170 FERC ¶ 61,241
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Midcontinent Independent System Operator, Inc. Docket Nos. ER20-857-000
ER20-858-000

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued March 20, 2020)

1. On January 21, 2020, in Docket No. ER20-857-000, pursuant to section 205 of the Federal Power Act (FPA)[1] and section 35.13 of the Commission's regulations,[2] Midcontinent Independent System Operator, Inc. (MISO) and the MISO Transmission Owners[3] (collectively, Filing Parties) filed proposed revisions to Attachment FF and

[1] 16 U.S.C. § 824d (2018).

[2] 18 C.F.R. § 35.13 (2019).

[3] For the purpose of this order, the MISO Transmission Owners consist of: Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company and Ameren Transmission Company of Illinois; American Transmission Company LLC; Arkansas Electric Cooperative Corporation; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; East Texas Electric Cooperative; Entergy Arkansas, LLC Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy New Orleans, LLC; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indianapolis Power & Light Company; Lafayette Utilities System; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; and Southern Minnesota Municipal Power Agency.

new Attachments FF-7 and FF-8 to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). The stated purpose of these revisions is to modify, expand the identification of, and the cost allocation for, transmission facilities that provide regional and local economic benefits within the MISO footprint. Filing Parties made a concurrent filing pursuant to FPA section 205 with changes to the Agreement of Transmission Facilities Owners to Organize the MISO, A Delaware Non-Stock Corporation (MISO TO Agreement), in Docket No. ER20-858-000, to incorporate the proposed changes to the Tariff.[4] In this order, we reject the MISO Regional Filings because Filing Parties have not shown that the proposed cost allocation method for Local Economic Projects is just and reasonable. We also provide guidance on how Filing Parties might refine their proposal if they choose to make a new filing with the Commission.

I. Background

A. Market Efficiency Projects

2. In Order No. 1000,[5] the Commission, among other things, established new requirements for regional transmission planning and cost allocation, and enacted reforms addressing non-incumbent transmission developer participation in the regional transmission planning process. MISO and the MISO transmission owners submitted a series of compliance filings to implement these requirements, which the Commission ultimately accepted.[6] In those filings, MISO relied on two categories of transmission projects with associated Order No. 1000 regional cost allocation methods—Market

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[4] We refer to both filings together as the MISO Regional Filings.

[5] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[6] MISO Filing, Docket No. ER20-857-000, at 8-9 (filed Jan. 21, 2020) (Tariff Filing) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 (2014); *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 (2013); and *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER13-187-010 (Mar. 31, 2015) (delegated order)).

Efficiency Projects[7] and Multi-Value Projects.[8] Most relevant to this order are Market Efficiency Projects.

3. Currently, to qualify as a Market Efficiency Project, a transmission project must cost at least $5 million and consist of facilities that have voltages of 345 kV or higher that constitute more than 50% of the combined project costs. Additionally, in order to be selected in the MTEP, a Market Efficiency Project must have a total regional benefit-to-cost ratio of at least 1.25-to-1, with benefits measured using an Adjusted Production Cost Savings metric. If MISO selects a Market Efficiency Project in the MTEP, the project is then subject to MISO's Competitive Developer Selection Process, under which qualified developers submit bids to construct the Market Efficiency Project. MISO designates the winning developer to construct the project and that developer, whether an incumbent or a non-incumbent, is then eligible to use the Market Efficiency Project regional cost allocation method. The current Market Efficiency Project cost allocation method assigns 20% of the cost of a Market Efficiency Project on a postage stamp basis across the entire MISO footprint and 80% of the costs to Cost Allocation Zones[9] based on each zone's proportion of the Adjusted Production Cost Savings.

B. Local Transmission Projects

4. In Order No. 1000, the Commission recognized the potential for local transmission facilities to be included in a regional transmission plan for informational purposes. It defined a local transmission facility as "a transmission facility located solely within a public utility transmission provider's retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation."[10] MISO includes two types of local transmission facilities in the MTEP—Baseline Reliability Projects and "Other Projects." Baseline Reliability Projects are network upgrades

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[7] A Market Efficiency Project is a network upgrade that provides market efficiency benefits to one or more Market Participants, but not found by MISO to be a Multi-Value Project, and that provides sufficient market efficiency benefits to justify inclusion in the MISO Transmission Expansion Plan (MTEP). MISO Tariff, Module A, §1.M, Definitions – M. *See also* MISO Tariff, Attachment FF, § II.B.

[8] A Multi-Value Project is one or more network upgrades that address a common set of Transmission Issues and satisfy the conditions listed in Sections II.C.1, II.C.2, and II.C.3 of Attachment FF. MISO Tariff, Attachment FF, § II.B

[9] A Cost Allocation Zone is a zone identified in Attachment WW of the MISO Tariff that is used for allocating the costs of Market Efficiency Projects. MISO, FERC Electric Tariff, Module A, § II.1.C, Definitions-C (62.0.0).

[10] Order No. 1000, 136 FERC ¶ 61,051 at PP 63-64.

operating at 100 kV or above that are needed in order to comply with reliability obligations.[11] The Other Projects category is for projects that do not fall into any other category of transmission projects but that MISO nonetheless includes in the MTEP.[12] Because Baseline Reliability Projects and Other Projects are not selected in the regional transmission plan for purposes of cost allocation,[13] they are not eligible to use the MISO regional cost allocation methods. Instead, 100% of the costs of Baseline Reliability Projects and Other Projects are allocated to the zone where the project is physically located. In addition, Baseline Reliability Projects and Other Projects are not subject to the Competitive Developer Selection Process.

C. Northern Indiana Public Service Company Complaint

5. On September 11, 2013, Northern Indiana Public Service Company (NIPSCO) filed a Complaint (NIPSCO Complaint) against MISO and PJM Interconnection, L.L.C. (PJM), asking the Commission to require MISO and PJM to reform the MISO-PJM Joint Operating Agreement (MISO-PJM JOA) interregional transmission planning process based, in part, upon allegations of insufficient selection and development of interregional transmission projects between these two regions.[14] On April 21, 2016, the Commission

[11] Baseline Reliability Projects are network upgrades identified in the MTEP as required to ensure the Transmission System is in compliance with applicable national Electric Reliability Organization reliability standards and reliability standards adopted by Regional Entities and applicable to MISO transmission owners' planning criteria filed with federal, state, or local regulatory authorities, and applicable federal, state and local system planning and operating reliability criteria. MISO Tariff, Module A, § 1.B, Definitions – B.

[12] *See* MISO Tariff, Attachment FF, § III.A.2.k ("Other Projects: Unless otherwise agreed upon pursuant to Section III.A.2.a. of this Attachment FF, the costs of Network Upgrades that are included in the MTEP, but do not qualify as Baseline Reliability Projects, New Transmission Access Projects, Targeted Market Efficiency Projects, Market Efficiency Projects, or Multi-Value Projects shall be eligible for recovery pursuant to Attachment O of this Tariff by the Transmission Owner(s) and/or ITC(s) paying the costs of such project, subject to the requirements of the [MISO TO Agreement].").

[13] A transmission facility selected in a regional transmission plan for purposes of cost allocation is one that has been selected pursuant to a Commission-approved regional transmission planning process (such as MISO's MTEP) as a more efficient or cost-effective solution to regional transmission needs. Order No. 1000, 136 FERC ¶ 61,051 at P 313.

[14] NIPSCO Complaint, Docket No. EL13-88-000 (filed Sept. 11, 2013).

issued an order granting, in part, and denying, in part, the NIPSCO Complaint, and requiring MISO and PJM to make compliance filings.[15] Among other things, the Commission directed MISO to revise the Market Efficiency Projects thresholds that apply to MISO-PJM interregional economic transmission projects by: (1) lowering the minimum voltage threshold to 100 kV; and (2) removing a $5 million minimum cost requirement.[16]

6. On January 19, 2017, the Commission issued the NIPSCO Compliance Order, which denied requests for rehearing and granted requests for clarification, in part, of the NIPSCO Complaint Order, and conditionally accepted MISO and PJM's compliance filings, subject to further compliance. Among other things, the Commission found that MISO's proposed revisions complied with the directive to revise the Market Efficiency Project thresholds that apply to qualify as an interregional economic transmission project by lowering the minimum voltage threshold to 100 kV and by removing the $5 million minimum cost requirement. However, the Commission found that MISO did not address what regional cost allocation method should apply to MISO's share of the cost of an interregional economic transmission project operating above 100 kV but below the original threshold of 345 kV. Accordingly, the Commission directed MISO to submit a further compliance filing:

> to either confirm that the existing Market Efficiency Project cost allocation method will apply to MISO's share of the cost of interregional economic transmission projects above 100 kV but below 345 kV that qualify as Market Efficiency Projects or to propose tariff revisions to apply a different regional cost allocation for MISO's share of the cost of such projects.[17]

D. <u>February 2019 Regional Filing and 2019 Regional Order</u>

7. On February 25, 2019, Filing Parties proposed changes to MISO's Tariff in Docket Nos. ER19-1124-000 and ER19-1125-000 to: (1) add two benefit metrics to allow for the expanded identification of Market Efficiency Projects and a more precise allocation of Market Efficiency Project costs; (2) lower the minimum voltage threshold

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[15] *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator,* 155 FERC ¶ 61,058 (2016) (NIPSCO Complaint Order).

[16] *Id.* P 129.

