UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc.) Docket No. ER26-2825-000

PROTEST OF
THE ELECTRICITY TRANSMISSION COMPETITION COALITION

On June 12, 2026, the Midcontinent Independent System Operator, Inc. ("MISO") filed proposed tariff revisions[1] to its Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff Revisions" or "Compliance Filing") in an effort to comply with the requirements of the Final Rule, or Order No. 1920, issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") in Docket No. RM21-17-000.[2] MISO requests an effective date of June 12, 2028 for its proposed Tariff Revisions.[3]

Pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedures[4] and the Commission's July 2, 2026 Notice Granting Extension of Time, the Electricity Transmission Competition Coalition ("ETCC") protests MISO's Compliance Filing because the proposed Tariff Revisions do not strictly comply with the Commission's implementation of a limited new right-sized replacement transmission facility right-of-first-refusal ("ROFR") instituted in Order No. 1920. Accordingly, ETCC asks that the Commission reject the Compliance Filing and instead require MISO to propose new tariff revisions that comply with the requirements and principles

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[1] *See Midcontinent Independent System Operator, Inc*., Regional Compliance Filing for Order Nos. 1920 *et al*, Docket No. EL26-2825-000 (filed June 12, 2026).

[2] Building for the Future Through Electric Regional Transmission Planning and Cost Allocation, Order No. 1920, 187 FERC ¶ 61,068 (2024), order on reh'g & clarification ("Order No. 1920"). FERC subsequently issued Order No. 1920-A, 189 FERC ¶ 61,126 (2024), order on reh'g & clarification ("Order No. 1920-A"), Order No. 1920-B, 191 FERC ¶ 61,026 (2025), appeal pending sub nom. *Appalachian Voices v. FERC*, Nos. 24-1650, et al. (4th Cir. July 16, 2024) ("Order No. 1920-B").

[3] *See Midcontinent Independent System Operator, Inc*., Regional Compliance Filing for Order Nos. 1920 *et al*, Docket No. EL26-2825-000, at 54 (filed June 12, 2026) (hereinafter "MISO Compliance Filing").

[4] 18 C.F.R. §§ 385.211, 385.214.

underlying Order No. 1920, including the definition of *right-sized replacement transmission facility* in Paragraph 1679 of Order No. 1920.

I. STATEMENT OF INTEREST OF ETCC

ETCC is a diverse, broad-based, nation-wide coalition focused on electricity affordability through increasing competition in the development and ownership of America's electricity transmission infrastructure.[5] ETCC represents companies and organizations throughout the continental United States, including manufacturing groups, retail electric consumers, state consumer advocates, public power representatives, think tanks, and non-incumbent transmission developers. ETCC members represent entities and individuals that pay hundreds of billions of dollars in electricity rates each year.

The transmission and distribution components of electricity rates represent the fastest rising components of electricity bills,[6] far outpacing inflation,[7] – with ongoing annual escalations expected well into the future to meet the grid's infrastructure needs.[8] "It is long-established that the 'primary aim' [of the Federal Power Act] is the protection of consumers from excessive rates and charges."[9] Comprised of organizations representing residential, commercial, institutional, and

[5] *See* https://electricitytransmissioncompetitioncoalition.org/who-we-are/ (last accessed August 5, 2026). ETCC filed a Doc-less Motion to Intervene in this proceeding on May 21, 2026.

[6] *See, e.g.*, "Transmission Costs Are Rising – Here's What That Means for Your Electric Bill," American for Fair Energy Prices, *available at* https://www.fairenergyprices.org/energy-prices-blog/transmission-costs-are-risingheres-what-that-means-for-your-electric-bill (last accessed August 5, 2026).

[7] *See* "Americans hit with soaring electricity bills at price hikes outpace inflation nationwide," (Feb. 26, 2026), *available at* https://www.foxbusiness.com/economy/americans-hit-soaring-electricity-bills-price-hikes-outpace-inflation-nationwide (last accessed August 5, 2026).

[8] "Investor-owned utilities could spend $1.1T between 2025 and 2029," EEI, Utility Dive, Oct. 9, 2025, *available at* https://www.utilitydive.com/news/investor-owned-utilities-spending-more-than-ever-eei/802315/ (last accessed August 5, 2026).

[9] *Xcel Energy Services v. FERC*, 815 F.3d 947, 952-53 (D.C. Cir. 2016).

industrial loads, ETCC has a vital interest in unleashing competitive transmission developer selection processes to the greatest extent possible to protect against ballooning transmission costs.

