142 FERC ¶ 61,070
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Southwest Power Pool, Inc. Docket No. ER12-2525-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued January 29, 2013)

1. On August 27, 2012, Southwest Power Pool, Inc. (SPP) filed tariff revisions to update Schedule 11 of its Open Access Transmission Tariff (OATT or Tariff) to convert the zonal component of through-and-out transmission service to a rate equal to the average of all zones under Schedule 11. In its filing, SPP also proposes modifying Schedule 11 of its OATT to clarify language referencing the Revenue Requirements and Rates File (RRR File) and to fix grammatical errors SPP overlooked in its filing in Docket No. ER12-74-000.[1] In this order, we accept SPP's revisions effective November 1, 2012, as requested.

I. Background

2. SPP's current rate for point-to-point through-and-out transmission service is a combination of the Schedule 7 point-to-point rate (the rate derived from the cost of providing service over facilities that were not regionally-planned and whose costs are not shared regionally) and the Schedule 11 point-to-point zonal and regional rates. SPP's current Schedule 11 rates reflect the costs of facilities whose costs are shared in whole or in part on a regional postage stamp basis. The remainder of the costs of these facilities is allocated to the zone in which each facility is located.[2]

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[1] *See* Docket No. ER12-74-000 (Dec. 5, 2011) (delegated letter order accepting SPP's revisions to its OATT).

[2] *See Southwest Power Pool, Inc.*, 131 FERC ¶ 61,252 (2010). Under SPP's Highway/Byway cost allocation methodology, the cost of economic and reliability upgrades approved through SPP's Integrated Transmission Planning process are allocated as follows:

- Projects above 300 kV: 100 percent on a regional postage-stamp basis

II. SPP's Filing

A. Initial Filing

3. On August 27, 2012, SPP filed revisions to Schedule 11 of its Tariff to convert the zonal component of through-and-out rates for regionally-planned network upgrades under Schedule 11 of its Tariff to a rate equal to the average of all the zonal rates under Schedule 11. SPP states that for through-and-out service, Schedule 11 currently applies the lowest Schedule 11 zonal rate for the zone or zones interconnected with the control area—external to the SPP region—that is the designated point of delivery. According to SPP, this process results in substantial variability in rates among SPP's zones. SPP proposes utilizing the same method to calculate the through-and-out transmission charge as it uses to determine the regional average rate for Schedule 11's regional charge. SPP explains that this new through-and-out rate will avoid rate variability and provide more consistent treatment of transmission service exiting the SPP region.[3]

B. Deficiency Letter

4. On October 31, 2012, Commission staff issued a deficiency letter asking SPP to submit additional information. Among other requests, the Commission asked SPP to explain how SPP's proposal to use an average rate reflecting the costs of facilities included in the Schedule 11 zonal rates for through-and-out customers is not unduly discriminatory and is consistent with its Highway/Byway cost allocation rate design.

III. Notice of Filings and Responsive Pleadings

5. Notice of SPP's August 27, 2012 filing was published in the *Federal Register*, 77 Fed. Reg. 53,882 (2012), with interventions, comments and protests due on or before September 17, 2012. On September 6, 2012, American Electric Power Service Corporation filed a timely motion to intervene. On September 17, 2012, West Texas Municipal Power Agency, Xcel Energy Services Inc., Sunflower Electric Power Corporation also filed timely motions to intervene. On September 17, 2012, Westar

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- Projects 100-300 kV: 1/3 on a regional postage-stamp basis, 2/3 zonally
- Projects below 100 kV: 100 percent to the zone in which the project is located

SPP's resulting transmission rate design is based on the type of facilities at issue: to the extent that facilities meet regional needs, their costs are allocated based on a postage stamp rate design (a regional component); to the extent that facilities meet the needs of one or more zones, their costs are allocated to those zones (a zonal component).

[3] SPP August 27, 2012 Transmittal at 2.

Energy, Inc. (Westar) and Flat Ridge 2 Wind Energy, LLC. (Flat Ridge) filed timely motions to intervene and protests.

6. Notice of SPP's response to the Commission staff's deficiency letter was published in the *Federal Register*, 77 Fed. Reg. 73,643 (2012), with interventions, comments and protests due on or before December 21, 2012. On December 21, 2012, the City of Independence, Missouri (City of Independence), and Flat Ridge filed protests to SPP's response to the Commission's data request. On January 10, 2013, SPP filed an answer to those protests.

IV. Discussion

A. Procedural Issues

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commissions Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SPP's answer because it provided information that assisted us in our decision-making process.

B. Protests to SPP's Initial Filing

i. Flat Ridge

8. Flat Ridge asserts that the key principle underlying SPP's long-standing rate design is that some costs are properly allocated on a postage stamp basis because such costs are incurred to meet the needs of all customers equally and that other costs are allocated zonally because the causal factors and benefits are more locally based.[4] Flat Ridge argues that SPP is abandoning this key principle and that the Commission should reject the filing because SPP does not explain why it is doing so.

