

129 FERC ¶ 61,121  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER09-1716-000

ORDER CONDITIONALLY ACCEPTING INTERIM LARGE GENERATOR  
INTERCONNECTION AGREEMENT

(Issued November 16, 2009)

1. On September 17, 2009, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Southwest Power Pool, Inc. (SPP) filed an executed Interim Large Generator Interconnection Agreement<sup>2</sup> (interim interconnection agreement) with SPP as the Transmission Provider and Western Farmers Electric Cooperative (WFEC) as both the Transmission Owner and Interconnection Customer. In this order, we conditionally accept the interim interconnection agreement, to be effective September 18, 2009, subject to SPP's amending its Open Access Transmission Tariff (OATT) to provide for interim interconnection service and Commission acceptance of such tariff amendments, and subject to SPP submitting a compliance filing, as discussed below.

**I. Background**

2. SPP is a Commission-approved Regional Transmission Organization, and a non-profit corporation with its headquarters in Little Rock, Arkansas. WFEC is a generation and transmission cooperative headquartered in Anadarko, Oklahoma. WFEC owns, operates, and maintains more than 3,400 miles of transmission lines principally located in Oklahoma. As a SPP member and control area operator, WFEC's transmission facilities are administered by SPP through the SPP OATT.

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> The interim interconnection agreement is designated in the SPP Tariff as Original Service Agreement No. 1845, FERC Electric Tariff, Fifth Revised Vol. No. 1.

3. SPP states that over the past two years, it has received a substantial number of generation interconnection requests largely due to an increase in proposed wind-generation projects, leading to significant backlogs in its interconnection queue. To address its current queue backlog while working to reform its interconnection procedures, SPP submitted, in Docket No. ER09-262-000, a request for a limited, one-time waiver of various provisions in its interconnection procedures to allow for the formation of two transitional interconnection queue clusters. The Commission conditionally granted the waiver request<sup>3</sup> and accepted SPP's proposed timeline for the completion of the transitional cluster study process.<sup>4</sup> Subsequently, SPP submitted a proposal to reform its interconnection procedures, which the Commission conditionally accepted on July 31, 2009.<sup>5</sup>

## II. SPP's Filing

4. SPP states that in its compliance filing in Docket No. ER09-262-002, SPP indicated it would be willing to consider entering into an interim interconnection agreement with a customer if the interconnection is feasible and the customer is ready to interconnect prior to SPP completing the interconnection study process. SPP states that to facilitate such agreements, SPP posted on its website, and notified interconnection customers by email of the details and general terms and conditions under which it will enter into interim interconnection agreements.<sup>6</sup> SPP notes that in the Compliance Order, the Commission stated it is encouraged by SPP's intention to provide interim interconnection service and believes that doing so may alleviate customer concerns about delay in processing interconnection requests.<sup>7</sup> SPP adds that the Commission advised SPP to amend its OATT if it chooses to provide interim interconnection service.<sup>8</sup>

5. SPP states that on August 27, 2009, the SPP Regional Tariff Working Group (RTWG) unanimously approved a proposed *pro forma* interim interconnection

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<sup>3</sup> See *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,012, at P 37 (2009).

<sup>4</sup> See *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,138 (2009) (*Compliance Order*).

<sup>5</sup> See *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,114 (2009).

<sup>6</sup> SPP Filing at 2 (citing the SPP OASIS at: [http://sppoasis.spp.org/documents/swpp/transmission/studies/interim\\_ia\\_oasis\\_posting\\_3-6-09.pdf](http://sppoasis.spp.org/documents/swpp/transmission/studies/interim_ia_oasis_posting_3-6-09.pdf)).

<sup>7</sup> *Id.* at 2-3 (citing *Compliance Order*, 127 FERC ¶ 61,138 at P 24).

<sup>8</sup> *Id.* at 3 (citing *Compliance Order*, 127 FERC ¶ 61,138 at P 24).

agreement, based on SPP's current *pro forma* Standard Large Generator Interconnection Agreement and procedures, for providing interim interconnection service for incorporation into the SPP OATT. SPP states that it expects the SPP Markets and Operations Policy Committee and the SPP Board of Directors to approve the proposed *pro forma* interim interconnection agreement and associated procedures in October 2009. SPP states that if the *pro forma* interim interconnection agreement is approved, SPP will file it with the Commission in early November.