II. INTRODUCTION AND EXECUTIVE SUMMARY

ETCC appreciates that MISO is under a directive to comply with Order No. 1920, even though several challenges to the Final Rule are pending before the Fourth Circuit Court of Appeals ("Fourth Circuit"), with oral argument scheduled for September 15, 2026. Some parties to the case, including ETCC, LS Power Grid, the Resale Power Group of Iowa, Advanced Energy United, and several industrial customer groups[10] have specifically asked for court review of the Commission's right-sized replacement transmission facility right-of-first-refusal mandated by Order No. 1920, and specifically asked for the Order No. 1920 paragraphs 1693-1709, which established the new right-sized replacement transmission facility ROFR to be struck, while not necessarily challenging the remainder of Order No. 1920's reforms.

ETCC is not seeking through this Protest to re-litigate paragraphs 1693-1709 of Order No. 1920, which is actively before the Fourth Circuit; rather ETCC seeks MISO's strict compliance with these paragraphs, in the event that Order No. 1920 paragraphs 1693-1709 are upheld by the courts. The Commission must ensure that a compliance filing accords with the directives of the underlying order.[11] Unlike instances where the Commission has directed the utility on compliance to make further proposals,[12] the Commission did not provide for such discretion as to the definition and application of the right-sizing ROFR requirements in Order No. 1920. A reviewing court will

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[10] The arguments of the ETCC appellate brief are expressly supported by several consumer groups, including the Industrial Energy Consumers of America, the American Forest & Paper Association, the PJM Industrial Customer Coalition, and the Coalition of MISO Transmission Customers. *See* Appalachian Voices, et al., v. FERC, Opening Brief of the Consumer Petitioners, No. 24-1650 (*4th Cir. March 13, 2026*).

[11] *City of Cleveland v. FERC*, 773 F.2d 1368, 1374 (D.C. Cir. 1985); *see also E. Texas Coop. v. FERC*, 218 F.3d 750, 753-754 (D.C. Cir. 2000) ("FERC precedent generally confines the scope of modifications in compliance filings to the Commission's particular directives").

[12] *See East Texas,* 218 F.3d at 753-754 (citing *Entergy Power Mktg. Corp.*, 75 FERC ¶ 61,282 at ¶ 61,903 (1996)).

overturn a FERC order on compliance if the FERC order is arbitrary and capricious and inconsistent with the underlying FERC order that triggered the compliance filing.[13]

With this background mind, ETCC organizes this protest around the specific paragraphs and definitions in Order No. 1920 to demonstrate that the MISO Compliance Filing is not in compliance with Paragraphs 1678, 1679, 1680, 1681, 1702 and Footnote 3613 of Order No. 1920. The right-sizing ROFR provisions in MISO's Compliance Filing constitute matters that significantly affect rates.[14] As a result, MISO's full compliance with the aforementioned paragraphs in Order No. 1920 must be reflected in the tariff that is on file with the Commission, and not left to MISO's discretion or through the use of non-binding MISO Business Practice Manuals[15] that provide guidance and details regarding technical implementation of the Tariff. Because MISO's Compliance Filing does not comply with Order No. 1920's narrow and clear determinations concerning the use of a right-sizing ROFR, the Compliance Filing must be rejected.

III. BACKGROUND

On May 13, 2024, FERC issued Order No. 1920. The primary focus of Order No. 1920 was addressing shortcomings of status quo planning practices.[16] In it, FERC concluded that the current lack of long-term, forward-looking, and comprehensive regional transmission planning results in inefficient transmission infrastructure that requires customers to pay "more than is necessary or appropriate," forgoing projects with benefits in excess of costs, and "renders

[13] *See IDACORP Energy L.P. v. FERC*, 433 F.3d 879, 886 (D.C. Cir. 2006) (rejecting FERC's acceptance of a compliance filing as arbitrary and capricious).

[14] *See Santa Paula Energy Storage, LLC Black Walnut Energy Storage, LLC*, 195 FERC ¶ 61,186 (2026) ("[FERC's] rule of reason requires that tariffs include practices that affect rates and service significantly."); *see also Nevada Power Co. Sierra Pac. Power Co.*, 176 FERC ¶ 61,011 (2021) (penalty pricing parameters must be in the CAISO tariff, as opposed to the business practice manual to be consistent with the Commission's rule of reason).

