

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 3

LA CROSSE COUNTY

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**TOWN OF HOLLAND,**

Petitioner,

Case No. 15-CV-219  
30607 Administrative Agency Review  
Including former La Crosse County  
Case No. 15-CV-379

v.

Honorable Todd Bjerke

**PUBLIC SERVICE COMMISSION  
OF WISCONSIN,**

Respondent.

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**BRIEF  
BY  
INTERVENOR-RESPONDENT MIDCONTINENT INDEPENDENT  
SYSTEM OPERATOR, INC.**

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## **I. INTRODUCTION**

The Final Decision of the Public Service Commission of Wisconsin (“Commission”) under review in this appeal should be affirmed by the Circuit Court. There is no basis upon which this Court should change, modify, remand or otherwise disturb the specialized and technical determinations of the Commission. Intervenor-Respondent Midcontinent Independent System Operator, Inc. (“MISO”) submits this Brief in support of its position, having previously filed a Notice of Appearance and a Statement of Position on the Amended Petition for Review (“Petition”).

The underlying subject of the Final Decision is construction of the Badger-Coulee 345 kilovolt (“kV”) Transmission Line Project (“Project” or “Badger-Coulee Project”) that is part of a broader MISO Transmission Expansion Plan (“MTEP”) for 2011.<sup>1</sup> The Badger-Coulee Project was re-evaluated in 2014 in an analysis that further supports its importance.<sup>2</sup> The Town of Holland (“Petitioner”) seeks judicial review of a Final Decision by the Commission that granted a Certificate of Public Convenience and Necessity (“CPCN”) to American Transmission Company, Northern States Power Company, a Wisconsin corporation, Dairyland Power Cooperative, WPPI Energy, and SMMPA Wisconsin, LLC (collectively, “Applicants”).

## **II. MISO PERFORMS TRANSMISSION SYSTEM PLANNING**

MISO is an independent, not-for-profit regional transmission organization under the supervision of the Federal Energy Regulatory Commission (“FERC”) and other federal

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<sup>1</sup> Direct-MISO-Rauch-9 (R.365(39):9) (“approved by the MISO Board of Directors on December 8, 2011 as part of MISO’s MTEP 11”).

<sup>2</sup> *Id.* at 36-39 (R.365(39):36-39).

authorities that (among other matters) is responsible for ensuring that the regional (multi-state) transmission system is reliably planned to provide for existing and expected use of that transmission system.<sup>3</sup> MISO performs collaborative planning processes for the regional transmission system with its transmission-owning members and other stakeholders (including regulatory authorities, public consumer advocates, environmental representatives, end use customers, and independent power producers<sup>4</sup>) while independently assessing regional transmission needs.<sup>5</sup>

MISO is the “independent system operator” for Wisconsin, as identified under Wis. Stat. § 196.485(1)(d) and § 196.485(1)(ds), whose initial authorization from FERC took place on September 16, 1998.<sup>6</sup> MISO achieved regional transmission organization (the more current term for an independent system operator) status in 2001.<sup>7</sup> Federal regulations require such organizations to satisfy numerous requirements, including being “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.”<sup>8</sup> Approval by MISO’s independent Board of

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<sup>3</sup> *Id.* at 12 (R.365(39):12) (discussion of planning framework, including the requirements under FERC Order Nos. 890 and 1000 to develop a collaborative transmission plan).

<sup>4</sup> *Id.* at 31 (R.365(39):31).

<sup>5</sup> *Id.* at 4 (R.365(39):4) (“performs planning functions collaboratively . . . while also providing an independent assessment”).

<sup>6</sup> *See, e.g.*, Wis. Stat. § 196.485(1)(ds) (“order issued on September 16, 1998” by the “federal energy regulatory commission”).

<sup>7</sup> *See, e.g.*, FERC Docket Nos. RT01-87-001, *et al.*, Order Granting RTO Status and Accepting Supplemental Filings at 1 (2001) (“grant Midwest ISO’s RTO status”).

