

153 FERC ¶ 61,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Southwest Power Pool, Inc.

Docket No. ER15-2295-000

ORDER GRANTING REQUEST FOR TARIFF WAIVER

(Issued November 19, 2015)

1. On July 28, 2015, Southwest Power Pool, Inc. (SPP) filed a request for a waiver of the one-year billing adjustment limitation in section 7.1 of SPP's Open Access Transmission Tariff (Tariff) to allow SPP to resettle past invoices that, due to computer software issues, could not all be corrected and resettled within one year. For the reasons discussed below, we grant SPP's request for a waiver.¹

I. Background

2. SPP states that, on January 29, 2013, the Commission authorized SPP to revise Schedule 11 (Base Plan Zonal Charge and Region-Wide Charge) of its Tariff to provide the zonal component of the through-and-out rates to be equal to the average rate per megawatt derived from all Base Plan Zonal Rates under Schedule 11 with an effective date of November 1, 2012.² According to SPP, because the computer software needed to implement this new methodology required a complete system change and was quite complicated, development of the software required several code changes and extensive testing that took longer than anticipated to complete. SPP states that, as a result, the computer system that SPP's settlements department uses to calculate the through-and-out transmission service rate for billing purposes did not have the functionality needed to

¹ As discussed below, the waiver will also have the effect of not requiring SPP to undo corrections it has already made after the one-year period for such corrections had elapsed.

² *Sw. Power Pool, Inc.*, 142 FERC ¶ 61,070 (2013).

address the rate change. SPP notes that, while the functionality was being developed, SPP manually calculated the through-and-out rates using the new methodology. According to SPP, it provided SPP stakeholders with monthly updates on the status of the software functionality and it also informed SPP stakeholders of its intent to resettle invoices once the functionality was in place.³

3. SPP states that, in May 2014, the functionality required to calculate the through-and-out rate change was operational. SPP explains that it began resettling the manual calculations and completed the resettlements for invoices issued each month from November 2012 to May 2014, except those for February 2014. According to SPP, it planned to complete the resettlement for February 2014 during June 2015, but it determined that the resettlement for February 2014 was beyond the one-year limitation on billing adjustments provided in section 7.1 of the Tariff.⁴ Thus, SPP held off making this correction and did not complete the resettlement for February 2014. Further, SPP avers that it made resettlements for invoices issued in January 2013 through August 2013 before determining that such corrections were beyond the one-year limitation on billing adjustments. According to SPP, all other resettlements were conducted within the one-year limitations period. SPP states that the resettlements SPP conducted outside of the one-year limitations period total \$7.8 million, and that the resettlement adjustment for the February 2014 invoice would be approximately \$889,590.45.⁵

4. Additionally, SPP states that, in July 2012, it was contacted by a transmission customer asking why there was a change on its transmission service invoice related to losses. According to SPP, when it looked into the customer's question, it discovered a problem with the Powerworld software that the SPP engineering group used to create the loss percentages that the SPP settlements department, in turn, used to determine transmission losses and reactive compensation. SPP explains that, due to the limitations of the Powerworld software, SPP had been calculating transmission losses across the Electric Reliability Council of Texas (ERCOT) Direct Current (DC) ties incorrectly since 2009, when SPP first started using Powerworld software for this purpose. Moreover, SPP asserts that the Western Area Power Administration (Western) DC tie also had been

³ SPP Transmittal at 2.

⁴ Section 7.1 of the SPP Tariff states in relevant part "Billing adjustments for reasons other than (a) the replacement of estimated data with actual data for service provided, or (b) provable meter error, shall be limited to those corrections and adjustments found to be appropriate for such service within one year after rendition of the bill reflecting the actual data for such service."

