

131 FERC ¶ 61,236  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
and John R. Norris.

Southwest Power Pool, Inc.

Docket Nos. ER10-941-000,  
ER10-941-001

ORDER CONDITIONALLY ACCEPTING AN EXECUTED AGREEMENT SUBJECT  
TO COMPLIANCE FILING

(Issued June 15, 2010)

1. On March 26, 2010, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Southwest Power Pool, Inc. (SPP) submitted an executed Letter Agreement regarding a Comprehensive Seams Agreement Between Entergy Services, Inc. (Entergy) and SPP, consisting of a Letter Agreement and two attachments. On April 16, 2010, also pursuant to FPA section 205, SPP submitted two additional attachments to the Letter Agreement. The Commission conditionally accepts SPP's March 26, 2010 and April 16, 2010 filings to be effective March 31, 2010, subject to SPP submitting a compliance filing within 30 days of the date of this order.

**I. Background**

2. In an order on rehearing in the Independent Coordinator of Transmission proposal proceeding, the Commission encouraged SPP and Entergy to negotiate and execute a seams agreement to enhance coordination between the two transmission systems.<sup>2</sup> On May 29, 2009, the Arkansas Public Service Commission (Arkansas Commission) directed SPP and Entergy to "redouble" their efforts to reach a seams agreement.<sup>3</sup>

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> *Entergy Services, Inc.*, 116 FERC ¶ 61,275, at P 73 (2006) (Entergy Rehearing Order).

<sup>3</sup> Order No. 10, Docket No. 08-136-U, at 19-20 (Arkansas Public Service Commission May 29, 2009).

On August 18, 2009, the Arkansas Commission ordered SPP and Entergy to pursue the seams agreement “aggressively and cooperatively” by a self-imposed deadline of the end of 2009 and to file monthly progress reports.<sup>4</sup> On February 11, 2010, the Arkansas Commission noted that SPP and Entergy had failed to complete a seams agreement by the end of 2009, and it ordered SPP and Entergy to “file a Seams Agreement reflecting whatever issues have been agreed upon” and to “provide a detailed status report regarding the process to date on all remaining issues and what needs to be done to complete work on these issues.”<sup>5</sup>

## **II. SPP’s March 26, 2010 Filing**

3. In the March 26, 2010 filing, SPP submitted a Letter Agreement adopting certain procedures and processes that SPP states will provide “comprehensive” coordination between the Entergy and SPP transmission systems. The Letter Agreement identifies four specific attachments: (1) Protocol Governing Coordination of Enhanced Regional Planning Activities, Study Coordination Activities, and Flowgate Financial Rights (Coordination Protocol); (2) Protocol Governing Coordination of AFC/TFC [Available Flowgate Capability/Total Flowgate Capability] Values (AFC/TFC Protocol); (3) Protocol Governing Allocation of Costs of Upgrades (Cost Allocation Protocol); and (4) Protocol Governing Data Exchange, Confidential Information, and Critical Energy Infrastructure Information (Information Protocol). In addition, the Letter Agreement provides that additional attachments may be developed, and they will be incorporated into the Letter Agreement as attachments when executed by the parties.<sup>6</sup>

4. In this filing, SPP submitted the executed Letter Agreement with two of the four specified protocols (the Coordination Protocol and the Information Protocol) attached. SPP states that the remaining two protocols are still being negotiated, but will be filed as soon as they are executed. The Letter Agreement acknowledges, as Exhibit 1, the existence and effectiveness of the Letter Agreement regarding Inter-regional Planning between Entergy and SPP that was executed on February 6, 2009 and filed by SPP as Rate Schedule No. 11.<sup>7</sup>

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<sup>4</sup> Order No. 15, Docket No. 08-136-U, at 1 (Arkansas Public Service Commission Aug. 18, 2009).

<sup>5</sup> Order No. 22 Docket No. 08-136-U, at 3 (Arkansas Public Service Commission Feb. 11, 2010).

<sup>6</sup> Letter Agreement at 1.

<sup>7</sup> SPP filed required modifications to Rate Schedule No. 11 in Docket No. ER09-

5. SPP asserts that the Letter Agreement and attached Protocols will allow SPP and Entergy to share information and coordinate their processes in a manner that will allow both systems to operate more efficiently. SPP further contends that after all the Protocols are finalized, “the quality and availability of transmission service across the Entergy/SPP seam will be further enhanced as the parties develop additional procedures to better coordinate operations of their respective systems.”<sup>8</sup>

### **III. SPP’s April 16, 2010 Filing Amendment**

6. In the April 16, 2010 filing, SPP submits the AFC/TFC Protocol and the Cost Allocation Protocol.

7. SPP contends that the quality and availability of transmission services across the Entergy/SPP seam will be enhanced as the parties implement the provisions contained in the Protocols.<sup>9</sup> SPP states that the filing reflects “the culmination of SPP and Entergy’s efforts to address seams issues previously identified by the Commission.”<sup>10</sup>

### **IV. Notice of Filings and Responsive Pleadings**

8. Notice of SPP’s March 26, 2010 filing was published in the *Federal Register*, 75 FR 29526 (2010)<sup>11</sup> with interventions or protests due on or before April 16, 2010. The following filed motions to intervene: Arkansas Commission; Cleco Power LLC; Westar Energy, Inc.; Cottonwood Energy Company LP; East Texas Electric Cooperative, Inc., Northeast Texas Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives). American Electric Power Service Corporation (AEP) and Arkansas Electric Cooperative Corporation (AECC) filed motions to intervene out of time. The Lafayette Utilities System (Lafayette) and the Empire District Electric Company (Empire) filed a joint motion to intervene and a reservation of rights. Union Power Partners, L.P. (Union Power) filed a motion to intervene and protest.