<sup>8</sup> CFR Chapter 1, Subpart F (“Procedures and Requirements Regarding Regional Transmission Organizations”), Section 35.34(k)(7).

Directors for inclusion of a project in MTEP<sup>9</sup> is the means by which MISO requires transmission utilities to “expand the portion of the electric transmission system that is in this state [of Wisconsin]” after MISO determines “that there is a need for additional transmission facilities in this state.”<sup>10</sup> MISO provides its reliability and market services over 65,700 miles of transmission lines in fifteen states and one Canadian province, operating from the Ohio-Indiana line in the east to eastern Montana in the west, and south to New Orleans.<sup>11</sup>

Laura Rauch, a MISO transmission planning expert, testified concerning the objectives of the MISO planning process, consistent with federally mandated (*i.e.* FERC) planning principles:<sup>12</sup>

Consistent with these planning principles, the objectives of the MTEP process are (i) to identify transmission system expansions that will ensure the reliability of the transmission system that is under the operational and planning control of MISO, (ii) to identify expansion that is critically needed to support the reliable and competitive supply of electric power by this system, and (iii) to identify expansion that is necessary to support energy policy mandates in effect within the MISO footprint.

MISO collaborative planning process identified the Badger-Coulee Project as one that ensures the continued existence of a reliable and economic transmission system in Wisconsin and the surrounding region. The Badger-Coulee Project is also an important link in the transmission

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<sup>9</sup> See, *e.g.*, Direct-MISO-Rauch-6 & 9 (R.365(39):6 & 9).

<sup>10</sup> Wis. Stat. § 196.485(3)(a). The MISO Board’s approval directed the transmission owners to act with due diligence to construct the Project. Direct-Applicants-Burmester-12 & 13 (R.365(13):12-13.).

<sup>11</sup> Direct-MISO-Rauch-3 (R.365(39):3). In 2013, the “Midwest Independent Transmission System Operator” was renamed the “Midcontinent Independent System Operator,” recognizing an increased scope of operations that reaches New Orleans, Louisiana.

<sup>12</sup> *Id.* at 12-13 (R.365(39):12-13).

system that is needed to support public policy requirements that have driven increased reliance on renewable energy.

### **III. THE PROJECT WAS IDENTIFIED IN THE MISO TRANSMISSION PLANNING PROCESS**

MISO supported approval of a CPCN for the Badger-Coulee Project before the Commission, which included pre-filed and live testimony by a MISO transmission planning expert. The Badger-Coulee Project is an important part of MISO’s Multi-Value Project (“MVP”) portfolio of transmission upgrades for the MISO region.<sup>13</sup> The MVP portfolio is a group of transmission projects distributed across the regional transmission system whose expansion is overseen by MISO. After an extensive, multi-year, collaborative planning effort that included information provided by transmission owners, state regulatory personnel, and other stakeholders, the MVP portfolio was approved as part of MTEP for 2011.<sup>14</sup> The MVP portfolio was re-evaluated in 2014, as part of a federally-approved MVP Triennial Review process, which reaffirmed the importance of the MVP portfolio using updated information.<sup>15</sup> MISO witness Laura Rauch testified that the updated review in 2014 “found that the MVP portfolio will

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<sup>13</sup> MISO’s MVP process and portfolio is generally the subject Direct-MISO-Rauch-15 through 22 (R.365(39): 15-22). Results and analyses concerning the entire portfolio are presented in an exhibit to Laura Rauch’s testimony. Ex.-MISO-Rauch-1 (R.317) (“Multi Value Project Portfolio, Results and Analyses”).

<sup>14</sup> *Id.* at 17 and 19 (R.365(39):17 & 19).