[15] *See* MISO Compliance Filing at 53-54 (explaining that MISO "may" develop default criteria on right-sizing thresholds in future business practice manual updates).

[16] Order No. 1920 at PP 85, 112, 114-123.

Commission-jurisdictional regional transmission planning and cost allocation processes unjust and unreasonable."[17] Order No. 1920 therefore adopted a requirement for "Long-Term Regional Transmission Planning" that FERC reasoned would "ensure the identification, evaluation, and selection, as well as the allocation of the costs, of more efficient or cost-effective regional transmission solutions to address Long-Term Transmission Needs."[18]

In issuing Order No. 1920, the Commission explained that existing transmission provider tariffs were unjust and unreasonable "due to the lack of right-sizing requirements that may lead to the identification, evaluation, and selection of more efficient or cost-effective Long-Term Regional Transmission Facilities."[19] And so, FERC mandated that transmission planners include in their tariffs a ROFR for any "right-sized replacement transmission facility that is selected to meet Long-Term Transmission Needs"[20] that arises out of an "in-kind replacement transmission facility."[21]

The Commission's rationale behind "right-sizing" facilities was facilitating the identification of transmission projects under 200 kV planned by individual transmission owners that can be modified or "right-sized" to more efficiently or cost effectively address regional transmission needs.[22] The Commission further explained that the reforms of Order No. 1920 were intended to enhance transparency of the individual transmission owner planning process inputs into the regional planning process to allow evaluation of whether planned replacement transmission facilities can be "right-sized" to address broader regional needs.[23]

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[17] Order No. 1920 at P 112.

[18] Order No. 1920 at P 1.

[19] Order No. 1920 at P 1576.

[20] Order No. 1920 at P 1702.

[21] Order No. 1920 at P 1678.

[22] *See* Order No. 1920 at P 1574.

[23] Order No. 1920 at P 1577; *see id.* at P 1650, n. 3613 (explaining the process for "right-sizing" projects).

On rehearing, the Commission sustained Order No. 1920's finding that right-sizing reform would promote the consideration of more efficient or cost-effective potential regional transmission solutions to address Long-Term Transmission Needs.[24] The Commission further affirmed:

> [The] federal right of first refusal applies only to selected right-sized replacement transmission facilities, which, absent the right-sizing reform, would likely not otherwise be identified for potential selection in either the existing Order No. 1000 regional transmission planning process or the Long-Term Regional Transmission Planning process.[25]

Here, the following Paragraphs in Order No. 1920 are relevant to implementation of the right-sizing ROFR and to the concerns raised in this protest:

> 1677. We adopt the NOPR proposal, with modification, to require that, as part of each Long-Term Regional Transmission Planning cycle, transmission providers in each transmission planning region evaluate whether transmission facilities (1) operating above a specified kV threshold and (2) that an individual transmission provider that owns the transmission facility anticipates replacing in-kind with a new transmission facility during the next 10 years can be "right-sized" to more efficiently or cost-effectively address a Long-Term Transmission Need. To effectuate this reform, we also adopt the NOPR proposal, with modification, to require that, sufficiently early in each Long-Term Regional Transmission Planning cycle, each transmission provider submit its in-kind replacement estimates (i.e., estimates of the transmission facilities operating at and above the specified kV threshold that an individual transmission provider that owns the transmission facility anticipates replacing in-kind with a new transmission facility during the next 10 years) for use in Long-Term Regional Transmission Planning. With respect to the specified kV threshold, transmission providers must propose on compliance a threshold that does not exceed 200 kV (e.g., 115 kV and above). In adopting the right-sizing reform in this final rule, we recognize that a transmission provider may have existing rights and responsibilities with respect to maintaining and, when necessary, replacing existing transmission facilities. We also adopt the NOPR proposals regarding a federal right of first refusal and cost allocation method for right-sized replacement transmission facilities, as discussed below.
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> 1678. We adopt the NOPR proposal to define "right-sizing" as the process of modifying a transmission provider's in-kind replacement of an existing transmission facility to increase that facility's transfer capability.[3580] Additionally, we clarify that, for purposes of this right-sizing reform, an "in-kind replacement transmission facility" is a new transmission facility that: (1) would replace an

[24] See Order No. 1920-A at P 890.

