

128 FERC ¶ 61,114  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Southwest Power Pool, Inc.

Docket No. ER09-1254-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS ADDRESSING  
INTERCONNECTION QUEUE REFORM

(Issued July 31, 2009)

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1. In this order, we address Southwest Power Pool, Inc.'s (SPP) June 1, 2009 filing revising its Open Access Transmission Tariff (OATT) to reform its Large Generator Interconnection Procedures (interconnection procedures), found in Attachment V of its OATT, and certain resulting modifications to its *pro forma* Large Generator Interconnection Agreement (interconnection agreement). We will conditionally accept the filing and make the OATT revisions effective June 2, 2009, as requested.

## **I. Background**

2. In Order No. 2003,<sup>1</sup> the Commission issued standardized interconnection procedures and agreements for the interconnection of large generating facilities. The Commission's goal was to reduce undue discrimination and expedite the development of new generation while protecting reliability and ensuring that rates are just and reasonable. Recently, the Commission has found that "[s]urges in the volume of new generation development are taxing the current queue management approach in some regions," and that "the unprecedented demand in some regions for new types of generation, principally renewable generation, places further stress on queue management because such generation technologies can, for example, be brought online more quickly than traditional generation."<sup>2</sup> SPP is one of these affected regions.

### **A. Interconnection Queue Issues and Commission Response**

3. In the years after the issuance of Order No. 2003, many Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) have experienced backlogs of interconnection requests. Because of this on-going situation and because the

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<sup>1</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

<sup>2</sup> *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 3 (2008) (Conference Order).

Commission anticipated a large amount of new generation—including renewable generation—to apply for interconnection to the grid, on December 11, 2007, the Commission held a technical conference to address these issues and propose solutions to interconnection queuing problems.<sup>3</sup>

4. In the Conference Order, the Commission stated that in the long-term the improved transmission planning process required under Order No. 890<sup>4</sup> will address some of the causes of the current interconnection queuing problems. However, the Commission recognized an immediate need to expedite the processing of interconnection requests. The Commission found that the method of allocating interconnection requests on a “first-come, first-served” basis, as adopted under Order No. 2003, may have made good sense at the time Order No. 2003 was issued and still works well in many situations. However, it has led to some unexpected consequences, particularly in transmission systems with numerous interconnection customers and limited excess transmission capacity.<sup>5</sup> The Commission also stated that the first-come, first-served approach, coupled with relatively small deposit requirements for interconnection requests, provides an incentive for developers to secure a place in the queue for projects that may not be commercially viable. The ultimate withdrawal of these projects results in additional studies and restudies, which delays processing of the interconnection queue and disadvantages lower-queued requests.<sup>6</sup>

5. The Commission declined to require any particular solution but instead called upon RTOs and ISOs to work with their stakeholders to develop consensus proposals based on regional needs.<sup>7</sup> The Commission stated that if an RTO or ISO concludes that the options already identified in Order No. 2003 are inadequate to address its queue problems, that RTO or ISO may consider proposing variations from Order No. 2003.<sup>8</sup>

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<sup>3</sup> *Interconnection Queuing Practices*, Docket No. AD08-2-000, November 2, 2007 Notice of Technical Conference.

<sup>4</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

<sup>5</sup> Conference Order, 122 FERC ¶ 61,252 at P 15.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* P 8.

<sup>8</sup> *Id.* P 13.

The Commission stated it would review such variations from Order No. 2003 under the “independent entity variation standard,” which allows independent transmission providers flexibility in developing interconnection procedures to meet regional needs.<sup>9</sup>

6. While the Commission did not require any particular solution, it suggested the following three types of variations that, individually or in combination, hold particular promise for speeding up queue processing while remaining faithful to the goals of Order No. 2003: (1) increasing the requirements for obtaining and keeping a queue position, such as increasing deposit amounts; (2) eliminating the interconnection feasibility study as a separate step to reduce processing time without harming interconnection customers; and (3) instituting a first-ready, first-served approach, under which customers who demonstrate the greatest ability to move forward with project development are processed first.<sup>10</sup> The Commission also stated that it would consider methods of clustering other than the Order No. 2003 approach, which is based on a first-come, first-served paradigm as clusters are limited to requests filed within the same time frame.<sup>11</sup>

**B. SPP’s Interconnection Queue Backlog and Transitional Clusters**

7. Under SPP’s existing interconnection procedures, SPP conducts a series of studies<sup>12</sup> to evaluate system impacts of generator interconnection requests, to estimate additional facility or other system upgrades needed to accommodate these requests, and to assign costs for such facilities or system upgrades. SPP states that over the past two

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<sup>9</sup> See *id.*; Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 822-827; Order No. 2003-A, FERC Stats. & Regs. ¶ 31,261 at P 759. Under the independent entity variation standard, an RTO or ISO proposing a variation must demonstrate that the variation is just and reasonable, not unduly discriminatory, and accomplishes the purposes of Order No. 2003.

<sup>10</sup> Conference Order, 122 FERC ¶ 61,252 at P 15-18.

<sup>11</sup> *Id.* P 18.

<sup>12</sup> These studies are the interconnection feasibility study, the interconnection system impact study, and the interconnection facilities study. Before proceeding to each study phase, an agreement must be executed between SPP and the interconnection customer. For example, after an interconnection system impact study is completed and posted on SPP’s Open Access Same Time Information System (OASIS), an interconnection facilities study agreement must be executed before the transmission provider begins the interconnection facilities study. The word “interconnection” will be dropped from these study and agreement titles for the remainder of this order.

years, it has received a substantial number of interconnection requests, leading to a significant backlog in its interconnection queue. SPP maintains that a significant portion of these interconnection requests is related to renewable generation, with 176 out of 196 requests in the past two years relating to wind generation.<sup>13</sup> SPP asserts that it has approximately 255 pending interconnection requests in its queue representing 57,000 megawatts (MW) of potential generation, 50,000 MW of which is related to wind generation.<sup>14</sup>

8. Finding its current interconnection processing to be inefficient, SPP began to develop tariff revisions to its interconnection procedures through its stakeholder process. To address its current queue backlog as soon as possible, SPP submitted (in Docket No. ER09-262-000) a request for a limited, one-time waiver of various provisions in its interconnection procedures to allow for the formation of two transitional clusters of approximately 15,000 MW each.<sup>15</sup> SPP stated that it formed these two clusters to process its backlog more quickly before submitting its reformed interconnection procedures. The Commission conditionally granted the waiver request, ordering SPP to submit a timeline for the completion of the transitional cluster study process.<sup>16</sup> The Commission accepted SPP's proposed timeline in Docket No. ER09-262-002 on May 18, 2009.<sup>17</sup>

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<sup>13</sup> SPP Transmittal Letter at 3. SPP notes that this figure does not include newly rolled-in interconnection requests from Nebraska.

<sup>14</sup> *Id.*

<sup>15</sup> SPP included the following interconnection requests in the first transitional cluster: (1) interconnection requests for which a feasibility study had been posted but for which no system impact study had been posted, queued between February 5, 2007 and October 2, 2007; (2) requests for which a system impact study had been posted but for which no facility study agreement had been executed, although SPP allowed these customers to opt out of the cluster; and (3) unstudied requests that had been in the interconnection queue the longest, queued between October 2, 2007 and March 17, 2008. The second transitional cluster consisted of pending, unstudied requests that were queued between March 18, 2008, and June 17, 2008. *See Southwest Power Pool, Inc.*, 126 FERC ¶ 61,012, at P 6 (2009) (Waiver Order).

<sup>16</sup> *Id.* P 37.

<sup>17</sup> *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,138 (2009). According to the proposed timelines, SPP would complete the system impact study for the first transitional cluster by July 1, 2009 and begin the facilities study on August 1, 2009. For the second

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

9. Notice of SPP's filing was published in the *Federal Register*, 74 Fed. Reg. 31,021 (2009), with interventions and protests due on or before June 22, 2009. Dogwood Energy LLC, East Texas Electric Cooperative, Inc., Golden Spread Electric Cooperative, Inc., and Western Farmers Electric Cooperative filed timely motions to intervene. American Wind Energy Association (American Wind), E.ON Climate & Renewables North America Inc. (E.ON), Oklahoma Gas and Electric Company (OG&E), and Xcel Energy Services Inc. (Xcel) filed motions to intervene and comments. CPV Renewable Energy Company, LLC (CPV), Novus Windpower, LLC (Novus), and Renewable Energy Systems Americas, Inc. (RES Americas) filed motions to intervene and protests. On June 24, 2009, Iberdrola Renewables, Inc. (Iberdrola) filed an out-of-time motion to intervene, and on July 1, 2009, Acciona Wind Energy USA, LLC (Acciona) filed an out-of-time motion to intervene and comments. On July 7, 2009, SPP filed an answer to the comments and protests, and on July 20, 2009, Novus and E.ON filed answers to SPP's answer.

## **III. Discussion**

### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2009), the Commission will grant Iberdrola's and Acciona's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest or to 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 Novus' and E.ON's answers and will, therefore, reject them.

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transitional cluster, SPP would complete the feasibility study by June 29, 2009 and begin the system impact study on July 29, 2009.

## **B. Substantive Matters**

12. The Commission accepts SPP's proposed reformed interconnection methodology under the independent entity variation standard, subject to conditions and reporting requirements, as discussed below. While the parties filed comments or protests on particular aspects of the proposal, most of the commenters and protesters expressed general support for SPP's interconnection reform effort. SPP's proposal transitions its interconnection procedures from a first-come, first-served approach to an approach that allows projects that are closer to development to proceed on a fast-track basis while allowing less-developed projects to receive early information regarding feasibility before final commitments are made. We find that SPP's proposal offers a significant step toward expediting the processing of interconnection requests and meeting other goals of the Commission articulated in the Conference Order.

### **1. Standard of Review**

#### **a. Proposal**

13. SPP contends that its reformed interconnection procedures proposal is just and reasonable under the independent entity variation standard of review. SPP notes that in the Conference Order the Commission stated that “[i]f an RTO concludes that the options already identified in Order No. 2003 are inadequate to address its queue problems, it may consider proposing variations from Order No. 2003,”<sup>18</sup> and that “because RTOs and ISOs do not own generation and thus do not have an incentive to unduly discriminate, variations sought by an RTO or ISO are reviewed under the ‘independent entity variation standard.’”<sup>19</sup> SPP also states that under this standard an RTO must demonstrate that its proposed variation from Order No. 2003 is just and reasonable and not unduly discriminatory and would accomplish the purposes of Order No. 2003.<sup>20</sup> SPP explains that, as an RTO, it does not own generation and does not have an incentive to unduly discriminate. SPP also asserts that its reform proposal meets the goals of Order No. 2003 by minimizing opportunities for undue discrimination and expediting the development of

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<sup>18</sup> SPP Transmittal Letter at 10 (citing Conference Order, 122 FERC ¶ 61,252 at P 13).

<sup>19</sup> *Id.*

<sup>20</sup> *See id.* (citing *Midwest Independ. Transmission Sys. Operator*, 124 FERC ¶ 61,183, at P 2 (2008) (Midwest ISO Order), *order on reh'g*, 127 FERC ¶ 61,294 (Midwest ISO Rehearing Order), *order on compliance*, 127 FERC ¶ 61,295 (2009); Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 7).

generation while protecting reliability and ensuring just and reasonable rates. Moreover, SPP states, its proposed reforms address the concerns that the Commission expressed in the Conference Order regarding delays in processing interconnection requests and backlogs in RTO and ISO managed queues.