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659-002 on August 17, 2009, which are pending. Because Rate Schedule No. 11 is pending, SPP did not file it as Exhibit 1 in the March 26, 2010 filing.

<sup>8</sup> SPP March 26, 2010 Transmittal Letter at 3-4.

<sup>9</sup> SPP April 16, 2010 Transmittal Letter at 3.

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

<sup>11</sup> *Federal Register* notice document 75 FR 22771 (2010) is a correction to *Federal Register* notice document 75 FR 17704 (2010).

9. Notice of SPP's April 16, 2010 filing was published in the *Federal Register*, 75 FR 22771 (2010) with interventions or protests due on or before May 7, 2010. Union Power filed a protest.<sup>12</sup> Lafayette and Empire filed a joint protest and comments. East Texas Cooperatives filed comments. On May 26, 2010, AEP filed a motion for leave to file reply comments and comments.

## V. 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 notices of intervention and 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,<sup>13</sup> the Commission will grant AEP's and AECC's motions to intervene out of time, 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<sup>14</sup> prohibits an answer to a protest or an answer to an answer, unless otherwise ordered by the decisional authority. The Commission will grant AEP's motion for leave to file comments because the comments have provided information that assisted us in our decision-making process.

### B. Substantive Matters

#### 1. Letter Agreement

12. The Letter Agreement states that, with its attachments, it reflects a comprehensive seams agreement between Entergy and SPP, and that it creates no additional contractual obligations for either party beyond what is in the Letter Agreement. The Letter Agreement explains that it creates no duty, standard of care, or liability to any person not a party to it, and neither party shall construe it as a requirement that would create any duty, standard of care, or liability to the other party.<sup>15</sup> In addition, the Letter Agreement

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<sup>12</sup> Union Power notes that this protest is intended to supplement, not replace, Union Power's April 16, 2010 protest.

<sup>13</sup> 18 C.F.R. § 385.214(d) (2009).

<sup>14</sup> 18 C.F.R. § 385.213(a)(2) (2009).

<sup>15</sup> Letter Agreement at 2.

states that, in the event of an inconsistency between the Letter Agreement and/or its attachments, and one (or both) of the party's Open Access Transmission Tariffs (OATT), the OATT will apply to that party.<sup>16</sup>

**a. Responsive Pleadings**

13. Lafayette and Empire contend that the Seams Agreement (i.e., the Letter Agreement and the Protocols) between Entergy and SPP amounts to nothing more than "business-as-usual."<sup>17</sup> They assert that the Seams Agreement does not promote reform and will not lead to significant improvement in conditions at the seam.<sup>18</sup> Lafayette and Empire argue that the Protocols fail to address many important seams-related issues brought up in various proceedings and therefore cannot be considered a satisfactory product of the negotiation process.<sup>19</sup> Lafayette and Empire request that any further detailed procedures between SPP and Entergy be filed with the Commission pursuant to section 205 of the Federal Power Act and be subject to examination by stakeholders and the Commission.<sup>20</sup> Lafayette and Empire ask the Commission either to reject the filings or to accept them for filing but at the same time: (1) direct Entergy and SPP to return to the negotiating table, (2) provide a list of specific seams issues that must be resolved, and (3) establish a deadline for completion of negotiations.<sup>21</sup>

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<sup>16</sup> *Id.* at 3.

<sup>17</sup> Lafayette and Empire May 7, 2010 Protest and Comments at 2.

<sup>18</sup> *Id.* at 4.

<sup>19</sup> *Id.* at 6. Lafayette and Empire list twelve specific seams issues that were previously identified by customers in response to SPP's filing of the Entergy-SPP Order No. 890 seams agreement on interregional planning in Docket No. ER09-659-000. *Id.* at 5. The list of issues includes identifying congested flowgates, coordinating redispatch, coordinating sales of transmission service through both regions, and resolving issues arising from the parties' use of different planning horizons. *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 7-8. Empire and Lafayette add that if Entergy and SPP are unable to complete negotiations by the deadline, then the Commission should issue an order "prescribing the seams arrangements thereafter to be followed." *Id.*

14. In its reply comments, AEP agrees with Lafayette and Empire that the Letter Agreement and Protocols “represent very little in terms of change in terms of operational practices and procedures.”<sup>22</sup> AEP further asserts that approval of this Seams Agreement could inhibit progress on a comprehensive seams agreement. AEP requests that the Commission either reject the Seams Agreement or order SPP and Entergy to revise their respective OATTs to eliminate transactional barriers between the regions.<sup>23</sup>

15. Union Power asserts that because the Seams Agreement will have a direct impact on service provided under SPP’s and Entergy’s OATTs, SPP and Entergy bear the burden of demonstrating that the Seams Agreement is “consistent with or superior to” the seams agreement requirements of Order No. 890.<sup>24</sup> Union Power notes that the filing is silent on this issue. Union Power requests that if the Commission accepts the Seams Agreement for filing, such acceptance be conditioned upon SPP and Entergy demonstrating that the Seams Agreement is consistent with or superior to the requirements of Order No. 890.<sup>25</sup> Union Power also notes that while many of the provisions in the Seams Agreement specify that they do not contemplate OATT changes, the Coordination Protocol does state that amendments to SPP’s and Entergy’s respective OATTs may be contemplated to implement that Coordination Protocol.<sup>26</sup> Union Power requests that the Commission state that any acceptance of the Protocols does not include acceptance of any subsequent OATT revisions.<sup>27</sup>

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<sup>22</sup> AEP May 26, 2010 Reply Comments at 2.