[25] See Order No. 1920-A at P 892.

existing transmission facility that a transmission provider has identified in its in-kind replacement estimate as needing to be replaced; (2) would result in no more than an incidental increase in capacity over the existing transmission facility identified as needing to be replaced;[3581] and (3) is located in the same general route as, and/or uses the existing rights-of-way of, the existing transmission facility identified as needing to be replaced.

1679. Further, we clarify that a “right-sized replacement transmission facility” is a new transmission facility that: (1) would meet the need to replace an existing transmission facility that a transmission provider has identified in its in-kind replacement estimate as one that it plans to replace with an in-kind replacement transmission facility while also addressing a Long-Term Transmission Need; (2) results in more than an incidental increase in the capacity of an existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate; and (3) is located in the same general route as, and/or uses or expands the existing rights-of-way of, the existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate. We believe these clarifications are necessary to ensure that use of the right-sizing reform addresses *replacement* transmission facilities and not entirely new transmission facilities.

1680. As an example, assume that transmission providers determine that an existing transmission facility included in a transmission provider's in-kind replacement estimate can be right-sized (Segment 1) and, together with a separate new transmission facility (Segment 2), is the more efficient or cost-effective solution to a Long-Term Transmission Need. In this example, Segment 1 is a new 50-mile, 345 kV transmission facility between interconnection points A and B that requires the expansion of an existing right-of-way, and replaces an existing 50-mile, 230 kV transmission facility between interconnection points A and B. Segment 2 in this example is a new 25-mile, 345 kV transmission facility requiring entirely new rights-of-way from interconnection points B to C. If both Segment 1 and Segment 2 are selected to address a Long-Term Transmission Need, then, for purposes of the requirements of this final rule, only Segment 1 would be considered a right-sized replacement transmission facility.

1681. Consistent with the NOPR proposal, and as discussed further below, the process under this proposed right-sizing reform entails taking the following steps, which transmission providers must describe in their OATTs. The transmission providers in each transmission planning region must propose a point sufficiently early in each Long-Term Regional Transmission Planning cycle at which each individual transmission provider in the transmission planning region will submit its in-kind replacement estimates for use in Long-Term Regional Transmission Planning. Then, if transmission providers identify a right-sized replacement transmission facility as a potential solution to a Long-Term Transmission Need as part of Long-Term Regional Transmission Planning, that right-sized replacement transmission facility must be evaluated in the same manner as any other proposed Long-Term Regional Transmission Facility to determine whether it is the more efficient or cost-effective transmission facility to address the transmission need. More specifically, it is at this stage of the right-sizing reform where transmission providers must use the in-kind replacement estimates to determine if in-kind replacement transmission facilities could be right-sized to more efficiently or cost-effectively address a Long-Term Transmission Need(s). If a right-sized replacement transmission facility addresses the transmission provider's need to replace an existing transmission facility, meets the applicable selection criteria included in Long-Term Regional Transmission Planning, and is found to be the more efficient or cost-effective solution to a Long-Term Transmission Need, then the right-sized replacement transmission facility must be considered for selection.

1702. We adopt the NOPR proposal to require the establishment of a federal right of first refusal for a right-sized replacement transmission facility[3613] [26] that is selected to meet Long-Term Transmission Needs. This federal right of first refusal will apply to the transmission provider that included in its in-kind replacement estimate the existing transmission facility that the right-sized replacement transmission facility would replace, and extends to any portion of the right-sized replacement facility located within that transmission provider’s retail distribution service territory or footprint, recognizing that any such portion must satisfy the definition of a right-sized replacement facility, as revised by this final rule, including that the right-sized replacement transmission facility is located in the

[26] Order No. 1920 at P 1702 (“FN3613 As noted above, right-sizing could include, for example, increasing the transmission facility's voltage level, adding circuits to the towers (e.g., redesigning a single-circuit line as a double-circuit line), or incorporating advanced technologies (e.g., advanced conductor technologies). Additionally, we reiterate that, as noted above, a right-sized replacement transmission facility is, for purposes of this right-sizing reform, a new transmission facility that: (1) would meet the need to replace an existing transmission facility that a transmission provider has identified in its in-kind replacement estimate as one that it plans to replace with an in-kind replacement transmission facility while also addressing a Long-Term Transmission Need; (2) results in more than an incidental increase in the capacity of an existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate; and (3) is located in the same general route as, and/or uses or expands the existing rights-of-way of, the existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate.”).

same general route as, and/or uses or expands the existing rights-of-way of, the existing transmission facility.