6. With regard to the instant proposal, SPP states WFEC requested an interim interconnection agreement for WFEC's generating facility, which comprises three combustion turbines totaling 135 MW. SPP states that the proposed interim interconnection agreement with WFEC is based on its *pro forma* large generator interconnection agreement, modified to accommodate the unique nature of interim interconnection service. SPP also states that many of the variances from the *pro forma* large generator interconnection agreement are similar to those in the *pro forma* interim interconnection agreement approved by the RTWG and to the interim interconnection agreement that the Commission accepted for Oklahoma Gas and Electric Company (OG&E).<sup>9</sup>

7. SPP states that the following provisions vary from the SPP *pro forma* interconnection agreement: (1) Recitals; (2) Definitions; (3) Article 2 (Effective Date, Term, and Termination); (4) Article 4 (Scope of Service); (5) Article 5 (Interconnection Facilities, Engineering, Procurement, and Construction); (6) Article 11.5 (Provision of Security); (7) Article 19 (Assignment); and (8) Appendices.<sup>10</sup>

8. Additionally, SPP states that Appendix A of the WFEC interim interconnection agreement contains a few non-conforming provisions specific to providing interim interconnection service for WFEC. First, SPP added section 4 paragraph (a) to specify that the amount of initial security WFEC owed previously was \$763,482; however, because WFEC as transmission owner has already constructed certain interconnection facilities described in Appendix A, SPP adjusted the amount of initial security to \$13,482. Second, section 7 of Appendix A provides that as of the effective date of the

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<sup>9</sup> *Id.* at 4 (citing *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,191 (*OG&E Interim Interconnection Order*)).

<sup>10</sup> SPP describes each of these variances, which are similar to those in the Commission-accepted interim interconnection agreement between SPP and OG&E. *See id.* at 5-11.

interim interconnection agreement, there are no “Higher Queued Projects”<sup>11</sup> in the Southwest Oklahoma area.<sup>12</sup>

9. SPP requests waiver of the Commission’s prior notice requirement to allow an effective date of July 1, 2009, for the interim interconnection agreement. SPP explains that WFEC needed to interconnect its facility on July 1, 2009, before the WFEC interim interconnection agreement could be completed and filed. Furthermore, SPP states, since that time the parties have endeavored to finalize and file the WFEC interim interconnection agreement as expeditiously as possible. Therefore, SPP asserts that good cause exists and there are extraordinary circumstances present to grant waiver of the 60-day notice requirement.<sup>13</sup>

### **III. Notice of Filing and Responsive Pleadings**

10. Notice of SPP’s September 17, 2009 filing was published in the *Federal Register*, 74 Fed. Reg. 49369 (2009), with interventions and protests due on or before October 8, 2009. WFEC filed a timely motion to intervene.

### **IV. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

#### **B. Substantive Matters**

12. The Commission accepts the interim interconnection agreement to be effective September 18, 2009, one day after the date of filing, subject to SPP’s amending its OATT

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<sup>11</sup> If a customer executes an interim interconnection agreement or a final large generator interconnection agreement for a “Higher Queued Project” and that project goes into operation during the term of the WFEC interim interconnection agreement, interconnection service under the WFEC interim interconnection agreement may be reduced in whole or in part.

<sup>12</sup> SPP Filing at 11.

<sup>13</sup> SPP notes that if the Commission rejects its proposed July 1, 2009 effective date, SPP has no refund obligation to WFEC pursuant to the interim interconnection agreement. *Id.* at 12 n.28.

to provide for interim interconnection service and Commission acceptance of such tariff amendments, and subject to a compliance filing, as discussed below.

13. In Order No. 2003, the Commission required transmission providers (such as SPP) to file *pro forma* interconnection documents and to offer their customers interconnection service consistent with those documents.<sup>14</sup> The use of *pro forma* documents ensures that interconnection customers receive non-discriminatory service and that all interconnection customers are treated on a consistent and fair basis. Using *pro forma* documents also streamlines the interconnection process by eliminating the need for an interconnection customer to negotiate each individual agreement. This reduces transaction costs and reduces the need to file interconnection agreements with the Commission to be evaluated on a case-by-case basis.<sup>15</sup>

14. However, at the same time, the Commission recognized in Order No. 2003 that there would be a small number of extraordinary interconnections where reliability concerns, novel legal issues, or other unique factors would call for the filing of a non-conforming interconnection agreement.<sup>16</sup> In such cases, the transmission provider should indicate clearly where the agreement does not conform to its *pro forma* interconnection agreement and explain its justification for each non-conforming provision of the interconnection agreement.<sup>17</sup>

15. The Commission analyzes such non-conforming filings, which we do not expect to be common, to ensure that operational or other reasons necessitate the non-conforming agreement.<sup>18</sup> We note that a transmission provider seeking a case-by-case specific

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<sup>14</sup> See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

<sup>15</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,078, at P 6 (2006).

<sup>16</sup> *Id.*; see also Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 913-915.

<sup>17</sup> See Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 at P 140; Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 915.

