

127 FERC ¶ 61,230
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 9, 2009

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER08-1206-000
ER08-1206-001
ER09-342-000

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

Attention: Matthew K. Segers, Esquire
Attorney for Southwest Power Pool, Inc.

Reference: Motion for Clarification and Expedited Action

Dear Mr. Segers:

1. On May 11, 2009, Southwest Power Pool, Inc. (SPP) filed a motion for clarification¹ of the Commission's April 24, 2009 order in the above-captioned proceedings, which accepted and suspended certain service agreements and established hearing and settlement judge procedures.² Specifically, SPP seeks clarification that in the April 24 Order the Commission intended to grant waiver of all of the relevant confidentiality provisions of Attachment AE of the SPP Open Access Transmission Tariff (OATT) to enable SPP to share confidential information that will facilitate settlement discussions. The Commission grants SPP's requested clarification, as discussed below.

¹ On May 26, 2009, SPP filed a request for rehearing and suspension of the April 24, 2009 issued order. The Commission will address SPP's request for rehearing and suspension at a later date.

² *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,076 (2009) (April 24 Order).

2. On November 25, 2008 in Docket No. ER09-342-000 and on July 1, 2008 in Docket No. ER08-1206-000,³ SPP filed an unexecuted service agreement between SPP and American Electric Power Service Corporation, as Agent for Southwestern Electric Power Company and Public Service Company of Oklahoma (collectively, AEP), and an unexecuted service agreement between SPP and Oklahoma Municipal Power Authority (OMPA). Both the AEP and OMPA unexecuted service agreements included provisions that assign to AEP and OMPA a portion of the costs of reconductoring the Southwest Power Administration's Clarksville-Dardanelle 161 kV transmission line (Network Upgrade) required for the designation of the J. Lamar Stall and the John W. Turk, Jr. network resources.

3. On February 23, 2009, Commission staff issued a deficiency letter requiring that SPP, among other things, provide all study results, relevant data, and power flow analyses used to conduct the aggregate facility study in which SPP determined that the Network Upgrade was necessary. In response, SPP submitted a public version and a non-public version of data containing reliability assessment power flow models. SPP stated that the non-public files include models that contain information pertaining to the order in which SPP dispatches certain generating resources, which could be used to determine which resources within SPP are the most critical for reliable operation of SPP's transmission system, and geographical maps, which include Critical Energy Infrastructure Information.

4. In the April 24 Order, the Commission noted that in reply to comments on its response to the deficiency letter, SPP stated that under section 7.1.4(a) of Attachment AE of SPP's OATT it may not disclose power flow information to AEP and OMPA. However, SPP stated that AEP and OMPA may request that the Commission allow access to the data under a protective order and, if ordered to do so, SPP would comply. Finding that the rates, terms, and conditions of the proposed service agreements raise issues of material fact, the Commission accepted and suspended the proposed service agreements subject to refund and set them for hearing and settlement judge procedures. In addition, the Commission granted SPP waiver of section 7.1.4(a) of Attachment AE of SPP's OATT to the extent necessary to facilitate hearing and settlement procedures.

5. In its motion for clarification, SPP states that while the Commission granted a waiver of section 7.1.4(a) of Attachment AE of SPP's OATT, section 7.1.4(b) also provides that SPP shall not disclose to market participants or to third parties, any confidential information of a market participant or a market participant applicant. SPP states that absent a waiver of section 7.1.4(b), SPP is explicitly prohibited from sharing such information with the other parties to these proceedings. SPP also states that it seems clear that the Commission intended to grant SPP a waiver of all applicable confidentiality

³ SPP revised its July 1, 2008 filing on December 17, 2008.

provisions of Attachment AE of its OATT to facilitate hearing and settlement procedures; thus, SPP requests that the Commission clarify that it intended to grant SPP a waiver not only of section 7.1.4(a) of Attachment AE, but also of section 7.1.4(b) of Attachment AE.

6. Additionally, SPP requests expedited action noting that on May 1, 2009, the Commission's Chief Administrative Law Judge issued an order appointing a settlement judge for these proceedings and that the settlement judge scheduled the first settlement conference for May 12, 2009.

7. The Commission grants SPP's motion for clarification. In granting SPP waiver of section 7.1.4(a) of Attachment AE of its OATT, the Commission intended to enable SPP to make available all relevant data to the parties to facilitate the settlement and hearing proceedings. SPP states that it also requires waiver of section 7.1.4(b) of Attachment AE of the SPP OATT. Accordingly, the Commission grants SPP waiver of section 7.1.4(b) of Attachment AE of its OATT to facilitate hearing and settlement judge procedures.

By direction of the Commission.

Kimberly D. Bose,
Secretary.