[17] *N. Ind. Pub. Serv. Co. v. Midcontinent Indep. Sys. Operator*, 158 FERC ¶ 61,049, at PP 50-51 (2017) (NIPSCO Compliance Order) (together with the NIPSCO Complaint Order, the NIPSCO Orders).

for Market Efficiency Projects; (3) establish a limited exemption to the Competitive Developer Selection Process for Immediate Need Reliability Projects; and (4) adopt the Local Economic Project category of projects with an associated cost allocation method.[18]

8. On June 24, 2019, the Commission rejected these filings and found that Filing Parties had not demonstrated that the proposed cost allocation method for Local Economic Projects was just and reasonable.[19] In particular, the Commission found the proposed Local Economic Project metrics analysis, which would have required Local Economic Projects to meet a region-wide 1.25-to-1 or greater benefit-to-cost ratio *and* a local 1.25-to-1 or greater benefit-to-cost ratio in each Transmission Pricing Zone[20] in which the Local Economic Project would be located, to be at odds with Filing Parties' proposed Local Economic Project cost allocation method, which would only allocate costs to the Transmission Pricing Zone(s) where the project would be located.[21] The Commission concluded that Filing Parties' proposal to more precisely calculate the distribution of regionwide benefits for Local Economic Projects and then ignore these results in order to allocate the costs only to the Transmission Pricing Zone(s) where the project is located was inconsistent with the cost causation principle.[22] Although, with the exception of one aspect of Filing Parties' Immediate Need Reliability Project proposal, as discussed further below, the Commission did not express concerns with the other aspects of the 2019 Regional Filings, the Commission found that the fact that Filing Parties presented the 2019 Regional Filings as a comprehensive package necessitated rejection of both filings as a whole.[23] The Commission provided guidance, however, on how Filing Parties might refine their proposal if they chose to make a new filing with the Commission.[24]

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[18] Tariff Filing at 6.

[19] *Midcontinent Indep. Sys. Operator, Inc.*, 167 FERC ¶ 61,258, at P 56 (2019) (2019 Regional Order).

[20] Transmission Pricing Zones are the pricing zones that MISO uses to allocate revenues for services, such as Reactive Supply and Voltage Control. MISO, FERC Electric Tariff, Module A, § II.1.T, Definitions-T (38.0.0).

[21] 2019 Regional Order, 167 FERC ¶ 61,258 at P 56.

[22] *Id.* PP 62-63.

[23] *Id*. P 66.

[24] *Id.* P 1.

II. Filings

9. On January 21, 2020, Filing Parties submitted the MISO Regional Filings, which they state incorporate the Commission's findings and guidance in the 2019 Regional Order. Filing Parties state that the MISO Regional Filings adopt the elements of the 2019 Regional Filing that the Commission found reasonable while making appropriate modifications to the Local Economic Project cost allocation method to ensure that it is consistent with the Commission's cost allocation principle and other applicable requirements..[25] Filing Parties indicate that the proposed changes to MISO's Tariff are aimed at increasing the likelihood of identifying and approving more economically beneficial projects in MISO's transmission planning process, allocating costs to beneficiaries with greater precision, and increasing transparency. Specifically, Filing Parties propose to: (1) add two benefit metrics to allow for the expanded identification of Market Efficiency Projects and more precise allocation of Market Efficiency Project costs; (2) lower the minimum voltage threshold for Market Efficiency Projects; (3) establish a limited exemption to the Competitive Developer Selection Process for Immediate Need Reliability Projects; and (4) adopt the Local Economic Project category of projects with an associated cost allocation method.[26] Filing Parties state that their proposal is a comprehensive package of reforms and that the Commission should accept this package as just and reasonable.[27]

10. Filing Parties state that the package of enhancements proposed here is the culmination of a MISO stakeholder effort begun in 2015.[28] Through various working groups, MISO and its stakeholders identified issues, evaluated alternatives, and developed solutions to several issues regarding Market Efficiency Projects. Filing Parties state that the proposed Tariff revisions are the result of compromise through the stakeholder process.[29]

11. Concurrent with these two filings, Filing Parties also filed proposed Tariff changes in Docket No. ER20-862-000 that, among other things, create a new Interregional Economic Projects category for interregional projects with PJM. As explained in greater detail below, many of the proposed Tariff revisions discussed

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[25] Tariff Filing at 3-4.

[26] *Id*. at 5-6.

[27] *Id.* at 6.

[28] *Id.* at 11-12.

[29] *Id.* at 12.

in the instant order would apply to Interregional Economic Project reforms proposed in the filing for interregional projects.

A. Local Economic Projects Category

12. Filing Parties propose to create a new category of projects called Local Economic Projects, which will be economic transmission projects at or above 100 kV and below 230 kV. Filing Parties state that the current MISO Tariff lacks a specific project category and criteria for locally-beneficial economic projects and instead these projects are currently classified as Other Projects.[30] Filing Parties explain that, historically, when MISO identified an economically driven project that did not meet the Market Efficiency Project criteria, that project was placed into the Other Project category in the MTEP.[31] However, the Other Project category is a broadly defined category, which covers projects in the MTEP that do not belong in other defined categories.[32] Filing Parties assert that a Local Economic Project category establishes clear and transparent criteria for review.[33]

13. Filing Parties state that costs for these economic Other Projects are currently allocated to the individual Transmission Pricing Zone where the project is located. For the new Local Economic Project category, Filing Parties propose to measure benefits by using the same three benefit metrics that they propose for Market Efficiency Projects—Adjusted Production Cost Savings, Avoided Reliability Project Costs, and MISO-SPP Settlement Agreement Costs (discussed further below). Filing Parties propose that, for purposes of qualification as a Local Economic Project, MISO shall apply the three benefit metrics and sum the results together to determine the economic benefits of a Local Economic Project to each Transmission Pricing Zone in which the Local Economic Project is located.[34] MISO will then employ a benefit-to-cost ratio and only projects that meet a benefit-to-cost ratio of 1.25-to-1 or greater in each Transmission Pricing Zone in which the Local Economic Project is located will be included in the MTEP as Local

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[30] *Id.* at 5.

[31] *Id.* at 35.

[32] *Id.*

[33] *Id.* at 35-36.

[34] MISO Tariff, Attach. FF, § II.G.1 (73.0.0).

Economic Projects.[35] Filing Parties propose to allocate 100% of the costs of Local Economic Projects to the Transmission Pricing Zone(s) in which the project is located.[36] Filing Parties state that MISO costs associated with the MISO-SPP Settlement Agreement will be allocated to applicable Local Resource Zones as defined in the MISO-SPP Settlement Agreement, and costs to those applicable Local Resource Zones then will be disbursed to the respective Transmission Pricing Zones within the Local Resource Zone. Filing Parties state that for the purposes of Local Economic Projects, only the reduction in cost associated with the Transmission Pricing Zone where the project is physically located will be applied to justify the project in the benefit-to-cost test.[37]

14. Filing Parties state that, since Local Economic Projects are primarily designed to provide economic benefits at the local level, the cost allocation of such projects will be identical to the existing cost allocation for economic Other Projects. Thus, responsibility to construct, own, and operate Local Economic Projects will reside with the Transmission Owner(s) whose zone(s) to which the Local Economic Project is connected.[38]

15. Filing Parties assert that the Local Economic Project category and associated cost allocation are just and reasonable. They argue that the new project category provides a clear description of economically beneficial projects that are not Market Efficiency Projects.[39] Further, Filing Parties argue that the inclusion of a local Transmission Pricing Zone benefit-to-cost ratio test ensures that the allocation of costs is roughly commensurate with the benefits received and consistent with the current cost allocation method.[40] Filing Parties also assert that the creation of the Local Economic Project

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[35] Tariff Filing at 5, 36; MISO Tariff, Attach. FF, § II.G.1.d (73.0.0). There are currently 12 Cost Allocation Zones, which typically follow state jurisdictional boundaries. Most Cost Allocation Zones are divided into two or more Transmission Pricing Zones, and there are currently 32 Transmission Pricing Zones. A map and explanation of the MISO Cost Allocation Zones and Transmission Pricing Zones is available in Attachment WW of the MISO Tariff.

[36] Tariff Filing, Tab A: Moser Testimony at 29.

[37] *Id.*

[38] *Id.* at 43.

[39] Tariff Filing at 35.

[40] *Id.*, Tab A: Moser Testimony at 43-44.

category further supports the goals of Order No. 890[41] as this new category provides clear and distinct criteria to address lower-voltage economic projects that would have normally fallen into the Other Project category. They state that the creation of the Local Economic Project category furthers the Commission's goals of open and transparent processes by removing the current ambiguity in the MISO transmission planning process regarding lower voltage economic projects by making the Local Economic Project category review explicit and the approval criteria clear.[42]

16. Filing Parties state that the proposal responds to the Commission's guidance in the 2019 Regional Order to ensure better alignment of the proposed Local Economic Project with the Commission's cost causation requirements. Filing Parties state that, in the 2019 Regional Order, the Commission rejected the prior Local Economic Project proposal because it required Local Economic Projects to demonstrate both a regional 1.25-to-1 benefit-to-cost ratio and a local 1.25-to-1 benefit to cost ratio for each Transmission Pricing Zone where a Local Economic Project is located.[43] Filing Parties state that the Commission found that subjecting Local Economic Projects to both of these benefit-to-cost ratios would be inconsistent with the cost causation principles. Filing Parties submit that to reflect this holding, they propose to remove the regional benefit-to-cost ratio requirement such that a Local Economic Project must only meet a 1.25-to-1 benefit-to-cost ratio for each Transmission Pricing Zone where it is located. Filing Parties contend that this modification adheres to the cost causation principle because the local transmission pricing zone must receive demonstrable benefits that exceed costs before the Local Economic Project is approved as such and any costs are allocated to the local Transmission Pricing Zone. Filing Parties add that, while the same benefit metrics are used to qualify Local Economic Projects and Market Efficiency Projects, the application of the Adjusted Production Cost Savings Metric, the Avoided Reliability Project Costs metric, and the MISO-SPP Settlement Agreement Cost metric to Local Economic Projects is appropriately adjusted to account for project type differences. In particular, Filing Parties state that Market Efficiency Projects are capable of carrying energy long

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[41] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 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).

[42] Tariff Filing at 42.