IV. PROTEST

A. MISO's Compliance Filing Does Not Meet the Strict Definition Requirements of Right-Sized Replacement Transmission Facility And Is, Therefore, Inconsistent with and Outside the Scope of Order No. 1920.

At base, right-sized projects generally involve expanding an existing line to increase its transfer capacity.[27] While Order No. 1920's ROFR is limited to the portion of any project being right-sized, there are entirely new transmission projects often associated with right-sized portions where it is essential that transmission competition remains intact.

The MISO Compliance Filing does not ensure that use of the right-sizing reform addresses only *replacement* transmission facilities and not entirely new transmission facilities in the context of Long-Term Planning Regional Transmission Planning and identifying and addressing a Long-Term Transmission Need.[28] MISO proposes to amend its "Upgrades" exemption set forth in Section VIII.A.2.1 of Attachment FF to include the following language:

> *Right-sizing an existing transmission line to increase its transfer capability. A right-sized transmission line is a replacement of an existing transmission facility and is located in the same general route and/or uses the existing right-of-way of the existing transmission line facility as needing to be replaced. A right-sized transmission line can be operated at a different voltage than the existing line, as long as the transfer capability is increased.*[29]

MISO proposes to add right-sizing an existing transmission line to its list of eligible "upgrades" to existing transmission lines in Attachment FF. This proposed revision unduly expands Order No. 1920's definition of "right-sized replacement facility." Standing alone,

[27] *See* Platts Megawatt Daily, Vol. 31, Issue 118 at 9 (June 24, 2026).

[28] *See* Order No. 1920 at PP 1677-1678.

[29] MISO Compliance Filing, Redlined Tariff Sheets at PDF page 139-140.

right-sized projects do not belong in an Upgrades section of MISO's Tariff, as FERC's definition of "upgrade" in Order No. 1000[30] and subsequent precedent clarified that an upgrade does not include the replacement of an entire line.[31] In addition, FERC's definition of right sizing does not include entirely new facilities and any right-sized facility must strictly meet the three-prong test under Paragraph 1679 of Order No. 1920. MISO's proposed tariff language creates the clear possibility – not provided for in Order No. 1920 – that MISO could invoke and apply the right-sizing concept outside of MISO's long-term transmission planning process. MISO's proposed tariff revisions to Section VIII.A.2.1 of Attachment FF, quoted above, must be revised to comply with Order No. 1920.

MISO's proposed language is inherently inconsistent with Paragraph 1679 of Order No. 1920, wherein FERC explicitly requires a "right-sized" facility to be a new, replacement transmission facility, not simply an upgrade to an existing facility. Not only does MISO's incorporation of right-sizing facilities conflict with FERC's right-sizing guardrails as explained in Order No. 1920, but MISO's proposed Tariff Revisions also lack definitional clarity. A clear definition for a "right-sized replacement transmission facility" is nowhere to be found in MISO's Compliance Filing, despite MISO's scattering of the phrase "right-sizing" in several proposed Tariff Revisions. Notably, Duke Energy Florida, LLC in its Order No. 1920 Compliance Filing in Docket No. ER26-2800, proposed several

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

[31] *See* Order No. 1000-A at P 426 ("In response to requests for clarification regarding what the Commission considers to be an upgrade, we note that in Order No. 1000, the term upgrade means an **improvement to, addition to, or replacement of a part of, an existing facility**. The term upgrades does not refer to an entirely new transmission facility.") (emphasis added).

detailed, redlined tariff revisions, including FERC's definition of "right-sized replacement transmission facility."[32] Similarly, the Commission should require MISO to include in its Module A Common Tariff Definitions FERC's verbatim definition for "right-sized replacement transmission facility" as follows:

> a "right-sized replacement transmission facility" is a new transmission facility that: (1) would meet the need to replace an existing transmission facility that a transmission provider has identified in its in-kind replacement estimate as one that it plans to replace with an in-kind replacement transmission facility while also addressing a Long-Term Transmission Need; (2) results in more than an incidental increase in the capacity of an existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate; and (3) is located in the same general route as, and/or uses or expands the existing rights-of-way of, the existing transmission facility that a transmission provider has identified for replacement in its in-kind replacement estimate.[33]

Such an inclusion in MISO's Tariff Revisions would ensure a strict and narrow application of "right-sizing" that is confined to the language of Order No. 1920 and better ensure that MISO applies Order No. 1920's determinations as the Commission intended.

