

Transmission for Public Power: Still Not a Level Playing Field

Perspectives from Municipal Utilities in the Midcontinent Independent System Operator, Inc. Region

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Attaining “Transmission Owner” Status or Membership is relatively straightforward

- Each RTO has its own integration criteria and application process, and its own rules governing the recovery and distribution of revenues associated with the utility’s investment in transmission.
- The criteria and process for joining MISO as a new Transmission Owner are relatively straightforward for utilities that own networked transmission facilities; challenges typically arise in connection with the establishment of the new Transmission Owner’s annual transmission revenue requirement (ATRR), the recovery of that ATRR in MISO’s rates from a specified transmission pricing zone (or multiple transmission pricing zones), and the distribution (or receipt) of revenues collected by MISO on behalf of the new Transmission Owner.
- MISO generally supports participation by municipal utilities that own transmission facilities, but generally avoids becoming involved in disputes between or among its Transmission Owners. MISO participation in FERC proceeding is generally limited to its role as administrator of its Tariff, or to assist a municipal utility in submitting filings related to the utility’s revenue requirement.

Integrating as a MISO Transmission Owner Typically Results in Joint Transmission Pricing Zone Issues

- MISO follows a zonal rate structure with specified transmission pricing zones
 - Individual revenue requirements are calculated under the utility's Attachment O and recovered under MISO Schedules 7, 8, and 9.
 - New transmission facilities studied through MISO's Transmission Expansion Plan may qualify for regional cost-sharing (which are included in the utility's Attachment GG and recovered under MISO Schedule 26).
- Generally, MISO does not establish a new transmission pricing zone under its Tariff unless there is an expansion of the RTO footprint in connection with the integration of the new Transmission Owner.
- Often times a municipal utility's participation as a Transmission Owner does not result in the expansion of MISO's overall footprint. Instead, the municipal Transmission Owner must be integrated as a "joint owner" in an existing transmission pricing zone.
- Experience has shown that integration issues often arise when the "host" or incumbent utility does not agree with the inclusion of the municipal utility's ATRR in the zonal rates.

MISO Distributes All Zonal Transmission Revenues To A Single Transmission Owner, Even For Joint Pricing Zones

- Revenues collected by MISO pursuant to Schedule 26 (for regionally cost-shared facilities) are distributed directly to those Transmission Owners with Attachment GG revenue requirements. This is a good policy, but it currently applies only to revenue requirements associated with regionally cost-shared facilities.
- Zonal transmission revenues collected by MISO pursuant to Schedules 7, 8, and 9 (where zonal rates are based on the aggregate of all Attachment O revenue requirements for the zone) are distributed to a single, designated Transmission Owner for that transmission pricing zone. MISO does not distribute zonal transmission revenues directly to each Transmission Owner in cases of joint pricing zones. This policy presents challenges to the smaller municipal Transmission Owner.
- Instead, distribution of zonal revenues among Transmission Owners within a joint pricing zone is governed by the terms of a separately negotiated agreement among all Transmission Owners in the joint pricing zone, referred to as a “joint pricing zone agreement.”
- MISO is not a party these agreements, nor is it involved in the negotiation, preparation or filing of these agreements with FERC. And, MISO has no authority to require or direct the designated Transmission Owner to enter into such an agreement.

Revenue Distribution Agreements Have Been Used In Attempts To Leverage The Municipal Utility

- Some designated Transmission Owners have refused to enter into joint pricing zone agreements with the new municipal Transmission Owner, or refused to offer terms pursuant to which the designated Transmission Owner compensated the municipal utility for use of the municipal utility's transmission facilities for exempted bundled loads, forcing the new municipal Transmission Owner to seek relief at FERC.
- Not unusual that this stalemate happens as the municipal utility is discussing the recovery of its Attachment O revenue requirement from the joint zone in which the designated Transmission Owner also serves load (and thus will have to pay a portion of the municipal Transmission Owner's revenue requirement)
- FERC has held that, once a designated Transmission Owner has been notified by MISO that the municipal Transmission Owner has been approved by the MISO Board of Directors, execution of a joint pricing zone agreement "is largely a ministerial act."

Municipal Utilities Have Had To Seek FERC Assistance To Enforce Rights As A MISO Transmission Owner

- *MISO and Northern States Power Company, Minnesota*, 158 FERC ¶ 61,143 (2017) (Initiating a separate Section 206 investigation and paper hearing procedures in FERC Docket No. EL17-44 concerning the Zone 16 joint pricing zone agreement, citing concerns that Northern States Power elected to not include Rochester Public Utilities (RPU) in the Zone 16 joint pricing zone agreement even after the Commission conditionally accepted revisions to the MISO Tariff to add RPU as a Transmission Owner to Zone 16, subject to refund and further hearing procedures; and further seeking briefing on whether revisions to the MISO Tariff or the MISO Transmission Owners Agreement may be necessary to prevent denial, through exclusion from a joint pricing zone agreement, of recovery of Commission-accepted transmission rates.)
- *MISO and Cleco Power*, 151 FERC 61,190 (2015)(Ordering modifications to an unexecuted joint pricing zone agreement between Cleco Power and municipal Transmission Owner, City of Alexandria, Louisiana, to ensure that Cleco Power compensated the City of Alexandria, Louisiana for use of the city's transmission facilities by Cleco's bundled load.)
- *Prairie Power v. Ameren Services Co.*, 144 FERC ¶ 61,193 (2013) (Directing Ameren to enter into a joint pricing zone agreement with Prairie Power and instituting a Section 206 proceeding in which MISO was directed to modify its Tariff to reflect the inclusion of Prairie Power's transmission facilities in the Ameren Illinois joint pricing zone rates, and adopting further hearing procedures to address issues raised by the parties concerning the transmission facilities to be included in Prairie Power's Attachment O revenue requirement that will be recovered through the Ameren Illinois joint pricing zone rates.)

Other Challenges to Municipal Participation

- Of course, some disputes are legitimate (e.g., Do the terms of an existing agreement address inclusion of certain assets in the ATRR? Should the ATRR include/exclude certain costs/expenses/credits?)
- However, in each of the cases cited in the previous slide, the refusal by the designated Transmission Owner to execute a joint pricing zone agreement was simply one of several challenges. Each had to answer a barrage of other arguments and legal challenges, including (but not limited to):
 - Attempts to use the “bundled load exemption” under the MISO Tariff to avoid payment to the municipal utility for use of municipal transmission facilities.
 - Objections to the placement of a portion of the municipal utility’s ATRR into a particular transmission pricing zone (i.e. recovery of the ATRR from that transmission pricing zone) because the municipal utility does not serve load in that transmission pricing zone.
 - Legal challenge concerning MISO’s right to modify Schedules 7, 8, and 9 of its own Tariff to add a new municipal Transmission Owner to the existing transmission pricing zone, absent consent from the “host” Transmission Owner.
 - Requests to FERC to stay its order conditionally approving recovery of a municipal utility’s ATRR in joint zone rates, even though the rates are already subject to refund.

Despite Challenges, Transmission Owner Membership In MISO Is Beneficial

- An improvement over pre-MISO days
- Not all municipal Transmission Owners face the same challenges or the same level of opposition when integrating as a new MISO Transmission Owner
- FERC actions indicate a desire to foster participation in RTOs by all transmission owners, including public power utilities
- FERC actions indicate a growing intolerance for “Designated Transmission Owners” in MISO to use the joint zone agreement as a means to prevent recovery of FERC-approved transmission rates
- Participation by municipal utilities in MISO’s Transmission Expansion Planning Process is encouraging