

109 FERC ¶ 61,015  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER04-833-000  
ER04-833-001

ORDER ACCEPTING TARIFF FILING

(Issued October 5, 2004)

1. In this order, the Commission accepts for filing, to become effective on the date of issuance of this order, the Southwest Power Pool, Inc.'s (SPP) proposed revision to its open access transmission tariff (OATT) to provide for an experimental transmission service prepayment procedure, which will remain in place for one year. This order benefits customers by providing an innovative means to add needed transmission infrastructure to meet short-term transmission service requests.

**Proposed Revision**

2. On May 11, 2004, SPP filed a proposed revision (Attachment AA) to its OATT, providing for an experimental transmission service prepayment procedure. This filing was supplemented on August 6, 2004 in response to a July 7, 2004 deficiency letter issued by the Director, Division of Tariff and Market Development – Central. Service under the proposed procedure would start on July 1, 2004, and continue for one year, ending on June 30, 2005. SPP commits to file after ten (10) months a status report with the Commission describing the extent of activity under the program and its effect on SPP's short-term transmission service.

3. SPP states that Attachment AA, which was developed by its Regional Transmission Working Group, is designed to address certain instances where system constraints exist to preclude SPP from providing requested short-term transmission service. SPP states that in a majority of cases, there simply is not enough time to expand the transmission grid to meet intermittent requests for short-term service. As a solution, SPP is proposing Attachment AA which allows transmission customers who frequently use short-term transmission service to prepay for service, on a voluntary basis, in order to fund transmission expansion needed to permit the provision of requested short-term service that would otherwise be unavailable. The proposal promotes the addition of facilities that were not deemed needed to fix reliability problems or to provide long-term

transmission service, but may alleviate limits on non-firm service under certain conditions. Thus, the program would allow a transmission customer to designate particular system upgrades to be funded so that they might take advantage of short-term economic opportunities that would otherwise be missed due to the unavailability of transmission service. The prepayment would serve as a source of funds for the upgrades.<sup>1</sup>

4. SPP states that in return for any prepayment made, transmission customers will receive a credit for service at the time the funds are used for transmission upgrades. Moreover, any prepayments made would be placed in an interest bearing escrow account, which would be credited for service at the time the funds are used for transmission upgrades. If construction expenditures have not been made, the crediting will begin one year after the date of receipt. SPP justifies this procedure by stating that it will enhance SPP's ability to facilitate short-term markets and non-firm transmission service by increasing the amount of available transmission capacity for use in these types of transactions.

5. SPP explains that transmission customers can designate system upgrades that their prepayments will fund. If these requested facilities are determined to provide a benefit, the funds will be allocated for construction based on the need and benefit of the system. SPP, as transmission provider, states that it will work with the transmission owners (TOs) in determining the upgrades and will maintain a list of upgrades that would improve available transfer capability.

### **Notice Interventions and Protests**

6. Notice of SPP's filing was published in the *Federal Register*, 69 Fed. Reg. 29,292 (2004), with motions to intervene and protests due on or before June 1, 2004. Timely motions to intervene were filed by NRG Energy Inc., and East Texas Electric Cooperative, Inc.<sup>2</sup> Golden Spread Electric Cooperative (Golden Spread) filed a timely motion to intervene and protest and the Missouri Joint Municipal Electric Utility Commission (MJM) filed a timely motion to intervene with comments. Notice of SPP's

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<sup>1</sup> Prepayment amount is limited to the greater of either \$50,000 or the largest monthly aggregate charge paid by the transmission customer for service under Schedules 7 and 8 during the six months prior to the prepayment. The transmission customer must have paid at least \$50,000 in total charges during the prior calendar year to participate. SPP maintains that this limitation was designed to ensure that transmission customers using this procedure are active in the SPP market and reflects that they will receive the credits in a short period of time.

<sup>2</sup> The East Texas Electric Cooperative, Inc., filed to intervene with Northeast Texas Electric Cooperative, Inc., and Tex-LA Electric Cooperative of Texas, Inc.

amendment to filing was published in the *Federal Register*, 69 Fed. Reg. 51,659 (2004), with motions to intervene and protests due on or before August 27, 2004. Timely motions to intervene were filed by Western Farmers Electric Cooperative (WFEC), Westar Energy, Inc., and Kansas Gas and Electric Co., Midwest Energy, Sunflower Electric Power Corp., Calpine Corp., Redbud Energy LP, Empire District Electric Co. and MJM.

## **Discussion**

### **Procedural Matters**

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serves to make the entities that filed them parties to this proceeding. Although Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority, we will accept SPP's answers dated June 16, 2004, and September 13, 2004, because they have provided information that has assisted us in our decision making process. On September 13, 2004, SPP submitted an answer to comments made by Redbud Energy LP and MJM.

