140 FERC ¶ 61,225
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. ER12-2292-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued September 20, 2012)

1. In this order, the Commission conditionally accepts Southwest Power Pool, Inc.'s (SPP) proposed tariff revisions effective October 15, 2012, as requested, subject to a further compliance filing.

Background

2. On July 23, 2012, SPP proposed tariff revisions to Attachment AE of its Open Access Transmission Tariff (Tariff)[1] to permit the systematic[2] and automated curtailment

[1] Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, Att AE Section 1.1 E, Attachment AE Section 1.1 E, 1.0.0; Att AE Section 1.1 M, Attachment AE Section 1.1 M, 1.0.0; Att AE Section 1.1 N, Attachment AE Section 1.1 N, 3.0.0; Att AE Section 1.1 S, Attachment AE Section 1.1 S, 1.0.0; Att AE Section 4.1, Attachment AE Section 4.1, 2.0.0; Att AE Section 4.3, Attachment AE Section 4.3, 2.0.0; Att AE Section 5.5, Attachment AE Section 5.5, 2.0.0.

[2] By using the term "systematic," SPP means that its market software tools will send instructions directing Non-Dispatchable Resources to curtail output, rather than sending instructions that merely reflect the resource's actual output and that do not contemplate or instruct that the resources change the amount of the output. SPP Filing at 7-8.

of Non-Dispatchable Resources,[3] including Qualifying Facilities (QFs), in SPP's Energy Imbalance Service (EIS) market. SPP requests that the Commission act by September 21, 2012 to allow time for software programming before the proposed October 15, 2012 effective date.

3. SPP proposes to use market rules[4] incorporated in its Market Operating System (MOS) and Curtailment Adjustment Tool (CAT) software tools to calculate and send automatic curtailment (dispatch) instructions to reduce the output of new and existing Non-Dispatchable Resources during periods of transmission congestion as a more efficient and equitable process than the current manual process of issuing curtailment instructions.

4. The current filing is similar to SPP's filing in Docket No. ER11-3710-000, which the Commission rejected as patently deficient.[5] In that filing, SPP proposed to curtail all Non-Dispatchable Resources in the SPP EIS market during periods of congestion at North American Electric Reliability Corporation (NERC) Transmission Loading Relief (TLR) level 3. The Commission found that the proposal and its ramifications were not clear and gave some examples why the filing was deficient: (1) SPP did not file testimony or supporting exhibits to explain how the proposed revisions remedied the problem; (2) SPP did not explain what Non-Dispatchable Resources can do to avoid the Uninstructed Deviation Charge or whether such resources can become dispatchable; (3) SPP did not provide sufficient details with respect to which resources would be curtailed; (4) SPP did not offer any explanation for curtailing Non-Dispatchable Resources immediately when congestion occurs, rather than first economically redispatching available resources (i.e., employing security-constrained economic dispatch (SCED)); (5) SPP's proposed revisions were limited, leaving the details of the proposal for the Market Protocols, even though the proposal appeared to significantly affect transmission priorities as well as the operation of SPP's market; and (6) SPP did not identify the additional telemetry equipment and other requirements it seeks to impose on Non-Dispatchable Resources and whether they are capable of meeting these

[3] In Attachment AE of the Tariff, Section 1.1 – Definitions, SPP proposes to define a "Non-Dispatchable Resource" as "A Resource meeting any of the following conditions: (a) operating in Shut-down Mode; (b) operating in Start-up Mode; (c) operating in Test Mode; (d) operating under Exigent Conditions; (e) is an Intermittent Resource; or (f) is a Qualifying Facility."

[4] SPP states that the revisions to the Market Protocols detail how Market Participants will be instructed to dispatch resources during congested intervals, and these protocols are appropriately included in business practice manuals.

[5] *Southwest Power Pool, Inc.*, 136 FERC ¶ 61,097 (2011).

requirements. In the present filing, SPP states it currently must issue curtailment instructions to Non-Dispatchable Resources manually via telephone, rather than systematically through the SPP market software tools. SPP states these resources often cannot respond to such instructions in a timely manner, and consequently SPP typically only curtails the largest Non-Dispatchable Resource contributing to a constraint.[6] Furthermore, according to SPP, manual curtailment does not provide a systematic means of ensuring that "all Non-Dispatchable Resources that contribute to a constraint are equitably dispatched to resolve congestion."[7]

5. SPP asserts this has resulted in adverse economic and reliability impacts in the SPP Region.[8] According to SPP, transmission service customers with higher priority uses of the transmission system are curtailed, resources located far from a constraint subject to automatic dispatch may be dispatched, higher-priced resources may be dispatched, and more megawatts may be uneconomically dispatched than would be necessary had the Non-Dispatchable Resource(s) been included in the dispatch to relieve the constraint.[9] SPP further claims that the number of Non-Dispatchable Resources and the corresponding amount of installed MW capacity is expected to significantly increase and render manual curtailment of Non-Dispatchable Resources unworkable. SPP offers testimony and data in support of these claims, including forecasting an additional 4,000 MW of Non-Dispatchable Resources will be added to its system in the next three years.[10]

