

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

Midcontinent Independent
System Operator, Inc.

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Docket No. EL25-80-000

**COMMENTS
OF THE INDEPENDENT MARKET MONITOR FOR PJM**

Pursuant to Rules 211 and 212 of the Commission’s Rules and Regulations,¹ Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (“Market Monitor”) for PJM Interconnection, L.L.C. (“PJM”), submits these comments responding to the petition for declaratory order filed by the Midcontinent Independent System Operator, Inc. (“MISO”) on May 7, 2025 (“Petition”) attempting to curtail the market monitoring activities of Potomac Economics (“Potomac”) the independent market monitor (“IMM”) for MISO. The Petition claims (at 3–4): “[B]eginning in 2023, MISO and MISO members identified that Potomac was expanding the scope of its activities by initiating unsolicited monitoring, evaluations, and analyses of MISO’s Long Range Transmission Planning (“LRTP”), as well as advocating for its positions, while seeking reimbursement for these activities from MISO.” The Petition requests a declaratory order determining that (i) “transmission planning and monitoring activities” of MISO’s Independent Market Monitor (“Potomac”) are outside the scope of Potomac’s engagement under MISO’s Open-Access Transmission Tariff (“MISO Tariff”); and that (ii) MISO is not

¹ 18 CFR § 385.211 & 212 (2024).

obligated to “reimburse” Potomac for such “transmission planning and monitoring activities.”

The Petition improperly frames the relief sought, blending “transmission planning” with “monitoring activities,” and requesting that both be determined outside of Potomac’s purview. The Petition does not show that Potomac has ever engaged in transmission planning. No one argues that Potomac should have responsibility for MISO’s transmission planning.

Monitoring activities, including those related to monitoring transmission planning, are within the proper scope of the market monitoring function. The compound phrasing of the Petition’s request for relief, so that it includes both “transmission planning and monitoring activities,” willfully confuses the question presented.

The Petition represents an unreasonable intrusion into Potomac’s independent role. Module D of the MISO Tariff describes the market monitoring role broadly, which is consistent with protecting Potomac’s independence. Potomac should have significant discretion to independently implement its monitoring approach. The Petition is an attempt to interfere with the market monitoring function and avoid appropriate scrutiny of MISO decisions that may result in significant costs assigned to customers, costs that dwarf Potomac’s budget.

Regional Transmission Organizations (“RTOs”) like MISO exist in order to implement the Commission’s policy to rely on competitive wholesale power markets to create just and reasonable rates. The transmission system that MISO plans is a fundamental part of the competitive wholesale power market in MISO. The transmission system cannot be separated from the integrated wholesale power market. At the margin, transmission and generation are substitutes, transmission significantly affects the energy market, including congestion, power flows and prices, and transmission significantly affects the capacity market. Potomac performs the market monitoring function for MISO, and Potomac has the fundamental purpose to protect the public interest in competition. Potomac cannot perform

its proper function while ignoring MISO's transmission planning activities. Monitoring transmission planning is within the proper scope of Potomac's monitoring activities.

The requested relief should be denied. An order on the Petition should instead find that monitoring transmission planning is squarely within the proper scope of market monitoring as set forth in the MISO Tariff and related Commission precedent. Potomac should be encouraged to continue its monitoring of transmission related issues as part of its core functions and therefore compensated for its monitoring activities. Before filing the Petition, the MISO Board instructed MISO to eliminate payment to Potomac for monitoring transmission planning. Withholding compensation in order to control the market monitoring function violates the independence of that function. An order on the Petition should confirm that Potomac should be paid for all market monitoring activities, including monitoring related to transmission planning.

I. COMMENTS

A. Potomac's Monitoring Activities Are Explicitly Authorized by the MISO Tariff.

The Petition asserts (at 19), that "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." The Petition continues (*id.*), "MISO, as an RTO, is already tasked with independently addressing transmission planning, expansion, and upgrade issues within the MISO region." Potomac, the Petition states, "acts much more in the nature of an independently retained auditor of market functions." The Petition misstates the role of the IMM as a mere auditor in an effort to trivialize the IMM's role.

The Petition states (at 29): "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. [footnote omitted] Transmission planning, however, is a core MISO function that is outside of the IMM's specific rights or obligations under the Tariff."

Module D, the section of the MISO tariff that authorizes MISO's market monitoring function, broadly defines market monitoring. Section 53.1 states: "The IMM will achieve the purposes and objectives of this Plan through review and analysis of conditions, functions or actions affecting the competitiveness, economic efficiency and proper operation of the Markets and Services." Section 53.1c specifically includes monitoring "[t]he provision of Transmission Services and rights by the Transmission Provider" among the purposes and objectives of the plan. Section 53.1e of Module D directs Potomac to monitor and evaluate "any other Transmission Provider [MISO] or Market Participant actions governing or affecting any of the Markets and Services." The Petition does not and cannot show that MISO's transmission planning does not affect "the competitiveness, economic efficiency and proper operation of the Markets and Services."