### **Golden Spread's Protest**

8. Golden Spread states that, given the short-term experimental nature of the Attachment AA filing, it does not oppose its adoption, and acknowledges the difficulty in the arrangement of needed network upgrades. Golden Spread argues, however, that certain clarifications are necessary. First, Golden Spread states that SPP does not explain why it will not provide transmission customers the option to construct, install, and own the upgrades, and receive credit for those upgrades under the tariff, rather than only permitting them to prepay for upgrades that will then be owned by the TO. Golden Spread states that expanding the universe of entities eligible to install and own facilities in the SPP footprint would be one reasonable step in the direction of overcoming the deficiencies in SPP's current planning and expansion process. Moreover, customers taking advantage of the "install and own" option would receive long term recognition of the value of their investment through the transmission crediting mechanism.

9. Next, Golden Spread argues that SPP's proposal does not appear to include any protection for a customer who chooses to fund a particular upgrade if the upgrade is not completed in the time frame anticipated, or if the customer's prepayment turns out to be insufficient to fully fund the requested upgrade. In short, Golden Spread maintains that customers will be providing money to fund upgrades, but will not have the ability to ensure that those upgrades are actually constructed.

10. Golden Spread points out that SPP indicates that it will work with TOs in determining the upgrades eligible for funding through the prepayment option. Golden Spread states that this underscores the lack of certainty as to what constitutes necessary network upgrades that ultimately will be supported by all customers, and what constitutes upgrades that should be allocated to and paid for by particular transmission customers. Golden Spread adds that it presumes that the only facilities that should be eligible for the prepayment option are facilities that are integrated facilities benefiting the network at large, and therefore, there is concern that the prepayment option may actually serve to encourage recalcitrance by the TO's in making necessary system upgrades. Golden Spread argues that SPP should be required to permit other interested parties, including transmission customers, to have input into the development of the type of upgrades that would qualify under the new schedule.

11. Finally, Golden Spread states that SPP's proposed Attachment AA provides that SPP and TOs will coordinate the timing, costs, payment schedule and conditions for the upgrade. However, SPP does not explain why the customer funding a particular upgrade should not also have input into the timing, costs, and conditions for the upgrade. In addition, Golden Spread states while section 2.0 of Attachment AA provides that SPP "shall direct the Transmission Owner to construct the determined system upgrades," there is no sanction if the TO fails to comply.

### **MJM's Comments**

12. MJM filed comments in support of SPP's filing, but only on an interim basis. MJM states that it is disturbed that a stop-gap approach such as Attachment AA has become necessary, and that the interests of all within the SPP footprint would be better served by addressing the underlying deficiencies in SPP's existing and proposed transmission planning and expansion process. MJM adds that the solution that is needed would encompass the needs and interests of all users of the network, establishes reasonable incentives to promote needed construction without imposing excessive costs on customers, and sets forth clear procedures for getting upgrades built if a party designated to construct an improvement nevertheless declines to do so. Should SPP's proposed Attachment AA be adopted, MJM argues, the TO's will continue to drive the process, and the need for "band-aid" solutions such as Attachment AA will remain.

### **SPP's Answer**

13. SPP states that Golden Spread has misconstrued the nature of the prepayment procedure. SPP states that Attachment AA was designed to allow transmission customers to prepay for service in order to fund transmission expansion for the benefit of all short-term service requests, not necessarily to fund particular upgrades for a specific transmission customer. SPP further provides that should a transmission customer require a particular upgrade to receive transmission service, it may request and take transmission

service pursuant to the SPP OATT.<sup>3</sup> SPP states that providing for transmission owner construction of upgrades is consistent with Commission policy, and that since the instant filing does not propose any revisions to SPP's currently effective OATT or its Membership Agreement, Golden Spread's protest on this issue is an impermissible collateral attack and should be disregarded by the Commission.

### **SPP's Amendment to Filing**

14. In the July 7, 2004 deficiency letter, the Commission staff made the following observations and requests from SPP:

- (1) Section 2.0 Treatment of Service Prepayment provides that, "The Transmission Provider shall maintain a list of system upgrades that would improve Available Transfer Capability," but makes no mention of the specific items that would qualify as acceptable enhancements that would upgrade Available Transfer Capability and result in improving the transmission system. Please identify these upgrades and how each will be treated in the attachment.
- (2) Attachment AA does not contain specific and complete information regarding qualifying upgrades that contain estimated costs for material, labor, engineering and taxes so that the customers have an accurate idea of how far their prepayments will go. Please provide this information.
- (3) Explain the need for the prepayment procedure in lieu of SPP and the Transmission Owner's undertaking system improvements of this nature consistent with Good Utility Practice and the obligations the parties agreed to in the SPP OATT, Attachment O, Coordinated Planning Procedures.

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<sup>3</sup> SPP's Answer at 4.