⁵ SPP Transmittal at 3.

affected. SPP states that it had completed the modeling adjustments necessary to correct the issue for calculations going forward by May 2013.⁶

5. According to SPP, the time period affected by the software error was January 2009 to May 2013. SPP states that to remedy the discrepancies caused by the software error, SPP recalculated the loss percentages for the entire period and adjusted previously issued incorrect transmission customer invoices. SPP explains that, due to the scope of the necessary corrections, the time required to recalculate the loss percentages, and the impact on the transmission customers, SPP planned to make the corrections in phases that would take more than a year. SPP states that it notified stakeholders of the issue and its plans to correct the previously issued bills in phases. SPP notes that it continued to provide regular status updates.⁷

6. SPP explains that, for both losses and reactive compensation for the ERCOT DC ties, it completed all resettlements for the affected time periods by January 2015. The only outstanding resettlements not completed are for billings between February 2012 and May 2013 associated with service over the Western DC tie. According to SPP, it communicated to stakeholders that the adjustment for the Western DC tie would be completed in July or August 2015. SPP avers that once it determined that such resettlements would be beyond the one-year limitation for billing adjustments, it did not proceed with the resettlement. SPP notes that with the exception of resettlements completed in January 2013 for the 2012 billing adjustments related to the ERCOT DC tie, all other resettlements were beyond the one-year limitation for billing adjustments. SPP states that the total amount of resettlement that was beyond the one-year limitation is approximately \$4.4 million.⁸

II. Waiver Request

7. SPP requests a waiver of the one-year limitations period in section 7.1 to facilitate the billing adjustments to past invoices necessitated by software issues, because section 7.1 does not expressly allow adjustments after one year that are necessitated by such issues.⁹ SPP avers that section 7.1 limits “[b]illing adjustments for reasons other than (a) the replacement of estimated data with actual data for service provided, or (b) provable meter error” to “those corrections and adjustments found to be appropriate

⁶ *Id.* at 3-4.

⁷ *Id.* at 4.

⁸ *Id.* at 4-5.

⁹ *Id.* at 5-6.

for such service within one year after rendition of the bill reflecting the actual data for such service.”¹⁰

8. SPP asserts that it meets the Commission’s criteria for granting a waiver from the one-year limitation on billing adjustments in section 7.1 of its Tariff. First, SPP states that the underlying billing errors were made in good faith. According to SPP, with regard to the through-and-out transmission service rate billing adjustments, because the necessary software was not yet functional upon the effective date of the rate change, SPP had to resort to manual calculations to compute the through-and-out rate. SPP asserts that, in light of the software issue, SPP always intended to resettle the manually calculated bills once the automated system was in place. In this regard, SPP explains that it notified its stakeholders of this intent, which provided stakeholders with an opportunity to voice any concerns they might have with this procedure. SPP notes that, once the software system was functional, it proceeded to adjust the bills. According to SPP, once it determined that it had made billing adjustments for invoices beyond the section 7.1 one-year limitations period, it did not perform any further resettlements for invoices outside the one-year limitations period.¹¹ SPP avers that it did not discover the software issue that resulted in miscalculations of transmission losses and reactive compensation dating back to 2009 until 2012. SPP asserts that it relied in good faith on the Powerworld software to make these calculations, but once it learned about the software problem, it acted to correct it. SPP states that it notified stakeholders of the problem and of its intention to resettle all affected invoices back to 2009 in a phased manner.¹²

9. Second, SPP contends that its requested waiver would be of limited scope. SPP explains that it is requesting a one-time waiver of a requirement in a single Tariff provision. SPP states that the waiver would facilitate resettlements that SPP has made and desires to make that are outside the section 7.1 one-year limitations period. According to SPP, the sole reason these resettlements are needed is because of discrete software issues, which SPP has now resolved, and thus no further waivers will be necessary.¹³

10. Third, SPP asserts that the requested waiver would alleviate a concrete problem. According to SPP, in both of the instances, SPP was unable to correct the bills within the one-year limitations period that commenced with the original billing because it took time

¹⁰ SPP Tariff, section 7.1

¹¹ SPP Transmittal at 7.