[43] *Id.* at 42-43 (citing 2019 Regional Order, 167 FERC ¶ 61,258 at P 56).

distances and benefit the MISO region but, in contrast, to reflect the local nature of Local Economic Projects, cost allocation is to the local Transmission Pricing Zone.[44]

17. In addition, in their filing in Docket No. ER20-858-000, Filing Parties submit revisions to Appendix B of the MISO TO Agreement to clarify that the ownership and responsibilities to construct the Local Economic Project belong to the Transmission Owner whose system to which the Local Economic Project is connected.[45] If the Local Economic Project is connected to two or more Transmission Owners, the responsibility to own and construct the Local Economic Project is split between those Transmission Owners proportionally based on the proportion of the Local Economic Project facilities located in each Transmission Owner's pricing zone.[46] If the Local Economic Project connects a Transmission Owner's system and a system not in MISO, the responsibility for the portion of the project in the MISO footprint belongs to that Transmission Owner. Maintenance responsibilities follow with the ownership obligation.[47] Filing Parties state that this treatment is consistent with the Commission's directives regarding projects with costs allocated to the Transmission Pricing Zone(s) where the facilities are located.[48]

18. Filing Parties state that MISO commits to a triennial review of its cost allocation and will reassess the proposed cost allocation method after a three-year period or sooner. Filing Parties assert that this review will inform MISO and stakeholders on the effectiveness of the proposed changes. Further, the proposed review period will allow time for the proposed changes to be implemented and evaluated and set a clear expectation for stakeholders.[49]

B. Market Efficiency Projects

19. Filing Parties propose to measure benefits and allocate Market Efficiency Project costs to Transmission Pricing Zones by using the current Adjusted Production Cost Savings metric and two new proposed benefit metrics—the Avoided Reliability Project Cost Savings metric and the MISO-SPP Settlement Agreement Cost metric. Filing

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[44] *Id.* at 43.

[45] MISO TO Agreement App. B, § VI (35.0.0).

[46] *Id.*

[47] *Id.*

[48] Tariff Filing at 44 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 at P 441).

[49] *Id.* at 44-45.

Parties explain that the existing Adjusted Production Cost Savings metric measures savings realized from reduced generator start-up, hourly generator no-load, and generating operating reserve costs. Filing Parties state that Adjusted Production Cost Savings can be realized through reductions to both transmission congestion and transmission energy losses. Adjusted Production Cost Savings can also be realized through reductions in operating reserve requirements at both the Transmission Pricing Zone and region level.[50] For Market Efficiency Projects, the Adjusted Production Cost Savings benefits are first calculated for each Cost Allocation Zone. Then, the benefits are allocated to each Transmission Pricing Zone within a Cost Allocation Zone based on its load ratio share.[51]

20. Filing Parties explain that the new Avoided Reliability Project Savings metric will measure the savings realized by transmission customers when a Market Efficiency Project eliminates the need to develop one or more future reliability projects.[52] Filing Parties explain that the applicable Market Efficiency Project will be included in the current year MTEP process to determine if, and which, recommended reliability projects it would obviate the need for. Filing Parties propose that, to be considered an Avoided Reliability Project, the project must be a reliability project that MISO staff recommends that the MISO Board of Directors approve for inclusion in Appendix A of the current MTEP as the preferred solution to address a North American Electric Reliability Corporation (NERC) reliability standard or other localized transmission issue in the current reliability planning cycle.[53] Filing Parties also propose that the avoided reliability project must not be necessary until after the proposed Market Efficiency Project's expected in-service date.[54] Filing Parties state that the benefit amount will be calculated by converting the estimated project cost of the Avoided Reliability Project to a present

[50] *Id.* at 14; *Id*. Tab A: Moser Testimony at 17: Filing Parties state that Adjusted Production Cost Savings are "estimated by modeling the production cost of the base case and alternative transmission system plans and comparing each plan to several possible future economic or operating scenarios."

[51] MISO Tariff, Attachment FF-7 § I.A.1 *(*73.0.0*)*.

[52] Tariff Filing at 15.

[53] Projects approved by MISO's Board of Directors for inclusion in the MTEP thereafter are referred to as "Appendix A" projects.

[54] *Id*.

value of total annualized cost of the first 20 years of project life after the projected in-service date, with a maximum planning horizon of 25 years from the approval year.[55]

21. Filing Parties also propose to add a new MISO-SPP Settlement Agreement Cost metric to assess any changes in annual payments by MISO to SPP pursuant to the MISO-SPP Settlement that could result from the implementation of a Market Efficiency Project.[56] Filing Parties state that this metric will address savings or increased costs resulting from reduced or increased payments pursuant to the MISO-SPP Settlement Agreement by calculating the change in annual payments due from MISO to SPP and the Joint Parties for MISO transfers above the MISO Contract Path Capacity, as defined in the MISO-SPP Settlement Agreement. Filing Parties state that this benefit would be calculated from the in-service date to the first 20 years of the project's life.[57]

22. Filing Parties argue that, by including these two new metrics, MISO will be able to account for broader benefits than under the current single Adjusted Production Cost Savings metric. They state that each of the three benefit metrics would allow MISO to measure a specific value provided by a proposed Market Efficiency Project, with each metric having a specific and unique calculation method tied to that value. Filing Parties assert that, together, the three benefit metrics will allow MISO to more precisely allocate

[55] *Id.* at 15-16 (citing MISO Tariff, Attachment FF-7, § I.B.3(c) (*proposed*)).

[56] The MISO-SPP Settlement Agreement refers to a settlement agreement among Associated Electric Cooperative, Inc. (AECI), Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company, by and through their agent Southern Company Services, Inc. (collectively, Southern Companies), the Tennessee Valley Authority (TVA), Louisville Gas and Electric Company and Kentucky Utilities Company (together, LG&E/KU), PowerSouth Energy Cooperative (PowerSouth), and NRG Energy, Inc. wherein AECI, Southern Companies, TVA, LG&E/KU, and PowerSouth are collectively referred to as the "Joint Parties." Among other things, the MISO-SPP Settlement Agreement provides the terms and conditions under which MISO provides compensation for the use of SPP's and the Joint Parties' transmission systems when MISO's flows on its contract path between the region of its footprint existing prior to Entergy's integration and the region added following Entergy's integration (Contract Path) exceed a certain value. The MISO-SPP Settlement Agreement also provides that payments to SPP and the Joint Parties will be reduced when MISO adds transmission capacity to its Contract Path, and increasing payments when Contract Path capacity is reduced. *Sw. Power Pool, Inc. v. Midcontinent Indep. Transmission Sys. Operator, Inc.*, 154 FERC ¶ 61,021 (2016).

[57] Tariff Filing at 17-18 (citing MISO Tariff, Attachment FF-7, § I.C.2 (*proposed*)).

costs to benefitting loads, assess the magnitude of benefits to beneficiaries, and allocate costs in a manner roughly commensurate with the benefits received.[58]

23. Filing Parties also propose to: (1) lower the minimum voltage threshold to qualify as an Market Efficiency Project from 345 kV to 230 kV; and (2) adopt a more granular cost allocation based on existing and proposed benefit metrics by removing the existing 20% postage stamp portion of the Market Efficiency Project cost allocation and instead allocate 100% of Market Efficiency project costs to the benefiting Transmission Pricing Zones (instead of Cost Allocation Zones).[59]

24. Filing Parties state that lowering the Market Efficiency Project minimum voltage threshold from 345 kV to 230 kV will provide the opportunity for more projects to be considered Market Efficiency Projects (including those that would previously only qualified and Baseline Reliability Projects)[60] and subject to MISO's Competitive Developer Selection Process.[61]

25. Filing Parties explain that their proposal to eliminate the 20% MISO-wide postage stamp allocation is just and reasonable because the addition of the two benefit metrics improve the process of identifying benefits and beneficiaries and allow MISO to assign costs more granularly.[62]

26. Filing Parties also assert that the proposed Market Efficiency Project cost allocation method is consistent with Order No. 1000's six cost allocation principles. First, since 100% of the costs of a Market Efficiency Project are allocated to each Transmission Pricing Zone where load receives a positive net benefit, Filing Parties argue that this method appropriately allocates costs based on benefits received. Second, only Transmission Pricing Zones that receive net positive benefits receive an allocation of Market Efficiency Project costs, which, Filing Parties contend, avoids the involuntary allocation of costs to non-beneficiaries. Third, Filing Parties propose no change to the Market Efficiency Project 1.25-to-1 benefit-to-cost ratio. Fourth, Filing Parties propose to allocate costs solely within the MISO footprint. Fifth, in developing a transparent method for determining benefits and identifying beneficiaries, the proposed Tariff revisions outline the data that MISO will use, the methodology for summing the benefits,

[58] *Id.* at 19-20.

[59] *Id.*

[60] *Id.* at 20.

[61] *Id.* at 21.

[62] *Id.* at 22.

and the allocation of costs. Lastly, Filing Parties assert that MISO will apply the proposed Market Efficiency Project cost allocation method consistently.[63]

C. Immediate Needs Reliability Projects

27. Additionally, Filing Parties propose to create a category of transmission projects called Immediate Need Reliability Projects, which will be exempt from the Competitive Developer Selection Process. As proposed, an Immediate Need Reliability Project is a transmission project that: (1) qualifies as both a Market Efficiency Project and a Baseline Reliability Project; and (2) is necessary to be in service within three years to address a reliability need. Filing Parties assert that, without the exemption, the Competitive Developer Selection Process will potentially delay eligible projects that would address an urgent reliability need.[64]

28. Filing Parties state that MISO will identify Immediate Need Reliability Projects through a Baseline Reliability Study—a well-established, participatory process that it uses for all other Baseline Reliability Projects and that will ensure consistency of approach in identifying both the predicate reliability need and the need-by date.[65]

29. Filing Parties state that the Immediate Need Reliability Projects proposal is similar to the short-term/immediate-need reliability exemptions other Regional Transmission Organizations (RTOs) have adopted through filings the Commission accepted as part of their Order No. 1000-compliant competitive selection processes.[66]

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[63] *Id.* at 23-26.

[64] *Id.* at 28-29.

[65] *Id.* at 29. A Baseline Reliability Study is a study MISO performs as part of the MTEP development to determine whether MISO's system is in compliance with applicable national Electric Reliability Organization reliability standards and reliability standards adopted by Regional Entities and applicable to MISO's or Transmission Owners' planning criteria filed with federal, state, or local regulatory authorities, and applicable federal, state and local system planning and operating reliability criteria, the result of which is the identification of Baseline Reliability Projects. MISO Tariff, Module A – Common Tariff Provisions.