6. SPP's filing proposes to reflect Non-Dispatchable Resources in the dispatch to relieve transmission constraints. Under SPP's existing tariff governing security-constrained economic dispatch during periods of transmission congestion, if there is an insufficient amount of Energy Imbalance Service to achieve the desired Market Flow relief, transmission schedules impacting the congested Flowgate will be curtailed, using their assigned priority level, starting from lowest priority to highest, until the desired Market Flow reduction is achieved. During this curtailment process, SPP also adjusts the Scheduled Generation of Resources, to the extent that such Resources need to be dispatched below their scheduled amount to achieve the desire Market Flow relief.[11]

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[6] SPP Filing at 4-6.

[7] *Id.* at 6.

[8] *Id.* at 5.

[9] *Id.* at 6, citing Dillon Testimony at 6, lines 5-15.

[10] *Id.*, *citing* Dillon Testimony at 5, lines 1-3.

[11] *See* Section 4.3(f)(ii) of Attachment AE.

SPP states that under its proposal Non-Dispatchable Resources will be curtailed in accordance with their existing transmission service priority, which is based on whether the resource is: (1) scheduling against a transmission reservation; (2) a QF exercising its rights under PURPA to deliver its net output to their host utility; or (3) using unscheduled service.

7. In Attachment AE of the Tariff, Section 1.1 – Definitions, SPP proposes to define a "Non-Dispatchable Resource" as:

> A Resource meeting any of the following conditions: (a) operating in Shut-down Mode; (b) operating in Start-up Mode; (c) operating in Test Mode; (d) operating under Exigent Conditions; (e) is an Intermittent Resource; or (f) is a Qualifying Facility.

8. Additionally, SPP creates new definitions for "Exigent Conditions" and "Manual Dispatch Instruction," and amends existing definitions of "Shut-down Mode" and "Start-up Mode."

9. SPP proposes Section 4.3(i) – Coordination of Market Operations under SPP Congestion Management, to clarify how the curtailment rules will be implemented for Non-Dispatchable Resources, which states:

> Non-Dispatchable Resources shall be instructed to curtail via an XML notification. Such notification shall include the resource name, time period of curtailment, and the curtailment level. When instructed, a Non-Dispatchable Resource shall operate at the lower of its (1) curtailment level or (2) actual net output. In the case of a Qualifying Facility exercising its rights under PURPA to deliver all of its net output to its host utilities, its output shall be curtailed proportionately, <u>equivalent to Firm Service</u> [emphasis added]. The curtailment level of a Non-Dispatchable Resource shall be the sum of the curtailed unscheduled and scheduled portion of the output of Resource as determined in CAT.

10. For QF output sold under PURPA, SPP states that unscheduled output always will be curtailed proportionately and equivalent to firm service (i.e., only during a NERC TLR level 5 event or activation of a constraint in MOS such as Congestion Management Event 5, which is an internal TLR level 5 to SPP's market, and only after all other lower priority service has been curtailed to relieve congestion). Like firm service, these QFs selling their output under PURPA will be curtailed only as a last resort when there is a risk of an imminent significant disruption in service (i.e., a system emergency) in a manner which is consistent with the Commission's PURPA regulations, according to SPP.

11. For all Non-Dispatchable Resources – other than QF output sold under PURPA – curtailment priority will be based on the curtailment priority of the service against which the output of the resources is scheduled, and unscheduled energy from these resources will have the same curtailment priority as hourly non-firm transmission service.[12]

12. In Section 5.5 of its Tariff – Uninstructed Deviation Charges, SPP specifies rules for when Resources will be subject to Uninstructed Deviation Charges (i.e., for operating outside an acceptable operating tolerance relative to dispatch instructions) and when they will not. In Section 5.5(f), SPP proposes that Uninstructed Deviation Charges shall be zero for the QF output sold under PURPA. All other output from Non-Dispatchable Resources, however, will be subject to Uninstructed Deviation Charges if they fail to comply fully with curtailment instructions.

13. SPP makes several other miscellaneous revisions to the Tariff, including: addition of Non-Dispatchable Resources to its rules in Section 4.1(e)(4) of its Tariff – Dispatch Process, for non-congested periods; revisions to the language contained in Section 4.1(d) to indicate that an acceptable operating tolerance will be calculated as defined by a formula for Non-Dispatchable Resources; and revisions to the language contained in Section 4.3(g) to specify that notifications to Market Participants of the aggregate curtailments will include the Resource Name and original schedule as well as the generator shift factor associated with the Resource for the constrained flowgates.

