

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Southwest Power Pool, Inc.

Docket No. ER05-326-000

ORDER ACCEPTING TARIFF FILING

(Issued February 11, 2005)

1. Southwest Power Pool, Inc. (SPP) filed proposed changes to its open access transmission tariff (OATT) in order to: (1) extend its current cost allocation for network upgrades; (2) revise the scheduling deadline for non-firm transmission service; and (3) limit multiple and repetitive scheduling requests for non-firm hourly service for next day transmission. In this order, the Commission accepts SPP's proposed tariff changes to become effective on February 1, 2005, as requested. This action benefits customers by ensuring that SPP's transmission expansion and cost allocation procedures are consistent and work for the benefit of all stakeholders.

Background

2. On February 10, 2004, the Commission granted SPP regional transmission organization (RTO) status subject to SPP filing certain key requirements such as developing and filing a transmission cost allocation plan and other conditions identified in the order.¹ Specifically, the Commission required SPP to develop and file a transmission cost allocation plan by the end of 2004, and indicated that this plan should address pricing treatment for the projects identified in SPP's transmission plan.²

3. On December 30, 2004, in Docket No. RT04-1-009, SPP filed a request for a ninety (90) day extension on its efforts to develop and file a transmission costs allocation plan as required by the Commission's February 10 Order.

¹ *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 (2004) (February 10 Order); *Southwest Power Pool, Inc.*, 108 FERC ¶ 61,003 (2004) (July 4 Order addressing SPP's first compliance filing); *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004) (October 1 Order addressing SPP's second compliance filing);

² 106 FERC ¶ 61,110 at P 189; 108 FERC ¶ 61,003 at P 100-102.

4. On December 13, 2004, SPP filed revisions to Attachments J and P of its OATT. SPP points out that Attachment J of its OATT currently provides that a transmission customer requesting transmission service that requires network upgrades must pay the costs associated with such upgrades if they are constructed before February 1, 2005. Attachment J also provides that if the upgrades are constructed after February 1, 2005, the costs will be rolled in with all other transmission facilities. In this filing, SPP proposes to revise Attachment J to provide for a one-year extension of the requirement that transmission customers pay for the costs for network upgrades. SPP argues that this one-year deferral of rolled-in treatment will provide time for development of the cost allocation plan required by the Commission's February 10 Order.

5. SPP notes that these modifications were developed through its stakeholder process and approved by its Markets and Operations Policy Committee and its Board. SPP contends that it is seeking to keep in place its existing, Commission-approved method of allocating costs of network upgrades (which is based on "or" pricing) in Attachment J until a cost allocation plan is developed. Moreover, SPP notes that because SPP and the Regional State Committee are considering this same issue, it makes no sense to allow the current tariff provision to automatically change to require a roll-in of facilities, particularly when any such roll-in likely would be superseded shortly after it became effective. In addition, SPP states that the current status quo will not result in new facilities being directly assigned to transmission customers because, to date, these costs are typically rolled in and not directly assigned, as the costs do not result in a rate in excess of the embedded cost rates.

6. SPP also proposes changes to Attachment P including: (1) a revision providing that energy scheduling for non-firm transmission service with a term of one hour to one day will occur no later than 20 minutes prior to the hour and deleting the requirement that such scheduling will occur no later than 3:00 p.m. the previous day; and (2) inclusion of a footnote limiting the number of transmission service requests for non-firm hourly service for next day transmission that may be submitted by each transmission customer over a given direct current (DC) tie, during the period between 11:55 a.m. and 12:05 p.m. Central Prevailing Time each day.

7. SPP states that its revisions to Attachment P will facilitate the processing of the high volume of transmission service transactions on an RTO's grid. SPP explains that these revisions (1) make it easier for transmission customers to schedule non-firm transmission service; (2) reflect the way in which the market currently operates; (3) improves SPP's ability to administer capacity by preventing its resources from becoming overwhelmed with too many transmission service requests; and (4) is consistent with Commission precedent.

8. SPP requests a February 1, 2005 effective date for the proposed revisions.

Notice of Filing and Responses

9. Notice of SPP's filing was published in the *Federal Register*, 69 Fed. Reg. 77,752 (2004), with motions to intervene and protests due on or before January 3, 2005. The Lafayette Utilities System, Missouri Joint Municipal Electric Utility Commission, Oklahoma Municipal Power Authority and West Texas Municipal Power Authority (collectively, Intervenors) filed a timely joint motion to intervene and protest. SPP filed an answer to Intervenors' protest on January 18, 2005.

10. Intervenors oppose SPP's revision to Attachment J arguing that granting the proposed amendment will facilitate further delay in SPP filing the cost allocation proposal that should have been made by December 31, 2004 and perpetuate an interim cost allocation scheme that Intervenors allege is stymieing development and expansion of the region's transmission system. Intervenors challenge SPP's assertion that the proposed revision to Attachment J will maintain the "status quo." According to Intervenors, the status quo is that a transmission customer's exposure to the direct assignment of network upgrade costs will end on February 1, 2005. Intervenors argue that, in fact, SPP's proposed revision will change the status quo by extending the period during which transmission customers are exposed to the possibility of direct assignment, and is contrary to the stakeholders' expectations that the date on which rolling in of all network upgrade costs is mandatory on February 1, 2005.

