton - La Crosse Project was approved by MISO as part of the MISO Transmission Expansion Plan (“MTEP”) over four years ago, and the Commission should not take steps that undermine prior MTEP determinations, especially in light of the fact that the approval of subsequent projects in subsequent MTEPs is based on the presumption that that projects that were approved in earlier MTEPs will be built.

(. . . continued)

International Transmission Company d/b/a ITC*Transmission*; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency (“SMMPA”); Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc. Individual MISO Transmission Owners may file separate comments or pleadings in this proceeding.

² CETF/SOUL also refer to this project as the Hampton - Rochester - La Crosse Project.

I. BACKGROUND

The Hampton - La Crosse Project is part of the CapX2020 Group I projects. The project was approved by the MISO Board of Directors (“MISO Board”) in Appendix A of MISO’s 2008 MTEP Report as a Baseline Reliability Project, Project ID 1024,³ with Xcel Energy, Dairyland, Rochester Public Utilities, SMMPA, and WPPI being designated as the entities responsible to own, construct, and/or finance the Project.⁴ The Project will be located in Wisconsin and Minnesota, and received a Certificate of Public Convenience and Necessity from the Wisconsin Public Service Commission and a Certificate of Need and Routing Permits from the Minnesota Public Utilities Commission.⁵ CETF and SOUL are advocacy groups that have opposed the various CapX2020 projects.⁶ CETF participated in the Wisconsin and Minnesota certification proceedings for the Project, and has sought judicial review of the agency decisions granting the certificates.⁷

While the chronology set forth in the Complaint is less than clear, CETF/SOUL allege that studies released in March 2009, along with an Xcel Energy/GRE press release issued in April 2009, indicated that construction of the Hampton - La Crosse Project will require further transmission system upgrades to ensure reliability and prevent instability,

³ *MTEP08 Midwest ISO Transmission Expansion Plan 2008* (“MTEP08”), Midwest Independent Transmission System Operator, Inc., 6 (November 2008), <https://www.midwestiso.org/Planning/Pages/StudyRepository.aspx>; *id.*, Appendix A at 25 (listing the projects that have been approved by the MISO Board for construction).

⁴ *Id.*, Appendix A at 25.

⁵ Complaint at 8.

⁶ *Id.* at 3-4.

⁷ *Id.* at 3.

and that an extension to connect to the 345 kV grid further east will be necessary.⁸ CETF/SOUL claim the Hampton - La Crosse Project will contribute to or cause instability of the electrical system, and the CapX2020 Applicants, MISO, and MRO have improperly focused on capacity expansion and ignored reliability.⁹ CETF/SOUL request that the Commission find that the addition of the Hampton - La Crosse Project is prohibited because they claim it contributes to and/or causes system instability and that MRO has neglected its duty to preserve the reliability of the system, and request that the Commission revoke MISO's approval of the Hampton - La Crosse Project.¹⁰

II. MOTION TO INTERVENE

Under the Commission's rules, intervention is appropriate where "[t]he movant has . . . an interest which may be directly affected by the outcome of the proceeding." 18 C.F.R. § 385.214(b)(2)(ii). The MISO Transmission Owners are a group of investor-owned transmission owners, stand-alone transmission owners, cooperatives, and municipals that own transmission facilities over which MISO provides transmission service. As stated above, the Complaint involves serious allegations against MISO and MRO and includes a request that the Commission revoke MISO's approval of the Hampton - La Crosse Project in MTEP08. As transmission owners within MISO who are subject to, and participate in, the MTEP process, each of the MISO Transmission Owners

⁸ *Id.* at 12-19.

⁹ *Id.* at 8-9, 20-23.

¹⁰ *Id.* at 8-9. CETF/SOUL also requested that the Commission issue an Order to Show Cause requiring MRO, MISO, and CapX2020 Applicants to demonstrate that the Project's addition does not contribute to and/or cause system instability. *Id.* at 1-2.

may be affected by the outcome of this proceeding. Consequently, each of the MISO Transmission Owners has a direct interest in this case that cannot be adequately represented by any other party. Therefore, the Commission should allow the intervention of each MISO Transmission Owner.

