

138 FERC ¶ 61,054
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 26, 2012

In Reply Refer To:
Southwest Power Pool, Inc.
Docket No. ER12-663-000

Southwest Power Pool, Inc.
415 North McKinley, Suite 140
Little Rock, AR 72205

Attention: Ms. Tessie Kentner
Attorney for Southwest Power Pool, Inc.

Reference: Limited Waiver of Tariff Provision

Dear Ms. Kenter:

1. On December 22, 2011, Southwest Power Pool, Inc. (SPP) filed a request for waiver of the notice provisions of section 17.7 of SPP's Open Access Transmission Tariff (Tariff) to permit SPP to grant AES Shady Point, LLC a one-year extension of the commencement of its transmission service. SPP requests expedited treatment because without a waiver, the requested transmission service will begin on January 8, 2012, and AES Shady Point will be required to pay for transmission service that it has informed SPP it does not need.
2. Under section 17.7 of SPP's Tariff, a transmission customer may obtain up to five one-year extensions for the commencement of service by paying a non-refundable annual reservation fee equal to one-month's charge for firm transmission service for each year. For extensions of one year or more, the transmission customer must request the extension no later than ninety days before the commencement of service.
3. In 2006, AES Shady Point requested 320 MW of transmission service from SPP for one year commencing January 8, 2008. SPP granted AES Shady Point 271 MW of service. Soon thereafter, SPP explains that AES Shady Point discovered that it no longer needed such transmission service.

4. In 2007, AES Shady Point requested a one-year extension (to January 8, 2009) of the transmission service commencement date pursuant to section 17.7 of SPP's Tariff, which SPP granted. In 2008, SPP states that AES Shady Point requested another extension for commencement of transmission service under section 17.7 until January 2010; however, AES Shady Point did not make its formal request for such extension until December 4, 2008. Because the formal request for the extension did not provide the required ninety days notice for extensions required by the SPP Tariff, SPP sought a waiver of the ninety day notice. The Commission granted the request for such waiver on February 2, 2009.¹ In 2009 and 2010, AES Shady Point made timely requests for one-year extensions under section 17.7 of SPP's Tariff, which SPP granted.

5. In the instant filing, SPP requests that the Commission grant SPP the authority to waive the notice requirement in section 17.7 of its Tariff to provide AES Shady Point a fifth one-year extension. SPP states that AES Shady Point does not need the transmission service, and SPP accepts that AES Shady Point's failure to timely request an extension was due to administrative oversight.

6. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 105 (2011), with interventions, comments, and protests due on or before January 3, 2012. The Commission issued an erratum on December 27, 2011 shortening the comment period to January 3, 2012. No protests or comments were received.

7. The Commission has granted certain waiver requests where an emergency situation or an unintentional error was involved.² Waiver, however, is not limited to those circumstances. "Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, the Commission has found that a one-time waiver is appropriate."³ Moreover, as noted above, the Commission previously granted an identical request for waiver of section 17.7 of the SPP Tariff when AES Shady Point filed a late request for an extension of the

¹ *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,088 (2009).

² See, e.g., *ISO New England, Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (allowing limited and temporary change to a tariff to correct an error); *Great Lakes Transmission Limited Partnership*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

³ *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,088 at P 7. See also, *Cal. Indep. System Operator Corp.*, 124 FERC ¶ 61,031, at P 19, *reh'g denied*, 124 FERC ¶ 61,293 (2008).

commencement of service. Here, we similarly find it reasonable to grant the waiver to permit AES Shady Point to avoid paying for transmission service it does not need. Therefore, we grant SPP the authority to waive its section 17.7 notice requirements and allow AES Shady Point to extend the commencement of its transmission service for an additional year.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.