[66] Tariff Filing at 32 (citing *Sw. Power Pool, Inc.,* 144 FERC ¶ 61,059, at PP 197-198 (2013) (finding that "on balance, three years is just and reasonable" (SPP Order)), *order on reh'g and compliance*, 149 FERC ¶ 61,048, at P 166 (2014) (stating that "[w]e find that SPP's proposal complies with the Commission's directive in the First Compliance Order to include the five criteria required to maintain a federal right of first refusal for transmission projects needed to address reliability needs in a shortened time

30. Filing Parties explain that the proposed Immediate Need Reliability Project Tariff revisions largely reflect the five criteria accepted by the Commission for SPP. First, the project must have a need-by date within 36 months.[67] Second, under Filing Parties' proposal, MISO must identify and post an explanation of the reliability violations and system conditions for which there is a time-sensitive need.[68] Third, Filing Parties state that they propose a clear, open, transparent, and non-discriminatory process for identifying Immediate Need Reliability Projects.[69] Fourth, Filing Parties state that the process provides time for stakeholders to comment on the determination of an Immediate Need Reliability Project.[70] Finally, Filing Parties state that MISO will post annual list of prior years' designations of Immediate Need Reliability Projects.[71]

31. Filing Parties state that the 2019 Regional Order held that the proposed Immediate Need Reliability Project revisions in the 2019 Regional Filings conformed to the Commission's criteria with a minor exception. Filing Parties state that in order to address that concern, they are adding an additional criterion to require an explanation of other transmission or non-transmission options that MISO considered but concluded would not sufficiently address the immediate reliability need.[72]

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frame"); *ISO New England Inc.*, 143 FERC ¶ 61,150, at PP 235-241 (2013) ("[W]e find that, on balance, a three-year threshold for assigning a reliability project to a Participating Transmission Owner is just and reasonable."), *order on reh'g and compliance*, 150 FERC ¶ 61,209 (2015); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at PP 247-255 (2013) (finding that "on balance, three years is just and reasonable"), *order on reh'g and compliance,* 147 FERC ¶ 61,128, at PP 194-202 (2014)).

[67] *Id.* at 32-33 (citing SPP Order, 144 FERC ¶ 61,059 at P 196 (stating that "[t]he category of projects must be needed within [three] years or less to solve reliability criteria violations"); PJM Interconnection, L.L.C., 162 FERC ¶ 61,033, at P 27 (2018) (clarifying that the immediate-need reliability exemption is to reference the project's need-by date and not in-service date).

[68] Tariff Filing at 33 (citing MISO Tariff, Attachment FF, § VIII.3.1(a) (*proposed*)).

[69] *Id.* (citing MISO Tariff, Attachment FF, § VIII.3.1(b) (*proposed*)).

[70] *Id.*

[71] *Id.* (citing MISO Tariff, Attachment FF, § VIII.3.1(c) (*proposed*)).

[72] *Id*. (citing 2019 Regional Order, 167 FERC ¶ 61,258 at n.226)

32. In their filing in Docket No. ER20-858-000, Filing Parties submit revisions to Appendix B of the MISO TO Agreement to clarify the ownership and construction responsibilities for Immediate Need Reliability Projects. According to Filing Parties, the modifications clarify that the existing ownership and responsibility to construct obligations that apply to Baseline Reliability Projects today will continue to apply to a Baseline Reliability Project that now meets the Immediate Need Reliability Project criteria,[73] and maintenance responsibilities follow with the ownership obligation. Filing Parties claim that this treatment is consistent with the Commission's directives regarding projects with costs allocated to the pricing zones where the facilities are located.[74]

III. Notice of Responsive Pleadings

33. Notice of the filings in Docket Nos. ER20-857-000 and ER20-858-000 was published in the *Federal Register*, 85 Fed. Reg. 4964 (Jan. 28, 2020), with interventions and protests due on February 11, 2020.

34. American Electric Power Service Corporation (AEP), Texas Industrial Energy Consumers (TIEC), Michigan Public Power Agency, Michigan South Central Power Agency, Louisiana Energy Users Group, Illinois Industrial Energy Consumers, New York Transmission Owners[75], Consumers Energy Company (Consumers), Midwest TDUs[76], Ameren Services Company (Ameren), the WEC Utilities[77], Duke Energy Corporation (Duke), GridLiance Heartland LLC (GridLiance), the Coalition of MISO Transmission Customers, American Transmission Company LLC, and American Municipal Power, Inc. filed timely motions to intervene in Docket No. ER20-857-000. The Missouri Public Service Commission (the Missouri Commission), the Indiana Office of Utility Consumer Counselor, the Public Utility Commission of Texas, the Mississippi

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[73] *Id.* at 33.

[74] *Id.* at 34 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 at P 441).

[75] New York Transmission Owners refers to Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

[76] Midwest TDUs refers to Madison Gas & Electric Company, Missouri Joint Municipal Electric Utility Commission, and WPPI Energy.

[77] The WEC Utilities consist of Wisconsin Electric Power Company, Wisconsin Public Service Corporation, and Upper Michigan Energy Resources Corporation.

Public Service Commission and the Mississippi Public Utilities Staff (jointly, Mississippi Intervenors), the Louisiana Public Service Commission, and the Council of the City of New Orleans, Louisiana filed notice of intervention in Docket No. ER20-857-000. Oklahoma Gas & Electric Company and the Arkansas Public Service Commission (Arkansas Commission) filed out-of-time motions to intervene. The Organization of MISO states filed a notice of intervention along with comments in support of the request for extension of time and comments in support of the proposal in Docket No. ER20-857-000. Industrial Customers[78] filed a joint protest of Filing Parties' proposal in Docket No. ER20-857-000. The Missouri Commission filed comments in support of the Michigan Commission's protest.

35. AEP, Michigan Public Power Agency, Michigan South Central Power Agency, IIEC, Consumers, Midwest TDUs, Ameren, American Municipal Power, Inc., WEC Utilities, Duke, GridLiance, the Mississippi Intervenors, Coalition of MISO Transmission Customers, and American Transmission Company, LLC filed separate timely motions to intervene in Docket No. ER20-858-000. The Missouri Commission, the Louisiana Commission, the Texas Commission, the New Orleans Council filed separate notices of intervention in Docket No. ER20-858-000.

36. Xcel Energy Services, Inc., Dairyland Power Cooperative, Association of Businesses Advocating Tariff Equity, LS Power[79], and International Transmission Company filed timely motions to intervene in Docket Nos. ER20-857-000 and ER20-858-000. Michigan Public Service Commission filed a notice of intervention and a protest in Docket Nos. ER20-857-000 and ER20-858-000. Alliant Energy Corporate Services, Inc. and MISO South Regulators[80] filed comments in Docket Nos. ER20-857-000 and ER20-858-000.

37. Enel Green Power and EDP Renewables North Americas, LLC filed timely motions to intervene in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. EDF Renewables, Inc. filed an out-of-time motion to intervene in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. Northern Indiana Public Service Company (NIPSCO) filed a timely motion to intervene and comments in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. RWE Renewables Americas, LLC (RWE) filed

[78] Industrial Customers refers to Illinois Industry Energy Consumers, the Association of Businesses Advocating Tariff Equity, the Louisiana Energy users Group, and the Texas Industrial Energy Consumers.

[79] LS Power consists of LSP Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, collectively.

[80] MISO South Regulators include the Arkansas Commission, the Louisiana Commission, the Mississippi Intervenors, and the New Orleans Council.

a timely motion to intervene and protest in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. The Indiana Utility Regulatory Commission filed a notice of intervention and a protest in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. Avangrid Networks, Inc. filed a motion to intervene in Docket Nos. EL20-19-000, ER20-857-000, and ER20-858-000.

38. Illinois Commerce Commission filed a notice of intervention in Docket Nos. ER20-857-000 and ER20-862-000. Clean Energy Entities filed a motion to intervene and protest in Docket Nos. EL13-88-002, ER16-1969-006, ER20-857-000, ER20-858-000, and ER20-862-000. WEC Utilities filed comments in Docket Nos. ER20-857-000, ER20-858-000, and ER20-862-000. LS Power filed a protest and motion to consolidate in Docket Nos. EL19-79-000, ER20-857-000, and ER20-858-000.

39. On January 29, 2020, MISO South Regulators submitted a request for extension of time to submit comments in Docket Nos. EL13-88-002, ER16-1969-006, ER20-857-000, ER20-858-000, and ER20-862-000 (Extension Request). On February 4, 2020, RWE filed an answer support of the Extension Request in the same dockets. On February 5, 2020, the Office of the Secretary issued a notice deny in the Extension Request.

40. On February 26, 2020, MISO South Regulators filed an answer to protests submitted in these proceedings. On February 28, 2020, Filing Parties also submitted an answer to protests. On March 13, 2020, Industrial Customers filed an answer to Filing Parties' Answer in Docket Nos. EL13-88-002, ER20-857-000, and ER20-862-000.

IV. Discussion

A. Procedural Matters

41. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they sought intervention. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant the late-filed motions to intervene given the entities' interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

42. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answers because they have provided information that assisted us in our decision-making process.

43. We deny LS Power's motion to consolidate the instant proceedings with Docket No. EL19-79-000. In general, the Commission formally consolidates matters only if a trial-type evidentiary hearing is required to resolve common issues of law and fact, and if

consolidation will ultimately result in greater administrative efficiency.[81] Here, the issues raised in Docket Nos. ER20-857-000 and ER20-858-000 are summarily addressed in this order without need for a trial-type evidentiary hearing, and those issues raised in Docket No. EL19-79-000 are sufficiently distinct that need not be addressed here.

B. <u>Substantive Matters</u>

1. <u>General Comments</u>

44. OMS, Xcel, NIPSO, and MISO South Regulators express support for Filing Parties' proposal. OMS, for example, asserts that the proposal incorporates the Commission's findings in the 2019 Regional Order, enjoys broad stakeholder support, and is just and reasonable.[82] OMS and Xcel state that the proposal complies with cost allocation principles.[83] Xcel notes that the D.C. Circuit court recognized that the Commission could implement reforms incrementally and is not required to "ensure full or perfect cost causation."[84] Further, Xcel contends that the Commission itself has found that it must approve a just and reasonable proposal even if there are other just and reasonable ways to allocate transmission costs.[85]

45. NIPSCO states the cost allocation proposal is a positive step, along with the Commission's prior approval of the Targeted Market Efficiency Projects, to alleviate its concerns in the 2013 NIPSCO Complaint.[86]

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[81] *See, e.g.*, *Midcontinent Express Pipeline, LLC*, 124 FERC ¶ 61,089, at P 27 (2008) (denying a motion to consolidate two certificate proceedings where no hearing was required); *Tenn. Gas Pipeline Co., L.L.C.*, 156 FERC ¶ 61,156, at P 16 (2016) (similarly denying a request to consolidate proceedings where no hearing was required).

