

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System
Operator, Inc.

Docket Nos. ER02-1420-002
ER02-1420-005

ORDER DISMISSING FILINGS AS MOOT

(Issued March 8, 2005)

Introduction

1. In March 2002, in anticipation of the then-prospective consolidation of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Southwest Power Pool, Inc. (SPP), the Midwest ISO filed a proposed Resulting Company Open Access Transmission Tariff and proposed agreement of the Transmission Facilities Owners (Midwest ISO/SPP Agreement) to organize the new entity. By order issued May 31, 2002 (May 31 Order),¹ the Commission conditionally accepted the proposed tariff and Midwest ISO/SPP Agreement for filing. The May 31 Order also directed transmission-owning SPP members to submit a compliance filing detailing their plans for RTO participation.

2. Pursuant to the May 31 Order, American Electric Power Company (AEP) submitted a letter on June 17, 2002 advising the Commission why AEP should not be required to join the combined Midwest ISO/SPP (AEP's Letter). Subsequently on September 13, 2002, after further negotiations with the Midwest ISO and SPP on the matter, AEP, the Midwest ISO and SPP submitted a memorandum of understanding (MOU), providing for AEP's participation in the combined Midwest ISO/SPP. Subsequently, the Midwest ISO and SPP terminated their proposed consolidation. Accordingly, this order dismisses as moot AEP's Letter and the MOU.

¹ *Midwest Independent Transmission System Operator, Inc.*, 99 FERC ¶ 61,250, *order denying reh'g*, 101 FERC ¶ 61,044 (2002).

The Filings

3. AEP's Letter was submitted in Docket No. ER02-1420-002. Notice of it was published in the *Federal Register*,² with comments, interventions and protests due on or before July 8, 2002. The Louisiana Public Service Commission filed a notice of intervention. The Arkansas Electric Cooperative Corporation and the Oklahoma Municipal Power Authority filed timely protests.

4. The MOU was filed in Docket No. ER02-1420-005. Notice of it was published in the *Federal Register*,³ with comments, interventions and protests due on or before October 1, 2002. The Louisiana Public Service Commission filed a notice of intervention and protest. The East Texas Cooperatives, Arkansas Public Service Commission, Wisconsin Public Service Corporation and Upper Peninsula Power Company filed timely protests or comments. The Midwest ISO Transmission Owners filed untimely comments. The Oklahoma Municipal Power Authority, AEP, Wisconsin Electric Power Company, filed responses to the protests or comments. On January 10, 2003, also in Docket No. ER02-1420-005, AEP filed a report updating the status of its participation in the combined Midwest ISO/SPP. On January 31, 2003, the Oklahoma Municipal Power Authority filed comments in response to AEP's report.

Discussion

5. On April 4, 2003, in Docket No. ER02-1420-009, the Midwest ISO filed a motion to withdraw the Resulting Company Tariff and the Midwest ISO/SPP Agreement. By letter order issued on June 2, 2003, the Commission deemed the Midwest ISO's motion to withdraw to be an unopposed filing to withdraw a rate filing pursuant to section 205 of the Federal Power Act⁴ and accepted it, effective June 2, 2003.⁵ In effect, the Midwest ISO/SPP consolidation has been terminated. Accordingly, AEP's Letter and the MOU, regarding AEP's participation in the combined Midwest ISO/SPP are moot, and we will dismiss the filings as moot.

² 67 Fed. Reg. 43,303 (2002).

³ 67 Fed. Reg. 61,086 (2002).

⁴ 16 U.S.C. § 824d (2000).

⁵ *Midwest Independent Transmission System Operator, Inc.*, 103 FERC ¶ 61,267 (2003).

The Commission orders:

AEP's Letter and the MOU are hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.