<sup>23</sup> *Id.* at 6.

<sup>24</sup> Union Power April 16, 2010 Protest at 4 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 437 (2007), *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261, at P 177 (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), *order on reh’g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009); Union Power May 7, 2010 Protest at 4.

<sup>25</sup> Union Power April 16, 2010 Protest at 4-5; Union Power May 7, 2010 Protest at 6.

<sup>26</sup> Union Power May 7, 2010 Protest at 5-6.

<sup>27</sup> *Id.* at 7.

**b. Commission Determination**

16. The Commission will conditionally accept SPP's March 26, 2010 and April 16, 2010 filings to be effective on March 31, 2010.<sup>28</sup> As a preliminary matter, we commend SPP and Entergy for their efforts toward addressing seams issues that impede both of their systems from operating more efficiently. We note, however, that as Lafayette and Empire point out, other seams issues remain unaddressed, as discussed below. Nevertheless, at this point the Commission is not convinced that establishing a fixed deadline for completion of negotiations along with a directive to reach agreement on specific topics is appropriate. The Commission acknowledges that addressing remaining seams issues between SPP and Entergy is an ongoing process.<sup>29</sup> The Commission will require that SPP and Entergy file any subsequent agreements with the Commission.

17. Furthermore, the Commission anticipates that future OATT revisions could be a product of the Seams Agreement between Energy and SPP.<sup>30</sup> If any such OATT revisions are filed, parties will have an opportunity to comment on the merits of such revisions. As requested, the Commission emphasizes that the acceptance of this Seams Agreement should not be construed as making any changes to the Entergy and SPP OATTs. Any changes to the respective OATTs must be made pursuant to FPA section 205.

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<sup>28</sup> SPP requested two different effective dates for the two filings, but for administrative ease we adopt a single effective date. (The effective date of any future agreement filed as an attachment to the Letter Agreement will be determined in accordance with that attachment, as stated in the Letter Agreement at 1.) We find that waiver of the 60-day notice requirement is appropriate because the filing has no rate impact. *See Central Hudson Gas and Electric Corp.*, 60 FERC ¶ 61,106 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>29</sup> Seams issues are one of the specified topics on the Entergy Regional State Committee (E-RSC) agenda. *See, e.g.*, E-RSC Bylaws, Article I, section 2 (stating the E-RSC will provide input and participation on "the need for seams agreements between Entergy and the surrounding transmission systems and regional transmission organizations").

<sup>30</sup> While the Commission does not believe that it is appropriate in this proceeding to require SPP and Entergy to revise their OATTs as AEP suggests, the Commission agrees that OATT revisions to eliminate barriers between the two regions are the type of revisions that could be submitted to enhance the Seams Agreement.

18. We reject Union Power's assertion that SPP and Entergy must demonstrate that the Seams Agreement meets the seams agreement-related requirements in Order No. 890. As SPP notes, SPP's compliance with the seams agreement-related requirements of Order No. 890 regarding Entergy is pending in Docket No. ER09-659-002, SPP's filing of the SPP-Entergy Letter Agreement regarding Inter-regional Planning.<sup>31</sup> The Seams Agreement in this filing is intended to comply with the ICT Rehearing Order and with the Arkansas Commission's orders directing Entergy and SPP to negotiate and file a seams agreement.

## 2. Coordination Protocol

19. According to SPP, the Coordination Protocol addresses the coordination of enhanced regional reliability planning activities between the parties and the horizon over which these activities will occur, the coordination of Affected System Study processes for transmission service and generation interconnection requests that impact the other party's transmission system, and coordination regarding the granting of flowgate financial rights on the Entergy and SPP transmission systems.<sup>32</sup>

20. Among other things, the Coordination Protocol provides that a party will notify the other party if one of them files an OATT modification - or receives a Commission determination on a filed OATT modification - that affects the party's ability to follow the Coordination Protocol.<sup>33</sup> The Coordination Protocol provides for the granting of flowgate financial rights on the SPP system to Entergy's customers.<sup>34</sup> The Coordination

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<sup>31</sup> Entergy filed its version of the SPP-Entergy Letter Agreement regarding Inter-regional Planning as part of Attachment K to the Entergy OATT. On March 31, 2010, the Commission accepted Entergy's version subject to further revision. *Entergy Services, Inc.*, 130 FERC ¶ 61,264, at P 30-33 (2010).

<sup>32</sup> SPP March 26, 2010 Transmittal Letter at 2-3.

<sup>33</sup> Coordination Protocol, "Enhanced Regional Reliability Coordination Activities," Section 5.a.