[82] OMS Comments at 1; *see also* Xcel Comments at 7.

[83] OMS Comments at 7; Xcel Comments at 6-7.

[84] Xcel Comments at 7 (citing *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d at 88).

[85] *Id*. (citing *Midwest Indep. Transmission Sy. Operator, Inc.*, 117 FERC ¶ 61,241, at P 62 (2006)).

[86] NIPSCO Comments at 4-5.

2. Local Economic Projects

a. Comments and Protests

46. OMS, MISO South Regulators, and Xcel support Filing Parties' Local Economic Project proposal. Xcel considers the proposal a reasonable compromise that clarifies the process and cost allocation for development of local, economically beneficial projects consistent with the cost causation principle.[87] OMS, MISO South Regulators, and Xcel assert that Local Economic Projects produce mostly localized benefits, and therefore, the Local Economic Project cost allocation should be different from the method for Market Efficiency Projects.[88] OMS, MISO South Regulators, and Xcel state that Filing Parties' proposal addresses the Commission's concerns in the 2019 Regional Order by removing the 1.25-to-1 benefit-to-cost test on a regional level for Local Economic Projects. Further, they affirm that Filing Parties' proposal aligns with the Commission's cost causation principles by requiring that the local zone must receive demonstrable benefits that exceed the costs that will be allocated to that zone.[89] MISO South Regulators also argue that the proposal's creation of the Local Economic Projects category is an improvement from the current MTEP because it establishes MISO's ability to directly construct lower voltage projects that have the "primary purpose" of delivering local generation to proximate load.[90] Additionally, Xcel argues that the Commission "has held that, for purposes of cost allocation, . . . lower voltage projects have more localized benefits, a view that has been upheld by the D.C. Circuit."[91]

47. Conversely, several protestors oppose the proposed Local Economic Project cost allocation method as inconsistent with the cost causation principle.[92] In this regard, Indiana Commission, Michigan Commission, Alliant, and WEC Utilities argue that

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[87] Xcel Comments at 6-7.

[88] OMS Comments at 9; Michigan Commission at 1, 4, 7-14; MISO South Regulators Comments at 5-6; Xcel Comments at 20-26.

[89] OMS Comments at 8-9; MISO South Regulators Comments at 7; Xcel Comments at 20-26.

[90] MISO South Regulators Comments at 2-3.

[91] Xcel Protest at 16 (citing *Old Dominion Elec. Cooperative v. FERC*, 898 F.3d 1254 (D.C. Cir. 2018) (*ODEC*))).

[92] Indiana Commission Protest at 7; AWEA/Clean Grid Protest at 11-12; Alliant Protest at 4 (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004)); RWE Renewables Comments at 15-16.

MISO ignores the regional results produced by its additional benefit metrics in order to allocate costs only to the Transmission Planning Zone where the project is located.[93] The Indiana Commission states that this approach is "akin to sticking one's head in the sand."[94] Indiana Commission and WEC Utilities recommend that the Commission require MISO to identify all Transmission Pricing Zones that benefit from a Local Economic Project and allocate the costs of such projects to all benefitting zones in accordance with the economic analysis used to justify the project, so that the costs of the Local Economic Projects will be allocated commensurate with regional benefits.[95]

48. In response to arguments that Local Economic Projects should have a different cost allocation method than Market Efficiency Projects, several protestors contend lower voltage projects can provide benefits—often significantly greater benefits—outside of the Transmission Pricing Zones in which they are located.[96] Further, LS Power, AWEA/Clean Grid, and Michigan Commission contend that Filing Parties provide no justification for why MISO cannot use the same benefit metrics it proposes to use to identify and calculate the beneficiaries of Market Efficiency Projects to also identify regional beneficiaries of Local Economic Projects, other than an unsupported and generic assertion that lower voltage projects have local benefits. LS Power argues that if MISO has the technical capability to do so, and there is evidence that lower voltage economic projects have regional benefits, then the Commission must reject the Filing Parties' proposal to allocate the costs of the projects to the zone in which the project is located.[97] Further, Indiana Commission contends that MISO is not fulfilling its responsibilities as a transmission planning region if it ignores the regional benefits of a Local Economic Project that accrue outside of the local zone(s).[98] In the Indiana Commission's view,

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[93] Alliant Comments at 9-10; Industrial Customers Comments at 3-4; Michigan Commission at 8-9; WEC Utilities Comments at 4.

[94] Indiana Commission Protest at 7.

[95] Alliant Comments at 9; Indiana Commission Protest at 1-2; LS power Protest at 19; AWEA/Clean Grid Protest at 10; WEC Utilities Comments at 1, 3-4, 7; Industrial Customers Comments at 3.

[96] Indiana Commission Protest at 7, AWEA/Clean Grid Protest at 10, AWEA/Clean Grid Protest at 13, Industrial Customers Comments at 3-4, Alliant Protest at 4-5.

[97] LS Power Protest at 18; *see also* AWEA/Clean Grid Protest at 10; Michigan Commission Comments at 10.

[98] Indiana Commission Protest at 7.

MISO should not be allowed to circumvent this responsibility by designating a project as a local transmission project based on its voltage level.[99]

49. WEC Utilities, LS Power, Industrial Customers, and Michigan Commission state that, while Filing Parties removed the 1.25-to-1 benefit-to-cost test at a regional level for Local Economic Projects, the MISO Regional Filings are essentially the same as the 2019 Regional Filings, and given the lack of any substantive change from the 2019 Regional Filings, Filing Parties' proposal is in conflict with the 2019 Regional Order.[100] Michigan Commission argues that, as with the February 2019 filing Market Efficiency Project the current proposal does not provide a path to approval for economic projects between 100 kV and 230 kV, no matter how great the benefit-to-cost ratio, if the project predominately benefits TPZs beyond where the project is located.[101]

50. AWEA/Clean Grid point out that Market Efficiency Projects and Local Economic Projects are both identified through MISO's Market Congestion Planning Study (MCPS) process, which does not distinguish between projects that provide regional or local economic benefits.[102] AWEA/Clean Grid further explain that the MCPS identifies areas of significant economic congestion on MISO's system and seeks to evaluate potential projects that can cost-effectively address congestion.[103] AWEA/Clean Grid contend that MISO's distinction between these project categories for purposes of cost allocation appears arbitrary, internally inconsistent, and unsupported.[104] Various protestors state that the benefit metrics Filing Parties propose to use are applied incongruently with regard to Local Economic Projects. AWEA/Clean Grid state that MISO does not provide any evidence supporting its claim that most of the benefits of lower voltage projects are generally smaller and more locally concentrated or that the assumptions are more volatile and sensitive to assumptions used to forecast Adjusted Production Cost Savings.[105] AWEA/Clean Grid state that any proposed Local Economic Project benefit metric that "zeroes out any benefits (whether they be Adjusted Production Cost Savings, Avoided

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[99] *Id.*

[100] LS Power Protest at 18-19; Industrial Customers Comments at 5; Michigan Commission at 2; WEC Utilities Comments at 1, 6.

[101] Michigan Commission Comments at 5.

[102] AWEA/Clean Grid Protest at 11.

[103] *Id.*

[104] *Id.* at 12.

[105] *Id.*

Reliability Project Costs, or MISO-SPP Settlement Cost benefits)," does not align costs with beneficiaries and should be rejected.[106] As such, AWEA/Clean Grid argue that the Regional Filing is inconsistent with the Commission's directives on cost allocation granularity.[107] Alliant argues that, considering MISO's comments related to the reliability of the Adjusted Production Cost Savings metric,[108] it follows that if the metric can be used to justify and support the approval of a Local Economic Project at a localized level, it should also be trusted to identify regional benefits derived from Local Economic Projects.[109] Indiana Commission emphasizes that the regional benefits analysis of transmission projects is a key responsibility of the transmission planning regions.[110]

51. WEC Utilities state that the proposed tariff language fails to optimize MISO's transmission expansion plan and restricts MISO's ability to identify benefits and costs as the proposed process to identify Local Economic Projects focuses solely on the Transmission Pricing Zone in which a project is physically located.[111] More specifically, WEC Utilities state that, pursuant to Attachment FF Section 1.D, MISO must, in the course of the MTEP process, seek out opportunities to coordinate or consolidate, where possible, individually defined transmission projects into more comprehensive cost-effective developments subject to limitations.[112] WEC Utilities explain that the proposed tariff revisions would not allow MISO to test for and identify avoided reliability projects in Transmission Pricing Zones outside of the zone in which a project is physically located and that this requirement would restrict MISO from properly consolidating or coordinating individual transmission projects as required by Attachment FF Section 1.D of MISO's Tariff.[113]

52. Michigan Commission states that Filing Parties propose that MISO not disclose, to any stakeholders or state regulators, a Local Economic Project's costs or benefits to transmission pricing zones beyond where the project is located. Michigan Commission

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[106] *Id.* at 15.

[107] *Id.* at 16.

[108] Alliant Protest at 6 (citing Tariff Filing at 37-38).

[109] *Id.*

[110] Indiana Commission Protest at 2.

[111] WEC Utilities Comments at 7.

[112] *Id.*

[113] *Id.*

asserts that this opaque approach conflicts with the transparent approach mandated in Order No. 1000 where the Commission held that the "cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility." Michigan Commission concludes that the proposed Local Economic Project process prevents stakeholders from making this determination by suppressing relevant information until a project is on the verge of approval.[114]

53. Missouri Commission supports the statements made in the Michigan Commission's protest. Missouri Commission states that, together with several other state Commissions, it disagrees with the proposed tariff revisions establishing the Local Economic Project cost allocation, which would violate the "beneficiary pays" principle.[115]

54. Alliant states that, if the Commission does not reject the Local Economic Project proposal, it should condition its acceptance by requiring MISO to make Local Economic Projects optional, and subject to an endorsement by the network customers that would incur the costs.[116] Alliant explains that such a requirement would prevent network customers in the Transmission Pricing Zone in which the project is located from being forced to subsidize transmission that is benefiting others. Alliant says that the option to elect to construct a Local Economic Project should rest with the network customers that would incur the costs, not the constructing transmission owner, and that if a Local Economic Project provides sufficient value to the Transmission Pricing Zone, then the customers in that zone should be willing to pay for the project. Alliant argues that such a change would align with the Commission's cost causation principles.[117]

b. <u>Answers</u>

55. Filing Parties state that removing the regional 1.25-to-1 benefit-to-cost ratio from the revised Local Economic Project category addresses the Commission's concern in the 2019 Regional Order. Filing Parties also state that protestors' assertions that the instant filing is the same proposal as the 2019 MISO Regional Filings is false.[118] Filing Parties

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[114] Michigan Commission Comments at 9-10.