**b. Protest**

14. Novus asserts SPP did not meet the independent entity variation standard in Order No. 2003 and did not file supporting information required by Part 35 of the Commission's regulations<sup>21</sup> showing that the proposed filing is just and reasonable. Novus claims this fact alone warrants rejection of the filing.<sup>22</sup>

**c. Commission Determination**

15. The independent entity variation standard recognizes that an RTO or an ISO has different operating characteristics depending on its size and location and is less likely to act in an unduly discriminatory manner than a transmission provider that is a market participant. The independent entity variation standard provides the RTO and ISO with greater flexibility to customize its interconnection procedures and agreements to fit regional needs.<sup>23</sup> We agree with SPP that as an RTO it is entitled to flexibility in proposing variations from the *pro forma* interconnection procedures in Order No. 2003 under the independent entity variation standard. We will respond to the arguments that the standard is not met for specific aspects of the proposal under the headings for those proposals throughout this order.

**2. Feasibility, Preliminary, and Definitive Queues**

**a. Overview, Study Time Frames, and Queue Position**

**i. Proposal**

16. SPP states that the need for the proposed reforms stems from the following factors, which have adversely affected the efficient processing of interconnection requests in the SPP queue: (1) the number of pending interconnection requests in the SPP queue is at an all time high, making it impossible for SPP to manage the queue effectively and to study the requests efficiently under the current serial approach, resulting in processing delays;

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<sup>21</sup> 18 C.F.R. Part 35 (2009).

<sup>22</sup> Novus Protest at 8-9.

<sup>23</sup> See Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 827.

(2) the current SPP interconnection procedures provide no mechanism for “fast-tracking” viable projects (i.e., implementing a “first-ready, first-served” approach), which allows for commercially viable projects pending in the queue to be processed more quickly to achieve commercial operation sooner; (3) processing interconnection requests has been complicated by the number of interconnection customers that have suspended construction of network upgrades and interconnection facilities associated with these interconnections, which results in lower-queued projects being unable to use the existing interconnection capacity of the transmission system;<sup>24</sup> and (4) a developing trend whereby an interconnection customer submits a speculative interconnection request for more generation than it ultimately constructs.<sup>25</sup>

17. SPP states that its proposal is the result of an extensive stakeholder process. SPP adds that the purpose of its reformed interconnection procedures is to streamline the study process, including a “fast-track” for customers who meet specific project milestones; reduce the impact of suspended projects on the queue; encourage speculative projects to enter a preliminary queue; and discourage speculative projects from entering the final queue through increased deposit amounts and project readiness milestones.<sup>26</sup>

18. As discussed in more detail below, SPP proposes to conduct interconnection studies on a cluster rather than serial basis. SPP also proposes to replace its existing interconnection study process with the following three interconnection study queues, each with different deposit and milestone requirements: (1) the feasibility study queue (feasibility queue), which results in an optional feasibility study completed within 90 days of the close of a cluster window; (2) the preliminary interconnection system impact study queue (preliminary queue), which results in an optional system impact study completed within 180 days of the close of a cluster window; and (3) the definitive interconnection system impact study queue (definitive queue), which is the first required stage within the interconnection process and results in a system impact study completed within 120 days of the close of a cluster window and a facilities study completed in

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<sup>24</sup> SPP reserves this existing transmission capacity for projects that have suspended upgrade construction. As a result, affected lower-queued projects are often required to pay for new network upgrades or interconnection facilities for which they would not have had cost responsibility had higher-queued projects not suspended construction of the upgrade.

<sup>25</sup> See SPP Transmittal Letter at 5-7.

<sup>26</sup> *Id.* at 3-4.

90 days thereafter.<sup>27</sup> SPP states it will use “Reasonable Efforts”<sup>28</sup> to meet these study time frames.

19. SPP states the optional feasibility study will provide information useful to determine whether it is economically and operationally feasible for a project to proceed. SPP also states the optional preliminary system impact study—which is essentially the same in scope as the system impact study in the current interconnection procedures—serves as a tool to refine interconnection requests prior to entering the definitive queue.<sup>29</sup> Projects that are ready to proceed to interconnection can forgo the optional feasibility and preliminary queue studies and begin the interconnection process with the definitive queue process. SPP states the definitive system impact study, the first required study in its proposed interconnection procedures, is the same in scope as the preliminary system impact study but is designed to accommodate projects that are ready for commercial operation. SPP states the facilities study, which is the second required study in its proposed interconnection procedures, is the same in scope as the facilities study under the current interconnection procedures.<sup>30</sup>

20. Under SPP’s proposal, an interconnection customer will indicate which queue it wants to be placed in when it submits its interconnection request. SPP states that the queue position for a request in the feasibility queue is lower than a queue position in both the preliminary and definitive queues, as this queue is meant to accommodate requests that are more speculative in nature. A preliminary queue position is superior to any feasibility queue position but is inferior to all definitive queue positions.<sup>31</sup>

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<sup>27</sup> *Id.* at 13, 15, 18, 20.

<sup>28</sup> “Reasonable Efforts” is defined in SPP’s existing Attachment V as “with respect to an action required to be attempted or taken by a Party under the Standard Large Generator Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.” *See* SPP OATT, Fifth Revised Volume No. 1, Second Revised Sheet No. 380. SPP has not proposed a change to this definition.

<sup>29</sup> SPP Transmittal Letter at 14.

<sup>30</sup> *Id.* at 19.

<sup>31</sup> *Id.* at 12, 14, 17.

**ii. Comments**

21. OG&E states that SPP's commitment to use Reasonable Efforts to meet the time limitations governing its studies is insufficient, as SPP's record over the past two years has shown that SPP's duty to exercise Reasonable Efforts has not been enough for SPP to keep pace with the volume of pending interconnection requests. OG&E requests that SPP modify its OATT to require the completion of studies as soon as practicable, but no later than the specified tariff deadline. OG&E states this will encourage SPP to release study results immediately instead of waiting until the end of the deadline to publish results.<sup>32</sup>

22. E.ON requests clarification of section 4.2 of SPP's proposed Attachment V, which includes a diagram of SPP's interconnection study process and timeline. E.ON states that, in one box of the diagram the preliminary system impact study is listed with a 150-day time frame, but immediately to the right of this box there is another box that indicates another 30-day time frame. E.ON seeks clarification that SPP meant to indicate the difference between the 180-day queue cluster window and the 150-day time frame for completion of the study.<sup>33</sup>

**iii. Answer**

23. SPP states that the time frames for SPP to conduct the studies were chosen because they represent the most reasonable minimum time periods in which accurate studies can be conducted. SPP adds that in the event that the studies are completed prior to the end of the study periods, SPP will post the studies without delay. Thus, SPP argues, OG&E's suggestion that SPP's OATT should be amended to require that studies be completed as soon as practicable is unnecessary.<sup>34</sup>

24. In response to E.ON's request for clarification, SPP confirms that the reference to 30 days in the diagram in section 4.2 of the revised interconnection procedures is intended merely to reflect the difference between the 180-day proposed preliminary queue cluster window and the 150-day proposed time frame for completion of the study.<sup>35</sup>

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<sup>32</sup> OG&E Comments at 5-6.

<sup>33</sup> E.ON Comments at 12.

<sup>34</sup> SPP Answer at 5.

<sup>35</sup> *Id.* at 31-32.

**iv. Commission Determination**

25. We accept SPP's proposal to process interconnection requests in three queues under the independent entity variation standard. The proposed revision follows guidance the Commission provided in Order No. 2003 that giving interconnection customers information earlier in the process would lead to more efficient use of the transmission provider's planning resources and higher quality interconnection studies.<sup>36</sup> We find that the tariff revisions SPP proposes in order to study interconnection requests in three separate queues are just and reasonable, not unduly discriminatory and will accomplish the purposes of Order No. 2003 by facilitating more timely and orderly processing of interconnection requests. Further, this transition towards a "first-ready, first-served" approach is consistent with the guidance provided by the Commission in the Conference Order. We agree with SPP that this approach should discourage speculative projects from entering more advanced stages of the study process, while also providing options for interconnection customers seeking informational studies.<sup>37</sup>

26. We also accept SPP's proposed study time frames, which we find are reasonable in light of SPP's move to perform studies in clusters (as more fully discussed below), because cluster studies are more complex than individual studies.<sup>38</sup> Further, as SPP chose these time frames because they represent the most reasonable minimum time periods to complete studies, we agree with SPP that amending its OATT to require the completion of studies as soon as practicable is unwarranted. However, we expect SPP to meet its commitment, as stated in its answer, that it will post study results without delay if it completes a study before a deadline.<sup>39</sup>

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<sup>36</sup> Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 90.

<sup>37</sup> In the Conference Order, the Commission found that elimination of the feasibility study as a separate study could aid in streamlining the overall study process. The Commission cautioned, however, that there should be an alternative mechanism available for customers seeking information to further tailor their requests (*see* Conference Order, 122 FERC ¶ 61,252 at P 17). We find that SPP's optional feasibility queue provides this mechanism for customers seeking basic information.

<sup>38</sup> *See* Midwest ISO Order, 124 FERC ¶ 61,183 at P 114 (accepting study time frames longer than those provided for under Order No. 2003 based on the increase in the volume of interconnection requests and the complexity of group studies).

<sup>39</sup> *See* SPP Answer at 5.

27. We also find that, as E.ON requested, SPP has clarified that the reference to 30 days in section 4.2 is intended to reflect the difference between the 180-day proposed preliminary queue cluster window and the 150-day proposed time frame for completion of the study.

**b. Clustering**

**i. Proposal**

28. SPP proposes moving from a serial study process to a clustering approach based on the geographic location of projects and the proposed site of interconnection. For the feasibility queue, SPP proposes to use a 90-day calendar window, and for the preliminary and definitive queues 180-day cluster windows. SPP states it will study requests that affect common transmission facilities in the same cluster. If a generating plant is electrically isolated and does not have common impacts on other interconnection customers, SPP will study those requests separately, although SPP notes that most of its requests are for projects in areas with common constraints. SPP states costs will be allocated among the clustered requests, which SPP claims should minimize costs to customers and provide other benefits.<sup>40</sup>

**ii. Comments**

29. OG&E and E.ON request that SPP modify its OATT to reduce the queue cluster window for both the preliminary and definitive queues from 180 days to 120 days. OG&E states that this would allow for an additional cluster to be studied in each queue annually and would expedite the processing of interconnection requests, as there would be fewer projects to study in each cluster, simplifying the assessment of electrical and cost-causation effects.<sup>41</sup>

30. E.ON adds that the shorter cluster window will provide a large enough sample size for an efficient group study while decreasing the potential for delays. E.ON notes that PJM Interconnection, L.L.C. (PJM) utilizes a 90-day cluster window because it could not meet its tariff deadlines using a 180-day window.<sup>42</sup> E.ON states that a shorter window would prevent study phases from overlapping with queue cluster windows and provide congruence with applicable study time frames.

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<sup>40</sup> SPP Transmittal Letter at 8.

<sup>41</sup> OG&E Comments at 4.

<sup>42</sup> E.ON Comments at 5.

**iii. Answer**

31. In response, SPP states that SPP and its stakeholders determined that 180 days was the most appropriate time frame for receiving a volume of interconnection requests that would maximize the efficiency of the cluster studies. SPP contends that while the studies might take only 120 days to complete, by having a 180-day window for studies, SPP is able to determine which projects from one study step will continue to the next step before the next window opens. SPP adds that if studies began simultaneously every 120 days with the commencement of each window (i.e., three studies per year), SPP would have no interim period to determine which projects have decided to move into the next study. This would delay the start of future studies or cause unnecessary restarts for studies in successive cycles.<sup>43</sup>

**iv. Commission Determination**

32. We accept SPP's proposed clustering approach for each queue. As the Commission found in the Conference Order, clustering that takes into account factors other than proximity of filing date may allow for more efficient studies.<sup>44</sup> Performing studies in a cluster should enable SPP to process its current backlog more effectively. Further, we find that SPP's temporal and geographic clustering proposal is a rational approach to conducting group studies, considering that clustered projects will share in the costs of mutually required facility and network upgrades. We also accept SPP's proposed time frames for cluster windows. We find there is value in having an interim period to determine which projects move to subsequent studies, and we agree with SPP that lack of an interim period could delay the overall study process.