Furthermore, the Commission should direct MISO to incorporate the verbatim definition of In-Kind Replacement Transmission Facility from Paragraph 1678 of Order No. 1920:

> a new transmission facility that: (1) would replace an existing transmission facility that a transmission provider has identified in its in-kind replacement estimate as needing to be replaced; (2) would result in no more than an incidental increase in capacity over the existing transmission facility identified as needing to be replaced; and (3) is located in the same general route as, and/or uses the existing

[32] *See Duke Energy Florida, LLC*, Docket No. ER26-2800, Redlined Tariff Revisions at Sec. 7 (Selection of Long-Term Regional Transmission Facilities) (filed June 12, 2026).

[33] Order No. 1920 at P 1679.

> rights-of-way of, the existing transmission facility identified as needing to be replaced.

This approach would also promote clarity in MISO's Tariff application and help limit discretionary tariff interpretation that could skew toward a direct assignment determination instead of initiation of the Competitive Transmission Process. Inclusion of FERC's verbatim definition of "right-sized replacement transmission facility" and "in-kind replacement transmission facility" in RTO tariffs can help establish consistency across RTOs.

B. Inclusion of the Right-Sizing Provisions in the Upgrades Exemption Provisions in the Tariff Unduly Discriminates Against Nonincumbents in Favor of Incumbent Transmission Developers That Are Similarly Situated.

In Order No. 1000, the Commission sought to establish a level playing field between incumbent utilities and non-incumbent transmission developers for developing regional transmission projects in a regional transmission plan subject to regional cost allocation. The Commission held that "a nonincumbent transmission developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation have the same opportunity as an incumbent transmission developer to allocate the cost of such transmission facilities through a regional cost allocation method or methods."[34]

Here, MISO proposes to insert the right-sizing ROFR provisions into the existing "Upgrades" exemption in Tariff Attachment FF, which allows for a direct assignment of a regional transmission project to the incumbent utility outside of the default Competitive

[34] Order No. 1000 at PP 332, 335.

Transmission Process.[35] The Upgrade exemption in MISO's Tariff is already prone to overuse,[36] resulting in less competition and less transmission rate protection for consumers. The Upgrades exemption establishes an exemption from competition that favors incumbent transmission owners. As a result, MISO's proposed placement of the right-sizing provisions within the Upgrade exemption further advantages the incumbent utilities and unduly discriminates against non-incumbent developers in favor of the incumbent utilities. Such a case of undue discrimination exists because similar classes or groups – incumbent and nonincumbent developers that are all Qualified Transmission Developers certified under the Attachment FF requirements – are similarly situated yet treated differently without justification.[37] For purposes of Attachment FF, incumbents and non-incumbents are similarly situated – both entities undergo an approval process to become Qualified Transmission Developers and are provided an opportunity to compete for regional transmission projects in the MISO Transmission Expansion Plan ("MTEP") that are regionally cost allocated.[38] MISO publishes its list of Qualified Transmission Developers, which includes incumbents and non-incumbents.[39] Both incumbents and non-incumbents must undergo a substantial prequalification process to be certified by MISO as an Attachment FF Qualified Transmission Developer.[40] To remain qualified, each Qualified

[35] *See* Tariff Attachment FF VIII.A ("Except as otherwise provided in Sections VIII.A.1, VIII.A.2 and VIII.A.3 of this Attachment FF, the Competitive Developer Selection Process shall be applicable to all transmission facilities and substation facilities located on the Transmission System and included in an Eligible Project.").

[36] *See* "Complaint of Industrial Energy Consumers of America *et al. v. MISO*, Docket No. EL22-78 at 19-20, 81-82 (filed July 22, 2022) (including chart showing that the $10.4 billion Tranche 1 long-range plan included $3.9 billion in Upgrades and noting that just $1 billion would be competitive).

[37] *See Dynegy Midwest Generation v. FERC*, 633 F.3d 1122, 1125-1129 (D.C. Cir. 2011); *see also N.J. Bd. of Public Utilities v. FERC*, 744 F.3d 74, 106 (3d Cir. 2014).

[38] *See* Attachment FF at Section VIII.

[39] *See* https://cdn.misoenergy.org/MISO%20Qualified%20Transmission%20Developers%20List82330.pdf (last accessed July 13, 2022).

