

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Jon Wellinohoff.

Midwest Independent Transmission  
System Operator, Inc.

Docket No. ER04-691-073

ORDER DISMISSING REQUESTS FOR REHEARING  
OF NOTICE OF EXTENSION OF TIME

(Issued December 5, 2006)

1. On May 17, 2006, pursuant to delegated authority,<sup>1</sup> the Secretary issued a notice<sup>2</sup> authorizing an extension of time for the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) to comply with the requirements of the Commission's RSG Order.<sup>3</sup> Requests for rehearing and/or clarification of the notice were filed by E.ON U.S. LLC; Hoosier Energy Rural Electric Cooperative, Inc.; Michigan Public Power Agency and the Michigan South Central Power Agency; and ALLETE, Inc. (d/b/a Minnesota Power).
2. The RSG Order required refunds and conditionally accepted in part and rejected in part proposed revisions to the Transmission and Energy Markets Tariff (TEMT) that the Midwest ISO submitted in order to amend and clarify certain provisions of its real-time revenue sufficiency guarantee (RSG). The Midwest ISO was required to refund to customers the amounts due, with interest, from the start of the energy markets on April 1, 2005. The order also required the Midwest ISO to make a compliance filing within 30 days.
3. The notice extended the time for the Midwest ISO to comply with the refund and compliance requirements of the RSG Order from 30 days after the issuance of that order until after an order on rehearing was issued. The notice stated that the Commission

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<sup>1</sup> See 18 C.F.R. § 375.302(f) (2005).

<sup>2</sup> See Notice issued May 17, 2006 in Docket No. ER04-691-065.

<sup>3</sup> *Midwest Independent Transmission System Operator, Inc.*,  
115 FERC ¶ 61,108 (2006) (RSG Order).

would provide guidance as to the time for compliance with the requirements of the RSG Order, including the refund requirements, in the order on rehearing. The notice was issued in response to a request for additional time for compliance filed by the Midwest ISO.

4. On October 26, 2006, the Commission issued an order on rehearing of the RSG Order.<sup>4</sup> Our RSG Rehearing Order moots the requests for rehearing and/or clarification of the notice. Accordingly, we will dismiss them as moot.

5. The Commission has substantial discretion to establish its calendar and procedures to balance the interests of all parties and provide for a reasonable resolution of proceedings.<sup>5</sup> Here, the Secretary, pursuant to delegated authority, granted an extension of time until after an order on rehearing, and stated that in the rehearing order the Commission would provide guidance as to the timing of compliance with the requirements of the RSG Order. While no requests for rehearing had been filed at the time the Secretary issued the notice, the Midwest ISO stated in a pleading that it planned to request rehearing and/or clarification of the RSG Order.

The Commission orders:

The requests for rehearing and/or clarification of our Secretary's May 17, 2006 Notice of Extension of Time in this proceeding are hereby dismissed as moot.

By the Commission. Commissioner Moeller not participating.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>4</sup> *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,113 (2006) (RSG Rehearing Order).

<sup>5</sup> See e.g., *City of San Antonio v. CAB*, 374 F.2d 326, 329 (D.C. Cir. 1967) (no principle of administrative law is more firmly established than that of agency control of its own calendar, within the bounds of due process); *Association of Massachusetts Consumers Inc. v. SEC*, 516 F.2d 711, 714 (D.C. Cir. 1975), *cert. denied*, 423 U.S. 1052 (1976); *Consolidation Coal Co. v. Costel*, 483 F.Supp. 1003 (E.D. Ohio 1979) (an administrative agency has wide discretion in controlling its calendar). See also *Miami General Hospital v. Bowen*, 652 F.Supp. 812, 814 (S.D. Fla. 1986) (decision to refuse an extension of time not reviewable).