11. Intervenors caution against any attempt by SPP to directly assign network upgrade costs to network customers in addition to the access charges they pay. They argue that any such direct assignment will violate the prohibition against "and" pricing. While it is possible to apply "or" pricing to network customers, Intervenors assert that SPP does not propose such an approach and, instead, seeks to apply "and" pricing to network customers. Intervenors point out that even SPP acknowledges that it is unable to fund construction of new transmission facilities because the costs and capacity of the new facilities are significant and disproportionately greater than required for any one service request. According to Intervenors, these costs (1) render customers' upgrades uneconomic; (2) inhibit economic power supply transactions; and (3) prevent needed construction of needed transmission.

12. Intervenors disagree with SPP's claim that it makes no sense to allow the current tariff provision to automatically change to require a roll-in of facilities, particularly when any such roll-in likely would be superseded shortly after it became effective. Intervenors state that the Commission should reject SPP's claim that leaving Attachment J unchanged would produce a problematic shift in rules. Intervenors claim that leaving Attachment J unchanged would mean that the current rule would stay in place until February 1, 2005, at which point the rolling in of

upgrade costs would become mandatory. Intervenors also state that SPP itself recognizes that, under the currently effective terms of Attachment J, the costs of new projects “typically” have been rolled-in. Intervenors therefore argue that this confirms that leaving Attachment J in place as written would not result in a sudden shift in pricing when the transition period expires on February 1, 2005.

13. Intervenors point out that SPP’s proposed revised Attachment J is one of a series of pending or upcoming filings bearing on the allocation of transmission upgrade costs, citing SPP’s recently filed proposed Attachment Z in Docket No. ER05-109-000 as an example. According to Intervenors, SPP’s proposed revised Attachment J creates confusion among market participants about current and future cost allocation rules. Intervenors argue that the proposed revised Attachment J must be considered in conjunction with these other pending filings.

14. Intervenors, therefore, request that the Commission either reject the revised Attachment J extending the pricing transition period or suspend the effective date of the proposed amendment for five months. Intervenors state that, at that point, the Commission will be in a position to understand how the various cost allocation filings relate to one another.

15. In its answer, SPP disagrees with Intervenors’ argument that rolling in upgrade costs will alleviate the cost of constructing network upgrades. SPP contends that, until there is an appropriate allocation between local and regional components of upgrade costs, it is unlikely that transmission facilities will be constructed due to lack of funding. In addition, SPP notes that the concerns raised by the Intervenors are outside the scope of this proceeding, and are more appropriately addressed in the ongoing transmission cost allocation development process. SPP argues that the proposed revision of Attachment J will provide additional time to permit the development of a cost allocation plan that will be beneficial to all parties.

Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the Intervenors’ timely, unopposed motion to intervene serves to make them parties to this proceeding.

17. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SPP’s answer because it has provided information that assisted us in our decision-making process.

B. Commission Decision

18. SPP is making this filing so that it will have additional time to develop and file its cost allocation plan. Therefore, we will accept SPP's proposal as an interim solution until SPP files its cost allocation plan. However, we will grant the extension for ninety days only, consistent with SPP's requested extension in Docket No. RT04-1-009. Intervenors' arguments as discussed below, do not warrant a different result.

19. SPP states that footnote 7 of Attachment P is intended to dissuade market participants from submitting more than 10 requests between 11:55 am and 12:05 pm on the same day. Intervenors argue that the language does not specifically provide that it applies to requests submitted in a single day. Therefore, Intervenors request that the Commission require SPP to adopt clarifying language to this effect.

20. We will not require SPP to submit clarifying language. It is clear within the context of the language that SPP is referring to requests submitted in a single day. It is not clear to this Commission how the time frame between the hours of 11:55 am and 12:05 pm can be interpreted by Intervenors as not taking place in a single day. Therefore, we will reject Intervenors request.

21. We also disagree with Intervenors' argument that extending Attachment J will facilitate further delay in SPP filing its cost allocation proposal. SPP recently stated in Docket No. RT04-1-009 that it expects to file its cost allocation plan sometime during the later part of February 2005.³ We find the extension reasonable and expect that SPP will make that filing since the SPP Board of Directors approved on January 25, 2005, proposed tariff language to implement its transmission expansion cost allocation proposal. Intervenors have not shown otherwise.

22. Finally, Intervenors' assertion that SPP seeks to apply "and" pricing to network customers is unsupported. Intervenors have provided no evidence to demonstrate that SPP's proposal includes "and" pricing. Accordingly, we reject Intervenors' assertion.

³ Docket No. RT04-1-009, Transmittal Letter at 2.

The Commission orders:

SPP's revisions to Attachment J and P, as modified, are hereby accepted for filing, to become effective February 1, 2005, as requested.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.