

155 FERC ¶ 61,308
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Southwest Power Pool, Inc.

Docket Nos. ER16-829-000
ER16-829-001

ORDER ON BYLAW REVISIONS AND REQUESTS FOR WAIVER

(Issued June 24, 2016)

1. On January 29, 2016, Southwest Power Pool, Inc. (SPP) filed proposed revisions to section 8.4 of its Bylaws to clarify the collection of the monthly assessment charged to SPP members. Additionally, SPP requested waiver of section 8.4 of the Bylaws and section 7.1 of its Open Access Transmission Tariff (Tariff). In this order, we accept the proposed revisions to section 8.4 of the Bylaws,¹ effective March 30, 2016, deny SPP's requests for waiver of section 8.4 of the Bylaws and section 7.1 of the Tariff, and order refunds for any credits members should have received pursuant to the Bylaws prior to March 30, 2016, as discussed below.

I. Background

2. SPP collects its administrative costs under Schedule 1-A² of its Tariff from customers taking network integration transmission service (network service) or point-to-point transmission service (point-to-point service) under the SPP Tariff to serve their load. SPP also collects administrative costs through a monthly assessment charge, applied to load eligible to take network service under the SPP Tariff, collected pursuant

¹ Southwest Power Pool, Inc., FERC FPA Electric Tariff, Governing Documents Tariff, [Section 8.4, Bylaws 8.4 Monthly Assessments, 2.1.0](#).

² SPP employs a Tariff administration charge to recover its costs associated with the administration of the Tariff, which includes administration of transmission service, reliability coordination, regional scheduling, market operations, and transmission expansion planning. SPP Filing at n.8 (citing SPP Tariff, Schedule 1-A).

to section 8.4 of the Bylaws. Currently, section 8.4 of the Bylaws provides, in pertinent part, that:

[e]ach load-serving Member shall then be assessed the monthly assessment rate applied to its load eligible to take Network Integration Transmission Service under the SPP OATT. Further, each load-serving Member shall receive a credit against the monthly assessment for that month's Schedule 1-A fees paid for Network Integration Transmission Service and for Point-to-Point Transmission Service that had a delivery point within the SPP region, under the SPP OATT.

3. SPP states that, historically, it interpreted this language to mean providing a credit to members for Schedule 1-A charges paid in excess of their monthly assessments, which SPP applied to other aspects of members' bills. During 2014, SPP states that 13 SPP members received credits in excess of the monthly assessment amounts during the course of the year.³

4. SPP states that in March 2015, SPP staff questioned the meaning, intent, and execution of the crediting language in section 8.4 of the Bylaws, which SPP had implemented since October 2003. Specifically, SPP states that staff questioned whether members that elected to take additional transmission service from SPP (i.e., point-to-point service, in addition to network service) should receive credits in excess of the monthly assessment. SPP explains that this crediting practice resulted in the recovery of lower administrative fees, and as a result, SPP had to assess members and customers a slightly higher rate in the following year to recover the costs to administer the Tariff.⁴ SPP states that its staff concluded that credits should not be issued in excess of the monthly assessment amount. SPP explains that its staff believed that the language in section 8.4 of the Bylaws supported this crediting change and viewed the change as a reinterpretation of the Bylaw. SPP states that it implemented this change in March 2015 and retroactively resettled members' bills for the prior 12 months using its new interpretation.⁵ Two members questioned SPP's new interpretation of section 8.4 of the Bylaws and initiated dispute resolution pursuant to section 12 of SPP's Tariff.⁶

³ *Id.* at 2-4.

⁴ SPP estimates that its historical crediting practice has resulted in an approximate one percent under-collection of its administrative fees. *Id.* at 6.

⁵ *Id.* at 3. Under section 7.1 of the Tariff, there is a 12-month limitation on billing adjustments. *See* SPP Tariff section 7.1.

⁶ SPP Filing at 2-3.