14. SPP explains that Non-Dispatchable Resources already receive the type of automated dispatch instructions that will be used to implement the new rules. SPP explains that under the new curtailment process, Non-Dispatchable Resources will receive the same type of automated signal that they do today. The only difference will be that, unlike under the current process, where the automated dispatch instructions sent to Non-Dispatchable Resources echo the resources' telemetered output and do not request that the Non-Dispatchable Resources curtail, under the new process, the automated dispatch instructions may direct the Non-Dispatchable Resource to curtail its output. According to SPP, because Non-Dispatchable resources already respond to manual curtailment instructions to reduce output, responding to the automated signal rather than a telephone call should not pose a compliance issue. Therefore, SPP believes that only minimal additional equipment may be required for Non-Dispatchable resources to respond more systematically to the dispatch instructions under the new curtailment rules and that they should be able to comply with the new curtailment rules promptly and without undue expenditures.

[12] *Id.* at 8.

Notice of Filing and Responsive Pleadings

15. 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. The American Wind Energy Association and The Wind Coalition (collectively AWEA) filed a motion to intervene and protest. Western Farmers Electric Cooperative (WFEC), Acciona Wind Energy USA LLC (Acciona), Westar Energy, Inc. (Westar), Xcel Energy Services Inc. (Xcel) each separately filed a motion to intervene and comments. Exelon Corporation and NextEra Energy Resources, LLC each filed motions to intervene. Exelon Generation Company, LLC (Exelon Generation) filed comments. SPP also filed an answer to protests.

16. WFEC, AWEA, and Exelon Generation comment that imposing modifications or retrofits on some older Non-Dispatchable Resources is impossible, impractical or cost-prohibitive. AWEA and Exelon Generation request that the Commission require SPP to allow exemptions for some non-Dispatchable Resources and to allow a longer transition period for others.[13] Exelon Generation argues that when the Midwest Independent Transmission System Operator, Inc. (MISO) implemented its analogous Dispatchable Intermittent Resource proposal for the curtailment of non-dispatchable resources, the proposal included, and this Commission approved, an exemption for older generating facilities.[14] AWEA, similarly discusses MISO's exemption of older units.[15]

17. Specifically, WFEC argues that SPP's proposed automated curtailment would impose significant costs to upgrade systems to receive and respond to systematic dispatch instructions. WFEC states that non-dispatchable wind farm resources that sell generation to WFEC do not currently receive automated dispatch instructions and lack necessary systems, contrary to SPP's belief that only minimal additional equipment will be required.[16]

18. Next, Exelon Generation comments that SPP's proposal would require output of its three oldest wind units to be reduced to zero during curtailment since they cannot be incrementally curtailed. Exelon Generation states that this total, rather than pro rata curtailment, is unduly discriminatory and fails to take into account the circumstances of

[13] AWEA Protest at 10; Exelon Generation Protest at 4.

[14] Exelon Generation Protest at 4, *citing Midwest Independent Transmission System Operator, Inc.* (*MISO*), 134 FERC ¶ 61,141, at PP 35-36 (2011).

[15] AWEA Protest at 9.

[16] WFEC Protest at 4.

the older wind generating facilities. Therefore, Exelon Generation requests that the Commission should direct SPP to grandfather these three older wind units from the new curtailment requirements proposed by SPP in this proceeding.[17]

19. In the alternative, Exelon Generation requests that it be allowed to substitute curtailment from its Exelon Wind 4 facility, a nearby wind facility of a newer vintage that can be curtailed. Exelon Generation reasons that this alternative would address SPP's curtailment requirement for Exelon Wind 1-3 by reducing the output of Exelon Wind 4 by that amount, over and above any curtailment that SPP specifically directed to Exelon Wind 4. In cases where Exelon Wind 4 is not capable of providing the full amount of incremental curtailment, Exelon would take the Exelon Wind 1-3 units completely off line and shut them down one-at-a-time until SPP's required curtailment is achieved.[18]

20. Exelon Generation also argues that implementing SPP's curtailment proposals or getting wind turbine manufacturers' cooperation to implement the proposal by the required date of October 15, 2012, which is eight weeks from SPP's filing and, potentially, only three weeks after the Commission issues an order on the proposal, may prove impossible.[19]

21. Accordingly, Exelon Generation requests that the Commission direct SPP to revise its proposal to allow Non-Dispatchable Resource owners to request and receive temporary exemptions from SPP's new curtailment requirements where good cause is shown on a fact-specific basis until the required retrofits can be completed, with such approval not to be unreasonably withheld by SPP.[20]

22. Further, WFEC and AWEA both argue that the impending changes that will be required in SPP's proposed Integrated Marketplace structure in less than two years make the current SPP proposal unjust and unreasonable.[21] WFEC comments that because the impending introduction of the SPP Integrated Marketplace will apply a different

[17] Exelon Generation Protest at 4.

[18] *Id.* at 5.

[19] *Id.* at 6.

[20] *Id.* at 6.