**c. Initiating a Request****i. Proposal**

33. SPP states that to initiate the interconnection process (regardless of whether an interconnection customer chooses to begin at the feasibility, preliminary, or definitive queue), an interconnection customer must submit a valid interconnection request, which includes: (1) a completed interconnection request form, (2) a demonstration of site control, and (3) a deposit of \$10,000. If a customer fails to provide all these necessary components, SPP states that a customer's request will be withdrawn unless the request is for entrance into the feasibility queue, in which case SPP will have five business days to

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<sup>43</sup> SPP Answer at 4-5.

<sup>44</sup> Conference Order, 122 FERC ¶ 61,252 at P 18.

notify the customer of the deficiency, and the customer will have ten business days to cure the deficiency. In addition, SPP has removed the option under section 3.3.1 of its existing procedures allowing the interconnection customer to provide an additional \$10,000 deposit in lieu of demonstrating site control. If an interconnection customer cannot demonstrate site control, SPP will place its request in the feasibility queue.<sup>45</sup> SPP states this will provide flexibility for customers who want their projects evaluated at an earlier stage.

## ii. Comments

34. Acciona and E.ON request that SPP allow an interconnection customer the opportunity to cure defects in a submission during the preliminary and definitive system impact study phases. Both Acciona and E.ON suggest a five business day cure period for the preliminary and definitive queues so that defects in a submission may be remedied without affecting the customer's queue position.<sup>46</sup> Acciona adds that such cure period would not impose a significant burden on SPP or other interconnection customers and would promote efficiency by avoiding forcing interconnection customers to re-enter queues, which results in SPP spending additional time re-inserting a request that has been previously submitted.<sup>47</sup>

35. Regarding the number of days to cure a deficiency in the feasibility phase, E.ON points out that revised section 3.3.3 provides that the interconnection customer is allowed ten business days to remedy an interconnection request, but SPP's transmittal letter indicates that the cure period is fifteen days.<sup>48</sup>

36. With regard to site control, Acciona asserts that demonstration of site control should not be required to enter the feasibility or the preliminary queue, as these optional studies are meant to provide information on the commercial viability of a project. Acciona states that demonstrating site control at these stages imposes a considerable financial burden on wind projects in particular. In the alternative, Acciona requests that the Commission direct SPP to reinstate the option to post an additional deposit at these stages in lieu of site control.<sup>49</sup>

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<sup>45</sup> See SPP OATT, proposed Attachment V, section 3.3.1.

<sup>46</sup> Acciona Comments at 8; E.ON Comments at 4, 6.

<sup>47</sup> Acciona Comments at 8.

<sup>48</sup> E.ON Comments at 11.

<sup>49</sup> Acciona Comments at 7.

37. American Wind also objects to the elimination of the option of posting an additional deposit in lieu of demonstrating site control when initiating an interconnection request. American Wind recommends that SPP reinstate the deposit option and increase the amount of deposit or make this deposit non-refundable. American Wind states this would discourage speculative projects while providing developers more flexibility to meet project milestones.<sup>50</sup>

38. E.ON requests that SPP provide a more descriptive definition of what it considers “sufficient size” of a site for demonstrating site control. E.ON notes that PJM uses a standard of 10 acres/MW for wind generation facilities and recommends SPP adopt a similar standard to reduce uncertainty.<sup>51</sup>

**iii. Answer**

39. With regard to E.ON’s and Acciona’s proposals to allow a cure period for deficiencies in interconnection requests submitted for inclusion in the preliminary and the definitive queues, SPP replies that a cure period would not benefit the interconnection process. SPP states that interconnection customers may submit requests at any time during the 180-day window and that if the request is incomplete, SPP will advise the interconnection customer what information is lacking until the window closes. SPP states that interconnection customers do not have to wait until the last day of a window to submit their requests. SPP argues that to avoid the need for a cure period, interconnection customers should timely submit their interconnection requests within the 180-day window.<sup>52</sup>

40. In response to E.ON’s request for SPP to clarify the number of days allowed for cure during the feasibility study, SPP states that proposed section 3.3.3 allows an interconnection customer that wishes to enter the feasibility queue ten business days after receiving notice from SPP that its request is deficient (which SPP must provide within five business days of receiving the interconnection request) to cure the deficiency.<sup>53</sup>

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<sup>50</sup> As an example, American Wind states that a developer may not want to place significant capital at risk to obtain property before obtaining state regulatory approval. In this case, the developer would prefer posting a deposit in lieu of demonstrating site control. *See* American Wind Comments at 7.

<sup>51</sup> E.ON Comments at 7.

<sup>52</sup> *See* SPP Answer at 10-11.

<sup>53</sup> *Id.* at 32.

41. SPP answers Acciona's and American Wind's arguments regarding the proposed elimination of the additional \$10,000 deposit in lieu of demonstrating site control by stating that SPP and the SPP stakeholders removed this option to deter speculative projects from clogging the preliminary and definitive queues. Moreover, this change will also eliminate the delays and inaccurate study results that occur when speculative projects are withdrawn because they are later unable to demonstrate site control. SPP notes that demonstration of site control is not required for entry into the feasibility queue.<sup>54</sup>

42. Additionally, SPP rejects E.ON's request to adopt a 10 acres/MW site control standard for wind generating facilities. SPP states that its standard for sufficient site control for wind-generating facilities is 30 acres/MW, as posted on the SPP website. SPP asserts that a wind generator may demonstrate a different standard applicable to its particular case, based on wind turbine layout, and SPP states it will accept the alternative demonstration of site control in these cases. SPP notes that by leaving the site control standard in its business practices, both the interconnection customer and SPP have flexibility to accept an alternative site control measure.<sup>55</sup>

#### iv. Commission Determination

43. The Commission will accept SPP's proposed procedures for initiating an interconnection request, subject to modifications.

44. We disagree with SPP that cure periods are unnecessary for preliminary and definitive queue requests. SPP states that an interconnection customer may submit a request at any time during the 180-day study window, and that to avoid the need for a cure period, interconnection customers should timely submit their interconnection requests within the 180-day window. SPP also states that if the request is incomplete, SPP will advise the interconnection customer what information is lacking during the submission window. However, by not specifically allowing a cure period for requests entering the preliminary and definitive queues, customers do not have a specified right to fix a deficiency, and SPP does not have a specific obligation to notify such customers of deficiencies. The Commission finds that whether a customer submits its request on the first day of the 180-day window or the last, SPP should provide it with notice of a deficiency in its request, and that customer should have some time to cure that deficiency. We find that a reasonable cure period should not impose a significant burden on SPP or other interconnection customers and should promote efficiency by avoiding additional administrative efforts on SPP's part to process resubmitted requests. Accordingly, we

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<sup>54</sup> *Id.* at 6-7.

<sup>55</sup> *Id.* at 9.

direct SPP to revise proposed section 3.3.3 to allow for a reasonable cure period for requests entering the preliminary and the definitive queues, as well as a five business day period for SPP to notify an interconnection customer of a deficient request.

45. We find SPP's statement that under proposed section 3.3.3 of Attachment V, SPP has five business days to send a deficiency notice to an interconnection customer after receipt of an interconnection request to enter the feasibility queue and the interconnection customer has ten business days to cure the deficiency for a total cure period of fifteen business days, to be responsive to E.ON's request for clarification.

46. With regard to site control, SPP's proposed tariff revisions are inconsistent with respect to whether a demonstration of site control is necessary for entering the feasibility queue. The proposed revisions to section 3.3.1 of Attachment V of SPP's OATT provide that a customer must submit all three of the following to initiate an interconnection request: (1) a \$10,000 deposit, (2) a completed application form, and (3) a demonstration of site control. Section 3.3.1 also provides that SPP will enter the interconnection customer into the feasibility queue if the customer cannot demonstrate site control. However, section 3.3.3 provides that an interconnection request will not be considered valid until the three requirements listed in section 3.3.1 are met. Further, section 3.3.3 allows the customer ten business days to cure a deficiency in its submittal after notification from SPP. Thus, we find it unclear as to whether site control is required to complete a feasibility study in the feasibility queue.<sup>56</sup> In its answer, SPP states that site control need not be demonstrated for requests to enter the feasibility queue.<sup>57</sup> However, we find no specific language in SPP's proposed interconnection procedures providing that a demonstration of site control is not needed for the completion of a feasibility study. Accordingly, SPP is directed to revise its proposed sections 3.3.1 and 3.3.3 to specify that

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<sup>56</sup> For example, one reading of these provisions could be that under section 3.3.3, the interconnection customer must demonstrate site control to enter the feasibility queue when it initially submits its request; and that if it does not, SPP will issue a deficiency notice, to which presumably the customer will be unable to cure, and SPP, in accordance with section 3.3.1, may then place that request into the feasibility queue. Alternatively, section 3.3.1 may be read to allow SPP to place any interconnection request that does not include a demonstration of site control-whether for the feasibility, preliminary or definitive queue-into the feasibility queue, rather than requiring it to be withdrawn as defective. However, such interpretation of section 3.3.1 does not allow for the customer wishing to be placed in the feasibility queue from avoiding demonstrating site control in the first instance when that customer initially submits its request, as SPP implies in its answer.

<sup>57</sup> SPP Answer at 7.

an interconnection customer wishing to enter the feasibility queue need not demonstrate site control, as SPP states in its answer.

47. With respect to the preliminary and definitive queues, we agree with SPP that a demonstration of site control is reasonable to prevent speculative projects from entering these queues.

48. We also accept SPP's clarification on what it deems sufficient size for demonstrating site control for wind generation. However, to ensure that customers are aware of SPP's standard sizing for sites, SPP should clearly identify where in its business practices site control and site adequacy standards are located.<sup>58</sup> In addition, we direct SPP to revise its interconnection procedures to clarify that an interconnection customer may propose an alternative demonstration of site control, as SPP states in its answer. We find this option provides flexibility for interconnection customers, and we want to ensure that all customers know this option is available to them on a non-discriminatory basis.

**d. Milestones and Deposits**

**i. Proposal**

49. Under SPP's proposal, at the close of a cluster window for the feasibility queue, an interconnection customer must execute and deliver a feasibility study agreement with an additional \$10,000 deposit within fifteen days after receipt of the agreement or the close of the cluster window, whichever is sooner. SPP will refund or apply to the cost of future studies any excess deposit funds if an interconnection customer's allocated costs are less than \$20,000.<sup>59</sup> If these costs are greater than \$20,000, the interconnection customer is responsible for paying the excess amount.<sup>60</sup> SPP states that the study deposits at this

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<sup>58</sup> In its answer, SPP states that the site control standards are located on its website in its business practices. However, SPP did not specify in which business practice the standards can be found. Further, SPP provides no definition for "site adequacy," which, as discussed below, is a required milestone for requests in the definitive queue. Our review of SPP's posted business practices indicated that there was no reference to site control or site adequacy standards.

<sup>59</sup> This \$20,000 is the sum of the \$10,000 deposit needed to initiate an interconnection request and the additional \$10,000 deposit needed to commence the feasibility study.

