

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

<b>Building for the Future Through Electric</b>	)	
<b>Regional Transmission Planning and</b>	)	<b>Docket No. RM21-17-000</b>
<b>Cost Allocation</b>	)	

**RESPONSE OF PUBLIC INTEREST ORGANIZATIONS TO  
MISO’S MOTION FOR EXTENSION OF TIME TO SUBMIT COMPLIANCE FILING**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the Commission), 18 C.F.R. § 385.212 (2020), Sustainable FERC Project, Natural Resources Defense Council, Clean Wisconsin, Union of Concerned Scientists, Environmental Law & Policy Center, Sierra Club, and Fresh Energy (together “Public Interest Organizations” or “PIOs”) hereby submit this response to the motion of the Midcontinent Independent System Operator (“MISO”) for a 12-month extension for its Regional Compliance Filing required by Order No. 1920.

MISO’s request for extension fails to meet basic Rule 2008 standards for demonstrating good cause and should therefore be denied. While PIOs appreciate the amount of work MISO is currently doing to plan for transmission needs in the north, its vague references to the high demands of its various regional and interregional transmission planning initiatives fail to satisfy Commission requirements to demonstrate with specificity the concrete need for an extension and explain how that time will be used. MISO also appears to conflate the actual planning efforts that will be required under Order No. 1920 with the initial June 2025 requirement merely requiring that MISO update its tariff language to incorporate Order No. 1920 requirements; the latter task should require assistance primarily from its lawyers rather than its planning staff. Additionally, MISO’s admission that it is largely already compliant with Order No. 1920 makes its request for

extension that much less justified, as it will likely need far fewer changes than most grid operators. Moreover, given the urgency around regional transmission planning, especially in the MISO South subregion, MISO’s upcoming transmission planning processes in 2025 and beyond must comply with Order No. 1920 requirements. Finally, MISO appears to be an outlier among other transmission providers in not already having commenced its state engagement process. Given that all transmission providers have similar or potentially greater compliance burdens than MISO, yet most if not all of them have demonstrated an ability to schedule and support Order No. 1920 compliance efforts while simultaneously managing other ongoing transmission planning needs, MISO should not be given special treatment for its failure to do the same.

## **I. Background**

On May 13, 2024, the Commission concluded a nearly three-year rulemaking process regarding long-term regional transmission planning and cost allocation when it issued Order 1920.<sup>1</sup> During that three-year period, the Commission issued a July 15, 2021, Advanced Notice of Proposed Rulemaking (“ANOPR”),<sup>2</sup> held numerous technical conferences with stakeholders and states,<sup>3</sup> and issued a Notice of Proposed Rulemaking in May 2022.<sup>4</sup> During this process, stakeholders across the spectrum provided significant evidence that the current system was unjust, unreasonable, and unduly discriminatory and was in urgent need of reform to keep pace

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<sup>1</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (hereafter, “Order 1920”), *reh’g denied by operation of law*, 188 FERC ¶ 62, 025 (2024), *appeal pending sub nom, Appalachian Voices v. FERC*, Nos. 24-1650 (4th Cir. pet. consolidated Aug. 8, 2024).

<sup>2</sup> Bldg. for the Future Through Elec. Reg’l Transmission Planning & Cost Allocation and Generator Interconnection, 86 Fed. Reg. 40,266 (July 15, 2021), 176 FERC ¶ 61,024 (2021) (“ANOPR”).

<sup>3</sup> *See, e.g.*, Bldg. for the Future Through Elec. Reg’l Transmission Planning & Cost Allocation and Generator Interconnection, Technical Video Conference, Docket No. RM21-17-000, Nov. 15, 2021, <https://www.ferc.gov/media/rm21-17-000-0>; Joint State-Federal Task Force on Transmission, <https://www.ferc.gov/TFSOET>.