[21] WFEC Protest at 4; AWEA Protest at 9, *citing* SPP's Integrated Marketplace filing in Docket No. ER12-1179-000.

methodology for curtailing resources,[22] the costs of investment to comply with the current proposal outweigh the benefits.

23. AWEA agrees with WFEC that all members are currently trying to implement changes that will be required in the proposed Integrated Marketplace structure in less than two years.[23] Further, AWEA argues that SPP has not met its burden to sufficiently support its claim that inclusion of Non-Dispatchable Resources in the curtailment protocols is necessary to protect reliability, provide the most cost-efficient dispatch of the EIS market or that it is just and reasonable, especially as an interim measure leading up to the start of the Integrated Marketplace.[24]

24. AWEA contends SPP has neither provided evidence to support its claims nor submitted data as to the actual impact of the addition of Non-Dispatchable Resources to the SPP footprint. AWEA states that while SPP's proposal indicates the addition of 4,000 MW of additional Non-Dispatchable Resources to be added over the next three years, there is no support for this claimed level of Non-Dispatchable Resources in the near future; nor does SPP provide any details as to how many of these will be unscheduled in the EIS market.[25]

25. AWEA states that if the Commission does not dismiss the filing, it requests that the Commission either require SPP to explain in a compliance filing why the proposal is needed and how it is needed in light of changes proposed in the 2014 Integrated Marketplace filing in Docket No. ER12-1179-000,[26] or else require SPP to modify its proposal such that interim treatment of Non-Dispatchable Resources better aligns with the proposed Integrated Marketplace. AWEA additionally notes that it does not support SPP's use of the term Non-Dispatchable Resources, since SPP's proposal assumes these resources will be dispatched.[27]

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[22] WFEC Protest at 5.

[23] WFEC Protest at 4; AWEA Protest at 4.

[24] AWEA Protest at 9.

[25] *Id.* at 6.

[26] *Id.* at 8-9, *citing* SPP's Integrated Marketplace filing in Docket No. ER12-1179-000 at 2.

[27] AWEA Protest at 1, n.3.

26. AWEA and Acciona also want SPP to clarify that security-constrained economic dispatch solutions will apply before Non-Dispatchable Resources are curtailed to avoid lowest incremental cost resources from being curtailed to the overall detriment of the market and ensure that appropriate price signals are provided to the market. AWEA further contends Non-Dispatchable Resources should be able to bid into the Locational Imbalance Pricing (LIP) system, and that the curtailment methodology should be based on price bids from generators.[28]

27. AWEA and Acciona state that Non-Dispatchable Resources should be provided greater ability to adjust their schedules closer to real time.[29] Specifically, Acciona comments that SPP should clarify or provide that Non-Dispatchable Resources be able to submit a 15 minute forecast to be used as a schedule in the market before the proposed SPP Tariff revisions take effect. Acciona states that the Commission recently provided in its Order No. 764,[30] that 15-minute scheduling intervals should be permitted for such Non-Dispatchable Resources.[31]

28. AWEA states that it suspects that most Non-Dispatchable Resources in SPP, such as wind resources, have power purchase agreements (PPAs) and that such resources are typically designated as network resources and would therefore have a fairly high curtailment priority of network firm transmission service, which would likely not be curtailed until after all possible economic re-dispatch of the system was made.

29. Furthermore, AWEA argues that the SPP's proposal is unjust and unreasonable for the class of Non-Dispatchable Resources that are selling their power directly to the EIS market and do not have PPAs with utilities that would result in their being designated network resources with network firm transmission rights. AWEA argues that these Non-Dispatchable Resources would be exposed to higher risk of curtailment under the modifications proposed by SPP and would be discriminated against and placed at a competitive disadvantage because firm transmission service is not an option for them.[32]

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[28] *Id.* at 13.

[29] Acciona Protest at 14; AWEA Protest at 12-13.

[30] Acciona Protest at 13, *citing Integration of Variable Energy Resources*, Order No. 764, 139 FERC ¶ 61,246 (2012).

[31] Acciona Protest at 13.

[32] AWEA Protest at 8.

30. Acciona requests the Commission require SPP to extend TLR level 5 curtailment priority to QFs over 20 MW in service areas where PURPA section 210(m) relief from mandatory purchase obligation has been granted and protection against Uninstructed Deviation Charges, as those QFs' participation in the EIS market is not truly voluntary, and QFs with firm PPAs.[33]

31. Acciona requests that the Commission require SPP to clarify or provide the means for Non-Dispatchable Resources selling into the EIS market to obtain firm network service.[34]