<sup>34</sup> *See, e.g.*, Coordination Protocol, "Coordination of Transmission Service Request and Interconnection Request Study Processes," Section 1.a.iv., which states in relevant part:

[T]o the extent that facilities are identified as necessary on SPP's system to accommodate the service requested on the Entergy system, SPP shall tender (to Entergy's customer) a bilateral agreement

(continued...)

Protocol also provides for the granting of flowgate financial rights on the Entergy system to SPP and its customers.<sup>35</sup> In addition, the Coordination Protocol provides that, when facilities are identified as necessary on the SPP system to accommodate a generation interconnection request or a long-term transmission service request on the Entergy system, Entergy will not incorporate the facilities into its transmission service request evaluation models until the facilities are in-service on the SPP system, have received Notification to Construct on the SPP system, or “are other SPP member-committed projects.”<sup>36</sup> The Coordination Protocol provides that in the reverse situation (i.e., when facilities are identified as necessary on the Entergy system to accommodate a request on the SPP system), SPP will incorporate the facilities into its transmission service request models only when the facilities are in-service on the Entergy system.<sup>37</sup>

**a. Responsive Pleading**

21. Union Power contends that it is unclear how the Coordination Protocol will affect SPP’s and Entergy’s respective OATTs, and it is difficult to evaluate the Seams Agreement until any necessary OATT revisions are made.<sup>38</sup> Union Power points out that the Coordination Protocol has different roles for Entergy and SPP depending on which system received the customer’s request, and Union Power sees this as evidence that the Coordination Protocol contemplates revisions to the SPP and Entergy OATTs.<sup>39</sup> Union

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addressing any necessary upgrades on the SPP system and for related flowgate financial rights.

<sup>35</sup> See Coordination Protocol, “Granting of Flowgate Financial Rights to SPP,” which states:

Where Entergy and SPP have executed a bilateral agreement for flowgate financial rights, SPP may receive the flowgate financial rights and may allocate those flowgate financial rights governed by that agreement to its customers in accordance with its OATT.

<sup>36</sup> See Coordination Protocol, “Coordination of Transmission Service Request and Interconnection Request Study Processes,” Section 2.

<sup>37</sup> See “Coordination of Transmission Service Request and Interconnection Request Study Processes,” Section 3.

<sup>38</sup> Union Power April 16, 2010 Protest at 6.

<sup>39</sup> *Id.*

Power expresses concern about the provision stating that Entergy will wait to include facilities in its models until facilities are in-service on the SPP system, have received Notification to Construct, “or are other SPP member-committed projects.” Union Power argues that the provision is not clear as to whether the “in-service” category can be used to defer including facilities in the models that qualify under either of the other two categories.<sup>40</sup> Union Power also notes that, with respect to Entergy, the procedures related to the processing of transmission service requests on the Entergy system remain subject to protest in Docket Nos. ER05-1065-011 and OA07-32-008.<sup>41</sup>

22. In its reply comments, AEP raises concerns with the Coordination Protocol’s process for coordination of transmission service requests. Specifically, AEP asserts that while service requested as a customer under either party’s OATT will be studied in accordance with the respective OATT, neither OATT appears to define any rights, procedures, or obligations associated with Affected System Studies.<sup>42</sup> AEP contends that approving the use of an undefined process in the Seams Agreement is “worse than having no Seams Agreement at all.”<sup>43</sup> AEP also provides examples of several hypothetical situations that are not addressed under the Coordination Protocol and the SPP and Entergy OATTs.<sup>44</sup>

**b. Commission Determination**

23. The Commission will conditionally accept the Coordination Protocol. Union Power’s concern regarding the proposed revisions to Entergy’s OATT pending in Docket Nos. ER05-1065-011 and OA07-32-008 is addressed by the Coordination Protocol’s requirement that parties notify each other if one of them receives a Commission order in

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 5; Union Power May 7, 2010 Protest at 6 (both referring to Entergy’s April 3, 2009 filing of revised OATT attachments to comply with *Entergy Services, Inc.*, 115 FERC ¶ 61,095 (2006) and Order No. 890).

<sup>42</sup> AEP Reply Comments at 3.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 4-5. For example, AEP asserts that neither the Coordination Protocol nor the SPP and Entergy OATTs provides any recourse for an SPP customer who disagrees with the results of the Affected System Study conducted by Entergy (or Entergy’s ICT), because the dispute resolution rights under the Entergy OATT are available only to Entergy customers, not SPP customers.

response to the filing of an OATT modification that affects its ability to fulfill its obligations under the Coordination Protocol. Union Power's concern that the effect of the Protocol on the parties' OATTs is unclear is addressed by the Letter Agreement's statement that, in the event of any inconsistency between the Entergy or SPP OATT and the Letter Agreement and/or an Attachment, the appropriate OATT will apply.<sup>45</sup> In addition, as SPP states, SPP and Entergy are now going to develop the detailed procedures necessary to implement the Seams Agreement.<sup>46</sup> Furthermore, as stated in the Letter Agreement, the parties may develop new agreements, to be incorporated as attachments to the Letter Agreement. The SPP and Entergy OATTs' lack of provisions setting out processes for an Affected System Study and lack of provisions addressing AEP's hypothetical situations are examples of implementation issues that SPP and Entergy will need to negotiate, and negotiation of those issues may require OATT revisions. As stated above, we will not at this time require SPP and Entergy to file specific OATT revisions to implement this Seams Agreement.

