

122 FERC ¶ 61,266
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 21, 2008

In Reply Refer To:

Southwest Power Pool, Inc.
Docket No. ER08-472-000

Wright & Talisman, P.C.
1200 G Street, NW, Suite 600
Washington, DC 20005

Attention: Matthew K. Segers, Esq.

Reference: Revised Tariff Sheets

Dear Mr. Segers:

1. On January 23, 2008, you submitted on behalf of Southwest Power Pool, Inc. (SPP) revised pages to SPP's Open Access Transmission Tariff (OATT) to implement a rate change for the Southwestern Public Service Company (SPS) pricing zone. SPP indicates that the filing is merely a ministerial change to track changes proposed by SPS in Docket No. ER08-313-000.¹ SPP requests an effective date for the proposed revisions of February 1, 2008, or the date on which the Commission makes SPS's rate changes effective.

2. SPP, a regional transmission organization (RTO), administers the provision of open access transmission service on a regional basis across the facilities that transmission owners have dedicated to SPP's OATT. SPP uses zonal rates based on the zones where the points of delivery or load are located. SPP bases the rates for through-and-out transactions on the zone from which the power exits SPP's transmission system. The transmission owner, here SPS, controls the filing of rates for its zone. SPP modifies its tariff to reflect the transmission owner's rate changes.

¹ On February 5, 2008, the Commission accepted SPS's proposed formula rate for filing, suspended it for five months, to become effective July 6, 2008, subject to refund, and established hearing and settlement judge procedures. *See Xcel Energy Services, Inc.*, 122 FERC ¶ 61,098 (2008).

3. Notice of SPP's filing was published in the *Federal Register*, 73 Fed. Reg. 6717 (2008), with interventions and protests due on or before February 13, 2008. On that date, Cap Rock Energy Corporation filed a motion to intervene. Also, on February 13, 2008, Xcel Energy Services, Inc. (Xcel Energy Services) filed a motion to intervene and comments in support of SPP's filing, and West Texas Municipal Power Agency, New Mexico Cooperatives² and Golden Spread Electric Cooperative, Inc. filed motions to intervene and protests. On February 28, 2008, SPP filed an answer to protests.

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

5. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We find that good cause exists in this proceeding to allow SPP's answer because it aids us in our understanding of the issues raised in this proceeding.

6. Intervenors do not directly address SPP's filing because Intervenors recognize that SPP is not filing its own rates. Rather, as Intervenors acknowledge, SPP is merely adopting the formula rate that SPS filed in Docket No. ER08-313-000 for transmission service in the SPS zone.³ Golden Spread and New Mexico Cooperatives incorporate into their protests to SPP's filing in this docket the arguments that they raised in their protests to SPS's filing in Docket No. ER08-313-000.⁴ Golden Spread asks the Commission to consolidate this docket with Docket No. ER08-313-000.

7. Intervenors protest the SPS rates that SPP is adopting. Among other things, Intervenors argue that SPS's proposed return on equity is excessive; that SPS's proposed 50 basis point adder to the return on equity is inappropriate; and that SPS's proposed formula rate structure contains several flaws that require correction or investigation. The Commission is considering these issues in Docket No. ER08-313-000. In its answer, SPP opposes consolidating this docket with Docket No. ER08-313-000, and asks the Commission to accept SPP's filing, subject to the outcome of the proceeding in Docket

² New Mexico Cooperatives consists of Farmers' Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., Central Valley Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc.

³ See, e.g., Golden Spread's Protest at 5-6; New Mexico Cooperatives' Protest at 1-2. See also SPP's filing, Exhibit I, Southwest Power Pool FERC Electric Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 222.

⁴ See Golden Spread's Protest at 5-6; New Mexico Cooperatives' Protest at 8. Golden Spread has attached to its Protest in this docket the Protest that it filed to SPS's proposed formula rate in Docket No. ER08-313-000.

No. ER08-313-000. SPP states that the Commission has taken this approach in a nearly identical situation in the past.⁵

8. SPP's filing tracks the revised rates that SPS filed in Docket No. ER08-313-000. Because SPP's filing only implements SPS's rate changes and does not propose additional changes to SPP's OATT, the Commission accepts SPP's filing and suspends it, to become effective on the same date that SPS's filing becomes effective, July 6, 2008,⁶ subject to refund and subject to the outcome of Docket No. ER08-313-000. Although SPS's filing and SPP's filing share common issues of law and fact, we see no need to consolidate the two dockets. Because we are accepting SPP's filing subject to the outcome of Docket No. ER08-313-000, the Commission's disposition of the issues that Intervenors have raised regarding SPS's proposed formula rate in Docket No. ER08-313-000 will resolve the issues that Intervenors have raised in this docket.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵ SPP Answer at 2-3, *citing Southwest Power Pool*, 112 FERC ¶ 61,134 (2005).

⁶ The Commission is sensitive to SPP's and Xcel Energy Services' concerns that the SPS and SPP tariffs should become effective simultaneously, so that the tariff changes become effective at the same time for all customers, including those customers who take service in the SPS zone under the SPP Regional OATT.