Module D decides the issue raised in the Petition. Monitoring transmission planning is clearly within the scope of Potomac's defined role. Potomac's activities are fully consistent with the Petition's example of authorized activities (at 29), including "protecting consumers and Market Participants by identifying and reporting market design flaws and market power abuses."

The Petition improperly conflates implementing the rules, and criticizing the rules and the implementation of the rules. No one alleges that Potomac is responsible for planning the MISO transmission system. The Petition does not and cannot show that Potomac has engaged in transmission planning.

The Petition (at 30) cites to Potomac positions to which MISO objects, including Potomac making recommendations "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." In addition to being eminently reasonable, these recommendations are clearly within the scope of the IMM's defined responsibilities. The Petition states (at 29–30) that Potomac adopts a position that "focuses on and advocates for near term planning" which, in MISO's view "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.” While not clearly explaining what is meant, the Petition confuses Potomac having the right to state and support a position with Potomac having the authority to direct MISO’s activities. While MISO may not agree with them, these recommendations are clearly within the scope of the IMM’s defined responsibilities.

Potomac makes recommendations but does not make final decisions or implement transmission planning. The Petition reveals that MISO’s concern is not that Potomac is planning the MISO system. MISO’s concern is that Potomac advocates an approach to transmission planning that MISO does not like. The point of Potomac’s independence is to allow it to be critical of MISO’s approach as needed and to recommend alternative positions. The role of an Independent Market Monitor is not to echo MISO’s positions or to reinforce the status quo.

An order on the Petition should confirm that Potomac’s monitoring of transmission planning is squarely within the broad mandate included in the Module D.

B. MISO Is Required to Fund the Market Monitoring Function.

Before filing the Petition, before obtaining a determination of the Commission that its view of the scope of Module D is correct and consistent with the Commission policy, the MISO Board instructed MISO to eliminate payment to Potomac for monitoring transmission planning. Withholding compensation in order to control the market monitoring function

violates the independence of that function. The Tariff requires MISO to fund its IMM.² The Commission's rules require that MISO fund the IMM.³

An order on the Petition should require MISO to compensate Potomac for its independent monitoring of transmission planning.

C. Potomac's Activities Are within the Scope of the Commission's Directives and Precedent.

The Petition asserts Potomac's actions are neither supported by the Commission's 2005 Policy Statement on Market Monitoring Units,⁴ nor Order No. 719.⁵ The Policy Statement clarifies the IMM's role (at P 7):

[T]he MMU should evaluate the effectiveness of the markets in signaling needed investment in generation, transmission, and demand response infrastructure. Market signals for additional investment are only valuable to customers to the extent that the signals can reasonably result in the needed market investment response. Thus, it is imperative that the MMU also identify any potential barriers that may impede the market's ability to provide needed investments. In all instances, the MMU should be proactive in recommending changes to the ISO/RTO.

² See Module D § 54.1 ("For purposes of carrying out its responsibilities under this Plan, the IMM shall have access to data or other information gathered or generated by the Transmission Provider in the course of its operations and shall have access to the resources and personnel of the Transmission Provider to enable the IMM to carry out its functions.").

³ See *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 328 (2008) ("We also adopt the NOPR proposal that RTOs and ISOs include provisions in their tariffs: (1) obliging themselves to provide their MMUs with access to market data, resources and personnel sufficient to enable them to carry out their functions; (2) granting MMUs full access to the RTO or ISO database; and (3) granting MMUs exclusive control over any MMU-created data. Without the proper tools, it would be impossible for MMUs to perform their functions."), *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009), *reh'g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

⁴ Petition at 26 & n.91, citing 111 FERC ¶ 61,267 (2005) ("Policy Statement").

⁵ Petition at 26–27, citing *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071 (2008).

The MISO IMM's recommendations related to transmission planning concern whether investment in transmission structure is needed and consistent with accurate market signals. The MISO IMM is doing what the Policy Statement requires.

The authorities relied upon by MISO show that Potomac should not do transmission planning. No one argues that Potomac should do transmission planning. The Petition does not show that Potomac has engaged in or sought compensation for monitoring activities not squarely within the Market Monitor's purview.

The Petition cites to cases and administrative decisions including dicta relating to the scope of the activities of the market monitoring function, none of which involve monitoring transmission planning, limiting the scope of monitoring activities or set relevant binding precedent.⁶ None of the cases cited support granting the Petition.

An order on the Petition should confirm that Potomac's monitoring transmission planning is consistent with Commission precedent explaining the scope of the market monitoring function.

