

122 FERC ¶ 61,001  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 3, 2008

In Reply Refer To:  
Southwest Transmission Cooperative, Inc.  
Docket No. NJ07-7-000

Southwest Transmission Cooperative, Inc.  
Slover & Loftus  
Attn: William L. Slover, Esq.  
1224 Seventeenth Street, N.W.  
Washington, DC 20036

Dear Mr. Slover:

1. On September 5, 2007, Southwest Transmission Cooperative, Inc. (SWTC), a non-profit Arizona rural electric generation and transmission cooperative based in Benson, Arizona, subject, in part, to the rate jurisdiction of the Arizona Corporation Commission (ACC), and not a public utility by virtue of section 201(f) of the Federal Power Act,<sup>1</sup> filed with this Commission an update of its safe harbor reciprocity transmission tariff transmission rates.<sup>2</sup> SWTC states that the instant filing reflects the last of a series of four increases in SWTC's transmission rates that the ACC ordered starting in 2005. SWTC requests that the Commission, in acting on its instant filing, recognize in some manner that SWTC's rates meet the comparability standard.

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<sup>1</sup> 16 U.S.C. § 824(f) (2000).

<sup>2</sup> In Order No. 888, the Commission established a safe harbor procedure for the filing of reciprocity tariffs by non-public utilities. *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,760, *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,281-87, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

2. SWTC explains that the instant rate increase reflects a new Times Earned Interest Ratio (TEIR) that increases the transmission revenue requirement. SWTC states that it has made no changes in the other rate calculation assumptions, and that the increase flows through to all transmission rates on its Schedules 2, 7 and 8, whether for members or non-members, and whether for network or point-to-point services. According to SWTC, Exhibit C attached to its instant filing demonstrates the continued comparability of the new rates.

3. SWTC states that, while it has been actively seeking to act in conformance with Order No. 890<sup>3</sup> and has been participating in efforts to coordinate its transmission planning with that of other regional transmission providers, the instant filing addresses only its transmission rates, and not the non-rate terms and conditions of its transmission tariff. SWTC further recognizes the need to amend its transmission tariff in order to conform to Order No. 890,<sup>4</sup> but believes that it would be more efficient if SWTC waited to make its full compliance with Order No. 890 until “issues were more formally resolved.” To that end, it states that it will seek to work cooperatively with others if any issues should arise in the interim concerning SWTC’s compliance with the letter and spirit of Order No. 890.<sup>5</sup>

4. Notice of the filing was published in the *Federal Register*, 72 Fed. Reg. 53,550 (2007) with interventions or protests due on or before October 5, 2007. None were filed.

5. We have previously explained that the review standard for safe harbor reciprocity transmission tariff rates is that the non-public utility (here, SWTC) must provide sufficient information for us to conclude that the rates are comparable to the rates it charges itself.<sup>6</sup> SWTC’s rate increases are applicable to all of its customers, including its member cooperatives. We therefore find that SWTC has submitted sufficient

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<sup>3</sup> See *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,134 at P 162, *et seq.*, *order on reh’g and clarification*, Order No. 890-A, 121 FERC ¶ 61,119 (2007).

<sup>4</sup> SWTC notes that the Commission recently addressed SWTC’s safe harbor status in Docket No. NJ06-5-000, *Southwest Transmission Cooperative, Inc.*, 118 FERC ¶ 61,121 (2007) (*SWTC Declaratory Order*). SWTC further notes that, as stated in that order, SWTC will “need to amend its [transmission tariff] to conform to Order No. 890 to maintain its safe harbor status.” SWTC Transmittal Letter at 2.

<sup>5</sup> *Id.*

<sup>6</sup> See, e.g., *Long Island Power Authority*, 84 FERC ¶ 61,280, at 62,333 (1998); *Salt River Project Agricultural Improvement and Power District*, 83 FERC ¶ 61,280, at

information for us to conclude that SWTC's revised rates are comparable to the rates it charges itself.

6. We note that this filing does not purport to be a filing in compliance with Order No. 890. As we noted in the *SWTC Declaratory Order*,<sup>7</sup> and as SWTC recognizes,<sup>8</sup> SWTC must amend its transmission tariff so that its provisions substantially conform to or are superior to the new *pro forma* open access transmission tariff in Order No. 890 if it wishes to continue to qualify for safe harbor treatment. Until it has amended its transmission tariff in such a manner, it does not qualify for such safe harbor treatment.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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62,162 (1998).

<sup>7</sup> See *SWTC Declaratory Order*, 118 FERC ¶ 61,121 at P12 n.10.

<sup>8</sup> SWTC Transmittal Letter at 2-3.