II. SPP Filing

A. Bylaw Revisions

5. SPP proposes revisions to section 8.4 of the Bylaws that it asserts clarify its collection of the monthly assessment from SPP members, in line with its new interpretation of the Bylaw. SPP proposes language specifying that it will collect a monthly assessment from each member for the portion of their load eligible for service for which it is not taking network or point-to-point service under the Tariff. SPP also proposes clarifying that SPP members taking network or point-to-point service to serve the full amount of their eligible load shall pay Schedule 1-A charges and no monthly assessment fee. SPP also proposes removing language referring to the crediting process in section 8.4 of the Bylaws, which SPP characterizes as ambiguous language.⁷ SPP requests that the Commission grant waiver of the 60-day prior notice requirement and allow the revisions to become effective March 1, 2016. SPP states that its requested effective date coincides with the beginning of a monthly billing cycle. SPP also asserts that its requested effective date will help reduce rate impacts to members and customers, as well as the administrative burden of mid-month billing adjustments.⁸

B. Requests for Waiver

6. SPP states that, for the period of 2003 through 2014, it recognizes that there is a difference between how it historically applied section 8.4 of the Bylaws and how it applies section 8.4 now. Consequently, SPP requests waiver of section 8.4 of the Bylaws, to the extent that section 8.4 could be interpreted such that SPP incorrectly applied credits for Schedule 1-A charges in excess of the monthly assessment amount under its historical practice going back to 2003. SPP also requests waiver of section 7.1 of the Tariff, which provides for a one-year limitation on billing adjustments. SPP states that this waiver is necessary to resolve a dispute with two members relating to the application of credits going back to 2014. SPP asserts that approval of these waivers will allow SPP's historical practice of applying credits for Schedule 1-A fees in excess of the monthly assessment amount to remain in place until the effective date of the proposed revisions to section 8.4 of the Bylaws (i.e., SPP would resettle the previously resettled bills for the 2014 through 2015 period, and resettle bills for the 2015 through 2016 period, using its previous interpretation of section 8.4).⁹ SPP notes that if the

⁷ *Id.* at 4-5 (citing Proposed SPP Bylaws section 8.4).

⁸ *Id.* at 7.

⁹ *Id.* at 5-7.

Commission grants its waiver requests, it will apply the waivers to all affected members, not just the two members requesting dispute resolution.¹⁰

7. SPP states that the Commission has previously allowed waiver of tariff provisions where the following factors were met: the waiver was of limited scope; a concrete problem needed to be remedied; the waiver did not have undesirable consequences, such as harming third parties; and where there was error, and the underlying error was made in good faith.¹¹ SPP asserts that good cause exists to grant its requests for waiver.

8. SPP states that its waiver requests are limited to those members that were issued a credit for Schedule 1-A charges in excess of the monthly assessment amount under SPP's prior interpretation and practice. Further, SPP states that it has historically applied credits for Schedule 1-A fees in excess of the monthly assessment amount. In the event that SPP's practice was in conflict with the requirements of section 8.4 of the Bylaws, SPP states that the credits that SPP members have already been billed could be subject to resettlement. SPP also asserts that waiver will not have undesirable consequences and will not harm third parties. SPP states that leaving the previously applied credits in place and continuing to apply the credits until the effective date of the proposed revisions to section 8.4 of the Bylaws is consistent with its historical practice of applying credits. SPP adds that the process of crediting in excess of the monthly assessment amounts has resulted in SPP annually under-collecting its administrative fees by approximately one percent. Finally, SPP asserts that if there was an error, it was made in good faith, and the proposed revisions to section 8.4 of the Bylaws address the ambiguity in the Bylaw.¹²

III. Notice of Filing and Responsive Pleadings

9. Notice of SPP's filing in Docket No. ER16-829-000 was published in the *Federal Register*, 81 Fed. Reg. 5998 (2016), with interventions and protests due on or before February 19, 2016. Kansas City Power & Light Company (KCP&L) and Nebraska Public Power District (NPPD) each submitted a timely motion to intervene and jointly submitted limited comments. SPP submitted an answer.

10. On March 29, 2016, Commission staff issued a letter indicating that the filing submitted by SPP was deficient and requested further information. On April 28, 2016, SPP submitted a response that included additional information (Deficiency Response). Notice of SPP's Deficiency Response in Docket No. ER16-829-001 was published in the *Federal Register*, 81 Fed. Reg. 28,864 (2016), with interventions and protests due on or

¹⁰ *Id.* at n.19

¹¹ *Id.* at 6 (citing, e.g., *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,055 (2010)).

¹² *Id.*

before May 19, 2016. KCP&L and NPPD submitted limited comments to the Deficiency Response. SPP submitted an answer.

