

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer
Philip D. Moeller, and Jon Wellinghoff.

Southwest Power Pool, Inc.

Docket No. ER04-1232-003

ORDER ACCEPTING IN PART AND REJECTING IN PART TARIFF REVISIONS

(Issued September 1, 2006)

1. On May 16, 2006, Southwest Power Pool, Inc. (SPP) submitted proposed revisions to its Open Access Transmission Tariff (OATT or tariff) to implement a rate change for Southwestern Public Service Company's (SPS) pricing zone previously approved by the Commission in its April 5, 2006 Order approving the uncontested settlement (Settlement).¹ In this order, the Commission accepts in part and rejects in part SPP's proposed revisions to its tariff.

I. Background

2. On September 2, 2004, as amended on October 13 and 20, 2004, Xcel Energy Services, Inc. (Xcel) filed a rate change on behalf of SPS and Public Service Company of Colorado, in Docket No. ER04-1174-000, to revise rates for transmission and ancillary services provided by SPS.² On September 17, 2004, SPP submitted a filing, in Docket No. ER04-1232-000, to incorporate SPS' revised rates into SPP's OATT.³ The Commission accepted and suspended both filings and made them effective subject to refund, and established hearing and settlement judge procedures.⁴ The parties engaged in

¹ See *Xcel Energy Services, Inc.*, 115 FERC ¶ 61,011 (2006) (April 5 Order).

² SPP Transmittal Letter at 2.

³ *Id.*

⁴ See *Xcel Energy Services, Inc.*, 109 FERC ¶ 61,284 (2004).

settlement negotiations and finalized a Settlement with “black box” rates,⁵ which was approved by the Commission in the April 5 Order. In approving the Settlement, the Commission required SPP to incorporate in the SPP OATT the Settlement rates, to be effective June 1, 2005.⁶

II. Description of filing

3. SPP submitted proposed tariff sheets with changes to Attachments H and T to its OATT to incorporate the Settlement rates, with requested effective date of June 1, 2005. SPP states that changes in Attachments H and T reflect the annual transmission revenue requirement (ATRR) for network integration transmission service and stated point-to-point (PTP) transmission service rates for the SPS pricing zone. SPP states that both rates are based on the Settlement approved in the April 5 Order; the PTP rates are derived directly from the Settlement but that network integration transmission service rates contain one adjustment that deviates from the Settlement.⁷

4. SPP explains that an adjustment of the network integration transmission service rates was necessary because SPS’ ATRR approved in the April 5 Order already included a revenue credit for firm PTP transmission revenue allocated to SPS by SPP for the test year. Thus, to prevent a double revenue credit, SPP proposes a \$74,529,429 ATRR for the SPS zone.⁸ SPP states that section 34.1 of SPP’s OATT requires network customers to pay a monthly demand charge for all network load served by SPP. SPP also states that it has revised the Commission’s *pro forma* language to reduce revenue requirements based on PTP revenues because it could not assign PTP reservations to specific zones.

⁵ Explanation of Offer of Settlement at 5. The Settlement rates reflect a \$65 million annual transmission revenue requirement for network integration transmission service, and stated rates for point-to-point transmission service.

⁶ April 5 Order, 115 FERC ¶ 61,011 at P 4.

⁷ SPP Transmittal Letter at 3.

⁸ Proposed Attachment H.

SPP explains that it keeps track of revenues going back to each transmission owner associated with PTP services, and that the reduction to reflect PTP revenues necessitated the adjustment of the ATRR revenue requirement.⁹

III. Notice, Interventions and Protests

5. Notice of SPP's filing was published in the *Federal Register*, 71 Fed. Reg. 32,943 (2006), with interventions and protests due on or before June 6, 2006. A motion to intervene and protest was filed by Cap Rock Energy Corporation (Cap Rock). Protests were filed by Farmers' Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., Central Valley Electric Cooperative, Inc., Roosevelt County Electric Cooperative, Inc., Golden Spread Electric Cooperative, Inc. and Lyntegar Electric Cooperative, Inc., (collectively, Cooperative Customers) and by West Texas Municipal Power Agency (West Texas). SPP and SPS filed answers to the protests. West Texas, Cap Rock, and Cooperative Customers filed replies to the answers filed by SPP and SPS.

