

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Conference on Competition in  
Wholesale Power Markets

Docket No. AD07-7-000

PREPARED STATEMENT OF JOSÉ DELGADO,  
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Panel 3  
Enhancing the Responsiveness of RTOs and ISOs

Thank you for the opportunity to participate in this Conference. The topic of our panel is strategies for enhancing the responsiveness of RTOs and ISOs, a topic that is near and dear to my heart. As a regulated public utility, American Transmission Company's number one responsibility is to meet the public need by ensuring that the transmission network remains adequate and secure, and thus reliable. The Midwest ISO is our partner in providing this essential service. I firmly believe that we need to revisit the governance structure of MISO so that it can continue to contribute, along with its members, to meet the public need for a reliable transmission network<sup>1</sup>.

In the late 1990's I was among the utility executives that worked for many months to get the Midwest ISO filed, approved and running. After its initial start up, many of us have spent significant additional time and effort to help MISO get up to full operational capability, expand its membership and remain viable. In summary, I was an early

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<sup>1</sup> My comments refer to MISO specifically because that has been our focus and experience. I suspect that the concerns and suggestions are applicable to other RTOs. Others must decide.

proponent of MISO and I still am. It is in this frame of reference that I present these comments.

When we formed MISO, we envisioned a regional transmission operator that would enhance the reliability of the grid by coordinating and supplementing the work of the local transmission control operators. We counted on MISO's extensive footprint and wide view of the network to help us handle the loop flows ("phantom flows", some called them) bedeviling the Upper Midwest network since the advent of transmission open access. As I have often expressed it, "none of us was big enough to know who was doing what to whom," and we needed a regional entity to do just that. MISO states that maintaining reliability of the wholesale bulk electric system in the Midwest is their core responsibility. I couldn't agree more. The added role as operator of an energy market might be considered a significant distraction from the original mission of MISO. However, I want to point out that the joint generation dispatch resulting from the implementation of the Day 2 market has provided enormous reliability benefits, virtually eliminating the need for TLRs.

In brief, after a slow and sputtering start, MISO's performance as a regional reliability coordinator and operator is now excellent. I would say it is everything we hoped it would be, and it will get better. I will not comment on the performance of the MISO energy market, given that our company does not participate in it. I will simply note that the cost/benefit ratio of the Day 2 market has not been convincingly demonstrated to state regulators and to utility members, and this remains a critical issue to those stakeholders. But I will stress again the significant reliability benefits of joint generation dispatch.

It is apparent that as time goes on, there has been a “scope creep” in the duties and responsibilities of MISO, and that in the mind of some of the stakeholders these new duties overshadow the importance of the original “core responsibilities.” The pressure to expand duties emanates from two sources both well intended but, in my opinion, misguided. On the one hand are the stakeholders who look at MISO as a convenient place to hang new duties that others do not want to do. On the other is the internal tendency to take on new duties “because we can do them.” This internal tendency to scope creep is evident in MISO’s recent strategic planning process, which refers to the addition of products and services.

While the development of new services might be attractive and possible, I will argue that the core operating responsibilities and functions of the organization are enormous and must have total dedication and focus. Some will say that MISO can “walk and chew gum at the same time,” but I must respond that MISO’s operating duties are far from a “walk.” In fact, as noted earlier, there are considerable concerns about the value of the market, and system operations are a continuously evolving challenge. I suggest that strict adherence to and focus on a clear corporate mandate is essential for the success of MISO<sup>2</sup>. As a result, many of its stakeholders, particularly state regulators and utilities serving retail loads, believe MISO has engaged in the development and implementation of products and services without regard to compatibility with MISO’s original purpose and without a credible cost benefit analysis.

These concerns threaten the viability of MISO as state regulators question whether MISO’s increasing costs are justified by the benefits it brings to consumers and

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<sup>2</sup> The value of single minded attention to a clear goal is well illustrated by the experience of INPO, an industry organization that has been highly successful in carrying out a very narrow, but important and challenging mandate.

consequently whether utilities should be allowed to recover those cost in retail rates.

Obviously, if utilities cannot recover MISO costs they will seek to leave MISO as quickly as possible. Further loss of membership would limit the effectiveness of MISO, increase its costs to individual members and provoke a “race to the door” that would ultimately destroy the organization.

I am convinced that these concerns point to two weaknesses, both affecting MISO governance; one is **focus**, the other **accountability**. We designed MISO to be governed by an independent eight-member Board of Directors. Seven independent directors are elected by the membership, with the eighth director being the MISO president. From the outset, these positions have been filled by highly capable, dedicated individuals who have spent significant time and effort to push MISO forward. While the independence feature was intended to prevent the appearance of discrimination and preferential treatment, it eliminated from the board room the voice of current and “real world” utility issues, concerns and priorities.

To address the present concerns regarding focus and accountability, I advocate changing MISO’s current board to a hybrid board by adding at least three directors who are CEO-level executives of MISO member retail utility companies<sup>3</sup>. When MISO was created, a hybrid board proposal would have been dead on arrival, given all the concerns about removing roadblocks to open access. However, with the benefit of hindsight and the experience of years, these concerns can be addressed and the necessity for a hybrid board can be established.

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<sup>3</sup> I would propose at least two-year terms for the utility directors. They should be elected by the members and should be representative of the geographic diversity and ownership type of MISO’s utility members.

## **Why only utility members and not other stakeholders?**

MISO and other RTOs are voluntary organizations; utilities that bear most of the costs of MISO are free to join and free to leave. Furthermore, retail utilities must justify those costs to state regulators or risk loss of recovery<sup>4</sup>. Like it or not, MISO cannot justify its own costs to state regulators. This is the responsibility of the individual retail utilities that must do that by demonstrating a beneficial balance of costs and benefits. If they cannot justify the costs, they have a right and the obligation to pull their companies out of MISO. Concretely, their accountability gives utility member CEOs a unique and very sobering perspective about the scope of functions and the costs of MISO, which is missing on the board today. Other member CEOs do not share that exposure or responsibility.

I would add **credibility—for MISO**—as a more intangible but equally valid benefit of having three active utility CEOs on the MISO board. That credibility would extend to the whole population of member utility CEOs who share in the same accountability and authority for MISO membership vis a vis state regulators and consumers.

## **How can MISO be independent with a hybrid board?**

The independence of MISO would not be compromised with a hybrid board. First, the majority of directors would remain independent and the majority rules. Second, the MISO board provides its governance in a very open environment that prevents manipulation. And, third, if MISO is as strongly focused on its mandate of operations as it should be, there will be fewer distractions and controversies. I speak about the value of

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<sup>4</sup> Transmission-only companies like ATC are positioned very differently. They bear a relatively small portion of MISO's costs, and recovery of these costs are included in FERC rates.

hybrid boards from personal experience as the President and CEO of American Transmission Company. Our company has had a hybrid board since its inception, and the board has always upheld the corporate mandate for independence from all users. To the satisfaction of all observers, ATCLLC has always acted independently while benefiting from the support, experience and expertise of utility and non-utility board members.

### **In Summary**

The establishment of a hybrid board at MISO by the addition of three member utility CEOs as board members is the single most effective action that can be taken to address the appearance of loss of focus and accountability that threatens the survival of the organization. The Commission can address this issue by approving the establishment of hybrid boards through issuance of a policy statement and through proceedings before the Commission.

Thank you.