A. Limited Comments and Answer

11. KCP&L and NPPD state that they do not oppose SPP's proposed revisions to section 8.4 of the Bylaws. KCP&L and NPPD instead focus on the requested waivers that SPP believes are necessary to make them whole for certain credits that SPP stopped providing upon its reinterpretation of section 8.4 of the Bylaws, which KCP&L and NPPD state are the subject of their ongoing dispute with SPP.¹³

12. KCP&L and NPPD state that for many years, SPP applied section 8.4 of the Bylaws in such a way that it credited customers for Schedule 1-A fees paid for all network and point-to-point service taken under the Tariff. KCP&L and NPPD state that last year, SPP decided that this practice was incorrect and began implementing a new interpretation of the Bylaw in March 2015. KCP&L and NPPD state that, because SPP viewed its original interpretation of section 8.4 as a mistake, it also resettled members' bills for the prior 12 months. KCP&L and NPPD state that, as a result, they lost substantial credits that would have been paid to them under the original interpretation of the Bylaw.¹⁴

13. KCP&L and NPPD believe that SPP's original interpretation of section 8.4 of the Bylaws, applied from 2003 to March 2015, is correct because the crediting language in section 8.4 does not place limits on the availability of credits. KCP&L and NPPD assert that because the original interpretation of the crediting language in section 8.4 was correct, there is no reason for the Commission to grant SPP's request for waiver of section 8.4 of the Bylaws to honor prior settlements going back to 2003. While KCP&L and NPPD support SPP's request for waiver of section 7.1 of the Tariff in order to reestablish SPP's prior crediting practice up to the requested effective date in the instant proceeding, they do not believe this waiver is necessary, as SPP did not distribute any bills reflecting its changed interpretation until March 2015. KCP&L and NPPD contend that the resettlement language in section 7.1 of the Tariff appropriately begins the 12-month limitation period on the date of the first bill reflecting the error. KCP&L and NPPD state that they only seek to resettle with respect to the bills SPP issued after SPP changed its interpretation of section 8.4 of the Bylaws. Further, KCP&L and NPPD assert that all of those bills were issued within the past 12 months and are eligible for resettlement under the plain language of section 7.1 of the Tariff. Accordingly, while

¹³ KCP&L and NPPD February 19, 2016 Limited Comments at 1-2.

¹⁴ *Id.* at 2.

KCP&L and NPPD support SPP's request for waiver of section 7.1 of the Tariff, they believe SPP could proceed to make them whole without the waiver.¹⁵

14. SPP disagrees that waiver of section 7.1 of the Tariff is not necessary. SPP explains that section 7.1 provides that billing adjustments shall be limited to those corrections found to be appropriate for such service within one year after the rendition of the billing reflecting the actual data for such service. SPP states that, in order to ensure that the provisions in section 8.4 of the Bylaws are applied consistent with its historical practice, it determined that a waiver of the one-year limitation on billing adjustments was necessary because it would need to make adjustments to settlement statements for 2014 service. SPP explains that, while it has made adjustments to settlement statements in 2015, the adjustments related to Schedule 1-A credits apply to 2014. In order to correct those billing adjustments, SPP asserts that it will need to make further adjustments to the 2014 settlement statements.¹⁶

15. Additionally, SPP asserts that, even if the key date for the resettlements is the date adjustments were made in 2015, it will still need a waiver of the one-year limitation on billing adjustments in section 7.1 of the Tariff. SPP states that the first adjustments to the monthly assessment were reflected in settlement statements issued on April 3, 2015. Therefore, SPP asserts, it would need to process any adjustments to those settlement statements by April 3, 2016. SPP states that whether or not it will have sufficient time to process the resettlements prior to April 3, 2016 will depend upon the date the Commission issues an order in this docket.¹⁷

16. Additionally, SPP disagrees with KCP&L and NPPD's argument that SPP does not need waiver to return to its original interpretation of section 8.4 of the Bylaws. SPP states that, if the Commission concludes that SPP incorrectly applied credits for Schedule 1-A in excess of the monthly assessment amounts charged to SPP members each month, then SPP would need to request waiver of section 8.4 of the Bylaws given its historical practice. SPP explains that waiver would permit it to continue to apply credits under its historical practice and leave prior billings intact up to the effective date of the proposed Bylaw revisions.¹⁸

¹⁵ *Id.* at 2-4.

¹⁶ SPP March 8, 2016 Answer at 2-3.

¹⁷ *Id.* at 3-4.

¹⁸ *Id.* at 4-5.