<sup>18</sup> *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,098, at P 9 (2005) (*PJM Order*); see also *El Paso Electric Co.*, 110 FERC ¶ 61,163, at P 4 (2005).

deviation from a *pro forma* interconnection agreement bears a burden higher than the “consistent with or superior to” standard, the standard used by the Commission in evaluating modifications to its *pro forma* interconnection agreements and procedures. A transmission provider seeking a deviation from its approved *pro forma* interconnection agreement must explain what makes the interconnection unique and what operational concerns or other reasons necessitate the change.<sup>19</sup>

16. Here, SPP has identified the portions of the interim interconnection agreement that differ from the *pro forma* interconnection agreement.<sup>20</sup> SPP has also explained that over the past two years, it has received a substantial number of generation interconnection requests largely due to an increase in proposed wind-generation projects. SPP also states that this increase in requests has led to significant backlogs in its interconnection queue, and that SPP has taken a number of steps, including reforming its interconnection procedures, to address the backlogs in its interconnection queue. SPP also notes that its stakeholders are currently considering a proposed *pro forma* interim interconnection agreement, and that if the SPP Board approves the tariff revisions, SPP will submit a filing to incorporate the interim interconnection service into its OATT in November 2009.

17. The Commission finds that while SPP has indicated where the agreement does not conform to its *pro forma* interconnection agreement and explained its justification for each non-conforming provision, SPP has not fully explained what makes the WFEC interconnection unique, nor has it identified the operational concerns or other reasons that necessitate the change. The Commission recognizes that interim interconnection service can provide benefits by allowing an interconnection customer that is ready to interconnect to receive needed interconnection service—albeit on a conditional basis—while leaving queue positions undisturbed and making use of available capacity, which results in a more efficient use of the transmission system. However, as the Commission advised SPP in the Compliance Order, it should amend its OATT if it chooses to provide interim interconnection service.<sup>21</sup> These benefits should be available through a *pro forma* agreement to ensure that all similarly situated interconnection customers are treated on a

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<sup>19</sup> See *PJM Order*, 111 FERC ¶ 61,098 at P 9.

<sup>20</sup> See *supra* P 7.

<sup>21</sup> See *Compliance Order*, 127 FERC ¶ 61,138 at P 24; see also *OG&E Interim Interconnection Order*, 128 FERC ¶ 61,191 at P 21.

consistent and fair basis. Nevertheless, under the present circumstances<sup>22</sup> the Commission will conditionally accept the interim interconnection agreement, subject to SPP amending its OATT to provide for interim interconnection service within 30 days of the completion of the stakeholder review and SPP Board approval processes, and subject to Commission acceptance of such tariff amendments.<sup>23</sup> SPP is directed to submit, within 30 days of Commission acceptance of any tariff amendments establishing interim interconnection service under the SPP OATT, a compliance filing to conform the instant interim interconnection agreement to such tariff amendments.

18. With regard to SPP's request for waiver to allow for a July 1, 2009 effective date, we find that SPP has provided inadequate support for its request. Simply stating that WFECC needed to interconnect its facility on July 1, 2009 and that the parties tried to finalize the agreement as expeditiously as possible is not enough to explain why an effective date two and a half months before SPP submitted its filing is justified. Absent a strong showing of good cause, we deny requests for waiver of prior notice for agreements filed after the commencement of service.<sup>24</sup> We find that SPP has failed to identify any extraordinary circumstances or to make the requisite showing of good cause to justify a July 1, 2009 effective date. However, we grant waiver of the prior notice requirement to establish the effective date for the interim interconnection agreement as September 18, 2009, one day after the date of filing.

19. Accordingly, we conditionally accept the interim interconnection agreement, effective September 18, 2009, subject to conditions, as discussed above.

The Commission orders:

(A) The interim interconnection agreement is hereby conditionally accepted, effective September 18, 2009, as discussed in the body of this order.

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<sup>22</sup> These circumstances include the increase in generation interconnection requests and resulting backlogs in the SPP interconnection queue, SPP's anticipated submission of a *pro forma* interim interconnection service in the fall, and WFECC's present need for interconnection service.

<sup>23</sup> See *OG&E Interim Interconnection Order*, 128 FERC ¶ 61,191 at P 21.

<sup>24</sup> *Central Hudson Gas and Electric Co.*, 60 FERC ¶ 61,106 at 61,339, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

(B) SPP is directed to make a filing to amend its OATT to provide for interim interconnection service, as discussed in the body of this order.

(C) SPP is directed to make a filing to conform the interim interconnection agreement to any amendments to the SPP OATT establishing interim interconnection service, within 30 days of Commission's acceptance of such tariff amendments, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.