

129 FERC ¶ 61,122  
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. ER09-1714-000

ORDER ACCEPTING LARGE GENERATOR INTERCONNECTION AGREEMENT

(Issued November 16, 2009)

1. On September 16, 2009, Southwest Power Pool, Inc. (SPP) submitted an executed Large Generator Interconnection Agreement among SPP as the Transmission Provider, Public Service Company of Oklahoma (PSCO) as the Transmission Owner, and Elk City Wind, LLC (Elk City) as the Interconnection Customer (Elk City Interconnection Agreement).<sup>1</sup> The Commission accepts the Elk City Interconnection Agreement for filing effective August 17, 2009, as requested.

**I. Background**

2. SPP is a Commission-approved regional transmission organization. SPP administers transmission service over portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. PSCO is a subsidiary of American Electric Power Service Corporation (AEP) and a transmission, generation and distribution owning member of SPP.

3. On June 1, 2009, SPP submitted revisions to its open access transmission tariff (OATT) to reform its Large Generator Interconnection Procedures and associated provisions of its *pro forma* Large Generator Interconnection Agreement. In an order issued on July 31, 2009,<sup>2</sup> the Commission accepted SPP's filing, subject to conditions. As relevant here, the Commission directed SPP to revise its proposal to provide that any

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<sup>1</sup> Designated in SPP's OATT as Original Service Agreement Number 1844, FERC Electric Tariff, Fifth Revised Volume 1.

<sup>2</sup> *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,114 (2009) (Queue Reform Order).

customer that had executed a feasibility study agreement by August 1, 2009 be made subject only to SPP's new suspension provisions.<sup>3</sup>

## II. SPP's Filing

4. SPP states that the Elk City Interconnection Agreement provides for interconnection of Elk City's 98.9 MW generation facility, which will consist of 43 Siemens 2.3 MW wind turbines, to PSCO's new Sweetwater 230 kV substation. SPP also states that a facilities study agreement for the Elk City Interconnection Agreement was executed on November 30, 2007; thus the Elk City Interconnection Agreement is based on SPP's pre-Queue Reform Order *pro forma* Large Generator Interconnection Agreement, with suspension provisions from the post-Queue Reform Order *pro forma* Large Generator Interconnection Agreement.

5. SPP states that the Elk City Interconnection Agreement contains provisions that do not completely conform to the pre-Queue Reform Order *pro forma* Large Generator Interconnection Agreement. SPP states that many of the non-conforming provisions in the Elk City Interconnection Agreement are similar to those in an interconnection agreement accepted for Dempsey Ridge Wind Farm, LLC (Dempsey Ridge). SPP adds that many of the non-conforming provisions of the Appendices of the Elk City Interconnection Agreement are the same as provisions in other interconnection agreements accepted by the Commission.<sup>4</sup>

6. Additionally, SPP states that Appendix A includes non-conforming provisions to account for GEN-2006-002 and GEN-2006-035,<sup>5</sup> two higher queued interconnection projects, that will affect Elk City's construction responsibilities, the network upgrades required to interconnect Elk City's facility, and Elk City's cost responsibility for these network upgrades. SPP states that all three generating facilities intend to interconnect at the same location, the Sweetwater Substation.<sup>6</sup> SPP states that the highest queued

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<sup>3</sup> *Id.* at P 100.

<sup>4</sup> SPP Filing at 4 (citing *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,116 (2009); *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,022 (2009)).

<sup>5</sup> GEN-2006-035 is the interconnection request submitted by Dempsey Ridge. An interconnection agreement among SPP, PSCO, and Dempsey Ridge was accepted for filing by delegated letter order on July 22, 2009. *See Southwest Power Pool, Inc.*, Docket No. ER09-1234-000 (July 22, 2009) (unpublished letter order). We will refer to that agreement as the "Dempsey Ridge Interconnection Agreement."