32. Several protestors argue that the SPP's proposal creates negative incentives for QFs. Specifically, Xcel argues that SPP's proposal gives QFs the incentive not to register in the EIS market at all.[35] Acciona wants make-whole payments for curtailments of Non-Dispatchable Resources to provide incentives for Non-Dispatchable Resources to fulfill curtailment instructions and provide market signals to encourage transmission expansion and market growth. Westar argues that the proposed tariff revisions provide incentives for certain entities to over-schedule the output of Non-Dispatchable Resources. Westar states that in situations where generators' output is more than is scheduled, the excess has an NH2 (i.e., non-firm hourly) priority and would be curtailed, yet the generator may request payment for the entire output produced. Thus, Westar argues that the new rules would create an incentive for entities that purchase from such generators to over schedule their Non-Dispatchable Resources to avoid paying for generation that cannot be delivered. Westar requests, therefore, that the Commission require SPP to modify its proposal to provide that SPP will look at the firm transmission rights associated with a given wind farm and compare that to the actual output. Westar states that the minimum of these two values should be included in the curtailment analysis as having firm transmission rights.[36]

33. WFEC states that SPP's current plan to provide an incentive for Non-Dispatchable Resources to comply with the new curtailment methodology is incomplete because SPP's proposed imposition of Uninstructed Deviation Charges on Non-Dispatchable Resources, while intended to prompt compliance with curtailment instructions, lacks consideration of cases where a utility, such as WFEC, is responsible for scheduling the generation which it accepts from Non-Dispatchable Resources, but is not in control of how much the

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[33] Acciona Protest at 13.

[34] Acciona Protest at 9.

[35] Xcel Protest at 12.

[36] Westar Protest at 3.

Non-Dispatchable Resources generate. WFEC contends utilities, in these cases, should not be responsible for any associated Uninstructed Deviation Charges.[37]

34. Xcel supports automated curtailment of Non-Dispatchable Resources, but argues that SPP deviated from the recommendation of SPP's Markets and Operations Policy Committee (MOPC) to use TLR level 3 curtailment priority for QF output sold under PURPA. Xcel suggests that the Commission should consider whether TLR level 5 priority for these QFs is consistent with Order No. 888, Order No. 890 and PURPA. Xcel contends the Commission should understand that SPP received input from stakeholders, but that does not equate to stakeholder support.[38]

35. In its answer to protests, SPP clarifies that grandfathering (or exemptions) for older generators is not an option, because automating curtailment of all existing Non-Dispatchable Resources is needed now to ensure efficient, reliable dispatch during congested periods.[39] SPP reiterates that the need to automate curtailment of existing and future Non-Dispatchable Resources is justified based on the testimony of Richard Dillon and associated table of expected increase of 4,000 MW of Non-Dispatchable Resources over the next three years. SPP contends this forecast can be relied on because it is based on executed Generator Interconnection Agreements for Non-Dispatchable Resources.

36. SPP contends Market Participants will not have to add any functionality to receive the curtailment instructions, and additionally that the only difference will be that the instructions now will include a direction to curtail.[40]

37. SPP's answer additionally clarifies that with the exception of QF output sold under PURPA, Non-Dispatchable Resources will receive the same curtailment priority level as other similarly situated generation. SPP provides examples to illustrate that Non-Dispatchable Resources that sell directly into the market will receive the same unscheduled curtailment priority as other generators selling directly into the market.[41]

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[37] WFEC Protest at 6.

[38] Xcel Protest at 7-8.

[39] SPP's Answer at 7, citing Dillon Testimony at 13, lines 11-15.

[40] *Id.* at 6.

[41] *Id.* at 9-11.

38. In response to Exelon Generation's proposal to substitute curtailment for its Exelon Wind 1-3 facilities with its Exelon Wind 4 facility, SPP agrees with the proposal, but states that it is possible that the units that do not respond to curtailment may be subject to Uninstructed Deviation Charges until the CAT re-calculates.

39. SPP rejects Acciona's request that QFs output, other than that sold under PURPA, should also get a TLR level 5 curtailment priority equivalent to firm service resources. According to Exelon Generation, such an argument is inconsistent with PURPA and amounts to a collateral attack on *Xcel*.[42]

40. In response to Acciona's request that the Commission require SPP to clarify that security-constrained economic dispatch will be used to manage congestion prior to any resources being curtailed, SPP explains that security-constrained economic dispatch and CAT work together in determining curtailments, such that the security-constrained economic dispatch algorithm utilizes all market dispatchable resources to handle a constraint at the same time that the CAT is calculating the amount of energy imbalance, Market Flow, and schedules impacting the constraint.[43] According to SPP, "[i]f there are schedules that are no longer feasible when the energy imbalance market resources have been dispatched by security-constrained economic dispatch, CAT will curtail schedules in transmission priority to gain additional relief."[44]

41. SPP also argues that Acciona's request for SPP to adopt 15-minute scheduling increments for point-to-point and network service to accommodate Non-Dispatchable Resources, and AWEA's similar request to allow closer to real time adjustments to schedules for Non-Dispatchable Resources, are beyond the scope of the current proceeding, which does not propose changes to the scheduling increments section of the Tariff. SPP further contends that there already is flexibility for resources to adjust their schedules at any time and have those adjustments take effect 30 minutes later.[45]

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[42] *Id.* at 9, *citing Xcel Energy Servs., Inc.*, 122 FERC ¶ 61,048, *reh'g denied*, 124 FERC ¶ 61,073 (2008) (*Xcel*) -- granting relief of the mandatory purchase obligation pursuant to PURPA section 210(m) to Oklahoma Gas and Electric, Public Service Company of Oklahoma and Southwestern Electric Power Company, but denying without prejudice Xcel's request for relief of the mandatory purchase obligation for Southwestern Public Service Company.