The MISO Transmission Owners request that the Commission place the following individuals on the official service list for these proceedings:

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III. COMMENTS

The Hampton - La Crosse Project was approved in November 2008 as part of MTEP08, more than four years before the Complaint was filed. While the MISO Transmission Owners anticipate that MISO and the entities served with the Complaint will respond to the factual allegations raised in the Complaint, the MISO Transmission Owners are concerned that allowing a challenge to an MTEP determination at this late date, more than four years after it was made, will introduce uncertainty and increased project risk into the MTEP process. This in turn can inhibit efficient, cost-effective project execution, and the development of necessary transmission.

CETF/SOUL's allegations involve studies that were issued after MTEP08 was approved by the MISO Board and do not in any way show that MISO acted improperly in approving the Project that was before its Board of Directors in November 2008. MISO is an independent entity that has no incentive to favor one transmission solution over

another or over non-transmission solutions. Moreover, CETF/SOUL fail to explain why they did not challenge MISO's approval of the Project earlier, for example, when the studies they claim identified potential reliability problems were issued. Approval of a project in MTEP obligates the designated Transmission Owner or Owners to construct the project,¹¹ and MISO's evaluation and approval of projects in later MTEPs is premised upon the completion and operation of projects approved in earlier MTEPs.¹² Allowing a party to challenge MISO's approval of a project years after the fact would introduce substantial risk and uncertainty into the project development, siting, and construction processes, and the process of obtaining the necessary state and other regulatory approvals. There would be significant delays in the construction of critical projects approved through MTEP if the approval of other projects approved in prior MTEP cycles could be revoked after the fact, that could be detrimental to reliability and could result in increased costs to Transmission Customers. This could include delays in projects such as

¹¹ See Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation, Appendix B, Section VI ("Transmission Owners Agreement") (setting forth a Transmission Owners' right and obligation to construct transmission facilities); MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff, Attachment FF, Section V (stating each MTEP is to designate the Transmission Owners to construct, own and/or finance an approved project).

¹² See *Am. Transmission Co. LLC v. Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,090, at P 55 (2013) ("*ATC Order*") (stating that "[i]n order to plan future projects, MISO's planning cycles necessarily assume that previously-approved projects in its models will be in operation even if they have not yet been placed in service.").

the La Crosse - Madison Line, which was approved in a later MTEP,¹³ and which even CETF/SOUL implicitly acknowledge may address some of the reliability and other concerns identified in the Complaint.¹⁴ In addition, the resulting uncertainty and increased risk would inhibit the ability for the Transmission Owners to proceed to enter binding contracts to build the needed transmission, and could cause investors to view a project as more risky, which can increase the project's financing costs.

IV. CONCLUSION

For the foregoing reasons, the MISO Transmission Owners request that the Commission grant their Motion to Intervene in this proceeding and consider these Comments.

¹³ The La Crosse - Madison Project was approved by the MISO Board in the 2011 MISO Transmission Expansion Plan as part of Project ID 3127. *See MISO Transmission Expansion Plan 2011* ("MTEP11"), Midwest Independent Transmission System Operator, Inc., Table 4.1-3 (December 2011), <https://www.midwestiso.org/Planning/TransmissionExpansionPlanning/Pages/MT-EP11.aspx>.

¹⁴ Complaint at 23-24. While CETF/SOUL point to statements made by Xcel Energy in another proceeding that the Hampton - La Crosse and La Crosse - Madison Projects are separate projects, the issue in that proceeding concerned whether they were separate projects from purposes of determining ownership under the Transmission Owners Agreement, not whether both projects would function for reliability purposes as part of the same integrated transmission grid. *See ATC Order* at PP 1, 5-6.

Respectfully submitted,

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March 21, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 21st day of March, 2013.

/s/ David S. Berman
David S. Berman

**Attorney for the
MISO Transmission Owners**