<sup>15</sup> *Id.* at 36-39 (R.365(39):36-39). The MVP Triennial Review Report is an exhibit to the Direct Testimony of Laura Rauch. Ex.-MISO-Rauch-3 (R.319) (“MTEP14 MVP Triennial Review: A 2014 review of the public policy, economic, and qualitative benefits of the Multi-Value Project Portfolio, August 2014”).

produce \$17.3 to \$59.6 billion in present value adjusted production cost benefits (2014 dollar terms), an increase of 22 to 44 percent from the original MTEP 2011 valuation.”<sup>16</sup>

A strong record was presented to the Commission by Applicants, MISO, and others that provided evidence to support all elements stated in Wis. Stat. § 196.491(3)(d).<sup>17</sup> As summarized above, the need for the Project was identified through a deliberate, collaborative stakeholder process, which included the design and planning of transmission projects through a structured, multi-year planning process. Transmission planning engineer and MISO expert witness Laura Rauch stated at the hearing:<sup>18</sup>

The overall goal for the MVP portfolio analysis was to design a transmission portfolio that takes advantage of the linkages between local and regional reliability and economic benefits to promote a competitive and efficient electric market within MISO. The portfolio was designed using reliability and economic analyses, applying several Future Scenarios to determine the robustness of the designed portfolio under a number of potential energy policies.

The MVP portfolio that resulted from this extensive process includes the Badger-Coulee Project’s new 345 kV transmission line stretching from La Crosse to Madison. Applicants presented extensive analyses showing the need for the Project that supported the Commission’s Final Decision that granted the CPCN.

#### **IV. THE PROJECT IS NEEDED**

Petitioner misconstrues the MISO transmission planning process, Wisconsin CPCN law, and the evidence presented in support of the CPCN. Petitioner states that a “[p]roject warranting

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<sup>16</sup> *Id.* at 38 (R.365(39):38).

<sup>17</sup> Expert testimony supporting the need for the Project was presented by Permittees ATC and NSPW, the Staff of the Public Service Commission (“Staff”), Clean Energy Intervenors (“CEI”) (composed of Wind on the Wires, Fresh Energy, and Izaak Walton League – Midwest Office), and MISO.

<sup>18</sup> Direct-MISO-Rauch-19 & 20 (R.365(39):19-20).

a Certificate under the CPCN statute must demonstrate that it is required in order to ‘satisf[y] the need for an ‘adequate supply of electric energy’ [under Wis. Stat. § 196.491(3)(d)2].”<sup>19</sup> Petitioner is wrong when it further states that “the Project does not resolve, and was never directed at such problems” as “potential N-2 contingencies or other ‘adequate supply’ problems.”<sup>20</sup> As stated in the previous section of this Brief, the Project was planned to recognize linkages between local and regional transmission reliability. MISO’s transmission planning process investigates potential transmission projects to re-balance the transmission system when its studies show that elements of the transmission system are stressed, or overloaded.

MISO witness Rauch testified that “the Badger Coulee project solves overloads near the 345 kV path from King to Werner West, and it also solves a number of overloads stretching down the southwest side of Wisconsin, from North La Crosse to Nelson Dewey.”<sup>21</sup> Specifically, MISO witness Rauch testified that the following overloads on transmission facilities during contingency conditions will be mitigated by the Badger-Coulee Project:<sup>22</sup>

The highest loaded Bulk Electric System (“BES”) elements that experienced violations under Category B conditions are \* \* \*

- Werner – Rocky Run 345 kV line
- North La Crosse – Mayfair 161 kV line

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<sup>19</sup> Petitioner Initial Brief at 15.

<sup>20</sup> *Id.* at 18.

<sup>21</sup> Direct-MISO-Rauch-27 (R.365(39):27).

<sup>22</sup> *Id.* at 27-28 (R.365(39):27-28). A copy of Appendix E4 of the MTEP 11 report that shows the constraints is an exhibit to the Direct Testimony of Laura Rauch. Ex.-MISO-Rauch-2 (R.318). The identified BES elements consist of transmission lines and transformers located in the central to eastern half of Wisconsin. For example, the “Werner - Rocky Run 345 kV line” is a high-voltage transmission line running from the Werner substation near New London, Wisconsin to the Rocky Run substation located in Stevens Point, Wisconsin.