D. Potomac's Activities Are Not Activities Reserved for an Independent Transmission Monitor.

The Commission has contemplated and is contemplating the creation of an independent transmission monitor ("ITM") function.⁷ Both Potomac and the Market

⁶ See Petition at 17–18, citing *Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1233 (D.C. Cir. 2018) (*ODEC*) (directed participation as amici curiae rather allowing intervention as a party in *ODEC*'s appeal of a FERC decision denying its request for retroactive waiver of tariff provisions barring its recovery of costs); *Stony Creek Wind Farm, LLC*, 187 FERC ¶ 63,014, at P 23 n.30 (2024) (order reported settlement as contested by the IMM while criticizing the IMM's position as "attenuated"; the settlement is currently pending); *Del. Div. of the Pub. Advocate v. FERC*, 3 F.4th 461, 469 (D.C. Cir. 2001) ("held that PJM IMM 'is a neutral entity that oversees compliance with PJM's market rules.'"); *Pub. Serv. Comm'n of W. Va. v. PJM Interconnection*, 186 FERC ¶ 61,163, at P 85 (Mar. 1, 2024) (held that the PJM market monitor failed to show that PJM violated its Tariff by excluding the market monitor from a Liaison Committee meetings.).

⁷ See *Preventing Undue Discrimination & Preference in Transmission Service*, Order No. 890, 118 FERC P 61,119 at P 567, *order on reh'g*, Order No. 890-A, 121 FERC P 61,297 (2007), *order on reh'g*, Order No.

Monitor have supported the ITM in concept and have supported expanding the duties of current market monitors to include the transmission monitoring function because the rationale is that the functions have overlapping requirements.⁸ The addition of an ITM that is not independent, as MISO prefers, (see discussion of third party assessment at 32–34) would be worse than useless because it would create an illusion of independence.

The Petition alleges that Potomac is performing activities that would belong to an ITM and not the market monitoring function. The Petition cites (at 23) to a statement by Potomac that “while market monitors do monitor transmission issues in the operating horizon, our scope is generally limited in the planning horizon.”⁹ The Petition identifies (at 29–31) some of the skills that an ITM would need, including skills needed to engage in transmission planning. The Petition states (at 29) that Potomac lacks these skills, and, thus, lacks a basis for certain criticisms that Potomac has made of the MISO transmission planning process.¹⁰ The Petition states (at 23): “Although there may be a small overlap

890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (“Order No. 890”); *Building for the Future Through Electric Regulatory Transmission Plan. & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068, *order on reh’g*, Order No. 1920-A, 189 FERC ¶ 61,126 (2024) (“Order No. 1920”).

⁸ See Comments of the Independent Market Monitor for PJM, Docket No. RM21-17-000 (August 22, 2022) at 16–23; Comments of Potomac Economics, Ltd., Docket No. RM21-17-000 (August 3, 2022) at 6–8.

⁹ Petition at 23, citing Reply Comments of Potomac Economics, Ltd., Docket No. RM21-17-000 (Nov. 11, 2021) at 2.

¹⁰ Petition at 29 (“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.”).

At 30–31: 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

between the two, it is not accurate to argue that the current market monitoring scope includes the [ITM] scope proposed by the Commission.” That position has not been asserted by Potomac.

MISO apparently disagrees with Potomac’s position, and is entitled to state its reasons, including criticisms of the technical basis for Potomac’s position. MISO’s ability to continue to do transmission planning is not affected by Potomac’s ability to critique the way in which it does so.

The Petition states (at 33), notwithstanding the contents of the 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.

With this statement, the Petition concedes that Potomac has not usurped MISO’s role in transmission planning. MISO continues to have responsibility for transmission planning. Potomac is providing assessments to which MISO has the discretion to respond. The Petition is really about MISO’s effort to avoid Potomac’s independent criticism. Rather than respond to criticism, MISO prefers to attempt to prevent the Independent Market Monitor from providing its analysis of the MISO approach and to engage an “independent third party” whose role will be to “assess and validate the sufficiency of its processes.” The

constructed with prior Commission orders, such as Order No. 1000, and also align with the requirements in Order Nos. 1920 and 1920-A. }

implied assertion that the IMM is not independent is belied by the Petition. MISO already has that independent party, the IMM. MISO appears to want something other than an independent opinion.

MISO does not need to have its decisions rubber stamped. MISO needs a vigorous and independent market monitoring function. MISO should not be permitted through the Petition to degrade the IMM's independence or to degrade its activities. The Petition should be denied, and Potomac's independence and role in monitoring transmission planning should be affirmed.

An order on the Petition should confirm the importance of the independence of MISO's market monitoring function.

E. Summary

An order on the Petition should find that monitoring transmission planning is squarely within the proper scope of market monitoring as set forth in the MISO Tariff and related Commission precedent. Potomac should be encouraged to continue its monitoring of transmission related issues as part of its core functions.

An order on the Petition should confirm that Potomac's monitoring transmission planning is squarely with the broad mandate include in the Module D.

An order on the Petition should require MISO to compensate Potomac for its independent monitoring of transmission planning, past and going forward.

An order on the Petition should confirm that Potomac's monitoring transmission planning is consistent with Commission precedent explaining the scope of the market monitoring function.

An order on the Petition should confirm the importance of the independence of MISO's market monitoring function.

II. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to these comments as it resolves the issues raised in this proceeding.

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Dated: June 13, 2025

Respectfully submitted,



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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 Eagleville, Pennsylvania,
this 13th day of June, 2025.



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