[40] *See* Attachment FF at Section VIII.B.2. (Prequalification Process).

Transmission Developer must recertify every second calendar year.[41] Additionally, Qualified Transmission Developers are subject to several general requirements outlined in Section VIII.B.4 in Attachment FF.

Order No. 1920 seeks to ensure that a transmission provider evaluates all proposals for a right-sized transmission facility along with any competing alternatives in a manner that is not unduly discriminatory or preferential to ensure the more efficient or cost-effective transmission facility is selected.[42] Inclusion of right-sizing language in the Upgrades exemption thus runs counter to Order No. 1920's regional planning objectives and the non-discrimination objectives of Order No. 1000.

C. MISO's Proposed Tariff Revisions Do Not Ensure Compliance with Order No. 1920's Requirement that Entirely New Transmission Facilities are Segmented from Right-Sized Transmission Facilities (And Thus Competitive under Existing Order No. 1000 Frameworks).

In Order No. 1000, the Commission specifically held that the determination of just and reasonable Commission-jurisdictional rates requires "a nonincumbent transmission developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation have the same opportunity as an incumbent transmission developer to allocate the cost of such transmission facilities through a regional cost allocation method or methods."[43] Transmission competition is an essential element for allowing the Commission to establish transmission rates are just, reasonable, and not unduly discriminatory or preferential.[44]

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[41] Attachment FF at Section VIII.B.3. (Biennial Recertification Process).

[42] *See* Order No. 1920 at P 1681 ("if transmission providers identify a right-sized replacement transmission facility as a potential solution to a Long-Term Transmission Need as part of Long-Term Regional Transmission Planning, that right-sized replacement transmission facility must be evaluated in the same manner as any other proposed Long-Term Regional Transmission Facility to determine whether it is the more efficient or cost-effective transmission facility to address the transmission need

[43] Order No. 1000 at PP 332, 335.

[44] Order No. 1000 at P 286 (quoting *Otter Tail Power Co. v. United States*, 410 U.S. 366 at 374 (1973)).

MISO's Compliance Filing does not adequately protect the Order No. 1000 framework in Attachment FF nor implement the Commission's determination in Paragraph 1680 of Order No. 1920, which is also key to protecting competitive transmission markets.

> 1680. As an example, assume that transmission providers determine that an existing transmission facility included in a transmission provider's in-kind replacement estimate can be right-sized (Segment 1) and, together with a separate new transmission facility (Segment 2), is the more efficient or cost-effective solution to a Long-Term Transmission Need. In this example, Segment 1 is a new 50-mile, 345 kV transmission facility between interconnection points A and B that requires the expansion of an existing right-of-way, and replaces an existing 50-mile, 230 kV transmission facility between interconnection points A and B. Segment 2 in this example is a new 25-mile, 345 kV transmission facility requiring entirely new rights-of-way from interconnection points B to C. If both Segment 1 and Segment 2 are selected to address a Long-Term Transmission Need, then, for purposes of the requirements of this final rule, only Segment 1 would be considered a right-sized replacement transmission facility.

Contrary to Paragraph 1680 in Order No. 1920, the Compliance Filing would not necessarily ensure that only Segment 1 would be considered a right-sized replacement transmission facility. The Compliance Filing has omitted any explanation and has not proposed any Tariff requirement to ensure that Segment 2 in the above example would not also be considered a right-sized replacement transmission facility or an upgrade that would otherwise be exempt from MISO's Competitive Transmission Process. Instead of ensuring compliance with Order No. 1920, the proposed Tariff Revisions seek to amend the existing Tariff language regarding the Upgrades exemption from the default Competitive Transmission Process. As a result, the various exceptions to transmission competition in the MISO Tariff – Upgrades, Immediate Need, State ROFR Law, and now right-sized projects – will swallow the default rule requiring competitive solicitations for eligible regional projects. Accordingly, the Commission should reject the proposed Tariff Revisions and direct MISO to resubmit a compliance filing that ensures that Segment 2 in the above example would be eligible for a competitive solicitation process (instead of being considered a right-sized replacement transmission facility).

D. FERC Should Reject Several Other Proposed Tariff Revisions That Fail to Comply With the Plain Language of Order No. 1920 and Also Facilitate Gaming and Self-Planned "Local" Planning Contrary to Order No. 1920's Regional Planning Objectives.

