

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 3, 2006

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER06-15-000 and
ER06-15-001

Attention:

Stacy Duckett
General Counsel and Corporate Secretary
Southwest Power Pool, Inc.
415 North McKinley, #700 Plaza West
Little Rock, AR 72205-3020

Steven G. Kozey
Vice President and General Counsel
Midwest Independent Transmission System Operator, Inc.
701 City Center Drive
Carmel, IN 46032

Stephen L. Teichler
Duane Morris, LLP
Counsel for the Midwest Independent Transmission System Operator, Inc.
1667 K Street, NW, Suite 700
Washington, DC 20006

Reference: Revisions to Joint Operating Agreement

Dear Madame Duckett and Messrs. Kozey and Teichler:

1. On October 6, 2005, as supplemented on January 11, 2006, you submitted, on behalf of the Southwest Power Pool, Inc. (SPP) and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) (collectively, the Parties) proposed revisions to these two regional transmission organizations (RTOs)' Joint Operating

Agreement (JOA) and to the Congestion Management Process (CMP) which is incorporated in the JOA.¹ You requested an effective date of December 1, 2005. You state that the purpose of the proposed revisions is to reflect refinements to the JOA-CMP and align them more closely with the Joint Operating Agreement and Congestion Management Process of the Midwest ISO and PJM Interconnection, LLC (PJM) (PJM JOA-CMP). As discussed below, your filing is accepted, effective December 1, 2005 as requested, subject to the conditions set forth below.

Background

2. SPP applied for RTO status October 15, 2003. In an order issued February 10, 2004, the Commission required, among other things, that SPP file a seams agreement with the Midwest ISO as one of the prerequisites for RTO status.² In a subsequent order, the Commission expressed a number of concerns related to Available Flowgate Capacity, Available Transfer Capability, Transmission Reliability Margin and Capacity Benefit Margin and required SPP to address these concerns in a seams agreement with Midwest ISO.³

3. SPP subsequently filed an unexecuted proposed JOA with the Midwest ISO on August 2, 2004 which the Commission accepted as an interim solution. The Commission granted SPP RTO status, subject to SPP's filing a revised JOA executed by SPP and the Midwest ISO by December 1, 2004.⁴ On December 2, 2004, SPP submitted an executed SPP-Midwest-ISO JOA which included a CMP. The Commission accepted the executed JOA-CMP in an order issued January 21, 2005.⁵

4. Following the joint filing in the instant docket proposing several amendments to the approved JOA-CMP, the Director, Division of Tariffs and Market Development-Central, issued a deficiency letter dated December 5, 2005, requesting clarification on a

¹ Together, the JOA-CMP.

² *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 at P 2, 62-3, 195-204 (February 10 Order).

³ *Southwest Power Pool, Inc., order on compliance filing*, 108 FERC ¶ 61,003 at P 52-4 (2004).

⁴ *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,008 at P 2, 33 (2004).

⁵ *Southwest Power Pool, Inc.*, 110 FERC ¶ 61,031 at P 32-4 (2005) (January 25 Order).

number of the proposed revisions to the JOA-CMP. On January 11, 2006, the Parties filed a compliance filing and their response (the Response) to the staff letter.⁶

Procedural Matters

5. Notice of the Parties' October 6, 2005 filing was published in the *Federal Register*, 70 *Fed. Reg.* 61,280 (2005), with interventions and protests due on or before October 27, 2005. Notice of the Parties' January 11, 2006 supplemental filing was published in the *Federal Register*, 71 *Fed. Reg.* 4,127 (2006). No interventions or protests were received.

6. The Parties request waiver of the 60-day notice requirement⁷ to permit an effective date of December 1, 2005 for the revisions to the JOA-CMP to take effect. The Commission finds that good cause exists since the proposed JOA-CMP revisions have been agreed to by the Parties, are supported by their respective stakeholders, and clarify the existing JOA-CMP under which the Parties are currently operating. Accordingly, the Commission grants waiver of the 60-day notice period.

7. The Parties request waiver of the requirements set forth in 18 C.F.R. § 385.2010(a) and (f) (2005) for the service of paper copies. They state that they have served a copy of this filing electronically, with attachments, on their members, on state commissions within their regions, and, in the case of the Midwest ISO, on the Midwest ISO Advisory Committee participants. They also state they have posted the filing on their websites. They state that they will make paper copies available to any person upon request by contacting counsel of record. The Parties state that good cause exists for granting waiver due to the limited resources of the Parties to make additional service and the financial burden to them of copying and mailing copies of the filing. The Commission grants the Parties' request for waiver of Rule 2010 concerning service of paper copies.⁸

⁶ The Parties requested, and received, an extension to time to file their response to January 11, 2006.

⁷ Federal Power Act, Section 205(d), FPA, 16 U.S.C. § 824d(d) (2000); 18 C.F.R. § 35.3(a) (2005).

⁸ *Midwest Independent Transmission System Operator, Inc., PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,226 at P 12, 16 (2005).

Discussion

8. The Parties' Response includes revisions to various provisions of the JOA-CMP and provides clarifications to address staff concerns expressed in the letter. We will accept these revisions subject to the following.

9. CMP section 3 (First Revised Sheet No. 71) describes a process for resolving disputes when a Party to the JOA believes that one of its flowgates should be a Coordinated Flowgate because a Market-based Operating Entity implementing the CMP has a significant impact on the flowgate. The dispute resolution process in section 14.2 of the JOA also appears to apply to disputed flowgates by virtue of section 2.3.6 of the JOA. These dispute resolution processes are different. In addition, the dispute resolution process in CMP section 3 does not provide for appeal to the Commission after the last step is exhausted. While the Commission finds the sequence of dispute resolution and appeal explained by the Parties in the Response to be acceptable, we find the tariff language unclear on this point. Specifically, section 2.3.6 of the JOA may allow for the circular interpretation that, while conflicts under CMP section 3 can be appealed under the JOA pursuant to section 14.2, the CMP procedures, which contemplate a different dispute resolution mechanism, would prevail regardless. As explained by the Parties, this is not intended. Thus, we will require the Parties to include appropriate language consistent with the Response in JOA section 2.3.6 (Original Sheet No. 8), section 14.2 (Original Sheet No. 46) and CMP section 3 (First Revised Sheet No. 71) to address the sequence and interaction of these provisions.

10. In response to the deficiency letter, the Parties state that they will exchange status information on reactive resources to the extent that this information is available in the SDX data base and is believed to have an impact on their respective systems. (Response at page 5).⁹ We will require the Parties, if NERC's SDX System does not contain the status of static capacitor banks, to monitor the status of all static capacitor banks and post such information on their respective websites.

11. We note that CMP Appendix B (First Revised Tariff Sheet Nos. 101-101C) describes principles used for sharing unused flowgate capacity. While the principles contained in Appendix B are acceptable and the Parties have provided further clarification in their Response, we are concerned that the process for sharing unused flowgate capacity is not sufficiently clear. Therefore, we will require the Parties to

⁹ The SDX data base is maintained by the North American Electric Reliability Council (NERC) and used by NERC to exchange system data.

provide, within 30 days of the date of this order, a timetable for developing procedures for sharing unused allocations. We expect that such procedures should be developed and filed by the end of this year.

12. The Commission hereby conditionally accepts the Parties' proposed revisions to the JOA-CMP, to become effective on December 1, 2005, subject to the requirements specified in this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.