

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Midwest Independent Transmission System Operator, Inc.                      Docket No. ER05-273-000

ORDER GRANTING JOINT MOTION FOR WAIVER OF EVIDENTIARY HEARING  
AND INITIAL DECISION

(Issued November 17, 2005)

1. On January 28, 2005, the Commission issued an order accepting proposed revisions to section 22.2 of the Midwest Independent System Operator, Inc. (Midwest ISO) Open Access Transmission Tariff (OATT), and suspending the revisions for a nominal period to be effective January 30, 2005, subject to refund.<sup>1</sup> In addition, the Commission set the matter for hearing and held the hearing in abeyance pending settlement judge procedures.

2. Pursuant to Rule 710 of the Commission's Rules of Practice and Procedure,<sup>2</sup> the active parties to this proceeding filed a joint motion to waive the evidentiary hearing and initial decision in this docket.<sup>3</sup> All the Movants, who state that they are the only remaining active participants in the proceeding, support the joint motion. Movants state that no participant has objected to waiver of the evidentiary hearing and initial decision.

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<sup>1</sup> *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,081 (2005). The Midwest ISO OATT is now known as the Transmission and Energy Markets Tariff (TEMT). Section 22.2 concerns the charges applied to firm point-to-point transmission service that is redirected over secondary receipt and delivery points.

<sup>2</sup> 18 C.F.R. § 385.710 (2005).

<sup>3</sup> The parties joining the joint motion are: Midwest ISO, Constellation Energy Commodities Group, Inc. (Constellation), DTE Energy Trading, Inc. (DTET), Midwest ISO Transmission Owners (Midwest TOs), Midwest Stand-Alone Transmission Companies (MSATs) and the Commission Trial Staff (Staff) (collectively Movants).

3. Movants report that extensive discovery has been conducted in the hearing procedures, and prepared direct and answering testimony has been filed. Movants state that they have reached a consensus that the issues set for hearing in this docket do not require an evidentiary hearing or initial decision. They note that the prepared testimony focuses almost exclusively on Commission policy concerning transmission pricing, and the application of that policy to Midwest ISO's proposed revisions to section 22.2. Movants state that while the evidentiary submissions reflect disagreement over the relevance and import of record materials, the positions they advance do not necessitate a hearing or initial decision.

4. We find that waiver of the Initial Decision is appropriate in this circumstance, and we will therefore grant the joint motion to waive the evidentiary hearing and initial decision. Initial and reply briefs shall be filed directly with the Commission on December 22, 2005 and February 1, 2006, respectively.

The Commission orders:

The joint motion to waive the evidentiary hearing and initial decision is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.