<sup>6</sup> SPP Filing at 5.

interconnection request, GEN-2006-002, is assigned cost responsibility for the initial construction of the Sweetwater Substation, but has suspended construction of the upgrades. SPP states that GEN-2006-035, the next highest interconnection request, has elected the option to build with regard to the Sweetwater Substation but has requested a delay in its in-service date.<sup>7</sup>

7. SPP states that because GEN-2006-002, GEN-2006-035 and Elk City are interconnecting at the same substation, if GEN-2006-002 and/or GEN-2006-035 drop out of the queue, Elk City will have different cost and construction responsibilities for upgrades required for its interconnection. For this reason, SPP adds provisions to section 2 of Appendix A specifying Elk City's financial responsibilities for stand-alone network upgrades and network upgrades if GEN-2006-002 and GEN-2006-035 remain in the interconnection queue or withdraw from the queue. SPP states that these additional provisions are necessary due to the nature of Elk City's interconnection request—the higher queued projects will be responsible for cost and construction of network upgrades if they remain in the queue, and Elk City will be responsible for the cost and construction of network upgrades if the higher queued projects drop out of the queue.<sup>8</sup> SPP states that these provisions are consistent with Commission precedent, which assigns to the interconnection customer the cost of network upgrades needed to accommodate its interconnection request.<sup>9</sup>

8. The Elk City Interconnection Agreement, under Article 2.2, provides for a thirty-year term of service rather than a ten-year term as provided under the SPP *pro forma* Large Generator Interconnection Agreement. SPP requests waiver of the 60-day notice requirement for an effective date of August 17, 2009. SPP states that waiver is appropriate because its filing is made no later than 30 days after the requested effective date.

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

9. Notice of SPP's filing was published in the *Federal Register*, 74 Fed. Reg. 49372 (2009), with interventions and protests due on or before October 7, 2009. Dempsey Ridge filed a motion to intervene and comments. AEP filed a motion to intervene and

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<sup>7</sup> *See id.*

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

<sup>9</sup> *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,085, at P 37 (2004)).

comments, and an answer. On November 4, 2009 Dempsey Ridge filed an answer. SPP filed answers on October 22, 2009 and November 13, 2009.<sup>10</sup>

#### **IV. Summary of Pleadings**

##### **A. Point of Interconnection**

##### **1. Comments**

10. Dempsey Ridge states that it does not generally oppose SPP's filing but is concerned about the point of interconnection described in the Elk City Interconnection Agreement.<sup>11</sup> Dempsey Ridge states that SPP's filing refers to the Sweetwater Substation as the point of interconnection but the precise location of the Sweetwater Substation is undefined. Dempsey Ridge states that the Dempsey Ridge Interconnection Agreement makes no reference to a "Sweetwater Substation" but includes a diagram of the specific location of the point of interconnection. Dempsey Ridge adds that in discussions with Dempsey Ridge, PSCO has described the 230 kV substation as the "Beckham Substation." Further, Dempsey Ridge states, it is required to provide approximately 10 acres of property for the new 230 kV substation, an option for which it is required and prepared to assign to Elk City. Dempsey Ridge requests that the Commission clarify that the point of interconnection designated in both agreements is the same.

##### **2. Answers**

##### **a. AEP**

11. AEP responds that the Sweetwater Substation is not at the same location described in the Dempsey Ridge Interconnection Agreement. According to AEP, it is unusual for interconnection agreements to contain specific locations of new stations required for interconnection. AEP states that station locations are typically not determined until after an interconnection agreement is executed and the interconnection customer authorizes construction of network upgrades. AEP avers that PSCO only agreed to allow the station site location to be identified with specificity in the Dempsey Ridge Interconnection Agreement because of the compressed schedule Dempsey Ridge initially proposed and because of Dempsey Ridge's insistence.

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<sup>10</sup> In its November 13, 2009 answer, SPP primarily restates the arguments it made in its October 22, 2009 answer.

<sup>11</sup> Dempsey Ridge Comments at 5.

