

109 FERC ¶ 61,389
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 No. ER04-446-000

ORDER GRANTING MOTION TO WAIVE INITIAL DECISION

(Issued December 30, 2004)

1. On March 19, 2004, the Commission accepted the proposed Schedule 10-FERC-METC tariff filing, suspended it for a nominal period and made it effective subject to refund.¹ In addition, the Commission set the matter for hearing and held the hearing in abeyance pending settlement judge procedures.
2. As a result of the settlement judge procedures, several parties settled out of the proceeding.² The non-settling parties continued to have unresolved issues concerning annual charge responsibilities.³

¹ *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61,256 (2004).

² The settling parties are: Michigan Public Power Agency and Michigan South Central Power Agency (Michigan Agencies) and Wolverine Power Cooperative, Inc. (Wolverine). See *Midwest Independent Transmission System Operator, Inc.*, Order Approving Uncontested Settlement, 109 FERC ¶ 61,229 (2004).

³ The non-settling parties are: Midwest Independent Transmission System Operator, Inc. (Midwest ISO), Consumers Energy Company (Consumers), Commission Trial Staff (Trial Staff), Holland Board of Public Works (Holland) and Michigan Electric Transmission Company, LLC. (METC).

3. Pursuant to Rule 710 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.710 (2004), Consumers, Trial Staff, Holland, and METC (collectively, Movants), filed a joint motion to waive the initial decision and evidentiary hearing in the above docket. According to Movants, "this Motion is supported, or not opposed, by all participants to this proceeding."⁴

4. Movants state that the testimony phase has concluded and a Stipulated Statement of Issues has been filed. They assert that although the evidentiary submissions reflect disagreement over the relevance and import of record materials, Movants contend that no formal fact-finding hearing is required. Movants attached to their motion a Stipulated Evidentiary Record and they assert that this record and the briefs that will be filed provide sufficient evidence for the Commission to reach an informed decision on the outstanding issues.

5. We find that waiver of the Initial Decision is appropriate in this circumstance, and we will therefore grant the motion to waive the Initial Decision. Initial and reply briefs shall be filed directly with the Commission on February 9, 2005 and March 2, 2005, respectively.

The Commission orders:

The joint motion for waiver of an initial decision in this docket is hereby granted.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁴ See Joint Motion at 1.