<sup>60</sup> SPP OATT, proposed Attachment V, section 6.1.

point are minimal because the feasibility queue studies are preliminary in nature and are therefore less costly than more definitive studies.<sup>61</sup>

50. SPP states that because the preliminary queue study is more complex and refined than the feasibility queue study, more stringent milestone and deposit requirements are required for entering the preliminary queue. These milestone and deposit requirements include: (1) providing an executed preliminary system impact study agreement; (2) demonstrating site control; (3) submitting a deposit of \$40,000 for requests less than 100 MW, \$60,000 for requests greater than or equal to 100 MW and less than 800 MW, or \$90,000 for requests greater than or equal to 800 MW; (4) providing a one-line diagram, point of interconnection, plant size (MW), and Generator Step-Up transformer data; and (5) providing the additional technical data specified in Appendix 7 of the interconnection procedures if the request is associated with a wind-generating plant. SPP states that failure to meet these milestones will result in immediate withdrawal of the request. SPP also states that the new deposit requirements based on the size of the generator are appropriate because they recognize that interconnection requests for smaller projects can be less costly to study than interconnection requests for larger projects.<sup>62</sup> SPP states that it will refund any excess deposited funds to the customer or apply the excess funds to the next study phase. After SPP completes a preliminary system impact study, the customer may change the point of interconnection and the size of the plant before it progresses to the definitive queue.<sup>63</sup>

51. SPP requires even more rigorous milestone and deposit requirements at the definitive system impact study stage, including: (1) an executed definitive system impact study agreement; (2) demonstration of site control and site adequacy; (3) a deposit of \$75,000 for requests less than 75 MW or \$150,000 for requests greater than or equal to 75 MW; (4) a definitive point of interconnection; (5) a definitive plant size; and (6) the same technical information required for the preliminary system impact study. In addition, SPP requires an interconnection customer to meet one of a list of additional requirements.<sup>64</sup> SPP states that these milestones are necessary to discourage speculative

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<sup>61</sup> See SPP Transmittal Letter at 13.

<sup>62</sup> *Id.* at 15.

<sup>63</sup> *Id.* at 14-15.

<sup>64</sup> This list includes: (1) a security deposit equal to \$2,000/MW of plant size, refundable at commercial operation or if a customer does not execute an interconnection agreement; (2) an executed contract, or comparable evidence, for the sale of electric energy or capacity from the generating facility; (3) a statement signed by an officer or authorized agent of the customer attesting that the generating facility is part of an

projects and to ensure that projects that are ready to proceed may do so. SPP also states that once an interconnection customer enters the definitive queue, SPP will not permit it to change its designated point of interconnection or the size of its request, which SPP states will reduce significantly the need for restudy.<sup>65</sup>

52. SPP states that the milestones required for the facilities study are essentially the same as those required for the definitive system impact study. Thus, in most cases, if an interconnection customer has met the milestones required for the definitive queue, it may proceed to the facilities study. However, SPP states that if an interconnection customer chose to provide a security equal to \$2,000/MW of its plant size to satisfy part of its milestone requirement to enter the definitive queue, it will need to provide an additional milestone from the same list of alternatives to enter the facilities study, except that SPP requires a letter of credit or payment for the customer's share of estimated network upgrades rather than a payment based on plant size.<sup>66</sup> SPP states that this arrangement provides a balance between business needs, the need for flexibility, the encouragement of viable projects, and the discouragement of speculative projects at this late study stage. SPP also states that the definitive queue process will take approximately eight months to complete, as opposed to the years it now takes to complete the study process.<sup>67</sup>

## ii. Comments/Protest

53. Acciona contends that the milestones for entering the definitive queue are too stringent for wind generation facilities. According to Acciona, SPP does not offer network resource interconnection service, and as a result, wind projects must secure a purchaser of electricity without knowing the cost of network upgrades required for

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applicable state resource plan; (4) other information the transmission provider deems to be reasonable evidence that the generating facility will qualify as a designated resource; (5) a purchase order for generating equipment specific to queue position or a statement signed by an officer or authorized agent of the customer attesting that the generating facility is to be supplied with turbines with a manufacturer's blanket purchase agreement; (6) an application for an air permit, if applicable; or (7) a filing of a Notice of Proposed Construction or Alteration with the Federal Aviation Administration, if applicable. See SPP OATT, proposed Attachment V, section 8.2(g).

<sup>65</sup> SPP Transmittal Letter at 16.

<sup>66</sup> See *id.* at 19 (citing SPP OATT, proposed Attachment V, section 8.7).

<sup>67</sup> *Id.* at 21.

interconnection or delivery service.<sup>68</sup> Acciona states this knowledge will not be available until SPP completes an aggregate study. Acciona argues that without network resource interconnection service, the expected network upgrade costs make the definitive queue process commercially unfeasible for wind.<sup>69</sup> Acciona requests that the Commission require SPP to permit network resource interconnection service. Acciona also requests that the Commission direct SPP to move the network upgrade commitments aspects of the definitive system impact study to the start of the facilities study.

54. CPV requests clarification of the milestone requirement under section 8.7 for a facilities study. CPV states that while section 8.7 requires that an interconnection customer must satisfy one milestone requirement after executing a facilities study agreement, SPP's transmittal letter indicates that the customer must satisfy an additional milestone.<sup>70</sup> CPV states that it believes SPP intends that, if an interconnection customer chooses to post security, it must post a letter of credit or full payment instead of relying on a previously-posted security based on plant size. CPV requests that SPP clarify this point and provide for immediate refund of the \$2,000/MW security.<sup>71</sup>

55. CPV states that SPP has no obligation to refund the \$2,000/MW security before a project is in commercial operation or if the customer does not execute an interconnection agreement. CPV requests that, to the extent the interconnection customer satisfies any one of the milestones in section 8.7, SPP should refund any previously posted security deposit based on plant size. CPV states this is fair, given that the other milestones in section 8.7 serve as substitute options that do not require posting of security.<sup>72</sup>

56. E.ON requests clarification on the language of section 4.4.1, which provides that the interconnection customer may decrease the proposed electrical output of a project upon return of the results of the preliminary system impact study. E.ON notes that SPP's

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<sup>68</sup> Acciona Comments at 8-9. Acciona points to a protest filed by Wind Farm Bear Creek, LLC (Bear Creek) in Docket No. ER09-1255-000 in which Bear Creek argued that although SPP's network resource interconnection service studies are purportedly conducted pursuant to Attachment Z1 in SPP's OATT, Attachment Z1 only provides for transmission service requests.

<sup>69</sup> *See id.* at 9.

<sup>70</sup> CPV Protest at 7 (citing SPP Transmittal Letter at 19).

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 6.

transmittal letter indicates that the customer may decrease or increase its proposed electrical output.<sup>73</sup>

**iii. Answer**

57. Regarding Acciona's arguments, SPP states that it did not propose any changes to the provisions of its OATT governing network resource interconnection service; thus, the provision of network resource interconnection service is not at issue in this proceeding. Nevertheless, SPP states that the requirements for network resource interconnection service apply to wind generating facilities as well as other generating facilities and will not change when the reformed interconnection procedures proposed in the instant proceeding become effective.<sup>74</sup>

58. In addition, SPP states that Acciona's request that SPP move the network upgrade commitments aspects of the definitive system impact study to the start of the facilities study is misplaced because there is no network upgrade commitment prior to the start of the facilities study.<sup>75</sup> SPP states that the interconnection customer is not required to commit to paying for or constructing network upgrades until it signs an interconnection agreement.

59. With regard to CPV's concerns regarding the milestone requirements for the facilities study, SPP explains that the milestones for the facilities study are basically the same as for entry into the definitive queue, except that the facilities study security milestone requires a letter of credit for the interconnection customer's share of the upgrades rather than a deposit based on plant size.<sup>76</sup> SPP adds that it intends that an interconnection customer that met the security milestone to enter the definitive queue through a deposit based on plant size will be refunded the deposit if it later achieves any of the alternative milestones in section 8.7 for the facilities study, other than through a letter of credit. If the interconnection customer provides a letter of credit to satisfy the facilities study milestones, that letter of credit will be reduced by the amount of the deposit previously paid.<sup>77</sup>

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<sup>73</sup> E.ON Comments at 12.

<sup>74</sup> SPP Answer at 25-26.

<sup>75</sup> *See id.* at 26 (citing SPP OATT, proposed Attachment V, sections 7.3, 8.3).

<sup>76</sup> *See id.* at 29 (citing SPP OATT, proposed Attachment V, sections 8.2, 8.7).

<sup>77</sup> *See id.* at 29-30 (citing SPP OATT, proposed Attachment V, sections 8.2, 8.7).

60. In response to E.ON's concern, SPP clarifies that proposed section 4.4.1 permits the interconnection customer to decrease the electrical output of its proposed project but that increases in project output require submission of a new interconnection request for the increase in an open definitive queue window.<sup>78</sup>

**iv. Commission Determination**

61. We conditionally accept SPP's proposed milestone requirements under the independent entity variation standard. In the Conference Order, the Commission stated that it may be appropriate to increase the requirements for obtaining and keeping a queue position.<sup>79</sup> The Commission also recognized that it could be appropriate to increase the amount of the deposits required at the different stages of the process to more accurately reflect the cost of studies. The Commission stated that such a change would not only be consistent with traditional ratemaking principles, but would also increase the likelihood that only projects that are likely to be commercially viable (and hence willing to commit to the cost of such studies in advance) are in the queue.<sup>80</sup> Here, SPP states that the deposits at the feasibility queue stage are minimal because this early-stage study is preliminary and will be less costly compared to the more definitive studies. In addition, SPP has designed the required milestones and deposits to be more rigorous as the interconnection request moves from the early stage to the later stages of the process. We find that these milestones are similar to those the Commission previously accepted for other RTOs/ISOs<sup>81</sup> and should move SPP toward a "first-ready, first-served" approach by discouraging speculative projects from entering later study phases. However, we will require SPP to evaluate and report on the effectiveness of these increased deposit amounts and project-readiness milestones, as discussed later in this order.<sup>82</sup> Based on these reports, we will monitor SPP's progress.

62. We agree with SPP that issues relating to the provision of network resource interconnection service are not before the Commission in this proceeding because SPP has not proposed any changes to network resource interconnection service in the instant

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<sup>78</sup> *Id.* at 32.

<sup>79</sup> *See* Conference Order, 122 FERC ¶ 61,252 at P 16.

<sup>80</sup> *Id.*

<sup>81</sup> *See, e.g.,* Midwest ISO Order, 124 FERC ¶ 61,183 at P 77.

<sup>82</sup> *See id.* at P 77 (requiring RTO to report on the effectiveness of its interconnection queue reforms).

proceeding.<sup>83</sup> We also agree with SPP that under its proposed milestones an interconnection customer is not committed to constructing network upgrades until it signs an interconnection agreement.<sup>84</sup>

63. We will accept SPP's clarification regarding the milestones for facilities studies and refunds of deposits based on plant size made to enter the definitive queue when a customer later achieves one of the alternative milestones in section 8.7 for the facilities study. Further, SPP has clarified that under section 4.4.1, an interconnection customer may decrease, but not increase, the electrical output of its proposed project.<sup>85</sup>

e. **Restudy and Withdrawal**

i. **Proposal**

64. SPP states it will not perform restudies for requests in the feasibility queue because little additional information would result from more study and would only delay the processing of requests. SPP also states it will not perform restudies for requests in the preliminary queue, as this study is optional, but it will conduct restudies for interconnection requests in the definitive queue under certain conditions.<sup>86</sup> In the definitive queue, if a higher-queued project withdraws during the system impact study, SPP states that the withdrawing customer's cost obligation for this study phase will be twice its actual allocated study costs. SPP asserts this is needed to partially recover restudy costs and is consistent with the deposit provisions accepted by the Commission for the Midwest ISO.<sup>87</sup> SPP will not refund deposit amounts if an interconnection

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<sup>83</sup> We note, however, that in an order being issued concurrently with this order, we direct SPP to restore *pro forma* Order No. 2003 provisions that provide for network resource interconnection service. *See Southwest Power Pool, Inc.*, 128 FERC ¶ 61,116 (2009).

