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Blog Post

FERC Delays Ruling on Merits of MISO's Energy-Storage-As-Transmission Proposal, Orders Technical Conference

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Energy storage advocates promote the potential for storage to solve transmission-system challenges that historically have been resolved by poles and wires or supporting ancillary transmission equipment. This week, the Federal Energy Regulatory Commission ("FERC") took the first tentative steps toward federal approval for classification and compensation of energy storage as transmission, accepting a December 2019 proposal by the Midcontinent Independent System Operator, Inc. ("MISO") to make energy storage projects eligible for inclusion in its long-term transmission planning process. FERC accepted MISO's proposal without making a substantive determination, and instead ruled that it will allow the proposal – and accompanying revisions to the MISO Tariff – to enter into effect on August 11, 2020, after a five-month suspension, during which FERC staff will hold a technical conference to consider the issues raised by MISO's filing and related comments and protests.¹ The technical conference and subsequent submissions will then form a basis for further action in the proceeding.

Background: The MISO Proposal

MISO proposes to make energy-storage projects eligible for inclusion in the MISO Transmission Expansion Plan ("MTEP") regional planning process and to provide cost recovery for such projects through MISO's Tariff on the same basis as other, transmission-only MTEP projects. Qualifying storage as a transmission-only asset ("SATO") projects would not need to complete the MISO generator interconnection process, progress through MISO's years-long interconnection queue or incur associated network-upgrade costs. These SATO projects also would be ineligible to receive market-based revenues from sales of electric energy; any market revenues

incidentally received during SATOA operations would be credited back to transmission customers. SATOA operators would be responsible for ensuring that their resources maintain an adequate state of charge to fulfill their designated transmission stability functions when called upon (i.e., they would have to buy power to adequately charge and maintain their storage resources).

Stakeholder Objections

MISO's proposal was filed with FERC on December 12, 2019, following nearly two years of stakeholder engagement. Despite that lengthy pre-filing process, some issues remain in dispute. For example, parties filing in the FERC docket raised concerns that the proposal is unduly preferential to incumbent MISO transmission owners who have a right of first refusal for MTEP project types that protesters allege are likely to include most SATOAs. Absent additional changes to the MISO Tariff, parties argued, the incumbent MISO transmission owners could use their rights of first refusal to exclude new-entrant storage providers and preserve those opportunities for themselves, or to prevent qualifying storage projects from being built altogether.

Protesters also argued that SATOAs would benefit from first-in-time advantages as compared to non-transmission storage assets operated as market resources because they would not go through the generator interconnection process. MISO answered these protesting parties by stating that SATOAs will function solely to address transmission-system issues, making them fundamentally different from market resources and therefore eligible to be treated differently under the MISO Tariff for purposes of interconnection. MISO acknowledged, however, that a SATOA owner may elect to construct a storage project that is larger than required to meet MTEP needs. In such a case, transmission-based cost recovery for the SATOA will be limited to the MTEP-approved portion, and related operating guides will limit SATOA performance accordingly. MISO also stated that the potential for market participation by excess SATOA capacity will be addressed in future filings and, moreover, that any SATOA capacity proposed for eventual participation in MISO's markets would be required to proceed through the generator interconnection process in the same manner as any other market resource.

Filing parties also objected that, after construction, non-transmission storage resources would have to rely on competitive bids in MISO's energy and capacity markets to charge their facilities and on market sales to recoup their costs. SATOAs, on the other hand, will have a competitive advantage because their fixed costs are covered by transmission charges.

Rather than decide these issues within the constraints of MISO's requested timeline, FERC opted to accept MISO's proposal, but suspend its effectiveness for the maximum five-month period allowed under the Federal Power Act. FERC directed agency staff to use the interim period to address the issues raised by MISO's filing in a technical conference, followed by an opportunity for parties to file written comments in the formal record. The technical conference and subsequent submissions will then form the basis for further FERC action in the proceeding. Specific information about the technical conference is not yet available, but will be posted to FERC's website.

Looking Ahead

The MISO proposal is the first attempt by a regional transmission organization to classify and compensate energy storage solely as a transmission resource. Consequently, the process established in this order could result in new FERC policies for compensation available to energy storage providers. At the same time, other markets are developing their own proposals to promote integration of energy-storage resources (including in compliance with FERC Order No. 841), and MISO itself has planned additional stakeholder processes to address continuing questions around storage compensation mechanisms. Consequently, we expect to periodically address emerging regulatory developments around energy storage as proposals advance and regulators – including FERC and the states – establish and refine their respective policies.

1. See *Midcontinent Independent System Operator, Inc.*, 170 FERC ¶ 61,186 (2020), [available here](#).↔

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