<sup>4</sup> *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection*, 87 Fed. Reg. 26,504 (May 4, 2022), 179 FERC ¶ 61,028 (2022) (“NOPR”).

with rapidly changing technology, markets, and policies.<sup>5</sup> The Commission agreed and noted in its issuance of Order No. 1920 that these systemic pressures had only increased in severity since its issuance of the NOPR,<sup>6</sup> finding that “the record shows that changing reliability needs are driving a significant shift in demand placed on the transmission system, and that because extreme weather events are occurring with greater frequency, transmission is increasingly critical to ensuring system reliability.”<sup>7</sup> Indeed, in the years following the NOPR, three major winter storms—Elliot,<sup>8</sup> Gerri, and Heather<sup>9</sup>—have prompted the Commission to launch joint investigations with NERC to assess their effects on the bulk power system. Even more severe storms that have pushed the boundaries of what science even deemed feasible have occurred since issuance of Order No. 1920.<sup>10</sup> Order No. 1920 also found—as MISO has pointed out in its request—that “demand is changing” and “in many regions, large loads associated with new and emerging industrial needs, like data centers, are driving rapid load growth.”<sup>11</sup>

In light of the overwhelming evidence of unjust rates and practices around transmission planning and the urgency of ongoing harms to consumers and threats to grid reliability, the Commission determined that existing requirements for transmission planning and cost allocation were unjust, unreasonable, and unduly discriminatory as they did not obligate transmission

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<sup>5</sup> *Id.* at P 97-99.

<sup>6</sup> Order No. 1920 at n.214.

<sup>7</sup> *Id.* at P 94.

<sup>8</sup> *See id.* at P 234, n.585 (citing FERC & North American Electric Reliability Corporation (“NERC”), *Winter Storm Elliot Report: Inquiry into Bulk-Power System Operations During December 2022* (Nov. 2023), <https://www.ferc.gov/media/winter-storm-elliott-report-inquiry-bulk-power-system-operations-during-december-2022>).

<sup>9</sup> FERC & NERC, *System Performance Review of the January 2024 Arctic Storms* (Apr. 25, 2024), [https://www.ferc.gov/sites/default/files/2024-04/24\\_System%20Performance%20Review%20of%20the%20January%202024%20Arctic%20Storms\\_0425.pdf](https://www.ferc.gov/sites/default/files/2024-04/24_System%20Performance%20Review%20of%20the%20January%202024%20Arctic%20Storms_0425.pdf).

<sup>10</sup> Alex Harris, “How strong can Cat 5 Milton get? This hurricane may approach the maximum intensity,” *Miami Herald*, Oct. 17, 2024, <https://www.miamiherald.com/news/weather/hurricane/article293604224.html>. Carolyn Gramling, “Climate change fueled the fury of hurricanes Helene and Milton,” *Science News*, Oct. 9, 2024, <https://www.sciencenews.org/article/climate-change-hurricanes-helene-milton>.

<sup>11</sup> Order No. 1920 at P 95.

providers to: (1) conduct a sufficiently long-term assessment to identify Long-Term Transmission Needs; (2) adequately incorporate forward-looking considerations of known factors impacting Long-Term Transmission Needs; and (3) evaluate a broader spectrum of benefits from regional transmission facilities designed to address those needs. To address these gaps, Order No. 1920 mandates that transmission providers, including regional transmission organizations (RTOs) and independent system operators (ISOs), undertake significant reforms in their transmission planning and cost allocation processes and submit compliance revisions to their Open Access Transmission Tariffs (OATTs).

As relevant here, Order No. 1920 requires transmission providers to submit compliance filings revising their OATTs to comply with the terms set forth in the pro-forma tariff by June 12, 2025 – 13 months after Order No. 1920 was issued.<sup>12</sup> Additionally, during 13-month time period, transmission providers are required to establish a six-month period during which they must provide notice and a forum for Relevant State Entities to discuss potential cost allocation methods and/or a state agreement process.<sup>13</sup> Whether Relevant State Entities choose to use such a forum or use an alternative existing mechanisms to conduct such negotiations (such as the Organization of MISO States), as well as the process for such negotiations and criteria for any agreement are up to the Relevant State Entities.<sup>14</sup> At the time of the transmission provider's revised OATT filing, it must also propose a date no later than June 12, 2026 (unless additional time is needed to align new requirements with existing transmission planning cycles), on which it will commence the first long-term transmission planning cycle.<sup>15</sup> Together, these deadlines ensure that transmission planning regions promptly incorporate Order No. 1920 requirements

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<sup>12</sup> *Id.* at P 1768.