[115] *Id.* at 1.

[116] Alliant Protest at 7.

[117] *Id.*

[118] Filing Parties Answer at 21.

state that the Local Economic Project category ensures that the cost of such projects is allocated to those customers that will benefit from them in accordance with the "roughly commensurate" standard.[119]

56. Filing Parties state the for Local Economic Projects, the Avoided Reliability Project metric will be calculated and applied when the Avoided Reliability Project(s) would have been physically located in the same Transmission Pricing Zone, and the MISO-SPP Settlement Agreement metric will take into account only the reduction in cost associated with the Transmission Pricing Zone in which the project is physically located, and that these changes address the Commission's concern with the application of regional benefit metrics to Local Economic Projects.[120]

57. Filing Parties state that the Commission should reject Alliant's proposal to require MISO to make Local Economic Projects optional. Filing Parties state that the proposal is inconsistent with MISO's role in the transmission planning process.[121]

58. Industrial Customers state that the large number of protests belie assertions that there is a broad stakeholder consensus.[122] Industrial Customers also state that Filing Parties have not demonstrated that sub-230 kV economic projects should be treated differently than projects above 230 kV. Industrial Customers note that lower-voltage projects can provide benefits beyond the Transmission Pricing Zone where the project is located, and therefore, cost allocation for projects below 230 kV should be commensurate with cost allocation for projects above 230 kV.[123]

c. **Commission Determination**

59. We find that Filing Parties have not demonstrated that their proposed cost allocation method for Local Economic Projects is just and reasonable because the

[119] *Id.* at 8.

[120] *Id.* at 21-22.

[121] *Id.* at 27-28.

[122] Industrial Customers Answer at 6-7.

[123] *Id*. at 7-9.

proposal is not consistent with the cost causation principle.[124] Among other things, the proposed cost allocation method inappropriately relies on a benefits metric, the MISO-SPP Settlement Agreement metric, that determines benefits outside of the local Transmission Pricing Zone where the Local Economic Project is located, but then disregards these benefits by allocating costs for the project solely within that Transmission Pricing Zone.

60. In reaching our determination, we note that Filing Parties' Local Economic Project cost allocation proposal— which would allocate 100% of costs to the Transmission Pricing Zone where the Local Economic Project is located — is identical to the proposal previously rejected in the 2019 Regional Order.[125] Filing Parties argue that the Local Economic Project proposal at issue in this proceeding addresses the Commission's concerns in the 2019 Regional Order, because Filing Parties no longer propose to require a regional benefit-to-cost ratio for Local Economic Projects. However, we find that the proposal in the MISO Regional Filings is also inconsistent with the cost causation principle.

61. While multiple court decisions have acknowledged the difficulty of measuring benefits for the purpose of assessing adherence to the cost causation principle, the Seventh Circuit in *Illinois Commerce Commission v. FERC* explained that, it is permissible to allocate costs if the Commission "has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with" the assigned costs.[126] Filing Parties argue that the Local Economic Project proposal satisfies this standard.

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[124] The cost causation principle requires that "all approved rates reflect to some degree the costs actually caused by the customer [that] must pay them." *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992). The D.C Circuit has explained that it evaluates compliance with the cost causation principle by "comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party." *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004).

[125] Attachment FF, III.A.2.o in both filings provides that:

> The costs of Local Economic Projects shall be recovered pursuant to Attachment O of this Tariff by the Transmission Owner(s) and/or ITC(s) developing such projects, such that the Transmission Owner(s) and/or ITC(s) developing a Local Economic Project shall be responsible for all of the costs of the portion of the Local Economic Project that is physically located in the Transmission Owner's and/or ITC's pricing zone, subject to the requirements of the ISO Agreement.

[126] *Illinois Commerce Commission v. FERC*, 576 F.3d 470, 477 (7th Cir. 2009).

They propose that, "only projects that meet a Transmission Pricing Zone benefit-to-cost ratio of 1.25 or greater in each Transmission Pricing Zone in which the Local Economic Project is located shall be included in the MTEP as a Local Economic Project."[127] Unlike the 2019 Regional Filings, however, Filing Parties do not propose an additional regionwide 1.25-to-1 benefit-to-cost ratio in order for a Local Economic Project to be included in the MTEP.

62. Filing Parties further propose to identify Local Economic Project benefits using the same three benefits metrics that they propose for Market Efficiency Projects with adjustments that Filing Parties consider necessary to account for the differences between the two project categories.[128] For example, Filing Parties propose that the Adjusted Production Cost Savings metric for Local Economic Projects will be "calculated for all pricing zones in which the Local Economic Project is located."[129] Additionally, the Avoided Reliability Project metric will likewise only apply if, among other things, the Avoided Reliability Project has "been avoided by a proposed Local Economical Project in the same Transmission Pricing Zone(s)."[130] With regard to the MISO-SPP Settlement Agreement metric, Local Economic Projects must show, among other things, that "[t]he benefits would be distributed to the Transmission Pricing Zone(s) where the Local Economic Project is located."[131] Filing Parties argue that, with these adjustments from the 2019 Regional Filings, the MISO Regional Filings ensure that the application of the "three benefit metrics results in costs allocated roughly commensurate with the benefits received."[132] Filing Parties thus conclude that these adjustments and the elimination of the regional benefit-to-cost ratio adequately "respond[] to FERC Guidance in the 2019 Regional Order to ensure better alignment of the proposed Local Economic Project with the Commission's cost causation requirements."[133]

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[127] MISO Tariff, Attach. FF § II.G.1.d (73.0.0).

[128] TO Agreement Filing at 37.

[129] MISO Tariff, Attach. FF-8 § I.A.1 (31.0.0).

[130] MISO Tariff, Attach. FF-8 § I. B.1.c (31.0.0).

[131] MISO Tariff, Attach. FF-8 § I.C.1 (31.0.0).

[132] Regional Filing at 37.

[133] *Id.* at 42.

63. We disagree. In reaching our determination here, we note that the 2019 Regional Order relied, in part, on the D.C. Circuit decision in *ODEC*.[134] In that decision, the D.C. Circuit remanded a Commission decision accepting a PJM Tariff amendment that would have allocated 100% of costs for projects that are included in the PJM Regional Transmission Expansion Plan solely to address individual transmission owner Form No. 715 local planning criteria to the transmission zone of the transmission owner whose Form No. 715 local planning criteria underlie each project.[135] In effect, the PJM amendment would have prohibited regional cost sharing for high-voltage transmission projects that have "significant regional benefits" if such transmission projects were included in a regional transmission plan only to satisfy an individual utility's planning criteria.[136]

64. The D.C. Circuit concluded that the Commission's acceptance of the PJM Tariff amendment "did not attempt to justify" this "wholesale departure from the cost-causation principle."[137] The D.C. Circuit also stated that the cost causation principle "prevents regionally beneficial projects from being arbitrarily excluded from cost sharing—a necessary corollary to ensuring that the costs of such projects are allocated commensurate with their benefits."[138]

65. In light of the *ODEC* decision, we find Filing Parties' new proposal inadequate to address the principal defect of their prior proposal – inconsistency with the cost causation principle. We find that it is Filing Parties' proposed cost allocation, in combination with the application of the proposed benefits metrics analysis, that makes the MISO Regional Filings, like the 2019 Regional Filings, unjust and unreasonable.

66. With regard to Filing Parties' proposed changes, we note that Filing Parties' assertion that the benefit metrics that they propose to apply to Market Efficiency Projects "will allow for more precise cost allocation to benefitting loads because more benefits will be considered both in determining beneficial projects and calculating the magnitude

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[134] 898 F.3d 1254.

[135] *Id.*; *see also PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096 (2016).

[136] *ODEC*, 898 F.3d at 1261.

[137] *Id.* (citing *ODEC*, 898 F.3d at 1261).

[138] *ODEC*, 898 F.3d at 1261. The D.C. Circuit further stated that the Commission had chosen to replace a cost allocation "about which [it] ha[d] expressed no concerns with another one that is less accurate overall, as well as grossly inaccurate with respect to high-voltage projects, in return for no countervailing regulatory benefit." *Id.*; *see also* 2019 Regional Order, 167 FERC ¶ 61,258 at P 61.

of benefits to beneficiaries."[139] Despite this and similar assertions in this proceeding, Filing Parties propose to apply the same benefit metrics in a more selective and incomplete manner with regard to Local Economic Projects.

67. Specifically, the proposed Local Economic Project local benefits analysis will likely require MISO to disregard regional transmission benefits that it will necessarily uncover when applying the MISO-SPP Settlement Agreement Costs benefit metric. In particular, regarding this metric for Local Economic Projects, Filing Parties propose that *"[o]nly that portion of the benefit calculated for that Transmission Pricing Zone* will be used in the benefit-cost determination pursuant to Attachment FF, Section II.G.1.d."[140] Thus, while the proposal no longer requires a regional 1.25-to-1 benefit-to-cost threshold for Local Economic Projects, MISO would still calculate and identify benefits to all zones, but ignore benefits to some zones for purposes of allocating Local Economic Project costs.

68. Additionally, the proposed Tariff language notes that the Adjusted Production Cost Savings metric is determined for each zone where the Local Economic Project is physically located. Filing Parties state that the Adjusted Production Cost Savings metric may include savings realized from reduced generator startup, hourly generator no-load, generator energy, generator Operating Reserve costs, reductions in transmission congestion and transmission energy losses, and through reductions in Operating Reserve requirements.[141] Filing Parties state that the Adjusted Production Cost Savings metric "generally has been regarded as the most reliable measure" of the net impact of a planning decision on energy cost in MISO.[142] It is incongruous to state that a metric is the most reliable measure of benefits, and then to ignore that measure for purposes of cost allocation for Local Economic Projects.