B. Deficiency Letter, Deficiency Response, and Responsive Pleadings

17. On March 29, 2016, Commission staff advised SPP that its filing was deficient and that additional information was necessary to process the filing. Commission staff requested that SPP describe what “member load eligible for service” entailed within the context of section 8.4 of the Bylaws, particularly whether this term included member load external to the SPP footprint. Commission staff requested that SPP confirm whether a potential discrepancy in language within section 8.4 of the Bylaws was intentional.¹⁹ Commission staff also asked SPP to describe how it determines, for assessment purposes, load eligible to take, but not taking, transmission service. Further, Commission staff requested a detailed timeline of SPP’s actions, including any dates that SPP informed members of its reinterpretation of section 8.4 of the Bylaws and the associated timeline for making changes to SPP’s billing practices, including the dates that SPP implemented resettlements under its new interpretation. Additionally, Commission staff requested that SPP confirm or clarify calculations of the monthly assessment and SPP’s historical crediting practice under various, simplified scenarios.²⁰

18. As to how it defines member load eligible for service, SPP states that this term entails all load the member has the right to take SPP transmission service to serve, which includes load external to the SPP footprint if SPP facilities are used to serve the load.²¹

19. With regard to whether a potential discrepancy within section 8.4 of the Bylaws is intentional, SPP states that the difference is indeed intentional. SPP explains that the first reference to “network service” is within the context of how SPP determines the monthly assessment rate. SPP explains that the reference to “network or point-to-point transmission service” is within the context of how SPP will assess the monthly assessment to members. Under the proposed revisions to section 8.4 of the Bylaws, SPP states that the monthly assessment will only be assessed to those members with load that is eligible to take transmission service but is not currently taking SPP transmission

¹⁹ As to the discrepancy, current section 8.4 of the Bylaws states that SPP determines the assessment rate by dividing its annual expenditures by estimated Schedule 1 billing units for service sold under the Tariff and member load eligible to take, but not taking, *network service* under the Tariff. SPP proposed new language in section 8.4 of the Bylaws stating that the monthly assessment shall be assessed on each member for the portion of their member load eligible for service, but not currently taking, *network or point-to-point transmission service* under the Tariff.

²⁰ SPP largely confirmed Commission’s staff’s understanding of the proposal and offered a few clarifications to the scenarios developed by Commission staff. *See* SPP Deficiency Response at 2-3.

²¹ *Id.* at 1.

service. Thus, SPP states, if a member is taking either point-to-point or network service to serve the entirety of its eligible load, then the member will not be subject to any monthly assessment charges because the member is paying Schedule 1-A fees in conjunction with the transmission service for the eligible load.²²

20. With regard to how SPP determines, for assessment purposes, load eligible to take, but not taking, transmission service, SPP explains that SPP members report load amounts to SPP for billing purposes. SPP states that the load amounts include the member load that is taking SPP point-to-point or network service, as well as any load being served by grandfathered agreements. In order to determine the load that is eligible to take, but not taking, transmission service, SPP states that it compares the total reported load amount to the load amount being served by point-to-point or network service. SPP explains that the difference would be the member load that is eligible to take, but not taking, SPP transmission service. SPP states that a member would be assessed a monthly assessment for this portion of its total load.²³

21. In response to Commission staff's request for a timeline of SPP's consideration of the section 8.4 provisions, SPP states that, in March 2015, SPP staff questioned whether SPP should be issuing credits for Schedule 1-A charges paid in excess of the monthly assessment amounts or whether the credits should be limited to the amount of the monthly assessment for that month. SPP states that it reviewed the Bylaws and determined that credits should be limited to the amount of the monthly assessment billed for that month. SPP states that, based upon this new interpretation, it determined that it was necessary to correct this error both going forward and for the one-year period permitted under section 7.1 of the Tariff. SPP states that it provided notification of this change at the March 12, 2015 meeting of the Settlements User Group. SPP states that the changes to billings going forward took effect in the April 2015 billing cycle and that it implemented the retroactive one-year period for corrections in the May 2015 billing cycle. SPP states that, following these changes, two SPP members took issue with the changes and notified SPP on October 9, 2015 that they were initiating dispute resolution under section 12 of the SPP Tariff. SPP states that, due to the disagreements between the parties, it offered to take the language to its Corporate Governance Committee, which reviewed the matter at its July 28, August 27, and September 25, 2015 meetings. SPP states that this committee ultimately determined that credits should not be provided in excess of the monthly assessment amounts and voted to amend section 8.4 of the Bylaws to clarify how SPP would handle Schedule 1-A credits. SPP states that its Board of Directors then approved the proposed revisions on December 8, 2015. SPP states that it also determined that a waiver should be requested in order for SPP to maintain its