<sup>13</sup> *Id.* at P 1357.

<sup>14</sup> *Id.* at PP 1357-59.

<sup>15</sup> *Id.*

into their tariffs and align their future transmission planning processes with the order’s forward-looking requirements, fostering timely and urgently needed transmission improvements across the country. MISO is seeking a 12-month extension for its Regional Compliance Filing required by Order No. 1920, moving the deadline for simply revising its OATT from June 12, 2025, to June 12, 2026. This extension would apply to all directives in the order (including the deadline to commence the O1920 planning process), except those covered in the Interregional Transmission Coordination filing.<sup>16</sup>

## **II. MISO’s Request Does Not Meet Rule 2008 Standards for Demonstrating Good Cause**

Extensions to Commission deadlines may only be granted if, after careful review of the facts, a party meets its “heavy burden” to show good cause for a requested exemption.<sup>17</sup> As the Commission has noted, “many delays can be avoided if the [party] plans carefully and proceeds diligently.”<sup>18</sup> Consequently, “at a minimum. . . proof of good cause must include clear evidence” of “unanticipated, unavoidable delay” and a demonstration that the requesting party has “exercised diligent efforts in its attempts to resolve the problems within the time required.”<sup>19</sup>

MISO’s request for extension does none of these things. Rather, it describes in entirely generic terms the demanding workload of MISO transmission staff in managing other regional and interregional transmission planning efforts from now through 2025 and asserts that an extension until June 2026 would allow it “to properly allocate its resources and manage the stakeholder process.”<sup>20</sup> MISO states that if the compliance date is not extended it would “have to

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<sup>16</sup> MISO Filing at 1.

<sup>17</sup> 18 C.F.R. § 385.2008; *Frank B. Nichols*, 27 FERC ¶ 61,025 (1984); *Light & Power Bd.-City of Traverse City*, 28 FERC ¶ 62,011, 63,021 (1984).

<sup>18</sup> *Frank B. Nichols*, 27 FERC ¶ 61,025 (1984).

<sup>19</sup> *Dundee Water Power & Land Co.*, 28 FERC ¶ 62,391, 63,685 (1984); *Frank B. Nichols*, 27 FERC ¶ 61,025 (1984).

<sup>20</sup> MISO Request at 4-9.

prioritize” local planning issues that “may be required” and that “MISO Staff would have to balance” implementation of two other transmission plans “to avoid negative impacts.”<sup>21</sup> But these assertions do not demonstrate that an extension is actually necessary, only that compliance might be challenging. Neither does it assert that these challenges could not be ameliorated through hiring additional staff or contract assistance. Nothing in MISO’s request provides clear evidence that it has made *any* efforts to start complying with Order No. 1920 in the six months it has had since the Commission issued it, nor does it claim to have met unanticipated or avoidable delays in doing so. It also fails to explain why it needs a full year extension and what, exactly, it plans to do to advance compliance during that time. MISO does not actually assert that it cannot possibly make the Order No. 1920 deadline while also continuing with ongoing transmission efforts, only that its staff would need to balance and prioritize its work. But extension requests based on the desire to “avoid ... cumbersome and administratively difficult task[s]” do not meet the requirements for demonstrating good cause.<sup>22</sup> As MISO still has plenty of time in which to comply and has not shown it cannot meet the deadline, its request should be denied.<sup>23</sup>

MISO further asserts that an extension would allow it to “test out various long-term planning concepts” that “could consider the factors described in Order No. 1920 for the development of Long-Term Scenarios...[such as] High-Impact, Low Frequency Events” while it also reviews “the considerations of Alternative Transmission Technology, Right-Sizing transmission solutions, and constraints shared with Generation Interconnection Processes.” But this rationale mistakes both the obligation at issue and the deadline. The factors of Order No. 1920 and the other provisions MISO refers to are not optional ideas for MISO to explore and

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<sup>21</sup> *Id.* at 9-10.