69. We also disagree with Xcel and other parties that point to the distinction between high- and low-voltage transmission facilities in *ODEC* to justify Filing Parties' Local Economic Project proposal. Although the facts at issue in *ODEC* involved that distinction, the D.C. Circuit remanded the Commission's orders based on its finding, quoted above, that the cost causation principle "prevents regionally beneficial projects from being arbitrarily excluded from cost sharing—a necessary corollary to ensuring that

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[139] Regional Filing at 4.

[140] Attachment FF-8 § I.C.1 (31.0.0). (emphasis supplied).

[141] Attachment FF-8 § I.A (31.0.0).

[142] MISO Filing, Docket No. ER20-858-000, at 15 (filed Jan. 21, 2020) (TO Agreement Filing).

the costs of such projects are allocated commensurate with their benefits."[143] That concern applies with similar force to Filing Parties' proposal; as discussed above, under that proposal, MISO would determine benefits outside of a local Transmission Pricing Zone where the Local Economic Project is located, but then disregard these benefits and allocate costs for the project solely within one Transmission Pricing Zone.

70. While we again must reject Filing Parties' comprehensive package of reforms because aspects of the Local Economic Project proposal are not just and reasonable, we again recognize that the current proposal reflects "compromises resulting from a three-year discussion among diverse stakeholders with myriad competing interests."[144] We also appreciate that many other aspects of Filing Parties' proposal, which we address further below, could improve the MTEP. We encourage Filing Parties to consider how the proposal could be modified to address the cost causation issue discussed above, while retaining the advantages of other aspects of the proposal.[145] If Filing Parties were to submit another such proposal, the Commission will analyze that proposal based on the record in that proceeding.

3. Other Proposed Changes

71. Filing Parties have submitted their filing as a "comprehensive package" of reforms,[146] and, as a result, because we find that the proposed Local Economic Project cost allocation method is unjust and unreasonable we must reject the entire filing as a whole. Nevertheless, to provide additional guidance to Filing Parties if they choose to resubmit any aspect of their proposal, we address some of the other major aspects of their proposal below. In particular, although we reject the filing as a whole, we do not find the aspects of the filing discussed below to be unjust and unreasonable. We thus address the comments regarding these components of the proposal, to the extent this discussion might assist the Filing Parties in considering a future proposal. We note, however, that while this order provides guidance on aspects of the proposal with which we did not have concerns in the context of the current filing, pursuant to FPA section 205, Filing Parties would still have the burden to demonstrate in a subsequent section 205 proceeding that any future proposal is just and reasonable.

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[143] *ODEC*, 898 F.3d at 1261.

[144] *Id*. P 67.

[145] Filing Parties could, for example, propose to lower the Market Efficiency Project voltage threshold to 100 kV. Another possibility would be to eliminate the Local Economic Project category from the proposal.

[146] Tariff Filing at 6.

72. Furthermore, while we address below many of the comments submitted in this proceeding, we recognize that we do not address all of the comments and do not address several requests for clarification about specific aspects of Filing Parties' proposals. Nevertheless, we encourage Filing Parties to consider all of the comments submitted in this proceeding as they work on any possible future filing.

a. <u>Benefits Metrics</u>

i. <u>Comments and Protests</u>

73. AWEA/Clean Grid, OMS, and Xcel support the proposal to include two new benefit metrics to evaluate regional benefits and assign costs for economic projects and believe the two new benefit metrics are an improvement over the status quo.[147] AWEA/Clean Grid state that additional benefit metrics provide a more accurate estimate of project benefits and aid more accurate cost allocation.[148] AWEA/Clean Grid also support holistic evaluation of the numerous benefits of transmission projects and urge MISO to prioritize development of additional benefit metrics to increase the likelihood that economic projects will be approved.[149] Further, AWEA/Clean Grid ask the Commission to require MISO to submit an additional filing this year proposing additional metrics to analyze the benefits of Market Efficiency Projects.[150]

74. RWE Renewables states that it is highly skeptical that the proposed revisions will actually result in the approval of new transmission even with an expanded review down to 100 kV.[151] RWE Renewables states that MISO's transmission grid is severely underbuilt even at the 345 kV and higher levels (under current Market Efficiency Project protocols), forcing ratepayers to perpetually bear rates for Commission-jurisdictional services that include uneconomic (yet avoidable) costs. RWE Renewables states that, while Filings Parties suggest that the MISO Regional Filings will result in meaningful change, they do not provide details to substantiate their assertions.[152]

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[147] AWEA/Clean Grid Protest at 6, 8; OMS Comments at 8; Xcel Comments at 18-20.

[148] AWEA/Clean Grid Protest at 8.

[149] *Id.* at 6, 8-9.

[150] *Id.* at 9.

[151] RWE Renewables Comments at 3.

[152] *Id.* at 4.

75. RWE Renewables also recognize that the biggest hurdle for MISO to conquer is the cost allocation for Market Efficiency Projects and Local Economic Projects. Nevertheless, RWE Renewables states that cost allocation will rarely come into play if Market Efficiency Project and Local Economic Projects are not approved in the first place and that, until MISO applies proper benefits metrics, it is unlikely that significant approvals of Market Efficiency Project and Local Economic Projects will occur. RWE Renewables states that, in other words, the status quo of approving few Market Efficiency Projects will prevail.[153]

76. RWE Renewables states that the data compiled by MISO and by the market monitor for MISO show that significant congestion continues to plague ratepayers at all transmission voltage levels throughout the MISO region, yet MISO is not adopting solutions to address it. RWE Renewables states that the reason is clear: MISO does not employ a robust benefit analysis that encompasses all (or even a great portion) of the economic benefits that result when transmission is added.[154]

77. RWE Renewables also contends that MISO has not justified a proposed 1.25-to-1 benefits-to-costs metric for Market Efficiency Projects and Local Economic Projects. It argues that the record contains no evidence that the 1.25 ratio is just and reasonable and further argues that, if the goal is to approve transmission to relieve uneconomic conditions, there is "no just reason" why the benefits-to-cost ratio is not 1.0.[155]

ii. <u>Answers</u>

78. Filing Parties state that the proposed metrics enjoy almost universal support and are the result of years of stakeholder deliberations. Filing parties state that the new Avoided Reliability Project Savings and the MISO-SPP Settlement Agreement Cost metrics, along with the existing Adjusted Production Cost Savings metric will result in improved alignment of costs and benefits.[156]

79. Filing Parties state that only RWE opposes the benefit metrics included in the Regional Filing, and assert that RWE's arguments are a restatement of the objections submitted by Generator Group in connection with the 2019 Regional Filings.[157] Filing

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[153] *Id.* at 5.

[154] *Id.*at 6.

[155] *Id.*at 10.

[156] Filing Parties Answer at 28.

[157] *Id.*

Parties state that the Commission should reject RWE's arguments that Filing Parties' proposed metrics are insufficient.[158]

80. Filing Parties state that RWE's argument that Filing Parties have not justified a 1.25-to-1 benefit to cost test for Market Efficiency Projects should be rejected. Filing Parties state that such a ratio has been accepted by the Commission for certain projects (and in MISO generally) and is the maximum benefit-to-cost ratio that the Commission willingly endorsed without additional support in Order No. 1000.[159]

81. Industrial Customers reiterate that the benefits-to-costs test should be lowered from 1.25 to 1.00.[160] Industrial Customers also restate that the proposed benefits metrics should go through MISO's stakeholder process and should be limited to metrics that are objective and quantifiable.[161]

iii. <u>Commission Determination</u>

82. As stated in the 2019 Regional Order,[162] we do not share commenters' concerns about Filing Parties' proposal to add the two additional benefits metrics to its cost allocation method for Market Efficiency Projects. The additional Avoided Reliability Project Cost Savings Metric and the MISO-SPP Settlement Agreement Cost Metric can be accurately measured and are based on reasonable assumptions. We believe that reduced congestion in the MISO-SPP settlement region and avoided reliability projects are beneficial metrics in the cost allocation method because these Market Efficiency Project metrics improve the current MTEP by identifying benefits on a more comprehensive basis and, thus, better adhere to the cost causation principle.

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[158] *Id.* at 28-29.

[159] *Id.* at 30.

[160] Industrial Customers Answer at 12.

[161] *Id*. at 13-14.

[162] 2019 Regional Order, 167 FERC ¶ 61,258 at P 114.

b. Elimination of Postage Stamp Cost Allocation

i. Comments and Protests

83. Industrial Customers and Xcel support Filing Parties' proposal to eliminate the 20% postage stamp allocation for Market Efficiency Projects.[163] Xcel states that, while it believes MISO's current cost allocation method is just and reasonable, Xcel supports MISO's proposal to remove the 20% postage stamp allocation and allocates projects on the sum of three benefit metrics.[164] AWEA/Clean Grid oppose this proposal and argue that it is appropriate to allocate some project costs regionally to account for benefits that are not easily quantified, address changing beneficiaries, and acknowledge that integrated market membership benefits all market participants.[165]

ii. Answers

84. Filing Parties state that the removal of the postage stamp component of the cost allocation for Market Efficiency Projects has broad support and would be rendered inconsistent with the proposed, more granular benefit metrics. Filing Parties note that the Commission stated in the 2019 Regional Order that it did not share AWEA/Clean Grid's concerns that MISO needs to retain any postage stamp allocation with the inclusion of the new benefit metrics, and that nothing in the instant proceeding compels a different conclusion.[166]

iii. Commission Determination

85. As stated in the 2019 Regional Order,[167] and based on the record in these proceedings, we do not object to Filing Parties' proposal to remove the 20% postage stamp from its cost allocation for Market Efficiency Projects. While the first Order No. 1000 cost allocation principle requires that the costs of transmission projects be allocated to those that derive benefits from them, this principle does not prescribe the vehicle by which a public utility must effectuate this result. We see the current proposal, which would allocate 100% of Market Efficiency Project costs based on each Transmission Pricing Zone's identifiable benefits for a specific Market Efficiency

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[163] Industrial Customers at 3; Xcel Comments at 16.

[164] Xcel Comments at 16.

[165] AWEA/Clean Grid Protest at 9.

[166] Filing Parties Answer at 30.

[167] 2019 Regional Order, 167 FERC ¶ 61,258 at P 115.