In MISO's Planning Cycle and Milestones section of Attachment FF to its Tariff, MISO proposes to add the following language:

> Right-sizing replacement facilities. Facilities that are anticipated to be replaced in-kind within 10-years, and are operated above a minimum kV threshold established by the Transmission Owner will be evaluated for upgrades that allow a "right-sized" replacement facility to more efficiently or cost-effectively meet long term transmission needs.[45]

Here, what MISO must take into account in developing its MTEP is not "right-sized replacement facilities," but instead the mandated list of potential in-kind replacements. Order No. 1920 had distinct roles. The transmission owner submits its list of in-kind replacements in the 10-year horizon. The regional planner, MISO here, determines the right-sized replacement facilities after evaluating all alternatives to meeting regional needs. Order No. 1920's objective was for increased holistic, regional planning. MISO's approach exacerbates the self-planned transmission approach by incumbent utilities with vested financial interests by shifting the right-sizing determination to the transmission owner, contrary to independent regional planning and Order No. 1920.[46]

In a similar vein, MISO proposes to add right-sizing eligibility to the local planning steps Transmission Owners must take in the Local Planning Process.[47] The current Tariff establishes the Transmission Owner's obligation to select an alternative project based on cost and non-cost

[45] MISO Compliance Filing at Redlined Tariff Revisions at PDF p. 38.

[46] *See* Order No. 1920 at P 1 ("The reforms herein will remedy deficiencies in the Commission's existing regional and local transmission planning and cost allocation requirements…").

[47] MISO Compliance Filing at Redlined Tariff Revisions at PDF p. 65-66.

attributes. Yet, MISO now proposes that the alternative can now be based on "cost and non-cost attributes, and right-sizing eligibility."[48] Fundamentally, in-kind replacement determinations should be based exclusively on an assessment of the facility life, not whether or not it might be eligible for right-sizing. The facility is either at the end of operational life, or not. That engineering determination should not be based on financial considerations as to whether the existing owner can parlay existing ownership into a 50 year regional investment. Inclusion of the "right-sizing" language in the places proposed by MISO would make the designation of facilities for in-kind replacement too broad and, ultimately, subject to gaming.

As part of its Planning Criteria section of Attachment FF, MISO proposes to add language that "the Transmission Provider's transmission planning process must identify long term regional transmission solutions and right-sized replacement facilities that address long-term transmission needs and provide opportunities for stakeholder proposals to be considered in the solutions while providing transparency on the benefits of proposed solutions and how they address long-term transmission needs."[49] By focusing planning criteria on solutions, MISO neglects what is integral to planning criteria: long-range needs and the list of expected in-kind replacements. Solutions and actual projects are a later step in the planning process, and the proposed Tariff Revisions must accurately reflect proactive, methodological planning. ETCC submits that a more appropriate section for any right-sizing provisions should occur in proposed revisions to Long Term

[48] MISO Compliance Filing, Redlined Tariff Revisions at PDF p. 66.

[49] MISO Compliance Filing, Redlined Tariff Revisions at PDF p. 48.

Transmission Planning Requirements under the Development of the MTEP section in Attachment FF.

The Commission should, therefore, address in turn each of the above inconsistences contained in MISO's Compliance Filing to ensure compliance with Order No. 1920, both in the Tariff language and in its effect on regional planning, market competition, and reasonable costs.

V. CONCLUSION

MISO's Compliance Filing fails to meaningfully address and incorporate the directives, plain language, and the principles underlying Orders 1920, 1920-A, and 1920-B, especially given the proposed broad "right-sizing ROFR" language. Therefore, the Commission must reject and order the proposed Tariff Revisions and direct MISO to comply with the plain language directives of Order No. 1920, consistent with this Protest. The Order No. 1920 Compliance Filings present an opportunity to further mobilize the Commission's goals of forward-looking regional transmission planning that addresses long-term needs and identifies cost-effective projects, while ensuring just and reasonable rates. The Commission must reject MISO's Compliance Filing and require tariff revisions that are compliant with Order No. 1920.

Respectfully submitted,

/s/ Kenneth R. Stark

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Counsel to the Electricity Transmission Competition Coalition

Date: August 5, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have, this day, caused the foregoing Protest to be served upon each person designated on the official service list compiled by the Secretary in this proceeding. Dated on this 5th day of August, 2026.

/s/*Kenneth R. Stark*

Counsel to the Electricity Transmission Competition Coalition