



3. In Docket No. ER02-1420-007, timely requests for rehearing of the December 19 Order were filed by: Consumers Energy Company (Consumers Energy); DTE Energy Company; American Electric Service Corporation, on behalf of Southwestern Electric Power Company and Public Service Company of Oklahoma; Wolverine Power Supply Cooperative, Inc.; and the Midwest ISO Transmission Owners. East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc., filed a timely request for rehearing and motion for clarification. The parties raise several issues concerning: (1) the methodology and charges under various Schedules; (2) the rights of new transmission-owning members to withdraw from Midwest ISO; and (3) the effect of the outcome in other pending proceedings on certain issues concerning the Resulting Company Tariff. The parties also raise issues related to the Midwest ISO/SPP Agreement.

4. On January 21, 2003, in Docket No. ER02-1420-008, Midwest ISO submitted a compliance filing. Notice of the compliance filing was published in the Federal Register, 68 Fed. Reg. 5,014 (2003), with motions to intervene and protests due on or before February 11, 2003. Timely comments were filed by Consumers Energy and the Midwest ISO Transmission Owners. They seek further modifications in the Resulting Company Tariff concerning the methodology for Schedule 1 and Schedule 2 charges and the scope of a provision requiring Commission approval for transmission facilities to be transferred to a transmission provider.

5. On April 4, 2003, in Docket No. ER02-1420-009, Midwest ISO filed a motion to withdraw the Resulting Company Tariff and the Midwest ISO/SPP Agreement originally filed on November 1, 2002. Midwest ISO stated that the respective Boards of Directors for Midwest ISO and SPP had voted to terminate their efforts to combine the two entities to form the Resulting Company. Thus, Midwest ISO stated that the Resulting Company Tariff and the Midwest ISO/SPP Agreement were moot and should be formally withdrawn. 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 Act<sup>2</sup> and accepted it, effective June 2, 2003.

### **III. Discussion**

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<sup>2</sup>16 U.S.C. § 824d (2000).

6. As noted above, the Resulting Company Tariff and the Midwest ISO/SPP Agreement have been withdrawn and, indeed, never became effective. Therefore, the issues raised in the requests for rehearing and clarification, which concern the December 19 Order's conditional acceptance of the Resulting Company Tariff and the Midwest ISO/SPP Agreement for filing, are now moot. For the same reason, the Midwest ISO's compliance filing, which consisted of modifications to the proposed Resulting Company Tariff and the Midwest ISO/SPP Agreement, is also moot. Accordingly, we will dismiss the requests for rehearing and clarification of the December 19 Order as moot, and we will dismiss the Midwest ISO's compliance filing as moot, as ordered below.

The Commission orders:

(A) The requests for rehearing and clarification of the December 19 Order are hereby dismissed as moot, as discussed in the body of this order.

(B) The Midwest ISO's January 21, 2003 compliance filing is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.