[43] SPP's Answer at 13.

[44] *Id.* at 13-14.

[45] *Id.* at 14-15.

42. SPP also rejects Westar's notion that Non-Dispatchable Resources might over-schedule to avoid curtailment. According to SPP, NERC's Interchange Curtailment Calculator (IDC) logic eliminates such incentive. SPP argues that rather than avoiding curtailment, scheduling the resources would only push curtailment to the scheduled resources, but would not avoid the curtailment.

43. SPP does not agree that it is necessary to clarify, as WFEC requests, that utilities should not be responsible for incurring Uninstructed Deviation Charges for output of Non-Dispatchable Resources that they schedule, but whose generation the utility cannot control. SPP explains that while charges associated with a Market Participant may be passed along by contract, as in the case described by WFEC, this is beyond what SPP's market rules must facilitate.[46]

44. In response to Acciona's further request that the Commission require SPP to offer make-whole payments to provide incentive for Non-Dispatchable Resources to comply with curtailment instructions, SPP argues that the current purpose of make-whole payments in SPP's market is to reimburse resources that submit offer curves and are dispatched and expected to run, but then are directed by SPP to back down (i.e., dispatched out-of-merit) to address reliability issues. According to SPP, Non-Dispatchable Resources do not qualify for such payments, since they are never dispatched out-of-merit order.[47]

45. Acciona and Exelon Generation filed answers to SPP's answer.

Discussion

Procedural Matters

46. 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. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or an answer 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. We are not persuaded to accept the answer of Acciona or Exelon Generaton to SPP's answer.

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[46] *Id.* at 15, n.50.

[47] *Id.* at 17.

Determination

47. The Commission conditionally accepts SPP's proposal to automate curtailment of *new* Non-Dispatchable Resources (i.e., commercially operable on or after October 15, 2012), subject to SPP making a compliance filing that revises the Tariff provisions to specify that automated curtailment applies only prospectively to Non-Dispatchable Resources that become commercially operable on or after October 15, 2012. Further, the Commission conditionally accepts that part of SPP's proposal that applies to *existing* Non-Dispatchable Resources (i.e., commercially operable prior to October 15, 2012), subject to a compliance filing with tariff revisions reflecting the results of stakeholder process. This stakeholder process will address the issues raised by the existing Non-Dispatchable Resources in a manner that is consistent with ensuring reliability, with the results of the stakeholder process to become effective a year from the date of this order.

48. The Commission finds that SPP has incorporated proposed rules for curtailing Non-Dispatchable Resources into existing sections of Attachment AE of its Tariff with detail that sufficiently clarifies how the curtailment priority level for Non-Dispatchable Resources will be determined; i.e., in accordance with SPP's existing market operation rules, as calculated by its market software tools, and in a manner that affords Non-Dispatchable Resources equal curtailment priority treatment and exposure to Uninstructed Deviation Charges commensurate with other resources that are similarly situated, on the basis of their transmission reservation rights and whether their output is scheduled or unscheduled. We also find that SPP's Tariff provides that security-constrained economic dispatch will be exhausted before any Non-Dispatchable Resources are curtailed. Finally, we find that SPP has properly provided that QF output sold under PURPA receives curtailment priority on an equivalent basis with firm network resources and also that such QFs will not incur Uninstructed Deviation Charges. However, we find that SPP has failed to justify applying its proposal to existing Non-Dispatchable Resources on the requested effective date of October 15, 2012, and we share concerns raised by protestors that there may be older Non-Dispatchable Resources that may not be able to comply with SPP's proposed new rules. In rejecting SPP's automatic curtailment proposal in Docket No. ER11-3170-000, the Commission cited, in part, that SPP did not identify the additional telemetry equipment and other requirements it seeks to impose on Non-Dispatchable Resources and did not address whether they are capable of meeting these requirements. In the instant application, SPP explains that Non-Dispatchable Resources already receive the type of automated dispatch instructions that will be used to implement the new rules. SPP explains that, under the new curtailment process, Non-Dispatchable Resources will receive the same type of automated signal that they do today. The only difference will be that, unlike under the current process, where the automated dispatch instructions sent to Non-Dispatchable Resources echo the resources' telemetered output and do not request that the Non-Dispatchable Resources curtail, under the new process, the automated dispatch instructions may direct the Non-Dispatchable Resource to curtail its output. According to SPP, because Non-Dispatchable resources

already respond to manual curtailment instructions to reduce output, responding to the automated signal rather than a telephone call should not pose a compliance issue. Therefore, SPP believes that only minimal additional equipment may be required for Non-Dispatchable resources to respond more systematically to the dispatch instructions under the new curtailment rules and that they should be able to comply with the new curtailment rules promptly and without undue expenditures.