<sup>22</sup> *Transwestern Pipeline Co.*, 52 FERC ¶ 61,363, 62,396 (1990)

<sup>23</sup> *Foresthill Pub. Util. Dist.*, 40 FERC ¶ 62,089, 63,137 (1987).

consider; they are mandatory requirements to be incorporated into MISO's tariff by June 2025 and implemented in future planning cycles.

MISO also appears to misunderstand the two tasks required of it at this juncture, which is simply to (1) update its tariff to include the requirements of Order No. 1920, and (2) to offer to provide a forum for the states to meet and discuss among themselves whether they wish to adopt a State Agreement Process at this juncture. As both of these tasks are primarily of a legal and/or administrative nature, neither would appear to require significant investment of time from the transmission planners themselves.<sup>24</sup> In fact, should MISO states opt to conduct negotiations around cost allocation and state agreement approach through the MISO Organization of States, there might be almost no work for MISO to do in this regard at all. MISO has failed to explain why it cannot simply adopt the pro-forma tariff or why its legal staff cannot use it to generate a draft revision of MISO's existing tariff for transmission planners and stakeholders to review and approve in short order. Under Order No. 1920, after submission of its tariff, MISO will have one year to start and five years in which to implement the changes that may be required of its transmission planning processes (which includes the more detailed or specific transmission planning provisions that would be included in business practice manuals), that MISO describes as the basis for its extension request.

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<sup>24</sup> Order 1920 time estimates for both of these tasks bear this out. The total, one-time time estimate for tariff revisions is estimated at 770 hours (or 5 people working for 19 days) and the potential forum hosting requirements are estimated at 390 hours (3 people working for 16 days). *See* Order No. 1920 at P 1781.

**III. While MISO’s Long Range Transmission Planning (LRTP) Has Been a Model of Forward-Looking Transmission Planning, Delays in Compliance with Order No. 1920 Would Harm Consumers and Perpetuate Ongoing Transmission Planning Problems in MISO**

MISO asserts that because its transmission planning processes are already “directionally compliant” with Order 1920, it should be given extra time to comply as such an extension would “not result in undue prejudice to any party.”<sup>25</sup> While PIOs agree that MISO’s long-range planning process is much further along than many other grid operators, and MISO has used this process to successfully plan three large regional transmission portfolios in its North subregion, this should make it easier for MISO to comply with the June 2025 deadline, rather than serving as justification for delay with Order No. 1920 that will harm MISO consumers, especially in MISO South.

**A. The Benefits From MISO’s LRTP Process Are Almost Exclusively Limited to the North**

The LRTP’s multi-value, multi-scenario approach is widely regarded as a best practice, as it allows planners to evaluate a wide range of future energy scenarios, identify critical system needs, and prioritize projects that provide broad regional benefits. Recognizing the distinct needs across its expansive service area, MISO organized the LRTP process into a series of phases, or “Tranches,” each tailored to address unique regional requirements.

Tranche 1 and Tranche 2 focused on the northern portion of MISO’s system, addressing transmission congestion, renewable integration, and reliability in states like Minnesota, Wisconsin, Iowa, and others in the Midwest. These recent tranches aimed to enhance grid capacity and resilience in the northern region, where substantial renewable energy projects, particularly wind energy, are being planned by MISO’s utility members, and will be further

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<sup>25</sup> MISO Request at 11.



expanded to meet state clean energy and decarbonization goals. With Tranche 1 complete and Tranche 2 nearing completion, MISO initially planned to proceed to Tranche 3, which would concentrate on developing a transmission plan for MISO South, covering Arkansas, Louisiana, Mississippi, and Texas. Tranche 3 is expected to address the unique challenges of this region, including hurricane resilience, integration of diverse energy resources, and ensuring reliable power flow under extreme weather conditions. Following that, Tranche 4 is envisioned to create a cohesive plan to improve the integration between MISO North and MISO South, addressing issues related to inter-regional power flows and enhancing the overall resilience of the MISO grid.