24. The Commission does not agree with AEP that a lack of definitive processes or procedures in the Coordination Protocol places customers in a position worse than if there were no Seams Agreement at all. The Coordination Protocol marks a positive step toward addressing coordination issues in this region. Overall, the Commission agrees with SPP's statement that the Coordination Protocol will allow SPP and Entergy to coordinate their processes in a manner that will allow both systems to operate more efficiently. Nevertheless, we agree with AEP that the Coordination Protocol does not address all coordination issues, including customers of one party having rights afforded to customers under the other party's OATT. We encourage SPP and Entergy to continue working together to implement the Coordination Protocol and, if necessary, to refine the Coordination Protocol to provide more transparency to customers.<sup>47</sup> The Commission has previously recognized that implementation of proposals that affect organized markets such as SPP "is to some extent an iterative process" but it has supported such proposals, even though not perfectly formed, in order for benefits to reach market participants at the earliest possible time.<sup>48</sup>

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<sup>45</sup> Letter Agreement at 3.

<sup>46</sup> SPP April 16, 2010 Transmittal Letter at 3.

<sup>47</sup> We note that the hypothetical situations raised by AEP are the types of issues that we encourage SPP and Entergy to work together to resolve.

<sup>48</sup> See, e.g., *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at P 2 (2006) ("We acknowledge SPP for pushing forward with its market proposal in order to bring these benefits to market participants at the earliest possible time."); see also *California*

(continued...)

25. However, the Commission finds that two provisions in the Coordination Protocol require further clarification. First, the Coordination Protocol describes three alternative circumstances under which Entergy will incorporate identified facilities into its models for evaluating transmission service requests,<sup>49</sup> but the Coordination Protocol does not state how Entergy will determine which of the three circumstances applies. Therefore, we will require SPP to submit a compliance filing within 30 days of the date of this order clarifying the circumstances that govern when Entergy will incorporate identified facilities into its models. Second, the Coordination Protocol's section titled "Granting of Flowgate Financial Rights to SPP" does not explain the conditions under which SPP (as opposed to SPP's customers) would be granted flowgate financial rights. The Coordination Protocol describes the conditions under which Entergy's customers would be granted flowgate financial rights on the SPP system, and the conditions under which SPP's customers would be granted flowgate financial rights on the Entergy system. However, the Coordination Protocol also expressly provides for SPP itself to be granted flowgate financial rights but does not explain the conditions under which this would happen.<sup>50</sup> Therefore, we will require SPP to submit a compliance filing within 30 days of the date of this order clarifying the conditions under which SPP will be granted flowgate financial rights.

### **3. Information Protocol**

26. According to SPP, the Information Protocol sets forth provisions governing the exchange of data and treatment of confidential information and critical energy infrastructure information (CEII) exchanged under any other attachment to the Letter Agreement.<sup>51</sup> Among other things, the Information Protocol states that neither party will be required to provide, exchange, or coordinate information in violation of either party's

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*Independent System Operator Corp.*, 116 FERC ¶ 61,274, at P 611 (2006) (finding the locational marginal pricing proposal to be an acceptable starting point).

<sup>49</sup> As noted above, "Coordination of Transmission Service Request and Interconnection Request Study Processes," Section 2 states that Entergy will include the facilities on the SPP system in its models when they are in-service, have received Notification to Construct, or are other SPP customer-committed projects.

<sup>50</sup> In addition, the Coordination Protocol does not explain why there is no corresponding provision for Entergy to be granted flowgate financial rights on SPP's system.

<sup>51</sup> SPP March 26, 2010 Transmittal Letter at 3.

OATT, any other agreement, or applicable state or federal regulation or law.<sup>52</sup> In addition, the Information Protocol states that each party will make CEII available to the other in accordance with the supplying party's OATT.<sup>53</sup> There were no comments or protests regarding this provision.

### **Commission Determination**

27. The Commission will accept the Information Protocol without modification. The Information Protocol states that neither party will be required to exchange information in violation of its OATT or any federal regulations, and that parties' exchange of CEII is governed by the supplying party's OATT.<sup>54</sup> Therefore, the Commission finds that the Information Protocol is consistent with the Commission's CEII regulations, Commission interpretations of its CEII regulations,<sup>55</sup> and Commission determinations concerning stakeholder access to Entergy and SPP information.<sup>56</sup>

#### **4. AFC/TFC Protocol**

28. SPP asserts that the AFC/TFC Protocol addresses the data exchange and other activities necessary for the coordination of AFC/TFC values between Entergy and SPP.<sup>57</sup> The AFC/TFC Protocol provides, among other things, that each party shall include the status of all generators that are directly interconnected with the relevant transmission system and are used in the calculation of their TFC or AFC values, to the extent that such information is available.<sup>58</sup> The AFC/TFC Protocol also provides that initially each party

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<sup>52</sup> Information Protocol, "Data Exchange and Coordination," Section 1.

<sup>53</sup> Information Protocol, "Confidential Information and CEII," Section 4.

<sup>54</sup> Information Protocol, "Data Exchange and Coordination," Section 1 and "Confidential Information and CEII," Section 4.

<sup>55</sup> See *Big Rivers Electric Corp.*, 128 FERC ¶ 61,264, at P 56 (2009) (citing *Amendments to Conform Regulations With Order No. 630 (Critical Energy Infrastructure Information Final Rule)*, Order No. 643, FERC Stats. & Regs. ¶ 31,149, (2003)).