49. While SPP cites to the existing dispatch signals that Non-Dispatchable Resources receive, as SPP acknowledges, Non-Dispatchable Resources are not currently required to monitor and respond to those dispatch signals. And, while SPP argues that Non-Dispatchable Resources currently respond to curtailment instructions received via telephone calls, SPP indicates that such curtailment instructions are not issued systematically to all Non-Dispatchable Resources impacting a constraint, but typically only to largest contributing Non-Dispatchable Resource, and in that event Uninstructed Deviation Charges do not apply. In short, we find that SPP has not sufficiently explained the cost and time required for existing Non-Dispatchable Resources to be retrofitted, if necessary, to be able to monitor and act upon SPP's proposed automated curtailment instructions, as we required in rejecting SPP's automatic curtailment proposal in Docket No. ER11-3170-000. Accordingly, we are not persuaded by its proposal to immediately apply these new rules to Non-Dispatchable Resources that became commercially operable before October 15, 2012, the proposed effective date of this filing. Instead, we will conditionally accept the proposal to apply to existing generation subject to SPP engaging in a stakeholder process to further evaluate the concerns relating to automating curtailment of existing generators and making a tariff revision reflecting the results of the stakeholder process in a manner that is consistent with ensuring reliability.[48] Any SPP proposal resulting from the stakeholder process, if accepted by the Commission, will become effective one year from the date of this order.

50. SPP proposes to curtail of QFs output sold under PURPA proportionately and equivalent to firm service, e.g., during a NERC TLR level 5 event or activation of an internal SPP constraint in MOS such as Congestion Management Event 5. Given that SPP resorts to curtailment only after it fully dispatches available resources in the Energy Imbalance Market to resolve the constraint, providing a TLR level 5 event curtailment

[48] In the stakeholder process, stakeholders should consider proposals to take into account the ability of older units to comply with automatic dispatching. We note that the stakeholders may consider solutions similar to those adopted by MISO in its treatment of dispatchable intermittent resources and others that may be proposed by the stakeholders. *See Midwest Independent Transmission System Operator, Inc.*, 134 FERC ¶ 61,141 at PP 35-36 (2011). SPP should fully support any tariff revisions resulting from the stakeholder process for existing Non-Dispatchable Resources.

priority for these QFs is consistent with the Commission's regulations implementing PURPA, as we explain below.[49] However, SPP must revise proposed Section 4.3(i) described in the background above, and Section 5.5(f)[50] to delete the reference to "all of" in the phrase "Qualifying Facility exercising its rights under PURPA to deliver all of [emphasis added] its net output to its host utility" to be consistent with the requirements of section 292.304(d)(1) of the Commission's regulations which permits any QF to decide how much energy is available for such purchases.

51. Our regulations implementing PURPA state that QF sales can be curtailed in a system emergency,[51] which is defined as "a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or imminently likely to endanger life or property."[52] These regulations justify reference to a TLR level 5 event[53] in identifying the appropriate curtailment priority for QF output sold under PURPA. We, therefore, conditionally accept SPP's proposed curtailment of unscheduled output at TLR level 5 on an equivalent basis with firm transmission service, for the output of QFs sold under PURPA.

52. In considering AWEA's protest that SPP be required to clarify that it fully dispatches market resources economically before curtailing any Non-Dispatchable Resources, we find that existing Section 4.3(f)(ii) of Attachment AE provides for security-constrained economic dispatch as follows:

> Simultaneously with the security constrained dispatch of Dispatchable Resources that contribute to Market Flows, the CAT shall determine if sufficient Energy Imbalance Service exists to achieve the desired Market Flow relief. If there is an insufficient amount of Energy Imbalance Service

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[49] *Entergy Services, Inc.*, 137 FERC ¶ 61,199, at P 49 (2011), *reh'g pending* (*Entergy*). The request for rehearing does not involve the issue here.

[50] Proposed Section 5.5(f) states: The Uninstructed Deviation Change (sic) shall be zero for a Qualifying Facility exercising its rights under PURPA to deliver all of its net output to its host utility that refused to register its Resource and has been registered by the Transmission Provider as outlined in Section 1.2.2(g) of this Attachment AE.

[51] 18 C.F.R. § 292.303(b)(1) (2012).

[52] *Id.* § 292.101(b)(4) (2012).

[53] NERC TLR level 5 requires curtailment/reallocation on pro rata basis with Network Integration Transmission Service and Native Load to mitigate a System Operating Limit (SOL) or Interconnection Reliability Limit (IROL) violation.