- North La Crosse – La Crosse Tap 161 kV line
- Seneca – Genoa 161 Kv {sic} line
- Hydro Lane 161 / 115 kV transformer
- Arpin 345 / 138 kV transformer
- Adams 345 / 161 kV transformer

The resolution of these reliability issues was important in the MISO transmission planning process that included the Badger-Coulee Project in MTEP for 2011.

Petitioner states that under Wis. Stat. § 196.491(3)(d)2, the Project should be evaluated “under reasonably foreseeable, albeit unusual, problematic conditions.”<sup>23</sup> Petitioner is wrong when it further states that the “the standards that embody those conditions were not implicated here.”<sup>24</sup> The record contains testimony that the Project responds to public policy as stated in the renewable portfolio standards of Wisconsin and its neighboring states.<sup>25</sup> Those policies have driven the expansion of wind development in the Midwest region,<sup>26</sup> and new wind generation projects are waiting for completion of the MVP portfolio of transmission projects.<sup>27</sup>

MISO transmission planning also considered the need to provide Wisconsin with an adequate supply of electricity under scenarios where additional limitations on carbon emissions exist,<sup>28</sup> a need that took a step forward when the United States Environmental Protection Agency

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<sup>23</sup> Petitioner Initial Brief at 2.

<sup>24</sup> *Id.*

<sup>25</sup> Direct-MISO-Rauch-33 & 35 (R.365(39):33 & 35); *accord*, Direct-CEI-Goggin-27 (R.365(28):27). Wis. Stat. § 196.378 (Wisconsin renewable portfolio statute).

<sup>26</sup> Rebuttal-MISO-Rauch-2 (R.365(73):2) (“driven by the public policy mandates of the states, not merely the low cost nature of wind energy”).

<sup>27</sup> Direct-MISO-Rauch-41 (R.365(39):41) (“Generator Interconnection Agreements” and “Generation Interconnection studies [for applications]”).

<sup>28</sup> *Id.* at 32 (R.365(39):32).



(“U.S. EPA”) promulgated its environmental rules to reduce carbon emissions in June 2014.<sup>29</sup> According to MISO witness Rauch, if such “environmental regulation leads to the retirement of some coal-fired plants, transmission investment through the MVP portfolio, including the Badger Coulee project, provides a robust transmission supply that will be available to provide needed support to maintain reliable service.”<sup>30</sup> MISO transmission planning that identified the Project as part of MTEP included reasonably foreseeable conditions for the adequate supply of electricity to Wisconsin.

## V. CONCLUSION

MISO respectfully requests that the Circuit Court affirm the Final Decision that granted a CPCN to Applicants. The timely construction of the Project is important for the ability of the transmission system in Wisconsin to continue to provide reliable service and economic benefits to Wisconsin.

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<sup>29</sup> Carbon Pollution Emission Guidelines, 40 C.F.R. Part 60 (June 18, 2014). These rules are under review on appeal. *See e.g., West Virginia v. EPA*, Order in Pending Case 15A773 (February 9, 2016) (staying U.S. EPA “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units”).

<sup>30</sup> Direct-MISO-Rauch-35 (R.365(39):35). CEI testimony also addresses the possibility that the Project could assist Wisconsin in meeting U.S. EPA requirements. Direct-CEI-Goggin-5 through 7 (R.365(28):5-7). *Accord*, Direct-Applicants-Burmester-32 through 33 (R.365(13):32-33).

Respectfully submitted this 12th day of August, 2016.

Electronically signed by Warren J. Day  
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**CERTIFICATE OF SERVICE**

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I hereby certify that on August 12, 2015 I served by E-filing or U. S. Mail and e-mail, a true and correct copy of the Midcontinent Independent System Operator's Brief in this action to the following attorneys:

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