¹² *Id.* at 7-8.

¹³ *Id.* at 8.

to discover and correct the software issue. SPP argues that this necessitated that adjustments would be made using a phased approach. SPP contends that, in both instances, SPP notified stakeholders of the issues, how it was going to resolve the problem, and its plan to adjust past bills. SPP avers that it then proceeded to rectify the software and computational errors. According to SPP, because of the scope of the corrections, workload of the SPP settlements department, the fact that some of the incorrect bills were more than a year old at the time SPP was able to make the corrections, and the need for phased billing adjustments relating to the losses and reactive power compensation, SPP was unable to complete all of the necessary billing adjustments within the one-year limitations period prescribed by section 7.1. The requested waiver would permit the previously corrected adjusted bills to remain in place and would allow SPP to make the final adjustments necessary to ensure that customers are charged the correct amounts under the Tariff.¹⁴

11. Fourth, SPP contends that the requested waiver would not result in any undesirable consequences, such as harm to third parties. According to SPP, it apprised its stakeholders of the computer issues that resulted in incorrect bills and its plans for adjusting the bills to reflect the correct rate. SPP contends that the waiver would benefit SPP customers by permitting the already adjusted bills to remain in place without modification and by allowing SPP to adjust the outstanding incorrect bills. SPP asserts that by permitting such adjustments, SPP customers will be charged the right amounts pursuant to the filed rate and no third party will be harmed. SPP contends that requiring the already adjusted bills to be restored to incorrect amounts would disadvantage SPP's customers that now have relied on those adjusted bills and expect no further resettlement.¹⁵

III. Notice of Filing and Responsive Pleadings

12. Notice of SPP's filing was published in the *Federal Register*, 80 Fed. Reg. 46,258 (2015), with interventions and protests due on or before August 18, 2015. Timely motions to intervene were filed by Western and Missouri Joint Municipal Electric Utility Commission. Xcel Energy Services, Inc. (Xcel) filed an untimely motion to intervene.

¹⁴ *Id.* at 8-9.

¹⁵ *Id.* at 10.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), we will grant Xcel's late-filed motion to intervene, given its interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

B. Commission Determination

14. The Commission has previously granted requests for waiver from tariff requirements in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences, such as harming third parties.¹⁶

15. We find that SPP has demonstrated good cause to grant the request for a tariff waiver because SPP's requested waiver satisfies the aforementioned waiver criteria. First, we find that SPP has acted in good faith. SPP explains that it has made and desires to make billing adjustments to past invoices, necessitated by software issues, to ensure that SPP customers are properly billed. We also agree with SPP that customers should be billed the correct amount.

16. Second, the requested waiver is of limited scope. The waiver applies only to finite periods of time and only to resettlements due to the change to the calculation of the zonal component of the through-and-out transmission service rate and the calculation of losses and reactive compensation for the ERCOT and Western DC ties. The requested waiver is a one-time request related to discreet software issues, which SPP has resolved.

17. Third, the waiver will remedy a concrete problem. SPP is unable to make all of the necessary billing adjustments within the one-year period prescribed by section 7.1 of its Tariff. The waiver would permit the previously corrected bills to remain correct and would allow SPP to correct the bills for the period that it has not yet resettled. This will assure that its transmission customers are charged the proper amount.

18. Fourth, we find that granting the waiver will not lead to undesirable consequences such as harming third parties. As SPP explains, the requested waiver would benefit SPP customers by permitting the already adjusted bills to remain in place and by allowing SPP

¹⁶ *Aragonne Wind, LLC*, 145 FERC ¶ 61,106, at P 18 (2013).

to adjust the outstanding incorrect bills. Additionally, by permitting the adjustments, SPP customers will be charged the proper amounts based on the rate on file and no third party will be harmed.

19. For these reasons, we find good cause to grant SPP's request for a waiver of section 7.1 of the SPP Tariff.

The Commission orders:

SPP's request for waiver is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.