12. Additionally, AEP states that while Dempsey Ridge has delayed its project, Elk City continues to move forward as quickly as possible. AEP notes that on April 16, 2009, Elk City authorized PSCO to complete the other network upgrades and Elk City began construction of the Sweetwater Substation on August 1, 2009.

**b. SPP**

13. SPP clarifies that the all three projects will interconnect in the new Sweetwater Substation. SPP states that, although the Sweetwater location and the location described in the Dempsey Ridge Interconnection Agreement are not the same geographically, they are electrically equivalent. However, SPP states, with the indefinite delay in construction of the Dempsey Ridge project, SPP and PSCO determined that the Sweetwater location is an appropriate site for interconnection of all three projects as well as possible future Extra High Voltage expansions. According to SPP, the Sweetwater location is less encumbered by pipelines and can be more easily expanded in the future than the location described in the Dempsey Ridge Interconnection Agreement. SPP adds that this site facilitates Elk City's timely construction of the substation, meeting Elk City's needs as the "first ready" project.<sup>12</sup>

14. SPP adds that all three projects are interconnecting with PSCO's portion of an existing 230 kV transmission line that runs from PSCO's Elk City substation near Elk City, Oklahoma due west to Xcel Energy's Grapevine substation south of Bowers, Texas. SPP states that the new Sweetwater Substation is located within one span of this transmission line, south of both the Dempsey Ridge and Elk City projects, and is only three miles west of the substation property identified in the Dempsey Ridge Interconnection Agreement. SPP states that the Sweetwater location will not materially affect the cost of the substation or the responsibility of the three projects for network upgrades. SPP adds that Dempsey Ridge's milestones have elapsed and Dempsey Ridge's option to build is no longer applicable. SPP states that if Dempsey Ridge decides to proceed, provisions of the Dempsey Ridge Interconnection Agreement will need to be revised, including provisions requiring Dempsey Ridge to provide property (given the existence of the Sweetwater Substation).<sup>13</sup> SPP notes that although Dempsey Ridge agreed to assign the option for the property if another interconnection customer requested advancement of its project, that other party has no obligation to accept the property.<sup>14</sup> SPP argues that the uncertain status of the Dempsey Ridge project should not determine

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<sup>12</sup> SPP Answer at 3.

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.* at 4 n.9.

the physical location of a network upgrade that will be used by Elk City, which is ready to proceed immediately.

**c. Dempsey Ridge**

15. Dempsey Ridge states that AEP's and SPP's answers confirm its concern that the Elk City Interconnection Agreement causes a unilateral, indirect modification to the Dempsey Ridge Interconnection Agreement.<sup>15</sup> Dempsey Ridge states that regardless of whether or not interconnection agreements rarely contain specific locations for new substations, the Dempsey Ridge Interconnection Agreement specifies the location for the new substation. Dempsey Ridge also states that it is true that Elk City is not obligated to accept assignment of Dempsey Ridge's option on the Beckham property—which Dempsey Ridge states is an option Dempsey Ridge executed on an expedited schedule, at its own expense and at SPP's specific request.<sup>16</sup> Dempsey Ridge argues, however, that AEP and SPP cannot abrogate a bilateral contract which has been accepted for filing by the Commission. Dempsey Ridge asserts that the Dempsey Ridge Interconnection Agreement can only be amended by mutual agreement of the parties and that it has not consented to anything other than what is in the filed Dempsey Ridge Interconnection Agreement.

16. Dempsey Ridge also asserts it has not suspended its project formally, and it does not intend an indefinite delay. Dempsey Ridge adds that there is nothing in the record showing that the Beckham site is unsuitable for interconnection of the Dempsey Ridge facility. Rather, Dempsey Ridge asserts, it would face substantial hurdles in interconnecting at Sweetwater—including traversing a competing wind farm developer's property—thus, diminishing the feasibility of obtaining rights-of-way to the Sweetwater location. Dempsey Ridge argues that requiring it to interconnect at the Sweetwater Substation would force Dempsey Ridge to bear cost responsibility for network upgrades at a different location than that required under the Dempsey Ridge Interconnection Agreement, although it may not be able to connect to the network upgrades at that different location.