²² *Id.*

²³ *Id.*

historical practice until the effective date of the proposed revisions to section 8.4 of the Bylaws.²⁴

22. In their limited comments to SPP's Deficiency Response, KCP&L and NPPD maintain that SPP's original interpretation of section 8.4 of the Bylaws, which it had implemented over the course of many years, was correct and should not have been changed.²⁵ KCP&L and NPPD assert that a Regional Transmission Organization (RTO) or Independent System Operator (ISO) is not permitted to reinterpret its filed rate without first seeking approval from the Commission.²⁶ In this instance, KCP&L and NPPD argue that a change in SPP's crediting procedures pursuant to section 8.4 of its Bylaws should not have occurred until Tariff revisions were implemented. KCP&L and NPPD also argue that because SPP's 2015 re-settlements were in error, SPP can apply its original interpretation of section 8.4 of the Bylaws and use the resettlement provisions of its Tariff to make corrections and adjustments.²⁷

23. SPP disagrees with the characterization that its proposed correction is a "reinterpretation" and in error. SPP states that in March 2015, its staff determined that its crediting practice was contrary to the plain language of section 8.4 of the Bylaws. SPP states that its transmission system applied credits for the full amount of Schedule 1-A charges, rather than the amount of the monthly assessment. SPP states that in April 2015, it corrected its billing system to address this error, and KCP&L and NPPD disagreed with the correction. SPP states that although the majority of its members' Schedule 1-A charges do not exceed the monthly assessment amount, a subset of members—including KCP&L and NPPD—have elected to take additional SPP transmission service, which results in them paying excess Schedule 1-A fees. SPP states that its error in applying excess credits resulted in entities such as KCP&L and NPPD not paying their full share of administrative fees for the transmission service provided to them, which resulted in SPP's under-recovery of its administrative costs and SPP transmission customers paying higher administrative fees to make up the difference. SPP states that, although its 2015 correction of the billing system was not in error and was supported by the plain language of section 8.4 of the Bylaws, it agreed to postpone this correction until the effective date

²⁴ *Id.* at 3-4.

²⁵ KCP&L and NPPD May 19, 2016 Limited Comments at 2-3.

²⁶ *Id.* at 3 (citing *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,180 (2011) (CAISO)).

²⁷ *Id.* at 4-5.

of the clarifying language proposed in the instant proceeding, as well as request necessary waivers, in order to resolve the dispute with KCP&L and NPPD.²⁸

24. SPP maintains that waiver of section 8.4 of the Bylaws is necessary because its historical crediting practice was contrary to the plain language of section 8.4. SPP notes that the Commission has previously granted waivers to permit SPP to maintain its prior implementation of a provision even when the implementation is inconsistent with filed provisions.²⁹ SPP also continues to disagree with KCP&L and NPPD's assertion that waiver of section 7.1 of the Tariff is unnecessary. SPP states that, in order for the billing correction to become effective on the date that its clarifying revisions to section 8.4 of the Bylaws become effective, it needs to make adjustments to previously corrected amounts, which date back to 2014. SPP explains that, while it made adjustments to invoices in 2015, these adjustments related to Schedule 1-A credits for transmission service provided in 2014. SPP states that, in order to correct those billing adjustments, it needs to make further adjustments to the 2014 settlements, which is outside the one-year period for making adjustments permitted under the Tariff.³⁰

IV. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

26. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SPP's answers because they provided information that assisted us in our decision-making process.

B. Substantive Matters

27. We accept SPP's proposed revisions to section 8.4 of the Bylaws. Although we do not view the proposed revisions as a mere clarification of section 8.4, we find that SPP has demonstrated the revisions to be just, reasonable, and not unduly discriminatory or preferential. According to SPP, its historical practice of crediting members for Schedule

²⁸ SPP June 8, 2016 Answer at 3-5.

²⁹ *Id.* at 5-6 (citing, *e.g.*, *Sw. Power Pool, Inc.*, 153 FERC ¶ 61,339 (2015) and *Sw. Power Pool, Inc.*, 151 FERC ¶ 61,122 (2015)).

³⁰ *Id.* at 5-8.