However, MISO recently announced a shift in focus, opting to delay the commencement of Tranche 3 in favor of a second phase of Tranche 2, dubbed Tranche 2.2, which will complement Tranche 2.1 to further address northern system needs. This decision reflects ongoing concerns about grid capacity and renewable integration in the north, as well as the desire to strengthen grid readiness for anticipated future demand and generation patterns. At present, MISO has not set a firm timeline for initiating Tranche 3 or Tranche 4, which leaves the MISO South sub-region without a clear planning schedule. This delay, along with MISO's request for a one-year extension to comply with Order No. 1920, raises concerns among stakeholders about the timeline for addressing critical infrastructure needs in MISO South and for fully realizing the benefits of a seamlessly integrated MISO grid. PIOs remain engaged, advocating for timely progress on these remaining tranches to ensure that MISO's entire footprint can benefit from a robust, forward-looking transmission network.

**B. A One-year Delay in Order No. 1920 Compliance is Not Warranted in this Instance and Could Set an Unintended Precedent**

MISO contends that a one-year delay in compliance is justified, citing Order No. 1920's acknowledgment that some transmission planning regions already employ proactive, forward-looking regional transmission planning approaches. According to MISO, Order No. 1920 specifically noted that it "did not intend to undermine progress made in these transmission planning regions," recognizing the unique advancements that certain regions, including MISO, have achieved.<sup>26</sup>

In its filing, MISO emphasizes that its LRTP initiative aligns closely with the objectives of Order No. 1920. MISO points out that "MISO's long-term transmission planning innovations and their benefits to customers were expressly recognized in Order No. 1920," which highlights the Commission's support for the progress MISO has made in addressing the region's transmission needs.<sup>27</sup> MISO asserts that the foundational principles of its LRTP initiative—such as comprehensive, long-term assessments and scenario-based planning—are "directionally aligned" with the requirements set forth in Order No. 1920 and largely compliant with its mandates for regional transmission planning and cost allocation.<sup>28</sup>

Since MISO's LRTP process is already closely aligned with the requirements of Order No. 1920, bringing MISO's OATT into full compliance should not pose significant challenges. The LRTP initiative incorporates many of the core principles emphasized in Order No. 1920, such as forward-looking, proactive transmission planning that addresses long-term needs and accounts for multiple regional benefits. MISO's existing framework—designed around multi-scenario planning, stakeholder engagement, and a structured cost allocation approach—already

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<sup>26</sup> MISO filing at 3.

<sup>27</sup> *Id.* at 5.

<sup>28</sup> *Id.* at 3.

reflects the direction and intent of the order. Consequently, MISO can focus on fine-tuning certain processes rather than overhauling its planning methodology, making compliance a more streamlined endeavor. With only minor adjustments likely needed, MISO is well-positioned to meet Order No. 1920's requirements without disrupting its ongoing transmission planning efforts, allowing it to continue delivering reliable and efficient solutions for future grid needs.

In addition, Order No. 1920 primarily centers on revising tariffs rather than mandating the development of new transmission plans or undertaking extensive, time-consuming planning activities. This focus on tariff modifications means that MISO will not need to significantly burden its planning staff to meet compliance requirements. The order's primary objective is to ensure that tariff provisions reflect the Commission's vision for more forward-looking, proactive regional transmission planning that considers future system needs and benefits to customers. The June 2025 deadline from which MISO seeks relief involves a procedural adjustment aimed at aligning existing planning practices with FERC's goals, not an overhaul that immediately requires substantial new analyses, modeling, or planning projects.

This emphasis on administrative and tariff-related adjustments allows MISO to manage compliance with existing staff and resources. By updating tariff language and refining existing practices, MISO can achieve the desired alignment without incurring the costs and time associated with hiring and training additional personnel. Furthermore, if MISO identifies any specific tasks within the compliance process that require additional expertise or temporary support, it has the flexibility to bring in supplementary staff or consultants as needed. This flexibility enables MISO to adjust efficiently to meet the requirements of Order No. 1920, implementing any necessary updates to its tariff framework promptly and without creating a long-term staffing or resource burden for its planning team. Ultimately, this approach ensures

that MISO can comply with the order effectively, maintaining continuity in its planning operations while achieving the regulatory goals of more coordinated, forward-looking transmission planning.