**B. Responsibility for Cost of Network Upgrades**

**1. Comments**

17. Dempsey Ridge requests that the Commission clarify Dempsey Ridge's and Elk City's respective cost responsibilities given Elk City's requested advance in construction

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<sup>15</sup> Dempsey Ridge Answer at 4.

<sup>16</sup> *See id.*

pursuant to section 12.2.2 of the SPP *pro forma* Large Generator Interconnection Procedures. Dempsey Ridge notes that because Elk City's in-service date is expected to be earlier than Dempsey Ridge's in-service date, Elk City is likely to be required to provide the upfront funding for the network upgrades and would receive corresponding revenue credits from SPP in accordance with Article 11.4 of the SPP *pro forma* Large Generator Interconnection Agreement. Dempsey Ridge states that in such event, Elk City would be made whole via crediting despite the cost responsibility allocations under section 2(a)(i) and (ii) of Appendix A of the Elk City Interconnection Agreement. Dempsey Ridge requests that the Commission clarify that Elk City may retain its entire credit allotment if it funds the advance construction of network upgrades, and, in that case, Dempsey Ridge's cost responsibility and corresponding right to credits would be zero. If the Commission does not make this clarification, Dempsey Ridge requests that the Commission should find that if Dempsey Ridge pays the portion of costs of the substation and related network upgrades not refunded to Elk City, then Dempsey Ridge will be entitled to a revenue credit of its upfront payment.

**2. Answers**

**a. AEP**

18. AEP explains the interconnection procedures as follows: Generator A is first in the queue and Generator B is second. However, Generator B proceeds faster than Generator A and interconnects first. Generator B would be obligated to provide funding for all network upgrades and stand-alone network upgrades. Once Generator B achieves commercial operation, Generator B would be eligible for credits for the amount of network upgrades it funded. When Generator A is ready to interconnect, the cost responsibility is adjusted to where it would have been had the two generators interconnected in queue order (i.e., Generator A first, then Generator B). Generator A would fund the cost of the network upgrades and the stand-alone network upgrades that Generator B funded less any amount already credited back to Generator B. AEP states that after this adjustment, Generator B would have effectively funded only the cost of one additional terminal, as would have been the case had the parties interconnected in queue order.<sup>17</sup>

**b. SPP**

19. SPP states that because GEN-2006-002 suspended construction of network upgrades, the SPP Large Generator Interconnection Procedures provide that Dempsey Ridge would be responsible for the costs of the substation until GEN-2006-002 requests commencement of construction of the substation or withdraws from the queue. SPP

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<sup>17</sup> See AEP Answer at 3-4.

also explains that Dempsey Ridge requested to advance construction of the substation but subsequently delayed such construction. SPP asserts that, because Elk City also requested advancement of construction, Elk City will pay any associated expediting costs and the cost of the substation, and will be entitled to credits pursuant to Attachments Z1 and Z2 of the SPP OATT.<sup>18</sup>

20. SPP asserts that, to the extent Elk City is not credited the full costs of the substation and Dempsey Ridge proceeds, Dempsey Ridge would be responsible for the un-refunded costs due on the date that such payment would have been due had there been no request to advance construction.<sup>19</sup> SPP also states that, only if Elk City is credited the entire amount of the costs of the substation by the time that Dempsey Ridge would be required to pay for the network upgrades as prescribed in section 12.2.2 would Dempsey Ridge be relieved of all cost responsibility for the substation. SPP also clarifies that to the extent Dempsey Ridge will have cost responsibility for the substation, Dempsey Ridge, like Elk City, will be entitled to transmission credits. SPP notes that if GEN-2006-002 comes out of suspension and proceeds to commercial operation, Dempsey Ridge will be responsible only for the costs of one additional terminal position at the Sweetwater Substation, and GEN-2006-002 will have cost responsibility for the substation.<sup>20</sup>

### **C. Construction of Terminals**

#### **1. Comments**

##### **a. AEP**

21. AEP states that Elk City has set an aggressive schedule to achieve commercial operation by December 15, 2009, and in order to achieve this date, Elk City took on the construction responsibility. AEP adds that PSCO's objective is to allow Elk City to proceed on schedule while maintaining flexibility to accommodate either or both of the other two requests when they are ready to proceed.