6. West Texas, Cap Rock, and Cooperative Customers argue that SPP's compliance filing does not comply with the Settlement approved by the Commission in the April 5 Order.¹⁰ They argue that, based on the Commission-approved Settlement, SPS' ATRR for network transmission service under the SPP OATT should be \$65.5 million, not the \$74,529,472 that SPP has submitted.¹¹ They object to an ATRR that is \$9 million higher than what Commission approved. Moreover, they also assert that the Settlement was negotiated and finalized with "black box" rates and therefore cannot be adjusted.¹²

7. Additionally, West Texas and Cooperative Customers point out that the Settlement included a rate change moratorium which prohibited rate increases that would become effective prior to October 1, 2006.¹³ West Texas also states that a utility can change a

⁹ SPP's filing includes workpapers that reflect SPS' calculation of the necessary adjustment to the SPS ATRR approved in the April 5 Order to reincorporate the firm PTP revenue credited in the test year and used in the calculation of the SPS Settlement ATRR. *See* Exhibit III. SPP states that SPS represented such facts, and that SPP is not independently supporting or justifying the adjustment to the SPS Settlement ATRR. SPP Transmittal Letter at 3.

¹⁰ Cooperative Customers at 6; Cap Rock at 4; West Texas at 4.

¹¹ Cooperative Customers at 6; Cap Rock at 4; West Texas at 4.

¹² Cooperative Customers at 4; Cap Rock at 4-5; West Texas at 4.

¹³ West Texas at 4; Cooperative Customers at 7.

Commission-approved rate only through the filing and Commission acceptance of a new rate pursuant to section 205 of the Federal Power Act,¹⁴ and asserts that SPP has not made such a filing.¹⁵ Therefore, the protesting parties urge the Commission to reject SPP's proposed tariff revisions as they do not conform to the Settlement.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motion to intervene serves to make Cap Rock a party to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept SPP's and SPS' answers or the replies filed by West Texas, Cooperative Customers, and Cap Rock, and we will therefore reject them.

B. Commission Determination

10. We find that SPP's proposed revisions to the PTP rates are consistent with the Settlement approved by the Commission in the April 5 Order and will therefore accept the proposed revisions, effective as of June 1, 2005, as requested.¹⁶

11. As discussed below, we will reject SPP's proposed revisions in Attachment H showing the revenue requirement for network integration transmission service, because it does not comply with the Settlement approved in the April 5 Order.¹⁷

¹⁴ 16 U.S.C. § 824d (2000).

¹⁵ West Texas at 4.

¹⁶ Southwest Power Pool, Inc., FERC Electric Tariff, Fourth Revised Vol. No. 1, Second Revised Sheet Nos. 238, 239 and 240.

¹⁷ Southwest Power Pool, Inc., FERC Electric Tariff, Fourth Revised Vol. No. 1, First Revised Fifth Revised Sheet Nos. 161 and 161A.

12. In the April 5 Order, the Commission directed Xcel to request SPP to submit a filing to incorporate in SPP's OATT the Settlement rates for transmission and ancillary services for use of the SPS transmission system under SPP's OATT.¹⁸ The Settlement was a negotiated agreement of the parties, which stated that the Settlement rates were "black box" rates and that the ATRR set forth in Attachment H shall be \$65.5 million, effective June 1, 2005.¹⁹ It further stated the black box rates would remain in effect without change until October 1, 2006.²⁰

13. We find that SPP's proposed changes to its OATT do not incorporate the ATRR as stated in the Settlement; rather, SPP has submitted a revised Attachment H with an adjustment that sets forth a new ATRR for the SPS zone. Instead of the \$65.5 million ATRR specified in the Settlement, SPP has filed \$74,529,472 as the ATRR for the SPS zone. Nothing in the Settlement allows SPP to alter the settled-upon and Commission-approved \$65.5 million ATRR. Further, as stated above, SPP is prohibited from changing the Settlement rates prior to October 1, 2006. Accordingly, the Commission will reject SPP's compliance filing of the ATRR as inconsistent with the Settlement and the directives in the April 5 Order.²¹

14. For the foregoing reasons, we reject SPP's revised Attachment H and direct SPP to file revisions to its OATT that comply with the requirements of the Settlement as approved by the April 5 Order, within 30 days of the date of this order.

The Commission orders:

(A) SPP's point-to-point transmission rates for the SPS pricing zone are hereby accepted, effective as of June 1, 2005, as discussed in the body of this order.

¹⁸ April 5 Order, 115 FERC ¶ 61,011 at P 4.

¹⁹ Explanation of Offer of Settlement at 5; SPS Term Sheet, section II.A.

²⁰ SPS Term Sheet, section II D.

²¹ The purpose of a compliance filing is limited to implementing the specific directives of the Commission's order and may not include new proposed tariff provisions not addressed in the Commission's order. *See e.g., El Paso Natural Gas Company*, 115 FERC ¶ 61,280, at P 5 (2006); *AES Huntington Beach, LLC*, 111 FERC ¶ 61,079, at P 60 (2005).

(B) SPP's network integration transmission service rates are hereby rejected, as discussed in the body of this order.

(C) SPP is hereby directed to file revised network integration transmission service rates which track the Settlement, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.