

140 FERC ¶ 61,204  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

Southwest Power Pool, Inc.

Docket No. ER12-2289-000

ORDER ACCEPTING AND SUSPENDING PROPOSED TRANSMISSION  
FORMULA RATE AND PROTOCOLS

(Issued September 20, 2012)

1. On July 23, 2012, Southwest Power Pool, Inc. (SPP) filed revisions to its Open Access Transmission Tariff (Tariff) to implement a cost-based transmission formula rate and protocols for SPP member The Empire District Electric Company (Empire). SPP states that, on May 18, 2012, Empire filed a request with the Commission in Docket No. ER12-1813-000 to update Empire's formula rate and protocols for network integrated transmission service, point-to-point transmission service, and scheduling, system control and dispatch service pursuant to Schedule 1.<sup>1</sup> SPP argues that the purpose of SPP's filing is to incorporate Empire's filed rates into the SPP Tariff. In this order, we will accept and suspend the formula rate and protocols to become effective January 1, 2013, subject to refund and to the outcome of the hearing and settlement judge procedures in Docket No. ER12-1813-000.

**I. Background**

2. SPP is a Commission-approved regional transmission organization. SPP administers transmission service pursuant to its Tariff over portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. SPP has 66 members and serves more than five million customers in a 370,000 square mile area.<sup>2</sup>

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<sup>1</sup> SPP Transmittal at 1. On July 31, 2012, the Commission issued an order accepting and suspending Empire's proposed formula rate and protocols and establishing hearing and settlement judge procedures. *Empire District Electric Company*, 140 FERC ¶ 61,087 (2012) (*Empire*).

<sup>2</sup> SPP Transmittal at 1.

3. Empire is a public utility company based in Joplin, Missouri that provides electric service to approximately 166,500 customers located in southwest Missouri, southeast Kansas, northeast Oklahoma, and northwest Arkansas. Empire is a transmission-owning member of SPP and transferred functional control of its transmission facilities, most of which operate at 69 kV and 161 kV, to SPP in 2004. Empire does not provide network or point-to-point transmission service pursuant to its own Open Access Transmission Tariff; instead, all requests for transmission service on Empire's transmission system are made through SPP in accordance with the terms and conditions of the SPP Tariff.<sup>3</sup>

4. On May 18, 2012, Empire filed revisions to its Open Access Transmission Tariff in Docket No. ER12-1813-000, pursuant to section 205 of the Federal Power Act.<sup>4</sup> In that docket, Empire proposes to implement a cost-based transmission formula rate and protocols and to update and keep current its rates for network integration transmission service, point-to-point transmission service, and scheduling, system control, and dispatch service. In *Empire*, the Commission accepted Empire's proposed formula rate and protocols, suspended them for five months, and made them effective January 1, 2013, subject to refund, and established hearing and settlement judge procedures. The hearing and settlement judge proceedings are continuing.

## **II. SPP Filing**

5. SPP states that the Tariff revisions set forth in its filing incorporate all of Empire's formula rate and protocols as proposed in Docket No. ER12-1813-000 into Attachment H of the SPP Tariff. SPP requests waiver of the Commission's 60-day prior notice requirement to accept the revisions to its Tariff to be effective August 1, 2012, or on an effective date consistent with the Commission's order in Docket No. ER12-1813-000.

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

6. Notice of SPP's filing was published in the *Federal Register*, 77 Fed. Reg. 45,348 (2012), with interventions and protests due on or before August 13, 2012. Empire filed a timely motion to intervene. The Cities of Monett, Mount Vernon and Lockwood, Missouri and Chetopa, Kansas (Cities) filed a motion to intervene and limited protest, and the Kansas Corporation Commission (Kansas Commission) filed a motion to intervene and protest.

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<sup>3</sup> *Id.* at 2.

<sup>4</sup> 16 U.S.C. § 824d (2006).

**A. Cities Limited Protest**

7. Cities assert that the Commission should not take any action in this proceeding that conflicts with its actions in the order in *Empire*. Specifically, Cities urge the Commission to accept SPP's filing in the instant case, suspend it, and establish an effective date of January 1, 2013, subject to refund and to the outcome of *Empire*.<sup>5</sup>

**B. Kansas Commission Protest**

8. Kansas Commission objects to SPP's filing because Empire's formula rate and protocols have been suspended and are before the Commission for hearing and settlement procedures, and have not yet been found to be just and reasonable. Therefore, reasons Kansas Commission, the rate that SPP proposes in this case cannot be held to be just and reasonable until the resolution of *Empire*.<sup>6</sup> Kansas Commission also observes that to be consistent with *Empire*, SPP's rates should be suspended and made effective as of January 1, 2013, subject to refund and to the outcome of *Empire*.<sup>7</sup>

**IV. Discussion**

**A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

**B. Commission Determination**

10. We agree that the formula rate and protocols that SPP proposes in this case are subject to the outcome of the hearing and settlement procedures in *Empire*.<sup>8</sup> We also agree that the formula rate and protocols that SPP proposes should be made effective January 1, 2013, subject to refund, consistent with *Empire*. For this reason, SPP's request for waiver of the Commission's 60-day prior notice rule is denied. Accordingly, we will accept SPP's filing, suspend it to become effective January 1, 2013, subject to refund and to the outcome of the hearing and settlement procedures in *Empire*.

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<sup>5</sup> Cities Protest at 3.

<sup>6</sup> Kansas Commission Protest at 3.

<sup>7</sup> *Id.*

<sup>8</sup> SPP Transmittal at 3; Cities Protest at 3; Kansas Commission Protest at 3.

The Commission orders:

SPP's proposed formula rate and protocols are hereby accepted for filing to become effective January 1, 2013, subject to refund, and subject to the outcome of the proceedings in Docket No. ER12-1813-000, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.