> to achieve the desired Market Flow relief, CAT shall curtail the remaining schedules identified in Section 4.3(c) impacting the Coordinated Flowgate or Reciprocal Coordinated Flowgate, using their assigned priority level, starting from lowest priority to highest, until the desired Market Flow reduction is achieved or until all such schedules in that priority have been reduced to zero. During this curtailment process, CAT also adjusts the Scheduled Generation of Resources, to the extent that such Resources need to be dispatched below their scheduled amount to achieve the desire Market Flow relief, and such adjusted Scheduled Generation shall be used for settlement purposes. The impact of schedule curtailments on Locational Imbalance Prices will be realized as soon as the changes to Self-Dispatched Resource schedules resulting from the curtailments are reflected within the EIS Market dispatch software and Locational Imbalance Prices shall continue to be calculated in accordance with Section 4.4.

Therefore, we conclude that SPP already redispatches resources on an economic basis before curtailing any resources, including Non-Dispatchable Resources, and that no additional clarification is required.

53. Westar requests that the Commission require SPP to modify its proposal to provide that SPP will look at the firm transmission rights associated with a given wind farm and compare that to the actual output, such that the minimum of these two values should be included in the curtailment analysis as having firm transmission rights.[54] We agree with Westar that for point-to-point service, a Non-Dispatchable Resource should get TLR level 5 curtailment priority, up to the amount of firm transmission service that has been reserved for that Non-Dispatchable Resource, whether or not the output is scheduled or unscheduled. Similarly, to the extent that a Non-Dispatchable Resource is a designated network resource, we agree that it should be assigned TLR level 5 curtailment priority, on an equivalent basis with other firm designated network resources, up to the level of output designated for that resource (provided that the aggregate generation from designated network resources for a particular network load does not exceed the associated network load plus losses). We, therefore, direct SPP to include this modification to its Tariff in the compliance filing or explain the reasons why it cannot operationally satisfy this provision.

54. We reject WFEC's request for clarification that utilities should not be responsible for incurring Uninstructed Deviation Charges for output of Non-Dispatchable Resources that they schedule, but whose generation the utility cannot control. We agree with SPP's answer that utilities are responsible to abide by the terms of their bilateral agreements

[54] Westar Protest at 3.

with Non-Dispatchable Resources, including which party is responsible for paying Uninstructed Deviation Charges.

55. We will not require SPP to implement the 15-minute scheduling proposed by Acciona or the "closer to real-time adjustments" to scheduling of Non-Dispatchable Resources requested by AWEA, since the Commission in Order No. 764 gave RTOs, ISOs and utilities twelve months from June 22, 2012 to implement 15-minute scheduling capability.

56. We disagree with and deny Acciona's request that QF output, other than that sold under PURPA, should be extended the same TLR level 5 curtailment priority and protection against Uninstructed Deviation Charges afforded output of QFs sold under PURPA. Such sales are not made pursuant to PURPA and therefore are not subject to our PURPA regulations; our rationale above would not apply. Rather, QFs over 20 MW in service areas where PURPA section 210(m)[55] relief from the mandatory purchase obligation has been granted and QFs with firm PPAs whose output is not sold under PURPA are instead properly assigned curtailment priorities as SPP proposes, i.e., based on those QFs' transmission service rights and whether their output is scheduled or unscheduled, like any other generation resources situated similarly.

57. We also disagree with Acciona's request that SPP clarify how a Non-Dispatchable Resource (other than a QF selling output under PURPA) can obtain network service, if it is selling into the EIS Market. SPP's Tariff requires that a resource have a sales agreement with a network customer in order to receive firm network service transmission priority.

58. AWEA states that it does not support SPP's use of the term "Non-Dispatchable Resources" because it believes that wind resources are dispatchable to some degree.[56] However, SPP's Tariff definition of "Intermittent Resources" in Section 1.1 of Attachment AE, which is a subcategory within the proposed definition of Non-Dispatchable Resources, recognizes that Intermittent Resources have some limited capability to be dispatched and to respond to changes in system demand and transmission security constraints. Therefore, we see no reason to require SPP to change its definition of Non-Dispatchable Resources.

59. Otherwise, with respect to the protests of Xcel, AWEA, WFEC, and Acciona, i.e., that aspects of SPP's current proposal should be conditioned upon or conform with SPP's Integrated Marketplace filing in Docket No. ER12-1179-000, we find that SPP should

[55] 16 U.S.C. § 824a-3(m) (2006)

[56] AWEA Protest at 1, n.3.

address in the compliance filing how the treatment of Non-Dispatchable Resources, including the transition process resulting from the stakeholder–required process directed herein, will work within the proposed Integrated Marketplace.

The Commission orders:

(A) The proposed tariff revisions are hereby conditionally accepted effective October 15, 2012, as requested.

(B) SPP is hereby directed to make a compliance filing, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.