

136 FERC ¶ 61,223  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER11-3494-001  
ER11-3494-002

ORDER ON REHEARING AND COMPLIANCE FILINGS

(Issued September 29, 2011)

1. On August 1, 2011, Westar Energy, Inc. (Westar) filed a request for rehearing of the Commission's July 1, 2011 order issued in this proceeding.<sup>1</sup> The July 1 Order addressed Southwest Power Pool, Inc.'s (SPP) request that the Commission accept for filing a non-conforming Network Integration Transmission Service Agreement (NITSA) and a Network Operating Agreement (NOA). Also on August 1, 2011, SPP submitted a filing to comply with the July 1 Order.

2. In this order, we grant Westar's request for rehearing as discussed below. In addition, we conditionally accept SPP's compliance filing, effective April 1, 2011.

**I. Background**

3. On May 2, 2011, SPP submitted for filing an unexecuted NITSA (May 2 NITSA) between SPP as transmission provider and Kansas Power Pool, Inc. (KPP) as network customer, and an unexecuted NOA (May 2 NOA) among SPP as transmission provider, KPP as network customer, and Mid-Kansas Electric Company (Mid-Kansas), Midwest Energy, Inc. (Midwest), and Westar as host transmission owners (collectively, May 2 Agreements). SPP stated that it filed the May 2 Agreements because they were unexecuted and because they contained several provisions that did not conform to the *pro forma* network integration transmission service and network operating agreements.<sup>2</sup>

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<sup>1</sup> *Southwest Power Pool, Inc.*, 136 FERC ¶ 61,003 (2011) (July 1 Order).

<sup>2</sup> See SPP Tariff at Attachment F (*pro forma* NITSA) and Attachment G (*pro forma* NOA).

4. Among others, SPP proposed the following non-conforming provisions pertaining to transmission and distribution losses:

Section 8.5 of Attachment 1 of the May 2 NITSA specifies that KPP shall replace transmission losses by delivery point on Westar's system in accordance with details in Appendix 3. In Appendix 3, the Parties include additional information beyond the name, ownership, and voltage of the delivery point contemplated by the *pro forma* network integration transmission service agreement (emphasis added).

Section 8.6 of Attachment 1 of the May 2 NITSA specifies that KPP shall replace distribution losses by delivery point on Westar's system in accordance with details in Appendix 3. SPP states that the parties include in Appendix 3 additional information beyond the name, ownership, and voltage of the delivery point contemplated by the *pro forma* network integration transmission service agreement (emphasis added).<sup>3</sup>

5. SPP stated that the non-conforming language in sections 8.5 and 8.6 and Appendix 3 is necessary to provide detail on the loss percentages for the delivery points on Westar's system.<sup>4</sup>

6. The Commission found that SPP had not explained adequately the need for these provisions, or how they are consistent with the loss provisions in Attachment M (Loss Compensation Procedures) of SPP's Tariff.<sup>5</sup> Accordingly, the Commission rejected SPP's proposed revisions and directed SPP to submit a compliance filing removing the proposed revisions from sections 8.5 and 8.6 and Appendix 3 within 30 days of the issuance of the July 1 Order.

## **II. Request for Rehearing**

7. In its request for rehearing of the July 1 Order, Westar requests that the Commission reconsider the portion of the July 1 Order related to distribution losses. Westar states that Attachment M of the SPP Tariff provides for recovery of transmission losses only.<sup>6</sup> Westar argues that distribution losses, when a transmission owner's distribution system is used to facilitate the transmission of wholesale power are provided

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<sup>3</sup> May 2 Filing at 5 and 6.

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

<sup>5</sup> July 1 Order, 136 FERC ¶ 61,003 at P 43.