Finally, if MISO, despite asserting that its current processes are largely compliant with Order No. 1920, is granted an extension to meet the order's requirements, it could set an unintended precedent that undermines the national objective of advancing timely, proactive transmission planning. Such an extension would imply that even regions with well-developed planning processes face considerable challenges in complying with Order No. 1920. This perception might embolden other regions, especially those with minimal or underdeveloped regional planning frameworks, to seek extended timelines for compliance, arguing that their lack of preparedness makes alignment with the order's requirements particularly burdensome.

In regions with limited or fragmented planning structures, additional time could be requested not as a genuine necessity but as a convenient delay tactic, stalling the critical improvements that Order No. 1920 seeks to promote. This delay would risk fragmenting the progress toward a cohesive, coordinated national grid by allowing certain regions to lag while others advance. Moreover, approving extensions for entities that already have substantial alignment with Order No. 1920 would weaken the incentive for regions with less mature planning practices to make immediate improvements or invest in resources needed to achieve compliance. Over time, this approach would perpetuate disparities in the robustness and coordination of transmission planning efforts across the country.

Ultimately, such delays could create ongoing gaps in planning that would challenge grid reliability, increase congestion costs, and delay the integration of new energy resources, impacting interregional planning efforts as well. Therefore, it is crucial that MISO, given its

advanced stage in transmission planning, adheres to the original compliance schedule to set a strong example and reinforce the urgency of implementing Order 1920's forward-looking planning requirements across all regions.

**C. MISO's Request Ignores the Urgency of the Problem and It Has Fallen Behind Its Peers on State Engagement**

As discussed *supra*, the Order No. 1920 rulemaking is neither a surprise for which MISO had no time to prepare, nor is the 13 months between the Order's issuance and the deadline for filing a revised tariff in any way unreasonable. The record has made clear that the need for reform is extremely urgent, and as MISO itself notes, it is facing its own increases in load growth that are important reasons for ensuring rapid adoption of the reforms Order No. 1920 requires both for regional *and* local transmission planning, including the consideration of easily implemented capacity solutions such as dynamic line ratings and reconductoring. MISO's request ignores both the urgency of the need for timely compliance with Order No. 1920 everywhere and the fundamental ways in which it is not in compliance with Order 1920.

Especially relevant in evaluating MISO's request is its outlier status among its peer RTO/ISOs, which have already commenced the state engagement process with schedules for timely compliance with the June 2025 deadline—regardless of any potential order on rehearing that may be issued in the meantime—as shown below:<sup>29</sup>

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<sup>29</sup> See, e.g., Americans for a Clean Energy Grid, "FERC Order 1920 Resources: Tracking State Engagement Periods," <https://cleanenergygrid.org/policies/ferc-order-no-1920-resources/> (last checked November 14, 2024) (showing state engagement period tracking for ISO-NE, PJM, SPP, WestConnect, NorthernGrid, CAISO, SERTP, SCRTP, showing that MISO is the only regional transmission provider to not have scheduled a timely state engagement process).

## Tracking State Engagement Periods



Given that MISO has neither justified its own request with the particularity required of extension requests under Rule 2008 nor asserts that it cannot, in fact, meet the deadline, it should not be given a free pass to take another year or more to even start the work that other planning regions are already diligently undertaking in timely fashion.

### IV. Conclusion

While PIOs strongly support the regional planning efforts MISO has made to develop its original Multi-Value Project portfolio, and the recent Tranches 1 and 2.1, for the foregoing reasons, Sustainable FERC Project, Natural Resources Defense Council, Clean Wisconsin, Union of Concerned Scientists, Environmental Law & Policy Center, Sierra Club and Fresh Energy respectfully request that the Commission deny MISO's motion for a 12-month extension for its Regional Compliance Filing required by Order No. 1920.

Respectfully submitted,

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