<sup>84</sup> *See* SPP OATT, proposed Attachment V, sections 7.3, 8.3.

<sup>85</sup> *See id.* at section 4.1.1.

<sup>86</sup> These conditions are: (1) a project with an equal or higher queue position drops out of the queue, (2) a higher-queued project materially modifies its project, or (3) a point of interconnection is redesignated by the transmission provider due to unexpected results not contemplated by the preliminary studies. *See* SPP OATT, proposed Attachment V, section 8.6.

<sup>87</sup> *See* SPP Transmittal Letter at 19 (citing Midwest ISO Order, 124 FERC ¶ 61, 183 at P 56).

customer withdraws during or after the facilities study, although SPP offers an exception to this case.<sup>88</sup> SPP states unused study deposits from the definitive planning phase will be refunded upon commercial operation or forfeited if the customer terminates or suspends its interconnection agreement.<sup>89</sup>

**ii. Comments**

65. E.ON notes that under section 13.3, an unused study deposit from the definitive planning phase of section 8.2 will be refunded upon commercial operation, but it will be forfeited if the interconnection customer terminates or suspends its interconnection agreement. E.ON asserts that a transmission provider should not be able to retain the unused study deposits if a project is merely suspended and should not be able to withhold any more of the study deposit under a termination of an interconnection agreement than the amount that would be withheld for a withdrawal during the study phase. E.ON states that if an interconnection customer withdraws while in suspension, it should only lose the amount of the study costs that it would have if it had simply withdrawn without first suspending the project, with unused study deposits returned to the customer.<sup>90</sup>

**iii. Answer**

66. In response, SPP argues that section 13.3 requires no further clarification. SPP states that once an interconnection customer signs an interconnection agreement, it has signaled that it will move forward to commercial operation. SPP adds that as a result of a customer suspending or terminating its interconnection agreement, SPP will likely be required to conduct restudies for others to determine the effect of the termination or suspension. Thus, SPP reasons, withholding unused study costs will alleviate the effect on others for such restudy costs and will deter projects from disruptive terminations or suspensions at this late stage in the process.<sup>91</sup>

**iv.**

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<sup>88</sup> *Id.* at 20-21. If the cost estimate determined in the facilities study exceeds the cost estimate in the definitive system impact study by 25 percent or more, then the withdrawing customer will be responsible for only twice its actual allocated study costs for the definitive system impact and facilities studies, and any excess deposits above that amount will be refunded. *See* SPP OATT, proposed Attachment V, section 8.9.d.

<sup>89</sup> *See id.* section 13.3.

<sup>90</sup> E.ON Comments at 11.

<sup>91</sup> SPP Answer at 31.

### **Commission Determination**

67. We conditionally accept SPP's restudy and withdrawal provisions under the independent entity variation standard, with one modification. We find that most of SPP's restudy and withdrawal provisions should accomplish the purposes of Order No. 2003 by facilitating more timely and orderly processing of interconnection requests. However, we find that it is not just and reasonable for SPP to retain the unused study deposits upon a project's suspension or withdrawal during or after the facilities study, beyond retaining the costs needed to conduct the studies for the project and any restudies caused by the suspension or withdrawal.<sup>92</sup> Refund to the customer of the balance is consistent with our traditional cost causation policy—that costs are borne by those who cause them.<sup>93</sup> Accordingly, we direct SPP to revise section 13.3 to provide for refund of the unused portion of the study deposit upon a project's suspension or withdrawal during or after the facilities study after SPP has accounted for study costs associated with the suspending or withdrawing project and restudy costs associated with any affected lower-queued customers incurred as a result of such suspensions or withdrawals.

### **3. Suspension**

#### **a. Proposal**

68. SPP states that to moderate the adverse effects on lower-queued projects when higher-queued projects suspend construction, it has proposed several revisions to the suspension provisions of Attachment V of its OATT. Under SPP's existing interconnection procedures, when an interconnection customer suspends a project, the customer does not have to make payments for network upgrades upon which a lower-queued customer may depend. SPP states that the high level of suspension it has experienced has led to significant delays and resulted in transmission capacity that could have been utilized by lower-queued customers going unused.<sup>94</sup> SPP states that there are

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<sup>92</sup> See Midwest ISO Rehearing Order, 127 FERC ¶ 61,294 at P 13 (directing the Midwest ISO to revise its reformed interconnection procedures to provide refunds for any unused portion of deposits paid to enter the Midwest ISO definitive planning phase after accounting for costs associated with a project's withdrawal and any associated restudy costs).

<sup>93</sup> See, e.g., *ISO New England, Inc.*, 115 FERC ¶ 61,145, at P 13 (2006) (under cost causation principles, costs are allocated to the parties who cause the incurrence of such costs).

<sup>94</sup> SPP notes that in the Midwest ISO Order, the Commission found that a high level of suspension resulted in uncertainty and delay for lower-queued customers, and the

currently seventeen projects totaling 3,544 MW that have suspended upgrade construction.<sup>95</sup>

69. With regard to the specific tariff revisions, SPP states that it will limit an interconnection customer's ability to suspend the construction of network upgrades and interconnection facilities to those facilities for which that customer has sole cost responsibility; a customer may not suspend construction of a project for which it shares cost responsibility.<sup>96</sup> For those projects for which suspension is allowed, SPP proposes to reduce the allowable suspension period from three years to eighteen months, as well as require additional security when an interconnection customer suspends for any period after the first six months of the effective date of an interconnection agreement. The security required is the greater of the following: (1) the allocated share of network upgrade costs, or (2) \$5 million if the generator is greater than 100 MW, \$2 million if the generator is between 50 MW and up to 100 MW, or \$1 million if the generator is less than 50 MW.<sup>97</sup> SPP will not require a payment of security if a customer only suspends for the six month period immediately following the effective date of its interconnection agreement. SPP states that this provides a six-month cushion for interconnection customers to adjust to various business and other problems.<sup>98</sup> The interconnection customer is also exempt from paying security amounts in excess of its allocated share of network upgrades if: (1) construction of the network upgrade or generating facility is prevented by an order of governmental authority, (2) the suspension has no impact on the cost or timing of any interconnection request with an equal or later queue priority date, or (3) in the event of *force majeure*. If suspension extends beyond the six months after the effective date of the interconnection agreement or the customer terminates the interconnection agreement after its effective date, SPP states that the customer will still be liable for the cost of the customer's network upgrades.<sup>99</sup>

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Commission approved stricter variations from Order No. 2003's suspension provisions to address this issue. SPP Transmittal Letter at 23 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 107, 109).

<sup>95</sup> *See id.* at 23.

<sup>96</sup> *Id.*

<sup>97</sup> *See* SPP OATT, proposed Attachment V, Appendix 6, Article 5.16.1(ii)a-d.

<sup>98</sup> SPP Transmittal Letter at 25.

<sup>99</sup> SPP OATT, proposed Attachment V, Appendix 6, Article 5.16.1(iii).

**b. Comments/Protest**

70. Novus objects to SPP's suspension provisions, calling the provisions unjust and unreasonable and inconsistent with the independent entity variation standard.<sup>100</sup> Novus charges that these provisions will result in elimination of the farthest-along projects in the queue, as these projects would be forced to withdraw to avoid financial obligations for their allocated upgrade costs. Novus asserts this would lead to an endless cycle of restudies which will continue to burden the interconnection queue. Specifically, Novus objects to the elimination of the three-year suspension period, noting this is contrary to the *pro forma* standard in Order No. 2003.

71. In addition, Novus asserts that allowing for only six months of suspension without the obligation to post security is insufficient to allow for issues that arise after an interconnection customer signs an interconnection agreement. Novus states that some flexibility should be retained due to unexpected circumstances and delays, including the right to suspend a project for up to three years.<sup>101</sup>

72. Novus also argues that SPP appears to believe that the most efficient way to address the backlog in its queue is to force projects to withdraw from the queue when they cannot meet the financial requirements caused by the need to fund billions of dollars in network upgrades that are the result of large cluster studies. Novus states that as long as transitional clusters of 15,000 MW are used as the basis for performing studies required to obtain an interconnection agreement, as projects in the first transitional cluster are forced to withdraw they will be replaced by lower-queued projects now in the second cluster that will face the same financial predicament. Novus asserts that this cycle will then be repeated with projects in the third cluster that will be established under SPP's proposal. Novus argues that if a lower-queued customer desires to move ahead of a suspended project, SPP should develop a process that permits an accelerated process. Novus asserts that the Commission found this type of mechanism acceptable in Order No. 2003-A, further noting that the New York Independent System Operator has such a mechanism.<sup>102</sup> Novus states that a project that chooses the accelerated mechanism may reimburse other developers once those projects are constructed.<sup>103</sup>

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<sup>100</sup> See Novus Protest at 9.

<sup>101</sup> *Id.* at 14-15.

<sup>102</sup> *Id.* at 20 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 318).

<sup>103</sup> *Id.* at 19-20.

73. Novus also asserts that the security and deposits required to suspend a project are excessive, if they are meant to demonstrate a project's viability, and are inconsistent with the independent entity variation standard.<sup>104</sup> Novus asserts that for projects in large transitional clusters the proposed security requirements would strand these funds for years—eight to ten years for some customers—before most customers would install or operate their projects. Novus also argues that requiring a suspending customer to pay the higher of the stated amount in the OATT based on the size of the facility and the estimated cost of the allocated network upgrades is a form of penalty that does not ensure that a customer is proceeding with development of its project.

74. Similarly, E.ON objects to SPP's proposal requiring a suspending interconnection customer to pay the greater of the suspending interconnection customer's costs for shared network upgrades or an amount based on the size (i.e., electrical output) of the proposed facility. E.ON argues that these additional measures are excessive because the interconnection customer is already responsible for transmission system upgrades it may not use if its project does not go into service. E.ON states that the additional security measures impose an added, significant burden on the interconnection customer without meaningfully deterring suspensions.<sup>105</sup>

75. Additionally, E.ON requests clarification regarding SPP's proposal to exempt customers from paying security when they suspend their interconnection requests in certain situations (i.e., governmental authority, suspension has no impact on the cost or timing of any interconnection request with an equal or later queue priority date, or *force majeure*). E.ON questions whether the 18-month suspension period applies in those cases or whether the customer will be allowed to maintain its queue position because these events are beyond the customer's control.<sup>106</sup>

**c. Answer**

76. In response to Novus' argument that reduction of the three-year suspension period is contrary to Order No. 2003, SPP states that Novus ignores the Commission's more recent concerns regarding delays in processing interconnection queues and surges in the volume of new generation development that are taxing the current queue management approach in some regions.<sup>107</sup> SPP notes that the Commission accepted the Midwest

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<sup>104</sup> *Id.* at 10.

<sup>105</sup> E.ON Comments at 8-9.

<sup>106</sup> *Id.*

<sup>107</sup> SPP Answer at 17 (citing Conference Order, 122 FERC ¶ 61,252 at P 3).

ISO's variation from Order No. 2003's three-year suspension period standard to implement reformed suspension provisions under which suspensions are only allowed in the event of *force majeure*. SPP states that its proposed suspension provisions are more lenient to developers than the suspension provisions accepted in the Midwest ISO Order.