1-A charges paid in excess of the monthly assessment has resulted in an approximate one percent under-recovery of SPP's administrative costs.³¹ This under-recovery results in SPP charging a higher administrative rate to all members and customers in the subsequent year. We find that the proposed revisions to section 8.4 of the Bylaws address SPP's under-recovery of its administrative costs and will lead to a just and reasonable allocation of administrative costs among SPP members and customers.

28. However, we deny SPP's request for waiver of the 60-day prior notice requirement for failure to show good cause. Absent waiver, public utilities must provide the Commission at least 60 days prior notice before any proposed rate, term, or condition is to become effective.³² Therefore, the earliest date that proposed rates, terms, or conditions may become effective, absent waiver, is the 61st day after filing, i.e., the day after the 60-day prior notice period has expired. Thus, given that we are denying SPP's request for waiver of the 60-day prior notice requirement, for the January 29, 2016 filing, the earliest permissible effective date is March 30, 2016.³³ Accordingly, we establish an effective date for the proposed revisions to section 8.4 of the Bylaws of March 30, 2016, 61 days after filing.

29. With regard to SPP's requests for waiver, we find that SPP's reinterpretation of the crediting language in section 8.4 of the Bylaws, beginning in March 2015, is inconsistent with the current language on file with the Commission. Section 8.4 does not provide for a cap on credits equal to the monthly assessment rate applied to a member's eligible load. Instead, the language provides that each load-serving member "shall receive a credit against the monthly assessment for that month's Schedule 1-A fees paid for [network and point-to-point service] that had a delivery point within the SPP region." Given the lack of additional articulated qualifiers relating to this crediting provision, SPP's imposition of a cap on credits goes beyond the current language in section 8.4. Thus, we find that SPP's reinterpretation of the crediting language in section 8.4 of the Bylaws is not supported by the filed language.

30. Additionally, while the Commission has held that an RTO or ISO has authority under the filed rate doctrine to correct charges without demonstrating to the Commission that the charges are consistent with its tariff, the Commission has understood these situations to involve the correction of computational errors and other minor, isolated

³¹ SPP Filing at 6.

³² 16 U.S.C. § 824d(d) (2012); 18 C.F.R. § 35.3 (2015).

³³ *Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,137, at P 15 (2015) (citing *Cal. Indep. Sys. Operator*, 117 FERC ¶ 61,181, at P 4 (2006)).

incidents.³⁴ The Commission has found that an RTO or ISO is not permitted to make resettlements based on a reinterpretation of a filed rate without Commission approval. For example, in *CAISO*, the Commission found that “neither the filed rate doctrine nor the terms of [the California Independent System Operator Corporation’s (CAISO’s)] tariff permit it to automatically resettle payments when CAISO reinterprets its tariff and the proposed resettlements depart from the way in which calculations were previously performed.”³⁵ Similarly, in the absence of Commission approval, SPP lacked the authority to make resettlements based on its new interpretation of section 8.4 of the Bylaws.

31. Accordingly, we deny SPP’s request for waiver of section 8.4 of the Bylaws, going back to 2003. SPP’s reinterpretation of the crediting language in section 8.4 of the Bylaws deviated from the filed rate, and SPP should not have retroactively implemented its reinterpretation through resettling billing statements, to the maximum extent permitted under the Tariff. We direct SPP to provide members refunds within 30 days of the issuance of this order for credits SPP should have provided to them from the date on which it resettled members’ billings, based on its reinterpretation of section 8.4 of the Bylaws, to the effective date of the revisions to the Bylaws that the Commission is accepting in this order. We also direct SPP to file a refund report within 60 days of the issuance of this order. We deny SPP’s request for waiver of section 7.1 of the Tariff. In consideration of our determination that SPP is to provide refunds to members for the period of time prior to the new effective date of revised section 8.4 of the Bylaws, this waiver request is not necessary.

The Commission orders:

(A) SPP’s proposed Bylaw revisions are hereby accepted, effective March 30, 2016, as discussed in the body of this order.

(B) SPP’s request for waiver of section 8.4 of the Bylaws is hereby denied, as discussed in the body of this order.

(C) SPP’s request for waiver of section 7.1 of the Tariff is hereby denied, as discussed in the body of this order.

³⁴ See, e.g., *Black Oak Energy, LLC v. New York Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,261, at P 34 (2008).

³⁵ *CAISO*, 137 FERC ¶ 61,180 at P 21.

(D) SPP is hereby directed to make refunds within 30 days of the issuance of this order and to file a refund report within 60 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.