

131 FERC ¶ 61,055
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 20, 2010

In Reply Refer to:
Southwest Power Pool, Inc.
Docket No. ER10-795-000

Wright & Talisman, P.C.
Attention: Matthew J. Binette, Esquire
1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802

Reference: Limited Waiver of Tariff Provision

Dear Mr. Binette:

1. On February 25, 2010, Southwest Power Pool, Inc. (SPP) filed a request for waiver of the notice provisions of section 17.7 of SPP's Open Access Transmission Tariff (Tariff) to permit SPP to grant Westar a five month extension of the commencement date for its transmission service. SPP requests expedited treatment for its waiver request, based on its claim that, absent a waiver, Westar will be required to begin receiving and paying for transmission service on March 1, 2010, even though (due to circumstances beyond its control) Westar's generator unit is not yet in operation.

2. Section 17.7 of SPP's Tariff states that a transmission customer may obtain up to five one-year extensions for the commencement of service by paying an annual reservation fee equal to one-month's charge for firm transmission service for each year or fraction thereof. If the transmission customer seeks an extension of less than one year, SPP's Tariff provides that the transmission customer must request the extension no later than 60 days before the service commencement date.

3. In 2007, Westar submitted three Point-to-Point Transmission Service requests to be sourced from the new Plum Point generating station located near Osceola, Arkansas

on behalf of three cities in Missouri.¹ Westar requested that transmission service for all three service requests commence on March 1, 2010. Based on its Aggregate Transmission Service Study procedures in accordance with Attachment Z1 of its Tariff, SPP determined that no network upgrades were required to provide the service and granted Westar's requests for service to commence on March 1, 2010.

4. On February 11, 2010, Westar submitted to SPP a request for a waiver of the notice requirement in section 17.7 and requested an extension of the service commencement date for the three transmission service requests to September 1, 2010. Westar explained that it had just become aware that there would be a delay in the completion of the Plum Point generating station and that it had no knowledge of the delay on December 31, 2009,² the date when a request for an extension under section 17.7 would have been timely. On February 19, 2010, Westar contacted SPP to modify its request for an extension, requesting to delay the service commencement date for five months to August 1, 2010.

5. SPP requests that the Commission grant it the authority to waive the notice requirement in section 17.7 of its Tariff for Westar, because SPP's Tariff provisions do not permit SPP to grant such waivers by its own action. SPP states that Westar had no knowledge of the delay in completion of the Plum Point generating station until well after it would have been required to file for the waiver under section 17.7 of its tariff. Moreover, SPP states that the waiver request on behalf of Westar does not involve any impropriety on Westar's part. SPP also states that the transmission service is not yet needed by Westar, and Westar has requested an extension that would be permissible under section 17.7 of SPP's Tariff, had it known to request this waiver by December 31, 2009.

6. Notice of the filing was published in the *Federal Register*, 75 FR 11161 (2010), with interventions, comments, and protests due on or before March 18, 2010. A joint motion to intervene in support of the filing was filed by City of Kennett, Missouri, City of Malden, Missouri and City of Poplar Bluff, Missouri. Likewise, Westar also filed a motion to intervene in support of the filing. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

¹ The three cities are: Poplar Bluff (20 MW), Kennett (20 MW), and Malden (7 MW) (Transmission Request Nos. 1278809, 1278811, and 1278813, respectively).

² SPP also states that Westar is not involved in the construction of the Plum Point generating station and thus, the schedule for completion of the generating station was not within its control and Westar did not have the information regarding the status of completion.

7. The Commission has granted one-time waivers of limited scope in circumstances where it has been shown that granting the waiver would not result in any undesirable consequences, and where granting the waiver would benefit customers.³ Based on the circumstances presented, we find it reasonable to grant the requested waiver to allow SPP to waive its section 17.7 notice requirements and allow Westar to extend the commencement of its transmission service for five months, to August 1, 2010.

8. Accordingly, SPP's request for waiver of section 17.7 of its tariff is granted, as discussed in the body of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ *Cal. Indep. System Operator Corp.*, 124 FERC ¶ 61,031, at P 19 (2008), *reh'g denied*, 124 FERC ¶ 61,293 (2008); *Cal. Indep. System Operator Corp.*, 118 FERC ¶ 61,226, at P 24 (2007).