Project, as determined through three separate benefits metrics rather than through the current single benefit metric, as an improvement over the current cost allocation methodology. In addition, the inclusion of the two proposed benefit metrics for Market Efficiency Projects will help MISO more accurately identify beneficiaries of Market Efficiency Projects. For this reason, we agree that, in light of the addition of the new metrics, the decision to allocate the costs of Market Efficiency Projects entirely upon the basis of the results of the benefit metrics analysis is preferable to the existing method and this aspect of Filing Parties' proposal appears reasonable.

c. Lowering the Market Efficiency Project Voltage Threshold

i. Comments and Protests

86. Several entities support lowering the voltage threshold to 230 kV for Market Efficiency Projects.[168] OMS states that this reduction allows the full extent of the transmission system in MISO South that meets the MTEP criteria to be open for competitive transmission development.[169] MISO South Regulators argue that the proposal greatly increases the opportunity for competitive transmission construction by reducing the Market Efficiency Project voltage threshold.[170]

87. Xcel notes that in many cases, when a 230 kV project is compared with a 345 kV project to meet regional transmission needs, the 345 kV project wins out in terms of cost-effectively and efficiently delivering regional market energy over long distances. Nevertheless, Xcel submits that in certain situations, a 230 kV project could be the best or most feasible regional solution to move market energy through the MISO footprint. For example, in areas where the backbone system is mostly 230 kV, MISO and its stakeholders will evaluate through the MTEP process whether it is more efficient or cost effective to continue building out the backbone at this lower voltage or to further expand the main 345 kV system. Xcel states that while building up the 345 kV backbone is often the better value for customers, MISO's proposal will allow stakeholders and MISO to evaluate alternatives between 230 kV and 345 kV as economic solutions in choosing the more cost-effective and efficient transmission solution. However, Xcel contends that transmission at voltages below 230 kV is designed to meet local needs. Xcel states they support construction of economically beneficial local projects, but the costs of such projects should not be spread to neighboring entities given the localized nature of the

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[168] *See*, *e.g.*, AWEA/Clean Grid Protest at 6-8; Industrial Customers at 3.

[169] OMS Comments at 9.

[170] MISO South Regulators Comments at 2.

benefits they provide.[171]

88. AWEA/Clean Grid prefers a single voltage threshold of 100 kV for Market Efficiency Projects and does not believe that separate cost allocation categories are appropriate.[172] Similarly, LS Power argues that the Commission cannot fully address the MISO Regional Filings without addressing, as an initial matter, whether a voltage threshold of 100 kV for regionally beneficial Market Efficiency Projects is a necessary component of any just and reasonable tariff.[173] LS Power argues that Filing Parties provide no justification for why 230 kV is the just and reasonable threshold, and that the reasons the Filing Parties provide to support a 230 kV threshold apply equally to a 100 kV threshold. LS Power states that Filing Parties must justify why 230 kV is just and reasonable by explaining why economically beneficial projects below 230 kV that have regional benefits should be excluded from the Market Efficiency Project category.[174]

89. LS Power suggests that Filing Parties are seeking to circumvent the issue by asserting that the threshold is a compromise solution and consistent with MISO's incremental approach to planning and cost allocation. According to LS Power, neither reason is sufficient justification for a 230 kV threshold that arbitrarily excludes regionally beneficial projects under 230 kV. LS Power further argues that the Filing Parties have not explained why an incremental approach is necessary here and suggests that the only possible reason is that certain transmission owners do not want economically beneficial projects operating between 100 kV and lower than 230 kV open to competition, which is contrary to Order No. 1000.[175]

ii. <u>Answers</u>

90. Filing Parties state that lowering the Market Efficiency Project voltage threshold from 325 kV to 230 kV is just and reasonable, and protestors' arguments that the threshold is still too high should be rejected.[176] Filing Parties note that in the 2019 Regional Order, the Commission stated that the reduction to 230 kV appeared reasonable

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[171] Xcel Comments at 13, 16.

[172] AWEA/Clean Grid Protest at 7, 10.

[173] LS Power Protest at 8.

[174] *Id.* at 11.

[175] *Id.*

[176] Filing Parties Answer at 12-13.

based on the record in those proceedings.[177] Filing Parties state that while some protestors argue that the voltage threshold for Market Efficiency Projects should be lowered to 100 kV, such proposals are beyond the scope of the proceeding.

iii. Commission Determination

91. As stated in the 2019 Regional Order,[178] Filing Parties' proposal to lower the Market Efficiency Project minimum voltage threshold from 345 kV to 230 kV appears reasonable based upon the record in these proceedings. In conjunction with the proposed increase in benefit metrics, lowering the voltage threshold would increase the universe of projects eligible to be considered a Market Efficiency Project. As such, it also expands the number of potential projects that are eligible for MISO's Competitive Developer Selection Process.

d. 20-Year Outlook Period

i. Comments and Protests

92. RWE Renewables states that it is unjust and unreasonable for MISO to limit the benefit measurement to only 20 years. RWE Renewables states that, in MTEP18, for instance, MISO explained that an Multi-Value Project "[c]reates $8.9 to $40.6 billion in net benefits . . . over the next 20 to 40 years."[179] RWE Renewables states that MISO's 20 year cap is unjust and unreasonable, and that MISO's 20-year limit will render the same result that the Commission found unjust and unreasonable for the "triple hurdle" in Docket No. EL13-88; that is, it will "prevent [Market Efficiency Projects and Local Economic Projects] from being evaluated."[180]

ii. Answers

93. Filing Parties state that using a 20-year period is consistent with industry practice, has been accepted by the Commission, and provides greater certainty that the benefits

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[177] *Id.* at 13 (citing 2019 Regional Order, 167 FERC ¶61,258 at P 119).

[178] 2019 Regional Order, 167 FERC ¶ 61,258 at P 19.

[179] RWE Comments at 16 (citing *MISO,* MTEP18 at 153, https://cdn.misoenergy.org/MTEP18%20Full%20Report264900.pdf).

[180] *Id*. (citing NIPSCO Complaint Order, 155 FERC ¶ 61,058 at P 131).

will be experienced over that period.[181] Industrial Customers state that they support retaining the 20-year period.[182]

iii. Commission Determination

94. As stated in the 2019 Regional Order,[183] we do not share concerns regarding Filing Parties' proposal to use a 20-year outlook period for measuring future benefits. In particular, we disagree that the period in which future benefits are predicted must exactly match the anticipated lifespan of such transmission projects. As we have stated previously, 20 years is a reasonable outlook for cost allocations purposes, even though benefits may accrue well after twenty years of service.[184]

e. Immediate Need Reliability Project Exemption

i. Comments and Protests

95. LS Power argues that the Filing Parties have not adequately supported their proposal to create the immediate need reliability exemption. LS Power states that under the proposal, if a project is needed within 36 months to solve a reliability need, then MISO will automatically designate the transmission owner where the project is located to develop, own, and operate the Market Efficiency Project, and that only after MISO has designated the project to the transmission owner will MISO post for stakeholder comment an explanation for the reliability need and a list of what other transmission and non-transmission alternatives MISO considered but rejected as insufficient. LS Power adds that, if a dispute arises over a project's designation, the selected transmission owner will continue to move forward with development and construction.[185]

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[181] Filing Parties Answer at 31.

[182] Industrial Customers Answer at 12.

[183] 2019 Regional Order, 167 FERC ¶ 61,258 at P 118.

[184] *Midwest Indep. Transmission Sys. Operator, Inc.*, 133 FERC ¶ 61,221, at P 214 (2010) (". . . because [Multi-Value Projects] are projects that provide regional benefits, we find that a benefit-to-cost ratio of 1.0 is just and reasonable because it ensures that the multiple economic benefits to all users is at least equal to the costs allocated to all users over the 20 years of service that are evaluated. Moreover, we also agree with Filing Parties that benefits are expected to accrue well after 20 years of service").

[185] LS Power Protest at 21-22.

96. LS Power contends that the Filing Parties have not shown that the "need date," as opposed to the expected in-service date, is the right measure of whether a project is needed in a short-time frame. LS Power states that there have been multiple occasions in other regions where a project has been designated as an immediate need reliability project with a "need date" of the day of the designation or two years out, notwithstanding the fact that no developer can conceivably meet the "need date."[186] LS Power argues that there are numerous operational actions that transmission providers can take that would allow sufficient time to conduct a competitive solicitation process and complete the Market Efficiency Project without the need to address the reliability issues "immediately."[187]

ii. Answers

97. Filing Parties state that the proposed immediate need reliability exemption is similar to what the Commission has accepted before, noting the Commission's findings in the 2019 Regional Order.[188] Filing Parties state that LS Power's argument that Filing Parties have not demonstrated support for the proposed exemption should be dismissed.[189]

iii. Commission Determination

98. With respect to the proposed Immediate Need Reliability Project category, the Commission has previously found that an exemption to the competition process should only be used in limited circumstances.[190] As such, on previous occasions, the Commission has applied five criteria, which place reasonable bounds on discretion to determine whether there is sufficient time to permit competition to develop regional transmission projects that meet a reliability need and, as a result, will ensure that an exemption from the requirement to eliminate a federal right of first refusal for regional transmission projects that meet a reliability need will be used in limited circumstances.[191] With respect to LS Power's concern about insufficient time for stakeholder input for

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[186] *Id.* at 22.

[187] *Id.*

[188] Filing Parties Answer at 34.

[189] *Id.* at 35.

[190] *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 236 (2013); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 247 (2013); *Sw. Power Pool, Inc.*, 144 FERC ¶ 61,059, at P 195 (2013).

[191] *See*, *e.g.*, *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 248.

Immediate Need Reliability Projects, it is our understanding that there is a window for input during the Baseline Reliability Study and MTEP processes, as well as a 60-day comment period following notice that an Immediate Need Reliability Project has been approved.[192] Thus, MISO's proposal appears to provide sufficient time for stakeholder input for such projects.

f. MISO TO Agreement

i. Commission Determination

99. Filing Parties' proposed revisions to the MISO TO Agreement include references to, and rely upon, the Tariff changes that Filing Parties included in Docket No. ER20-857-000 but that we are rejecting. As such, we also reject the filing in Docket No. ER20-858-000.

The Commission orders:

The MISO Regional Filings are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[192] Tariff Filing at 29.