



power mitigation (June 15 Filing). The Commission rejected the June 15 Filing as inadequate and provided guidance concerning: (1) reliable and stable market operations; (2) market-based rates in the new market; and (3) mitigation and monitoring issues.<sup>5</sup>

4. On January 4, 2006, SPP resubmitted proposed revisions to its OATT to implement SPP's imbalance energy market and establish market monitoring and market power mitigation plans (January 4 Filing). With these revisions, SPP intended to implement a real-time imbalance market based on a least-cost, bid-based, security-constrained economic dispatch and locational marginal pricing. On March 20, 2006, the Commission found that the January 4 Filing was missing important elements and assurances regarding reliable and stable operation and therefore directed submission of the missing elements and additional readiness and market startup safeguards.<sup>6</sup> The Commission accepted and suspended SPP's filing and permitted it to become effective October 1, 2006, subject to further orders and directed SPP to submit a compliance filing.

5. On May 19, 2006, SPP submitted a compliance filing that contained proposed tariff revisions pursuant to the *SPP Market Order* (May 19 Filing). The May 19 Filing also included newly proposed market provisions (filed under section 205 of the Federal Power Act (FPA)),<sup>7</sup> a standard market participant agreement, and a proposal for allocating the costs of energy from operating reserves. On July 20, 2006, the Commission accepted in part SPP's compliance filing and newly proposed market provisions as modified, to become effective on October 1, 2006.<sup>8</sup>

6. In the *SPP Compliance Order*, the Commission directed that SPP, among other things, modify its OATT to provide that rates for emergency energy will reflect a pass-through of costs charged to SPP pursuant to a new reserve sharing emergency energy ancillary service schedule (Schedule 4A) in public utilities' OATTs or non-utilities'

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<sup>5</sup> *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303, *reh'g denied*, 113 FERC ¶ 61,115 (2005).

<sup>6</sup> *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 at P 1-3 (*SPP Market Order*), *order on reh'g*, 116 FERC ¶ 61,289 (2006).

<sup>7</sup> 16 U.S.C. § 824d (2000).

<sup>8</sup> *Southwest Power Pool, Inc.*, 116 FERC ¶ 61,053 (2006) (*SPP Compliance Order*).

reciprocal tariffs.<sup>9</sup> The Commission added that the rate for emergency energy should reflect the actual costs of emergency energy and should not include capacity costs.<sup>10</sup> Pursuant to the *SPP Compliance Order*, Xcel submitted proposed revisions to its OATT to include a Schedule 4A for emergency energy.

7. On October 26, 2006, the Commission issued an order that addressed requests for clarification and/or rehearing and compliance filings concerning the *SPP Compliance Order*.<sup>11</sup> In the *October 26 Order*, the Commission denied in part and granted in part the requests for rehearing and accepted SPP's compliance filing, subject to further compliance.<sup>12</sup> In the *October 26 Order*, the Commission, among other things, stated that the just and reasonable rate for energy provided during a reserve sharing activation event should reflect the actual costs of emergency energy and should not include capacity costs. The Commission, however, agreed with intervenors that if the emergency energy rate were limited to incremental costs, the emergency energy rate could be lower than the market clearing price and that denying an entity the ability to recover its opportunity costs would be inappropriate. Therefore, the Commission allowed emergency energy charges to be based on the higher of incremental costs plus an adder or the Locational Imbalance Price (LIP) for the unit responding to the reserve sharing event.<sup>13</sup> In an order issued on January 26, 2007, the Commission largely affirmed the *October 26 Order*.<sup>14</sup>

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<sup>9</sup> *Id.* at P 40. The Commission noted that, prior to SPP passing through the costs of this service, any public utility participating in the SPP imbalance energy market must have on file a Commission-approved schedule for emergency energy. The Commission further noted that Schedule 4 (Imbalance Service) of the utilities' tariffs will no longer apply once SPP's own imbalance energy market is implemented. The Commission encouraged utilities participating in SPP's imbalance market to withdraw their current Schedule 4 for imbalance energy service. *Id.* at P 40 & n.57.

<sup>10</sup> *Id.* at P 40 & n.58 ("it may also be just and reasonable to derive a single emergency energy rate for service in the balancing authority area from the various interchange agreements to which a balancing authority is a party").

<sup>11</sup> *Southwest Power Pool, Inc.*, 117 FERC ¶ 61,110 (2006) (*October 26 Order*).

<sup>12</sup> *Id.*

<sup>13</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 27, 28.

<sup>14</sup> *See Southwest Power Pool, Inc.*, 118 FERC ¶ 61,059 (2007) (*January 26 Order*).

8. Following the *October 26 Order*, the Commission rejected Xcel's revisions to its OATT to include Schedule 4A.<sup>15</sup> Xcel's Schedule 4A provided that rates for service shall be the greatest of: (i) the hourly LIP at the Settlement Location used to provide such service, per megawatt-hour; (ii) 110 percent of the incremental cost of the resource(s) used to provide such service; or (iii) \$100 per megawatt-hour. In keeping with its *October 26 Order*, the Commission determined that reserve sharing charges must reflect the higher of incremental costs plus an adder or the LIP for the unit responding to the reserve sharing event.<sup>16</sup> Therefore, the Commission rejected Xcel's filings and directed Xcel to make a compliance filing amending its Schedule 4A consistent with the Commission's determinations on rehearing of the *SPP Compliance Order*.