<sup>56</sup> See *Entergy Services, Inc.*, 124 FERC ¶ 61,268, at P 134 (2008); see also *Entergy Services, Inc.*, 127 FERC ¶ 61,272, at P 154 (2009); *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,032, at P 19 (2009).

<sup>57</sup> SPP April 16, 2010 Transmittal Letter at 3.

<sup>58</sup> See AFC/TFC Protocol, "Data Exchange," Section 3.a.ii.

will communicate “transmission configuration changes and generation additions or retirements” to the other party through the North American Electric Reliability Council’s (NERC) Multi-regional Modeling Working Group (MMWG).<sup>59</sup>

29. The AFC/TFC Protocol also provides that as soon as reasonably practicable each party will incorporate changes to the transmission network in its models used to calculate TFC or AFC, “if these changes are applicable.”<sup>60</sup> In addition, the AFC/TFC Protocol states that within 90 days after the effective date of the AFC/TFC Protocol, the parties will “institute a process” to incorporate all significant changes to an adjacent transmission provider in each party’s TFC and AFC models, “if inclusion in the Party’s TFC and AFC models is appropriate and feasible.”<sup>61</sup> The AFC/TFC Protocol also requires the parties to exchange generation unit commitments or orders of dispatch, “including for all designated network resources and other resources that are committed or have the legal obligation to run, as they are expected to run.”<sup>62</sup> The AFC/TFC Protocol also requires each party to implement and exchange procedures for modeling reservations and incorporating counterflows created by reservations in electrically opposite directions.<sup>63</sup> The AFC/TFC Protocol also provides that the parties will exchange a list of reservations that should not be considered in AFC calculations.<sup>64</sup>

**a. Responsive Pleadings**

30. East Texas Cooperatives overall support the processes and procedures contained in the Protocols. East Texas Cooperatives, however, identify various provisions in the proposed AFC/TFC Protocol that they believe should be revised or clarified in order to ensure coordination between transmission systems and to ensure a more accurate determination of AFC/TFC.

31. East Texas Cooperatives contend that the provision governing the exchange of generator status information is ambiguous as to whether the AFC/TFC Protocol is

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<sup>59</sup> See AFC/TFC Protocol, “Data Exchange,” Section 3.d.

<sup>60</sup> See AFC/TFC Protocol, “Data Exchange,” Section 3.d.i.

<sup>61</sup> See AFC/TFC Protocol, “Data Exchange,” Section 3.d.ii.

<sup>62</sup> See AFC/TFC Protocol, “Data Exchange,” Section 5.a.

<sup>63</sup> See AFC/TFC Protocol, “Data Exchange,” Section 6.c.

<sup>64</sup> See AFC/TFC Protocol, “Data Exchange,” Section 6.d.

intended to include those generators within the Entergy area that are also included in separate balancing authorities embedded within the Entergy system.<sup>65</sup> East Texas Cooperatives request that the provision be modified to clarify exactly which generators are included in the calculations.<sup>66</sup>

32. East Texas Cooperatives also raise concerns regarding the provision requiring that initially, the parties will exchange configuration and generation changes through the NERC MMWG. East Texas Cooperatives assert that this exchange may not be frequent enough, because the NERC MMWG is an annual process, which might not take into account significant topology changes that occur between updates.<sup>67</sup> East Texas Cooperatives state that this provision should be changed to allow for a more frequent reporting process.<sup>68</sup>

33. East Texas Cooperatives also express concern with the provision requiring that each party incorporate changes to the transmission network in its models “if these changes are applicable” and the provision stating that the parties will institute a process for incorporating adjacent transmission providers’ significant changes in their models, “if inclusion in the Party’s TFC and AFC models is appropriate and feasible.” East Texas Cooperatives assert that the terms “applicable” and “appropriate and feasible” are vague, leaving the modeling results subject to the unfettered discretion of the parties.<sup>69</sup> East Texas Cooperatives request that these provisions be modified to include more specific criteria to ensure that all upgrades that could benefit transmission service between Entergy and SPP are included in each party’s models.<sup>70</sup>

34. East Texas Cooperatives request that the provision requiring each party to exchange unit commitments or orders of dispatch be clarified to ensure that the exchange includes the dispatch data provided by Entergy’s Participating Network Customer User Interface (PNCUI). Furthermore, East Texas Cooperatives request that the parties ensure

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<sup>65</sup> East Texas Cooperatives May 7, 2010 Comments at 3.

<sup>66</sup> *Id.*

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

<sup>68</sup> *Id.* at 4.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

that their use of exchanged data is consistent and relies on a thorough understanding of how the data were derived.<sup>71</sup>

35. East Texas Cooperatives also question the provision requiring each party to implement practices and procedures for modeling reservations and incorporating counterflows created by reservations in electrically opposite directions. East Texas Cooperatives request that this provision be clarified to provide that the percentage of counterflows allotted to each flowgate be the same for the two regions.<sup>72</sup>

36. East Texas Cooperatives also express concern about the provision stating that the two parties will exchange a list of reservations that should not be considered in AFC calculations. East Texas Cooperatives state that this provision should be revised to require each party to make available to all transmission customers the list of every reservation excluded from the AFC calculations. East Texas Cooperatives request that the list of exclusions include the rationale for the exclusion along with the time period over which the exclusion will be in effect.<sup>73</sup>

37. Finally, East Texas Cooperatives contend that the AFC/TFC Protocol does not address the coordination of available transfer capability (ATC) values,<sup>74</sup> nor does it address the question of what happens when ATC values on either side of an interface are different. East Texas Cooperatives request that the AFC/TFC Protocol be revised to reflect the ATC values at the interfaces.<sup>75</sup>

38. Lafayette and Empire assert that the AFC/TFC Protocol does not resolve the issue of Entergy and SPP posting divergent AFC/TFC values for the same borderline flowgates.<sup>76</sup> Lafayette and Empire state that the problem of divergent AFC postings has

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<sup>71</sup> *Id.* at 5.