##### **b. Dempsey Ridge**

22. Dempsey Ridge requests that the Commission clarify Elk City's responsibility for construction of additional terminal positions. Dempsey Ridge states that section 2(a)(i)

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<sup>18</sup> See SPP Answer at 6 (citing SPP OATT, Attachment V, section 12.2.2; SPP OATT, Appendix 6, section 11.4).

<sup>19</sup> *Id.* at 7 (citing SPP OATT, Attachment V, section 12.2.2).

<sup>20</sup> *Id.* at 7 n.18.

of the Elk City Interconnection Agreement provides that if GEN-2006-002 and Dempsey Ridge withdraw from the queue, Elk City will be responsible for construction of the new substation and related network upgrades. However, if either of these projects remain in the queue, Elk City will be responsible only for the costs of constructing a new terminal at the substation. Dempsey Ridge states that under section 2(a)(i) of the Elk City Interconnection Agreement, Elk City will be obligated to include new terminals in the new 230 kV substation if either of the two other projects provides “authorization to proceed”<sup>21</sup> by August 1, 2009. Dempsey Ridge states that given that it was known when SPP submitted its filing that Dempsey Ridge did not provide authorization to proceed by August 1, 2009, that date is “unrealistic” to govern Elk City’s responsibility for construction of additional terminals. Dempsey Ridge requests that the Commission clarify that Elk City will be responsible for including additional terminal positions at the new substation.<sup>22</sup>

## 2. Answers

### a. AEP

23. AEP adds that, Dempsey Ridge, as the second customer in the queue behind suspended GEN-2006-002, will be responsible for funding a three-breaker station for interconnection plus the network upgrades less any credits that already have been returned to Elk City once Dempsey Ridge decides to proceed with its project.<sup>23</sup> AEP states that both Dempsey Ridge and Elk City will be eligible for credits for the applicable upgrades they have funded. AEP also states that PSCO will build a new terminal if Dempsey Ridge elects to interconnect at the Sweetwater Substation, and Dempsey Ridge will be eligible for credits for the amount it has funded.

### b. SPP

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<sup>21</sup> Section 5.6 of SPP's *pro forma* Large Generator Interconnection Agreement and the Elk City Interconnection Agreement specify conditions that must be met for construction of network upgrades to commence, including "Transmission Owner has received written authorization to proceed with construction from Interconnection Customer by the date specified in Appendix B, Milestones." *See* Elk City Interconnection Agreement, section 5.6. Thus, the authorization to proceed with construction is initiated by the interconnection customer and provided to the transmission owner prior to the commencement of construction of interconnection facilities.

<sup>22</sup> Dempsey Ridge Comments at 9.

<sup>23</sup> *See* AEP Answer at 4.

24. SPP states that extra terminal positions are only required if more than one project interconnects at the substation; however, because neither GEN-2006-002 nor Dempsey Ridge provided an authorization to proceed, it is uncertain whether those projects will ever come to fruition. SPP adds that in light of the uncertainty regarding the higher queued projects, the extra terminals were not included in the scope of work for the initial construction of the substation, as they may never be needed. SPP asserts that had Dempsey Ridge or GEN-2006-002 provided an authorization to proceed by August 1, 2009 or before the Elk City Interconnection Agreement was executed, it would have been clear that the projects are intending to move forward and extra terminals would be needed.<sup>24</sup>

## **V. Discussion**

### **A. Procedural Matters**

25. 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. 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 the answers filed by AEP, Dempsey Ridge, and SPP because they have provided information that assisted us in our decision-making process.