77. SPP also states that contrary to Novus' argument, restricting the ability to suspend construction of shared network upgrades will not result in replacement of the projects that are farthest along with lesser-developed ones.<sup>108</sup> Rather, SPP argues, its suspension provisions will ensure that upgrades are constructed, thereby eliminating the uncertainty and delay to lower-queued projects inherent in such suspensions. SPP adds that suspension of construction for shared upgrades can increase delays in the interconnection process by causing endless cycles of restudies that must be restarted each time a higher-queued project goes into suspension or comes out of suspension. SPP states that it modified its suspension provisions so that "once a customer executes an interconnection agreement, the [shared] network upgrades will be built."<sup>109</sup> SPP states that Novus' argument that SPP should permit the lower-queued customer to accelerate its project and construct upgrades in the event of suspension of a higher-queued project is a non-issue because, to the extent the upgrades at issue are shared network upgrades, they cannot be suspended. Moreover, to the extent that the upgrades at issue are not shared network upgrades, SPP asserts that section 12.2.2 of the existing interconnection procedures provides for advance construction of network upgrades that another entity is obliged to construct.<sup>110</sup>

78. SPP also argues that contrary to Novus' and E.ON's objections, the additional security required if a project suspends upgrade construction six months after the effective date of the interconnection agreement provides an incentive for generation projects to be completed in a timely manner. SPP states that the "greater of" approach was designed to deter interconnection customers from choosing a place on the transmission system that has available interconnection while intending to suspend immediately and indefinitely,

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<sup>108</sup> *Id.* at 15.

<sup>109</sup> *Id.* at 16 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 109).

<sup>110</sup> Section 12.2.2 allows an interconnection customer to pay for network upgrade costs that another entity is obligated to build. SPP will refund to the customer expediting costs and the cost of network upgrades, in accordance with Article 11.4 of the *pro forma* interconnection agreement. The entity with the contractual obligation to construct the network upgrades would then be obligated to pay only that portion of the costs of the network upgrades that SPP has not refunded to the customer. *See* SPP OATT, Attachment V, section 12.2.2.

thereby keeping lower-queued customers from using the available capacity. SPP adds that Novus' claim that additional security requirements would strand the security years before most customers in the cluster could install their projects is misplaced because the revised security deposits should deter such speculative projects and "will not allow [an interconnection customer] to avoid paying for network upgrades."<sup>111</sup>

79. SPP concludes that its proposal to reduce the eligible suspension period meets the independent entity variation standard as it is not unduly discriminatory as it treats all interconnection customers in the same manner and is less restrictive than the Midwest ISO's Commission-approved revised suspension rules.<sup>112</sup>

**d. Commission Determination**

80. For the reasons discussed below, we find that the proposed suspension provisions meet the independent entity variation standard.

81. Order No. 2003 provides that a generator can suspend its project for up to three years to provide generators with maximum reasonable flexibility to adjust to various business and other problems, thus encouraging new generation.<sup>113</sup> However, in the SPP region, as discussed above, the number of pending interconnection requests in the queue is at an all-time high, and the high volume of requests has made it impossible for SPP effectively to manage the queue and efficiently study the requests under the current serial approach.<sup>114</sup> Under these circumstances, we find reasonable SPP's proposed suspension provisions, which limit the circumstances under which suspensions may occur, reduce the time period for which a suspension may last, and require security based on the size of the suspending project to mitigate the effect on lower-queued projects.<sup>115</sup> Further, we find the proposed suspension provisions to be consistent with the independent entity variation standard as they are not unduly discriminatory and treat all interconnection customers in the same manner. SPP has struck a reasonable balance between allowing interconnection

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<sup>111</sup> SPP Answer at 20 n.56 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 109).

<sup>112</sup> *Id.* at 14.

<sup>113</sup> Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 177.

<sup>114</sup> *See supra* P 7.

<sup>115</sup> *See* Midwest ISO Order, 124 FERC ¶ 61,183 at P 109-111 (accepting revised suspension provisions allowing suspensions only in the event of *force majeure*, reducing the maximum suspension period from three years to nine months, and requiring security).

customers flexibility and providing for conditions to prevent projects from causing significant delay. We find that these stricter suspension provisions will encourage customers to complete generation projects in a timely manner while reducing uncertainty and delay for lower-queued projects.

82. Further, we find it unnecessary for SPP to clarify further whether projects that are exempt from paying security under Appendix 6, Article 5.16.1 of proposed Attachment V are subject to the reduced 18-month suspension period under Article 5.16.1.<sup>116</sup> Article 5.16.1 provides the conditions under which suspensions are permitted, provides for an 18-month maximum duration for such suspensions, and lists the security required as a result of a suspension. Article 5.16.2 lists the circumstances under which security, as required under Article 5.16.1, will not be required. Nothing in Article 5.16 provides that a suspension, whether subject to a payment of security or not, will be subject to a maximum duration other than the 18 months provided under Article 5.16.1.

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<sup>116</sup> Proposed Attachment V, Appendix 6, Article 5.16 (Suspension) provides, in pertinent part:

5.16.1 Interconnection Customer, upon written notice to Transmission Provider and Transmission Owner, may suspend, for a period not to exceed 18 months, work by Transmission Owner associated with the construction and installation of Transmission Owner's Interconnection Facilities and/or Network Upgrades required under this [interconnection agreement] under the following terms and conditions,

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- i. If the suspension period begins later than or extends beyond six months following the Effective Date of the [interconnection agreement], the Interconnection Customer shall provide to the Transmission Provider security in the form described under Article 11.5 in an amount equal to the greater of:

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5.16.2 Exemptions. The Interconnection Customer shall be exempt from the payments described under Article 5.16.1.ii.b, 5.16.1.ii.c, and 5.16.1.ii.d if the following occurs or Suspension is requested for the following reasons:

83. We decline to require SPP to institute a process for allowing lower-queued customers to move ahead of a suspended project in lieu of more stringent suspension rules. In addition to section 12.2.2 in Attachment V of the SPP OATT, we note that an interconnection customer may also use the capacity that has been earmarked for a higher-queued interconnection customer that has suspended its project.<sup>117</sup> However, while this provision may facilitate access by lower-queued generators to capacity earmarked for higher-queued suspended generators on a temporary basis, it will not resolve the uncertainty suspension creates for lower-queued generators. Therefore, we will approve SPP's proposed suspension provisions under the independent entity variation standard. However, to monitor the effectiveness of these suspension procedures we will require SPP to submit reports, as discussed later in this order.

#### **4. Transitional Process**

##### **a. Proposal**

84. SPP proposes a transition plan that it states is similar to the one accepted by the Commission for the Midwest ISO's reformed interconnection procedures in the Midwest ISO Order.<sup>118</sup> SPP states it designed its transitional process to move pending projects in earlier study stages into the new procedures as rapidly as possible to process the queue backlog more quickly while minimizing disruption to pending requests in later stages of the process.<sup>119</sup>

85. SPP proposes the following transitional process: (1) interconnection customers with interconnection agreements that have been submitted to the Commission as of the effective date of the reformed interconnection procedures will not be subject to the reformed procedures, (2) interconnection requests that have executed facilities study agreements as of the effective date of the reformed interconnection procedures will not be required to meet the new procedures except for the new suspension provisions, and (3) interconnection requests that do not have executed facilities study agreements as of the effective date of the reformed interconnection procedures will be subject to the new procedures.<sup>120</sup>

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<sup>117</sup> See Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 318.

<sup>118</sup> SPP Transmittal Letter at 26 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 84, 90).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at 26-28.

86. Customers who have interconnection requests that are subject to the reformed procedures (i.e., requests that do not have executed facilities study agreements as of the June 2, 2009 proposed effective date of the reformed interconnection procedures) will have 60 days to conform to the new procedures, including meeting new deposit and data requirements. SPP states that failure to conform to these new procedures will result in the withdrawal of the request. SPP also states that interconnection requests in the two transitional clusters established under Docket No. ER09-262-000 will continue to be studied in these clusters and will be required to transition to the new procedures. To transition to the definitive queue, customers with interconnection requests that are subject to the new procedures are required to tender a \$100,000 deposit, which is the difference between the \$150,000 study deposit required for inclusion in the definitive queue and the deposit already paid under the current interconnection procedures. SPP states that this requirement also applies even if an interconnection customer obtains an executed facilities study agreement during the 60-day transition period (i.e., June 2, 2009 through August 1, 2009). SPP states that interconnection requests that have executed system impact study agreements that are not in the two existing transitional clusters will be grouped into new cluster windows for each queue (feasibility, preliminary, and definitive) that close on the effective date of the reformed interconnection procedures. SPP states that if any of the new transitional clusters resulting from this process exceed 15,000 MW, it will divide the studies into smaller clusters.<sup>121</sup>

87. SPP also requests that the Commission extend the waiver for the two existing transitional study clusters accepted by the Commission in Docket No. ER09-262-000 until SPP completes these clustered studies.<sup>122</sup>

**b. Protests**

88. Novus asserts that it is unjust, unreasonable, and inconsistent with the independent entity variation standard to transition projects that already have executed facilities study agreements to the new procedures. Novus also states that according to SPP's published milestones, interconnection customers in the first transitional cluster will be eligible to sign a facilities study agreement prior to the resolution of the instant proceeding. Novus states that all of these interconnection customers entered into the process, in good faith, with the anticipation of using the current interconnection procedures. Thus, because the

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<sup>121</sup> *Id.* at 27-28.

<sup>122</sup> Waiver Order, 126 FERC ¶ 61,012.

proposed reformed interconnection procedures fundamentally change the interconnection process, the proposed tariff provisions should be implemented on a prospective basis.<sup>123</sup>

89. Specifically, Novus argues that interconnection requests with executed facilities study agreements should not be subject to the proposed suspension provisions, and projects in the transitional clusters should not be subject to the proposed interconnection procedures. Novus states that it seems illogical to require interconnection requests currently in the system impact study phase to undergo another system impact study.<sup>124</sup>

90. In addition, Novus requests that the Commission direct SPP to revise its proposal to allow interconnection customers in a transitional cluster to exit the cluster and continue the interconnection process on an individual basis. Novus asserts that these customers are being penalized for the timing of their requests, and SPP must permit these customers the right to individual study—without losing deposits and payments made for cluster-related studies—to prevent discriminatory results.<sup>125</sup>

91. RES Americas asserts that the transitional procedures should be revised to provide customers waiting for system impact studies under SPP's current interconnection procedures the option of withdrawing their interconnection requests with full refund of their initial deposit. RES Americas states that these customers paid their deposits anticipating a final system impact study, and it is unfair to require these customers to pay additional deposits to begin a second system impact study, as required under section 5.1.2.<sup>126</sup>

92. RES Americas also states that under its proposal, SPP reserves the option of - dividing the transitional clusters it plans to form based on interconnection requests submitted before the effective date of the reformed interconnection procedures so no single cluster contains more than 15,000 MW. RES Americas states that proposed section 5.1.3 does not obligate SPP to increase the size of these clusters when feasible and that the Commission should require SPP to maximize the cluster study sizes, to the extent this remains manageable, including interconnection requests not included in the transitional time frame.<sup>127</sup>

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<sup>123</sup> Novus Protest at 7.

<sup>124</sup> *Id.* at 17-19.

<sup>125</sup> *Id.* at 21-22.

<sup>126</sup> RES Americas Protest at 6-7.

<sup>127</sup> *Id.* at 3-4.

c. Answer

93. SPP argues that despite Novus' arguments, its transition plan is appropriate. SPP states that its proposal to apply only the suspension provisions to projects that have executed facilities study agreements recognizes that these projects are in the later stage of the interconnection process. In addition, SPP asserts that applying the suspension provisions to these projects will ameliorate the negative effects if such projects later suspend construction of network upgrades. SPP states that such negative effects would be no less severe because the projects are further along in the interconnection process. SPP adds that this element of its proposal is fully consistent with the proposal accepted in the Midwest ISO order.<sup>128</sup>

94. SPP also contends that the Commission should similarly reject Novus' argument that customers who have executed system impact studies and whose projects are included in the transitional clusters should not be bound by the new procedures.<sup>129</sup> SPP states that the Commission has accepted transition procedures under which projects that have not started a facilities study were subjected to all of the new interconnection reform procedures.<sup>130</sup>

95. With regard to Novus' request that projects be allowed to opt out of the transitional clusters, retaining the benefits of studies performed individually, SPP states that doing so would permit certain projects to "queue jump" and to be treated preferentially. Moreover, SPP states that such an option would disrupt the main objective of the transitional clusters—i.e., to clear the backlog of interconnection requests as expeditiously as practicable.<sup>131</sup>

96. To address RES Americas' concern that customers waiting for a system impact study under SPP's current interconnection procedures should have the option of withdrawing their interconnection requests with full refunds of their initial deposit, SPP clarifies that, in the event that such an interconnection customer chooses to withdraw from the interconnection process, SPP intends to refund the customer's study deposits,

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<sup>128</sup> SPP Answer at 23 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 92).