<sup>6</sup> Westar August 1, 2011 Request for Rehearing at 2.

for separately.<sup>7</sup> As a result, according to Westar, in order for transmission owners such as Westar to recover the costs associated with providing power to wholesale customers that take delivery of power at a distribution voltage, it is necessary for SPP to include language in the NITSA to recover distribution losses associated with the transmission of power to the delivery point. According to Westar, without this language Westar's retail customers will be subsidizing Westar's wholesale customers, because, without distribution losses added, a wholesale customer's load is artificially low, making the wholesale customer's load-ratio share artificially low. In turn, this results in an under-allocation of transmission costs to wholesale customers and an over-allocation of transmission costs to retail customers.<sup>8</sup>

8. Westar proposes that the Commission accept the portion of SPP's compliance filing that removes all reference to losses in Appendix 3 and in sections 8.5 and 8.6 of Attachment 1 of the NITSA but allow SPP to include language in section 8.6 that reads as follows:

The Network Customer shall replace all distribution losses in accordance with Westar Energy's Open Access Transmission Tariff, Section 28.5, based upon the location of each delivery point meter located on distribution facilities.<sup>9</sup>

9. Westar asserts that section 28.5 of the Westar Open Access Transmission Tariff (OATT) sets out composite transmission/distribution loss factors at various delivery voltages. The loss factors contained in section 28.5 of Westar's OATT were developed when Westar first created its OATT and were approved by the Commission at that time.<sup>10</sup>

10. Westar explains that removing the references to distribution losses from Appendix 3 will eliminate the possibility of any conflict with Attachment M of the SPP Tariff, which only addresses transmission losses. Westar adds that tying the recovery of distribution losses to Westar's OATT will ensure that the distribution loss factors applied to KPP are consistent with the loss factors contained in Westar's long-standing, Commission-approved tariff.

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<sup>7</sup> *Id.* at 3.

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

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

<sup>10</sup> *Id.* at 4. Westar states that the language related to losses has been in the Westar OATT without change since its original July 9, 1996 effective date. *See* Western Resources, Inc. OATT, Original Volume No. 5, Original Sheet Nos. 119-120.

### III. SPP Compliance Filing

11. SPP states that the July 1 Order directed SPP to modify the May 2 NITSA to: (1) remove proposed revisions to section 8.5, section 8.6, and Appendix 3 of the May 2 NITSA,<sup>11</sup> and (2) remove proposed revisions to section 8.12 of the May 2 NITSA.<sup>12</sup> SPP states that it has removed the revisions as directed.

### IV. Discussion

#### A. Procedural Matters

12. Notice of SPP's August 1, 2011 compliance filing was published in the *Federal Register*, 76 Fed. Reg. 47,569 (2011) with interventions and protests due on or before August 22, 2011. No interventions or comments were filed.

#### B. Commission Determination

13. As noted above, Westar requests that the Commission allow SPP to revise language in section 8.6 to permit SPP to charge the distribution loss rate in section 28.5 of Westar's OATT. We find Westar's arguments persuasive and accordingly grant rehearing. We agree that in order for transmission owners such as Westar to recover the costs associated with providing power to wholesale customers that take delivery of power at a distribution voltage, it is necessary for SPP to include language in the NITSA to recover distribution losses associated with the transmission of power to the delivery point. However, we note that the loss factor found in section 28.5 of Westar's OATT includes both transmission and distribution losses. In addition, the NITSA provides for delivery to points of other host transmission owners. In order to ensure that Westar only collects distribution losses for delivery points on Westar's system, we direct SPP to also include the following underlined language in section 8.6:

For Delivery Points on Westar Energy Network System: The Network Customer shall replace all distribution losses in accordance with Westar Energy's Open Access Transmission Tariff, Section 28.5, based upon the location of each delivery point meter located on distribution facilities. The composite loss percentages in Section 28.5 shall exclude transmission losses.

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<sup>11</sup> July 1 Order, 136 FERC ¶ 61,003 at P 43.

<sup>12</sup> *Id.* P 44.

14. Accordingly, we grant rehearing and conditionally accept SPP's compliance filing subject to SPP's revising section 8.6 as discussed above. We direct SPP to submit a compliance filing within 15 days of the issuance of this order.

The Commission orders:

(A) The request for rehearing is hereby granted, as discussed in the body of this order.

(B) SPP is hereby directed to make a compliance filing within 15 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.