### **B. Substantive Matters**

26. As discussed below, we will accept the Elk City Interconnection Agreement for filing, effective August 17, 2009, as requested.

27. With regard to Dempsey Ridge's questions regarding cost responsibilities for network upgrades, AEP and SPP have explained the three projects' relative responsibilities in light of the suspension of GEN-2006-002, the delay in Dempsey Ridge's construction milestones, and Elk City's request to advance construction. Specifically, Dempsey Ridge requests that the Commission clarify that if Elk City funds the advance construction of network upgrades, then Dempsey Ridge's cost responsibility and corresponding right to credits would be zero. In the alternative, Dempsey Ridge requests that the Commission find that if Dempsey Ridge pays the portion of costs not refunded by SPP to Elk City, then Dempsey Ridge will be entitled to a revenue credit of its upfront payment. As SPP explains, Dempsey Ridge would be relieved of all cost responsibility for the substation only if Elk City is credited the entire amount of the costs of the substation by the time that Dempsey Ridge would be required to pay for the

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<sup>24</sup> SPP Answer at 8, 9.

network upgrades as prescribed in section 12.2.2 of the SPP *pro forma* Large Generator Interconnection Agreement.<sup>25</sup> Additionally, like Elk City, Dempsey Ridge would be eligible for revenue credits.

28. Further, the answers clarify that Elk City will not be responsible for including additional terminals at the new substation, because neither GEN-2006-02 nor Dempsey Ridge had provided an authorization to proceed by August 1, 2009. While we agree with Dempsey Ridge that August 1, 2009 (approximately six and a half weeks prior to SPP's filing) may not have been a realistic date for either of the two higher queued projects to provide an authorization to proceed, neither party has provided information as to when its project will resume. We also agree with AEP and SPP that the suspension and delay in the higher queued projects should not be allowed to impede Elk City, as the first-ready customer, in its progress toward a December 15, 2009 in-service date.

29. Finally, AEP and SPP clarify that all three projects are intended to interconnect at the new Sweetwater Substation. We understand that Dempsey Ridge is concerned about being able to interconnect at the Sweetwater Substation if and when it proceeds, because it has optioned property at a different location. However, issues concerning the point of interconnection specified in the Dempsey Ridge Interconnection Agreement are not properly before the Commission in this proceeding. Based on the record in this proceeding, we cannot find as Dempsey Ridge suggests, that the Elk City Interconnection Agreement causes a unilateral, indirect modification to the Dempsey Ridge Interconnection Agreement. If necessary, issues regarding any modifications to the Dempsey Ridge Interconnection Agreement would be best addressed in a separate proceeding. Furthermore, Dempsey Ridge's construction milestones have elapsed and its option to build is no longer applicable as Elk City is currently constructing the new substation. Accordingly, as SPP notes, if Dempsey Ridge decides to proceed, provisions of the Dempsey Ridge Interconnection Agreement may need to be revised.<sup>26</sup>

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<sup>25</sup> Section 12.2.2 of SPP's *pro forma* Large Generator Interconnection Procedures provides, in pertinent part:

Transmission Provider will refund to Interconnection Customer both the expediting costs and the cost of Network Upgrades, in accordance with Article 11.4 of the [Large Generator Interconnection Agreement]. Consequently, the entity with a contractual obligation to construct such Network Upgrades shall be obligated to pay only that portion of the costs of the Network Upgrades that Transmission Provider has not refunded to Interconnection Customer. Payment by that entity shall be due on the date that it would have been due had there been no request for advance construction.

<sup>26</sup> SPP Answer at 4.

30. Accordingly, we will accept the Elk City Interconnection Agreement for filing, effective August 17, 2009, as requested.<sup>27</sup>

The Commission orders:

The Elk City Interconnection Agreement is accepted for filing, effective August 17, 2009, as requested.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>27</sup> See *Central Hudson Gas & Elec. Corp., et al.*, 60 FERC ¶ 61,106 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).