

145 FERC ¶ 61,094
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Midwest Generation, LLC

Docket No. EC13-103-000

ORDER TOLLING TIME FOR ACTION ON APPLICATION UNDER FEDERAL
POWER ACT SECTION 203

(Issued November 1, 2013)

1. On May 6, 2013, Midwest Generation, LLC (Midwest) filed an application (Midwest Application) seeking authorization under section 203 of the Federal Power Act (FPA)¹ to relinquish control over jurisdictional facilities and existing generation facilities through rejection of two leases pursuant to section 365 of the United States Bankruptcy Code.² In the absence of Commission action within 180 days, the Midwest Application would be deemed granted.³

2. On October 25, 2013, Midwest filed a request that the Commission hold this proceeding in abeyance pending the disposition of the Joint Application for Authorization under section 203 of the FPA filed by NRG Energy Holdings, Inc. (NRG) and Edison Mission Energy (EME) and its public utility subsidiaries (NRG/EME Application).⁴ Midwest states that if the Commission approves the NRG/EME Application, the relief it

¹ 16 U.S.C. § 824b (2012).

² 11 U.S.C. § 365 (2012). Under these leases, Midwest leases certain generating facilities and associated interconnecting transmission facilities from Nesbitt Asset Recovery Series P-1; Powerton Generation II, LLC; Nesbitt Asset Recovery Series J-1; and Joliet Generation II, LLC. Midwest Application at 1.

³ Section 203(a)(5) requires the Commission to grant or deny any application for approval of a transaction under section 203 within 180 days after the application is filed, unless the Commission finds, based on good cause, that further consideration is required and issues an order tolling the time for acting for not more than 180 days. 16 U.S.C. § 824b(a)(5) (2012).

⁴ The NRG/EME Application was filed on October 25, 2013 and is pending before the Commission in Docket No. EC14-14-000.

seeks in this docket will be moot and it will withdraw the Midwest Application. Midwest states that it will not withdraw the Midwest Application at this time because if the Commission does not approve the NRG/EME Application or the transaction described therein does not proceed, the issues presented in this proceeding may require Commission resolution. Midwest therefore requests that the Commission issue a tolling order in order to effectuate its request to hold the proceeding in abeyance while the NRG/EME Application is pending.

3. Therefore, the Commission finds, based on good cause, that further consideration is required to determine whether the transaction proposed in the Midwest Application meets the standards of section 203(a)(4) of the FPA. In order to afford time for Commission consideration of the NRG/EME Application, which could potentially render the Midwest Application moot, the Commission hereby holds the Midwest Application in abeyance and tolls the time to act on the Midwest Application for an additional 180 days.

The Commission orders:

The time for acting on the Midwest Application is hereby tolled until April 30, 2014.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.