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

<sup>73</sup> *Id.*

<sup>74</sup> Both Entergy and SPP use an AFC methodology to evaluate ATC in the short-term. *See, e.g.*, Attachment C to the Entergy OATT, Section 1.2, “Applicability.”

<sup>75</sup> *Id.* at 6.

<sup>76</sup> Lafayette and Empire May 7, 2010 Protest and Comments at 3.

for years “plagued” market participants seeking to transact across the SPP-Entergy seam and will remain unresolved under the AFC/TFC Protocol.<sup>77</sup>

**b. Commission Determination**

39. We will conditionally accept the AFC/TFC Protocol. East Texas Cooperatives have requested several modifications and clarifications, some of which we find to be valid. We reject East Texas Cooperatives’ request that the provision governing generator status be clarified to state exactly which generators are included and specifically whether generators are included that are also included in separate balancing authorities embedded within the Entergy system. The AFC/TFC Protocol provision states clearly which generators will be included: “all generators that are directly interconnected with the relevant transmission system and are used in the calculation of their TFC or AFC values.”<sup>78</sup>

40. We also reject East Texas Cooperatives’ request to modify the provision stating that the parties will initially exchange configuration and generation changes through the NERC MMWG. East Texas Cooperatives’ concern that the NERC MMWG, as an annual process, will not account for significant topology changes between updates, is allayed by the Protocol’s use of the word “initially.” The AFC/TFC Protocol provides not only for the initial exchange of data through the NERC MMWG, but also for specific follow-on steps. As noted above, as soon as reasonably practicable each party will incorporate changes and additions to the transmission network in its models, and within 90 days of the effective date of the AFC/TFC Protocol, the parties will institute a process for incorporating “all such significant changes and additions of an adjacent Transmission Provider” in each party’s models.<sup>79</sup> While we find these follow-on provisions to contain vague terms (see the next paragraph), they do show that the data exchange through the NERC MMWG is merely the initial step.

41. We agree with East Texas Cooperatives that the provisions governing when the parties will incorporate transmission network changes and adjacent transmission providers’ changes in their models are vague. The provision stating that the parties will incorporate changes to the transmission network in their models “if the changes are applicable”<sup>80</sup> does not give any guidance as to what makes a change “applicable.”

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<sup>77</sup> *Id.*

<sup>78</sup> *See* AFC/TFC Protocol, “Data Exchange,” Section 3.a.ii.

<sup>79</sup> *See* AFC/TFC Protocol, “Data Exchange,” Sections 3.d.i. and ii.

<sup>80</sup> *See* AFC/TFC Protocol, “Data Exchange,” Section 3.d.i.

Likewise, the provision stating that the parties will institute a process for incorporating adjacent transmission providers' significant changes in their models if inclusion is "appropriate and feasible"<sup>81</sup> does not give any guidance as to what makes inclusion "appropriate and feasible." Therefore, the Commission directs SPP to make a compliance filing within 30 days of the date of this order revising the AFC/TFC Protocol provisions to give guidance as to when a change to the transmission network is "applicable" and when inclusion of adjacent transmission providers' significant changes is "appropriate and feasible."

42. We reject East Texas Cooperatives' request that the provision governing the parties' exchange of unit commitments or orders of dispatch expressly state that the exchange will include dispatch data provided by Entergy's PNCUI. The AFC/TFC Protocol provision clearly describes what dispatch data are to be provided.<sup>82</sup> If the dispatch data from Entergy's PNCUI meet that description then they will be included. If SPP and Entergy determine that the PNCUI dispatch data do not meet that description but should be included, then they can revise the AFC/TFC Protocol to include the PNCUI data.

43. We also reject East Texas Cooperatives' request that, regarding the provision describing parties' incorporation of counterflows, the percentage of counterflows allotted to each flowgate be the same for the two regions. The provision states merely that the parties will develop and implement practices and procedures for incorporating counterflows and provide the practices and procedures to each other.<sup>83</sup> The provision does not discuss the assumptions or the results to be used in the practices and procedures. The SPP and Entergy OATTs govern each party's process for allotting counterflow percentages.<sup>84</sup> Because the amount of counterflows allotted to each flowgate will be

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<sup>81</sup> See AFC/TFC Protocol, "Data Exchange," Section 3.d.ii.

<sup>82</sup> AFC/TFC Protocol, "Data Exchange," Section 5.a states in relevant part:

[E]ach Party shall provide to the other Party generation unit commitments or orders of dispatch, including for all designated network resources and other resources that are committed or have the legal obligation to run, as they are expected to run.