9. On January 26, 2007, the Commission addressed requests for rehearing and/or clarification of the Commission's *October 26 Order* related to SPP's imbalance energy market filings.<sup>17</sup> The Commission denied the requests for rehearing, granted clarification of tariff components related to SPP's energy imbalance service market and accepted SPP's compliance filing.

10. On January 31, 2007, the Commission addressed requests for rehearing and/or clarification of the Commission's *October 30 Order* and also addressed compliance filings made pursuant to the *October 30 Order* as they pertain to the SPP's imbalance energy market.<sup>18</sup> Pertinent to the instant filing, the Commission rejected Golden Spread's rehearing request of the *October 30 Order* because Golden Spread's arguments did not raise any questions concerning the action the Commission took in the *October 30 Order*, but were instead collateral attacks on the *October 26 Order*.<sup>19</sup>

11. On March 2, 2007, Golden Spread sought rehearing of the *January 31 Order*. On February 23, 2007, Xcel submitted a compliance filing in response to the *January 31 Order*.

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<sup>15</sup> *Xcel Energy Services, Inc.*, 117 FERC ¶ 61,127 at P 19 (2006) (*October 30 Order*).

<sup>16</sup> *See October 26 Order*, 117 FERC ¶ 61,110 at P 28.

<sup>17</sup> *Southwest Power Pool, Inc.*, 118 FERC ¶ 61,059 (2007) (*January 26 Order*).

<sup>18</sup> *Xcel Energy Services, Inc.*, 118 FERC ¶ 61,071 (2007) (*January 31 Order*).

<sup>19</sup> *Id.* at P 12-13.

## **II. Request for Rehearing**

12. Golden Spread states that the Commission erred in not directing that invoices issued pursuant to Schedule 4A contain sufficient detail so that the customer could verify (1) the calculation and derivation of all charges and (2) that no capacity costs are included in the charges being assessed. Golden Spread states that billing practices for charges based on LIP already contain sufficient detail for a customer to validate charges, and this is especially so if LIP is used to price emergency energy, because the LIP must be the integrated hourly value. Golden Spread claims, however, that the same assurances are not available for charges based on a seller's incremental costs, and, consequently, absent detailed invoicing, the customer will have no way to ascertain that emergency energy charges do not reflect capacity costs.

13. The Commission will deny Golden Spread's rehearing request. We decline to dictate invoice format or content. Xcel however, should provide sufficiently detailed invoices such that Golden Spread can be assured that the charges are accurately calculated. If Golden Spread questions the invoices, we would expect Xcel to provide an explanation of its charges with supporting documentation if warranted and/or we should expect the parties to follow the tariff's dispute resolution process as appropriate.

## **III. Compliance Filing**

14. In the *January 31 Order*, the Commission directed Xcel to file a revised Schedule 4A within 30 days, with such rates to be effective February 1, 2007, that addresses: (1) section 35.22 of the Commission's regulations, which prohibits an uncapped adder if the rate includes purchased power costs;<sup>20</sup> and (2) the allocation of pass-through charges assessed under contracts between members of the Reserve Sharing Group (RSG) to entities who are not parties to those agreements (non-RSG members) through its Schedule 4A. On February 23, 2007, Xcel filed an amended Schedule 4A, to provide the following: (1) a cap on purchased power costs consistent with section 35.22 of the Commission's regulations; and (2) limitation on charges assessed for emergency energy reflected in the approved Schedule 4A. Xcel proposes that the Schedule 4A revised tariff sheets be effective February 1, 2007.

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

15. Notice of Xcel's compliance filing was published in the *Federal Register*, 72 Fed. Reg. 10,202 (2007), with interventions and protests due on or before March 16, 2007. Golden Spread, a party in this proceeding, filed a timely protest.

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<sup>20</sup> 18 C.F.R. § 35.22 (2006).

16. Golden Spread states that, while Xcel has accurately complied with the *January 31 Order*, Golden Spread's protest serves to preserve its position in related dockets, specifically Docket Nos. ER06-451 and ER06-1047. Golden Spread reiterates its previous positions that the emergency energy pricing provisions: (1) fail to require a demonstration that the emergency energy charge would not double-recover the cost of capacity; (2) permit charging unduly discriminatory rates as applied to non-RSG members; and (3) were not properly considered by the Commission, whereas SPS would not be deprived of its right to recover opportunity costs since the capacity providing emergency energy is not bid into the imbalance energy market. Golden Spread requests that the Commission require Xcel to limit its rate for emergency energy to reflect only the incremental costs of the unit responding to the emergency.<sup>21</sup>

### **Commission Determination**

17. Our review indicates that Xcel has complied with our *January 31 Order*. Accordingly, we shall accept Xcel's compliance filing.

18. We deny Golden Spread's protest. It is raising the same issues it raised earlier. We considered and denied rehearing on those issues in the *January 31 Order*.<sup>22</sup>

### **The Commission orders:**

(A) The request for rehearing is hereby denied as discussed in the body of this order.

(B) Xcel's compliance filing is hereby accepted, effective February 1, 2007.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>21</sup> Golden Spread Protest at 2 (March 16, 2007).

<sup>22</sup> See *January 31 Order* at P 12.