<sup>129</sup> SPP notes that it posted the system impact study for the first transitional cluster on the SPP OASIS on July 1, 2009. *See id.* at 21 n.58.

<sup>130</sup> SPP Answer at 23 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 89).

<sup>131</sup> *Id.* at 24-25.

less any amounts that SPP has incurred in study or administrative costs associated with the interconnection customer's interconnection request.<sup>132</sup>

97. SPP states that the 15,000 MW size of each of the two transitional clusters was based on the interconnection requests pending in the SPP queue when those clusters were developed. However, going forward, 15,000 MW may not be the optimal size for efficiently studying interconnection requests. Therefore, SPP argues, RES Americas' request that SPP ensure future clusters include at least 15,000 MW should be denied.<sup>133</sup>

**d. Commission Determination**

98. We conditionally accept SPP's proposed transition plan under the independent entity variation standard. We find that the proposed transitional provisions, modified as discussed below, are just and reasonable, not unduly discriminatory, and accomplish the purposes of Order No. 2003 by facilitating timely and orderly processing of interconnection requests. We find SPP's proposal to exclude existing interconnection requests with interconnection agreements already filed with the Commission from application of the reformed interconnection procedures to be reasonable. We also find applying only the new suspension provisions to requests with executed facilities study agreements to be reasonable. These types of requests are in the later stages of the interconnection process;<sup>134</sup> thus, applying these reforms to such requests requires careful consideration, as customers who have late-stage requests may have taken action in reliance upon existing procedures.<sup>135</sup> As we found in the Midwest ISO Order, requiring customers with executed facilities study agreements to meet only the new suspension provisions provides a reasonable distinction between early and late stage interconnection requests while discouraging extended periods of suspension.<sup>136</sup> In that case, the Midwest ISO's proposed effective date was 60 days after the submittal of its application, which afforded interconnection customers the time to plan for the transition to the new procedures.

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<sup>132</sup> *Id.* at 30.

<sup>133</sup> *Id.* at 22.

<sup>134</sup> See Midwest ISO Order, 124 FERC ¶ 61,183 at P 89 (finding that starting a facilities study is a reasonable distinction between early and late stage interconnection requests).

<sup>135</sup> See Conference Order, 122 FERC ¶ 61,252 at P 19.

<sup>136</sup> Midwest ISO Order, 124 FERC ¶ 61,183 at P 90.

99. We also find reasonable SPP's proposal to subject to the reformed interconnection procedures requests that do not have executed facilities study agreements. Any burden on interconnection customers who have these early-stage requests should not be significant and should be outweighed by the shorter processing time and expected reduction in the queue backlog as SPP implements the proposed "first ready, first served" approach.

100. However, due to SPP's proposed June 2, 2009 effective date, we find that two modifications are required. First, we are concerned that requests in the first transitional cluster,<sup>137</sup> as well as other later-stage requests, may have executed facilities study agreements prior to the issuance of this order. However, under SPP's proposal, those interconnection requests, to the extent that their facilities study agreements were executed after June 2, 2009, appear to be subject to all of the proposed interconnection reforms. We agree with Novus that it is illogical to require customers in the first transitional cluster, as well as other customers who are likely to have executed facilities study agreements when the new procedures become effective, to undergo an additional system impact study or to meet the new milestones. Most of these customers will be ready to proceed to the facilities study, a later stage in the interconnection process.<sup>138</sup> Accordingly, we direct SPP to revise its proposal to provide that any transmission customer that has executed a facilities study agreement by August 1, 2009 (i.e., the close of the proposed window for customers to transition to the new procedures) be made subject only to the new suspension provisions.<sup>139</sup>

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<sup>137</sup> As noted above, SPP confirmed that it posted the results of the system impact study for the first transitional cluster on its OASIS on July 1, 2009. *See* SPP Answer at 21 n.58.

<sup>138</sup> This issue does not apply to the second transitional cluster described in Docket No. ER09-262-000, as these are early-stage interconnection requests that do not have a completed system impact study.

<sup>139</sup> In its waiver request in Docket No. ER09-262-000, SPP indicated that it planned to extend its new suspension provisions to interconnection requests with executed facilities study agreements. *See* SPP Waiver Request at 17 in Docket No. ER09-262-000 (citing Midwest ISO Order, 124 FERC ¶ 61,183 at P 90). Because SPP gave interconnection customers in the transitional clusters fair warning that they may be subject to new interconnection procedures, SPP's transition plan is reasonable and generally follows the same transition plan the Commission accepted for the Midwest ISO.

101. Second, we are concerned that interconnection customers will not have the information they need to make informed decisions regarding how to proceed under the new interconnection procedures due to the timing of the proposed 60-day transition window and the proposed effective date of new procedures. As proposed, those interconnection customers who will be subject to any or all of the reformed procedures have 60 days from the effective date (i.e., from June 2, 2009 to August 1, 2009) to conform to these new procedures to avoid withdrawal of their interconnection requests. We find this transition period to be unreasonable because it does not provide customers sufficient time to evaluate the reformed interconnection procedures, as modified and accepted by the Commission in the instant order, so that they can determine whether to withdraw or move forward with their requests. Accordingly, we direct SPP to extend the transition window for another 60 days to allow interconnection customers time to make informed decisions.

102. Further, we find that SPP has addressed RES Americas' request for clarification that customers waiting for a system impact study under SPP's current interconnection procedures should have the option of withdrawing their interconnection requests with full refunds of their initial deposit. We decline Novus' request to allow current interconnection requests to withdraw from the transitional clusters for separate, individual study. We agree with SPP that this could disrupt the transitional study process already in progress. We also decline to require SPP to maximize the size of its transitional clusters or to ensure that these clusters are at least 15,000 MW in size. While SPP proposes to divide the pending interconnection requests that are not currently in one of the two existing transitional clusters into new clusters of 15,000 MW, we find that SPP should be allowed to size these new clusters based on an evaluation of the interconnection requests pending in its queue since we agree that 15,000 MW may not be the optimal size.

103. We will also extend the waiver for the two existing transitional study clusters accepted by the Commission in Docket No. ER09-262-000 until SPP completes these clustered studies.

104. Accordingly, we find that SPP's transition plan, as modified as discussed above, meets the requirements of the independent entity variation standard.

## **5. Effective Date**

### **a. Proposal**

105. SPP requests a waiver of the Commission's notice requirements to permit a June 2, 2009 effective date. SPP states there is good cause to grant waiver and the effective date, as it will allow expeditious implementation of the reformed interconnection procedures. SPP states this will result in more efficient processing of

interconnection requests and the current queue backlog and lessen the possibility of future backlogs.<sup>140</sup>

**b. Comments/Protest**

106. Acciona, E.ON, and Novus assert that SPP's proposal should not be granted a June 2, 2009 effective date. Acciona requests that the Commission delay the effective date by 90 days to allow projects with pending, unexecuted interconnection agreements to make final arrangements before the new procedures go into effect.<sup>141</sup> E.ON states that the reformed tariff revisions should become effective 60 days from the date of the Commission's order.<sup>142</sup> Novus states that, to the extent SPP needs waiver for the transitional clusters established in Docket No. ER09-262-000, the Commission should grant a further extension of time in that docket.<sup>143</sup>

107. Xcel supports acceptance of the proposed tariff revisions on the date requested.<sup>144</sup>

**c. Answer**

108. In response, SPP argues that a June 2, 2009 effective date will permit interconnection customers to benefit from the new procedures immediately, including the expedited definitive queue. SPP also argues that a June 2, 2009 effective date will help in clearing the pending backlog of requests by applying the new procedures to requests that are earlier in the process, thereby enabling SPP to efficiently process both new and pending requests.

**d. Commission Determination**

109. We agree with Acciona, E.ON, and Novus that SPP's proposed effective date is troublesome considering SPP's transition plan. However, because we have directed SPP to revise its proposal to subject all interconnection requests with executed facilities study agreements as of August 1, 2009 only to the suspension provisions and to extend the transition period for an additional 60 days for those customers who will be required to

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<sup>140</sup> SPP Transmittal Letter at 31.

<sup>141</sup> Acciona Comments at 6.

<sup>142</sup> E.ON Comments at 13.

<sup>143</sup> Novus Protest at 22-23.

<sup>144</sup> Xcel Comments at 2.

comply with some or all of the new interconnection procedures, a June 2, 2009 effective date is reasonable. Accordingly, we will grant waiver of notice requirements to allow a proposed effective date of June 2, 2009, in order to expedite the implementation of the new interconnection procedures.<sup>145</sup>

**6. Miscellaneous Issues**

**a. Interim Interconnection Service**

**i. Protest**

110. CPV requests that the Commission direct SPP to file, within 30 days of the issuance of an order in this proceeding, a tariff amendment to offer interim interconnection service on a non-discriminatory basis. CPV notes that SPP's Regional Tariff Working Group is preparing *pro forma* interim interconnection procedures as well as an interconnection agreement. CPV sees a need for this service to be available before SPP finalizes and files these *pro forma* standards.<sup>146</sup>

**ii. Answer**

111. SPP responds that there is no need for it to file a tariff amendment to offer interim interconnection service because, as CPV acknowledges, the SPP stakeholders are preparing a *pro forma* interim interconnection procedures and interconnection agreement. SPP states that if its stakeholders and Board of Directors adopt the proposal, it anticipates filing tariff revisions to add the *pro forma* interim interconnection agreement to the SPP OATT in the Fall. SPP adds that until SPP's proposed tariff revisions for interim interconnection service are accepted by the Commission, SPP will provide interim interconnection service on a non-discriminatory basis to similarly situated interconnection customers under non-conforming agreements to be filed with the Commission.<sup>147</sup>

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<sup>145</sup> See *Central Hudson Gas & Elec. Corp., et al.*, 60 FERC ¶ 61,106 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>146</sup> CPV Protest at 5. As noted by CPV, interim interconnection service allows interconnection customers that have projects ready to go into service prior to completion of the study process to interconnect to obtain interconnection service and inject power into the transmission system on an interim basis, provided there is sufficient stability and reliability margin on the system.

<sup>147</sup> See SPP Answer at 28. SPP states that it filed one such non-conforming agreement on June 29, 2009 in Docket No. ER09-1370-000.

**iii. Commission Determination**

112. We decline to require SPP to include a tariff amendment to offer interim interconnection service, as SPP is currently working with its stakeholders to develop such an amendment. Accordingly, we deny CPV's request as beyond the scope of the instant proceeding.