<sup>83</sup> See AFC/TFC Protocol, "Data Exchange," Section 6.c.

<sup>84</sup> See Attachment C to the Entergy OATT, Section 4, "Inputs to Base Case Models and the AFC Formulas," Section 4.6, "Counter-flows"; Attachment C to the SPP OATT, Section 4, "Base Case Models."

addressed as SPP and Entergy implement the provision, we will not place any requirements on it here.

44. Furthermore, we reject East Texas Cooperatives' request that we require that each party make available to transmission customers its lists of reservations excluded from the AFC calculations. The AFC/TFC Protocol only addresses the two parties' obligations to provide information to each other, not their obligations to provide information to transmission customers. Requiring each party to make its list of reservations excluded from the AFC calculations available to transmission customers is beyond the scope of this filing.<sup>85</sup>

45. Moreover, we reject the request of East Texas Cooperatives that the AFC/TFC Protocol be modified to address the coordination of ATC values and divergent ATC values at the same interface, and we likewise reject the request of Lafayette and Empire that the AFC/TFC Protocol be modified to resolve the issue of divergent AFC values at the same borderline flowgate. Regarding divergent values at an interface, the Commission has stated that a transmission provider's methodology must be sufficiently transparent to allow for independent validation that its methodology has been consistently applied.<sup>86</sup> The coordination and divergence of ATC values and AFC values could be appropriate topics for SPP and Entergy to pursue, and we encourage them to do so, but we will not require it here.<sup>87</sup>

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<sup>85</sup> We do not make a determination here on whether or not SPP and Entergy can make available to customers their respective lists of reservations excluded from the AFC models. The availability of AFC system information is governed by, among other things, the Commission's OASIS regulations, 18 C.F.R. Part 37 (2009), and the parties' respective OATTs. For example, Section 7.2(c) of SPP's Attachment C states:

The Transmission provider shall also create, maintain and provide a list of reservations from its OASIS that should not be considered in ATC/AFC calculations.

<sup>86</sup> See Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System, Notice of Proposed Rulemaking, Docket Nos. RM08-19-000, et al., 126 FERC ¶ 61,249, at P 86 (March 19, 2009).

<sup>87</sup> In the Order No. 890 proceeding, the Commission concluded that the problem of divergent ATC values at the same interface should be addressed through the North American Electric Reliability Corporation and North American Energy Standards Board

(continued...)

46. The Commission finds that the AFC/TFC Protocol, with the clarifications discussed above, will produce more accurate determinations of ATC and provide increased transparency to market participants. Nevertheless, we note that the AFC/TFC Protocol does not address all potential seams issues relating to AFC/TFC issues. We encourage SPP and Entergy to continue to work together to refine the AFC/TFC Protocol through implementation and revise it as necessary in the future, to provide more transparency to customers.

### **5. Cost Allocation Protocol**

47. SPP submits that the Cost Allocation Protocol contains provisions governing the allocation of costs of facilities identified as necessary on the Entergy system to accommodate a transmission service or generation interconnection request on the SPP system, facilities identified as necessary on the SPP system to accommodate a transmission service or generation interconnection request on the Entergy system, and “common or optimal solutions” identified as a result of the enhanced regional reliability planning activities.<sup>88</sup>

48. Under the Cost Allocation Protocol, the costs associated with upgrades will be recovered under the terms of the constructing party’s OATT and consistent with applicable regulatory policy.<sup>89</sup>

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processes. *See* Order No. 890-B, at P 16. In Order No. 890-C, at P 9, the Commission noted that there could be legitimate reasons for divergent ATC values:

The requirement, then, is not to achieve identical postings of ATC values on either side of an interface . . . . The requirement is, instead, to achieve consistency in such values through the development of ATC calculation methodologies that produce sufficiently accurate, consistent, equivalent, and replicable results. In some instances, . . . such as when there are differences in reservation status or when there are multiple interfaces between the transmission providers, it may not be possible or even practical to achieve identical values.

<sup>88</sup> SPP April 16, 2010 Transmittal Letter at 3.

<sup>89</sup> *See* Cost Allocation Protocol, “Upgrades Associated with Interconnection Requests,” “Upgrades Associated with Long-Term Transmission Service Requests,” “Upgrades Associated with Reliability Planning and Enhanced Regional Planning Activities.”

a. **Responsive Pleading**

49. Lafayette and Empire assert that the Cost Allocation Protocol uses “boilerplate” language, and that the use of such language in the Cost Allocation Protocol is evidence that SPP and Entergy failed to reach a substantive agreement on cost allocation. They contend that the result of this lack of substantive agreement will be “a continuation of deadlock, delay and obstruction of transactions.”<sup>90</sup>

b. **Commission Determination**

50. We accept the Cost Allocation Protocol without modification. While we agree that the Cost Allocation Protocol does not resolve all issues concerning cost recovery, we believe the Cost Allocation Protocol is a step in the right direction. We encourage SPP and Entergy to continue to negotiate to resolve remaining cost allocation issues. Accordingly, the Commission directs SPP and Entergy to file with the Commission any further resolutions reached on cost allocation issues, or on any other seams issues.

The Commission orders:

(A) SPP’s March 26, 2010 and April 16, 2010 filings are hereby conditionally accepted, effective March 31, 2010, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>90</sup> Lafayette and Empire May 7, 2010 Protest and Comments at 4.