15. In response to issues (1) and (2) above, SPP provided a table (Exhibit C) that lists each SPP flowgate and informs customers of the existing and potential capacity of the flowgate, the expected lead time and costs necessary for construction to upgrade the limiting elements in the flowgate and the improvement in flowgate capacity that would result from such upgrade.<sup>4</sup>

16. As an example, SPP provides the Scenario Analyzer, a tool that identifies for the customer the constraining flowgate for a requested path for short-term service. SPP selects as an example of the Scenario Analyzer, the path EDE to AEPW (CSWS) for the week of August 17 through August 24, 2004. From the example, flowgate HPPVALPITVAL is identified as the most limiting element to firm and non-firm service on the EDE to AEPW (CSWS) path during that week. Using Exhibit C, terminal equipment within the flowgate HPPVALPITVAL is identified as a limit that can be upgraded in twelve months as a cost of \$142,000. Because of the upgrade, the flowgate rating increases from 287 MVA to 315 MVA.

17. With respect to issue (3), SPP states that Attachment O of the SPP OATT provides for SPP's Coordinated Planning procedures for long-term reliability of the region. Whereas, the facilities that are the focus of Attachment AA are those facilities that have not been determined to be reliability problems or long-term market constraints but instead limit short-term market transactions that are not the focus of Attachment O.

18. As an example of the difference between Attachment O and Attachment AA, SPP states that a facility may be limiting to non-firm transactions in the short-term market that occur under certain conditions. However, that facility may not be a constraint under the long-term market assessment or considered a reliability problem. Therefore, SPP concludes that because of this, it would fall below the radar screen of Attachment O (Coordinated Planning Procedures) but would be a targeted facility under Attachment AA.

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<sup>4</sup> SPP notes that this information is also posted on the SPP OASIS and can be accessed at <http://sppoasis.spporg/documents/flowgates/AttachmentAA/Summary%20of%20Upgrades.xls>. SPP also notes that during its stakeholder approval process, in which it vetted this proposal, SPP committed to providing additional information to aid customers in requesting beneficial flowgate upgrades. The website for obtaining this information is <http://sppoasis.spp.org/documents/flowgates/AttachmentAA/ReadMe.htm>.

### **Commission Determination**

19. Attachment AA is a novel and experimental prepayment procedure that, if successful, will result in the addition of system upgrades that may otherwise never be built. The procedure is a voluntary option and, as such, will not negatively impact any transmission customer electing not to use it. Rather, those transmission customers electing not to use the prepayment program will still benefit from transmission system upgrades, which are expected to yield a net increase in available transmission capacity. Should a transmission customer elect to use the prepayment procedure, it will receive interest on, and transmission credits for, its prepayments. This program differs from that for network upgrades for generator interconnections under Order No. 2003 in that the advanced funds for interconnection-related network upgrades are for the facilities needed to provide service for that specific customer. Here, the funds may be pooled and used for the benefit of multiple customers.

20. With respect to Golden Spread's argument that SPP should be required to allow customers to participate in the designation of eligible upgrade facilities, we agree with SPP that the final decision regarding upgrade selection and construction timing should be determined by SPP. As noted by SPP, the customer has the opportunity to nominate a particular upgrade. However, SPP, as the transmission provider, will determine whether the upgrades will provide a benefit, and will construct those facilities once it receives sufficient prepayment funds to do so.<sup>5</sup>

21. As SPP and the transmission customers who utilize the transmission service prepayment procedure experience the benefits of more efficient short term service in areas throughout the SPP footprint which are from time to time constrained, we expect the funding levels for these types of improvements will be increased resulting in better transmission flow through the region.<sup>6</sup>

22. Ten months after the prepayment program begins, SPP is directed to submit a status report with the Commission describing the extent of activity under the program and its affect on SPP's short-term transmission service. Additionally, the status report must answer the following: 1) What decision making process was used to identify which projects were originally assigned and which projects were added to Attachment AA; and what stakeholders were involved in the decision making process? 2) What process and criteria were used to prioritize the Attachment AA projects; what stakeholders were involved in the process to prioritize the projects? 3) Of the 43 original projects assigned

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<sup>5</sup> Southwest Power Pool, Inc., 106 FERC ¶ 61,110 at P 187 (2004) (February 10 RTO Order).

<sup>6</sup> Id. At P 185.

to Attachment AA, which projects were pursued as a result of the prepayment program, and which projects were designated (and by whom) for system upgrades by entities prepaying service?

23. Finally, we find that the issues raised by both Golden Spread and MJM regarding the general infrastructure deficiencies in SPP's transmission area are beyond the scope of this proceeding. This process facilitates minor economic upgrades to enhance available transmission capacity more immediately than may occur under the transmission owners' planning process, the only other avenue other than the SPP planning process to get them built. We note that concerns with SPP's procedures in regard to transmission expansion planning under Attachment O of the SPP OATT, will be fully addressed in the SPP RTO proceeding.

The Commission orders:

(A) SPP's proposed Attachment AA is hereby accepted for filing, effective on the date of the issuance of this order. This experimental program will remain in place for one year, and will not automatically renew without prior Commission approval.

(B) Ten months after the prepayment program begins, SPP is directed to file with the Commission a status report as discussed in the body of this order..

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.