**b. Refunds for Investment in Network Upgrades**

**i. Comments**

113. American Wind requests that the Commission require SPP to clarify that if a generator facility fails to achieve commercial operation but funds network upgrades, it will be entitled to a refund for its investment when another facility makes use of the upgrades. American Wind states this could take the form of a direct refund, transferable credits, or some other mechanism. American Wind states the absence of this provision is contrary to Order No. 2003.<sup>148</sup>

114. E.ON also states that SPP should issue refunds, proposing the following two alternatives: (1) the transmission owner should reimburse a withdrawn customer once construction of an upgrade is complete, or (2) subsequent clustered projects that benefit from upgrades may reimburse the withdrawn customer once they begin commercial operations. E.ON notes that the latter proposal will prevent delays while properly reimbursing a withdrawn customer for funding network upgrades.<sup>149</sup>

**ii. Answer**

115. SPP answers that no tariff amendments are needed to address American Wind's concerns because section 11.4.1 of SPP's existing interconnection procedures already provides for credits for amounts advanced for network upgrades. SPP adds that credits provided in Attachments Z1 and Z2 address E.ON's concern regarding reimbursement to the interconnection customer if the customer terminates its interconnection agreement after suspending construction.<sup>150</sup>

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<sup>148</sup> American Wind Comments at 8-9 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 731).

<sup>149</sup> E.ON Comments at 9-10.

<sup>150</sup> SPP Answer at 12-13.

**iii. Commission Determination**

116. We accept SPP's clarification on how it will compensate interconnection customers that fail to achieve commercial operation for costs incurred during construction of network upgrades. SPP states that its current OATT provisions provide for credits for amounts advanced for upgrades. Accordingly, we find the alternative compensation schemes proposed by American Wind and E.ON to be unnecessary.

**c. Large Generator Interconnection Agreement**

**i. Comments**

117. American Wind requests that the Commission require SPP to clarify how the costs of shared upgrades resulting from clustered studies will be included in contractual agreements, as well as provide any necessary changes to its interconnection agreement. Without this clarification, American Wind states that SPP may have to require the first party in the queue to provide the upfront funding for the full cost of an upgrade. American Wind further notes that the Midwest ISO is currently developing a multi-party facilities construction agreement to allow multiple interconnection customers to jointly fund upgrades.<sup>151</sup>

**ii. Answer**

118. In response, SPP states that all shared upgrades for which an interconnection customer will have responsibility and the interconnection customer's portion of the costs for such shared upgrades will be specified in Appendix A of the interconnection customer's interconnection agreement. SPP also states that when shared upgrades listed in the interconnection agreement are to be constructed by a transmission owner other than the party to the interconnection agreement, such shared upgrades will be constructed pursuant to a Notice to Construct as specified in Attachment O of the SPP OATT.<sup>152</sup>

**iii. Commission Determination**

119. We accept SPP's clarification on how shared cost responsibility will be communicated in an interconnection customer's interconnection agreement. We find no reason to require SPP to make modifications to its interconnection agreement.

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<sup>151</sup> American Wind Comments at 8.

<sup>152</sup> SPP Answer at 30-31.

**d. Ongoing Demonstration of Site Control**

**i. Comments**

120. Acciona requests that the Commission modify the proposed definition of site control to allow for a showing of control of at least 50 percent of the land sufficient to effect a project at the facilities study stage and a showing of 100 percent site control at the time of an execution of an interconnection agreement.<sup>153</sup>

121. Section 11.3 of proposed Attachment V provides that the interconnection customer shall provide the transmission provider with reasonable evidence of continued site control or post an additional \$250,000 non-refundable security after receipt of the final interconnection agreement. E.ON states this provision appears to be redundant considering the multiple demonstrations of site control required earlier in the process. E.ON requests clarification from SPP for a better understanding of this provision.<sup>154</sup>

**ii. Answer**

122. SPP states that the requirement for continued demonstration of site control throughout the various stages of the interconnection process is in the Order No. 2003 *pro forma* interconnection procedures and in SPP's existing interconnection procedures.<sup>155</sup> SPP also states that demonstration of continued site control throughout the interconnection process is appropriate because it shows a project's continued commitment and ability to move forward to completion.<sup>156</sup>

**iii. Commission Determination**

123. We agree with SPP that a continued demonstration of site control is warranted and consistent with SPP's current interconnection procedures, as well as the *pro forma* procedures in Order No. 2003. Therefore, we find it unnecessary to direct SPP to modify the proposed definition of site control or to provide further clarification.

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<sup>153</sup> Acciona Comments at 7.

<sup>154</sup> E.ON Comments at 13.

<sup>155</sup> See SPP Answer at 8.

<sup>156</sup> SPP Answer at 8-9.

e. **Staffing and Internal Resources**

i. **Comments**

124. American Wind requests that the Commission encourage SPP to add resources—primarily through increasing staff—to process interconnection requests. American Wind also requests that SPP appoint an executive-level employee with full authority to oversee the process to ensure requests are processed in a timely fashion. American Wind asserts increasing resources is perhaps the most effective short-term solution to processing interconnection requests.<sup>157</sup>

ii. **Commission Determination**

125. We decline to require SPP to increase its internal resources, as SPP has indicated that it already has done so in order to expedite the processing of its queue backlog. We note that in its compliance filing in Docket No. ER09-262-002, SPP indicated it was hiring third-party consultants to help in the processing of its transitional clusters.<sup>158</sup>

f. **Requests for Reporting Requirements**

i. **Comments/Protest**

126. OG&E requests that the Commission require SPP to submit a report at the close of each study period to explain to the Commission and interested stakeholders: (1) the number of requests under consideration, (2) whether it met the tariff deadline to complete the study, and (3) if not, an explanation on why it surpassed the tariff deadline despite using Reasonable Efforts. OG&E states that despite current language in SPP's OATT calling for Reasonable Efforts to meet study deadlines, SPP's track record over the past two years has not been promising. OG&E states these reports may become the basis for future revisions, further noting that the Commission imposed similar notification requirements in Order No. 890.<sup>159</sup>

127. American Wind requests that the Commission consider requiring SPP to provide quarterly updates to the Commission on its progress in processing interconnection requests. American Wind suggests that if SPP is not meeting its deadlines, the

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<sup>157</sup> American Wind Comments at 4-5.

<sup>158</sup> SPP's February 9, 2009 Docket No. ER09-262-002 Compliance Filing at 5.

<sup>159</sup> OG&E Comments at 5 & n.7.

Commission should consider requiring SPP to file a mitigation plan detailing the methods it will use to expedite the processing of its interconnection queue.<sup>160</sup>

128. RES Americas also requests reporting requirements, asking that the Commission require SPP to file reports at the close of each cluster window and every 60 days thereafter, reporting on the status of the interconnection queue, whether it is meeting its tariff deadlines, and any proposed remedies for expediting the study process if tariff deadlines are not met.<sup>161</sup>

**ii. Answer**

129. SPP states that no new reporting requirements are needed. SPP argues that to add the burden of additional periodic reports adds additional costs and administrative burden without a demonstrated need. SPP adds that the SPP OATT already has a mechanism for interconnection customers to be informed regarding any delays in the interconnection studies affecting their interconnection requests.<sup>162</sup>

**iii. Commission Determination**

130. We find that a reporting requirement is warranted to monitor the effectiveness of the reformed interconnection procedures.<sup>163</sup> SPP has proposed reforms to its interconnection procedures that should offer a significant step toward expediting the processing of interconnection requests. However, the Commission, as well as SPP's customers and interested stakeholders should be able to evaluate SPP's progress. Therefore, we will require SPP to submit periodic reports to provide a tool for interconnection customers, the Commission, and SPP stakeholders to monitor SPP's progress in processing its queue backlog, as well as to assess the effectiveness of its new interconnection procedures. We direct SPP to file annual reports on the status of its interconnection queue for three years starting in July 2010, consistent with the

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<sup>160</sup> American Wind Comments at 6.

<sup>161</sup> RES Americas Protest at 5-6.

<sup>162</sup> SPP Answer at 5-6. If SPP is unable to complete a study within the specified time frame, it must notify the interconnection customer and provide an estimated completion date with an explanation of the reasons why it needs additional time to complete the study. *See* SPP OATT, proposed Attachment V, sections 6.3, 7.4, 8.9(b).

<sup>163</sup> *See Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at P 200-203 (2008) (requiring quarterly reports); *Midwest ISO Order*, 124 FERC ¶61,183 at P 164 (requiring annual reports).

Commission's reporting requirement in the Midwest ISO Order. We believe an annual reporting requirement will provide valuable information to the Commission and to stakeholders on SPP's progress in processing its queue with minimum administrative burden on SPP.

131. SPP is directed to submit in July 2010, July 2011, and July 2012, informational reports on its experience under its reformed interconnection procedures, as well as on the status of its interconnection queues.<sup>164</sup> SPP should provide information on the number of requests in each of its interconnection queues, the number of requests it has completed, whether it is meeting the study time frames in its reformed interconnection procedures, and if not, what factors are affecting its ability to complete studies in a timely manner. SPP should also explain how the three queues are functioning and how increased deposit and project readiness milestones have or have not deterred speculative projects from entering later study phases. SPP should also provide an analysis contrasting the number of suspensions under the current and the reformed interconnection procedures, as well as the number of restudies performed before and after implementation of the reforms. In its first annual report, SPP should update the Commission on the implementation of its transition plan. SPP should also include discussion on whether further reforms are needed based on its experiences, and if it deems further reform to be necessary, it should indicate what steps SPP and its stakeholders are taking and when SPP anticipates making filings to implement such reforms.

**g. Transmission Investment**

**i. Comments**

132. American Wind requests that the Commission act to ensure that the transmission grid is expanded to accommodate growing demand for generation, including demand for renewable resources.<sup>165</sup> While queue reform is important, American Wind asserts that the critical issue impeding development of generation resources is the lack of sufficient investment in transmission.<sup>166</sup> Xcel also requests that SPP and the Commission maintain a focus on efficiently expanding the transmission system for economic and reliability needs.<sup>167</sup> E.ON also states that such focus is necessary.<sup>168</sup> Novus notes that, in this

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<sup>164</sup> SPP must simultaneously post the report on a prominent place on its website. The report will be submitted to the Commission for informational purposes only.

<sup>165</sup> American Wind Comments at 4.

<sup>166</sup> *Id.* at 3-4.

<sup>167</sup> Xcel Comments at 9.

filing, SPP ignored the role other initiatives currently underway at SPP will play in implementing transmission upgrades.<sup>169</sup>

**ii. Commission Determination**

133. We agree that one of the most significant barriers to the interconnection of new generation, particularly renewable generation, is the problem of inadequate transmission capacity. The Commission remains interested in and is examining the adequacy of transmission planning processes. We believe that the improved transmission planning required under Order No. 890 will alleviate this problem, in addition to increasing the transparency of the transmission planning process and coordination amongst transmission owners. We note that the Commission recently held what is expected to be the first in a series of technical conferences seeking information on the challenges posed by integration of large amounts of variable renewable generation into wholesale markets and grids as well as on innovative solutions to these challenges.<sup>170</sup> In addition, we expect to convene a series of regional public technical conferences later this year to determine the progress and benefits realized by each transmission provider's Order No. 890 Attachment K transmission planning process, to obtain customer and other stakeholder input, and to discuss any areas that may need improvement. We also plan to examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates. Further, we plan to explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of interregional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources. The improvements resulting from the implementation of Order No. 890 should also lead to an easier interconnection process. These ongoing reforms, coupled with the reforms in the instant proceeding to facilitate a functioning queue process, should result in a more robust, reliable transmission system able to more easily interconnect new generation.

The Commission orders:

(A) SPP's tariff sheets are hereby conditionally accepted, effective June 2, 2009, as discussed in the body of this order.

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<sup>168</sup> E.ON Comments at 14.

<sup>169</sup> Novus Protest at 2.

<sup>170</sup> March 2, 2009 Technical Conference on Integrating Renewable Resources Into the Wholesale Electric Grid, Docket No. AD09-4-000.

(B) SPP is hereby directed to make a compliance filing within 30 days of the date of issuance of this order modifying its proposed tariff revisions as discussed in the body of this order.

(C) SPP is hereby directed to submit three annual reports for informational purposes, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.