9. Flat Ridge also argues that SPP's proposal is discriminatory. Flat Ridge argues that "[d]iscrimination is undue when there is a difference in rates and services among similarly situated customers that is not justified by some legitimate factor."[5] SPP's proposal results in an export rate that is higher than the rate for an internal transaction (this is the case for Flat Ridge's transmission service). Thus, according to Flat Ridge SPP's proposal creates discriminatory preferences for internal SPP transactions that are

[4] Flat Ridge September 17, 2012 Protest at 6-7.

[5] *Id*. at 9 (citing *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,061, at PP 2, 69 (2007), *order on reh'g*, 120 FERC ¶ 61,244 (2007)).

unduly discriminatory on their face.[6] Flat Ridge adds that in evaluating a proposal to shift costs from one group of customers to another, the Commission should take into account the commercial implications for the customers that are required to absorb significant increases in new costs unexpectedly. Flat Ridge requests that if the Commission accepts the proposal, the Commission should require a transition mechanism that phases in the rate design over a reasonable amount of time, i.e., 7-10 years.

10. Flat Ridge notes that it understands that other independent system operators (ISOs) have adopted postage stamp rate designs for exports while maintaining some forms of zonal pricing for internal transactions.[7] However, Flat Ridge states that the fact that these rate designs are reasonable for use in one ISO is not dispositive of their reasonableness in connection with SPP's proposal.

ii. Westar

11. Westar asserts that although it supports SPP's shift to an average rate, the proposed rate is completely new and not a revision to an existing rate (such as an annual update to a transmission formula rate or similar update to a rate based upon a triggering event or routine update). As such, Westar proposes that SPP add a provision to the OATT that would allow transmission customers a 30-day period to consider the new rates and elect to either pay the new rate, or obtain transmission service by other means.[8] Westar points out that it is not seeking any special form of grandfathered rate treatment for through-and-out service other than an opportunity for a transmission customer to evaluate the new rate. To this end, Westar requests that the Commission condition acceptance of SPP's OATT revisions on the provision of a 30-day (or greater) period of time within which transmission customers paying only the base rate for through-and-out transmission service may elect to continue such service under the new rates or terminate such service.[9]

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[6] *Id*. at 9.

[7] *Id.*, at n.21. (explaining that: (1) the Midwest Independent System Operator, Inc. (MISO) OATT, Schedule 7, provides for utilization of postage stamp rate designs for export and through point-to-point transactions, while using zonal rate designs for internal transactions; (2) ISO-NE OATT, § II.25.2 uses a postage stamp rate design for export transactions, but the rate includes no zonal cost (non-Pool Transmission Facility, i.e., non-PTF costs); and (3) NYISO OATT, Attachment H, Table 2 employs a zonal rate design for all export transactions).

[8] Westar September 17, 2012 Protest at 2-3.

[9] *Id*. at 3.

C. SPP's Response to Deficiency Letter

12. On November 30, 2012, SPP submitted a response to the Commission's request for additional information. In its response, SPP states that the through-and-out service rates originally included in SPP's OATT were based on the average of all zones. SPP states that its OATT was changed in 1999 to a least cost zonal rate design in order to facilitate more transmission business for through-and-out transmission service.[10] According to SPP, through-and-out transmission service was facilitated because the least cost zonal rate mechanism lowered the rates for through-and-out transmission service.

13. Notwithstanding SPP's previous justification for a least cost zonal rate, SPP states that SPP and the SPP stakeholders now find that the current rate methodology for through-and-out transactions results in inequitable treatment of customers in two ways: (1) the current rate methodology results in substantial variability among the Schedule 11 zonal rates for through-and-out transmission customers; and (2) transmission customers with load inside SPP may pay a substantially higher rate than through-and-out customers while using the same facilities.[11] SPP states that the proposed Tariff changes are designed to mitigate or eliminate both of these problems.[12] SPP explains that because through-and-out transactions do not sink within, and are thus not associated with, any specific zone, use of a region-wide average rate most fairly and equitably recovers the zonal costs when transmission service sinks outside of SPP. According to SPP, this proposal also puts similarly-situated customers in the same rate structure regardless of which zone the transmission service is sourced.

14. SPP explains that because through-and-out customers pay the least cost interconnected zonal price, the existing rate design often results in load with a point of delivery inside the SPP region paying a higher rate on average than load with a point of delivery outside the SPP region, even though they may both use the same facilities.[13] According to SPP, the current Tariff results in unjust and unreasonable rates because it always sets the rates at the lowest of the Schedule 7 or 8 rates, plus the lowest of the Schedule 11 zonal rates. Consequently, several exit rates have a combined rate lower than for customers that have load inside the SPP footprint. SPP asserts that this

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[10] SPP Response at 1.

[11] *Id*. at 2.

[12] *Id*.

[13] *Id*.

unintended consequence was not fully realized until enough Base Plan Upgrades[14] (including Highway/Byway projects) were built and it became clear that some of the border zones were not receiving zonal base plan funding which, in turn, resulted in unjustly low exit rates.[15] In SPP's view, the proposed changes will bring through-and-out rates into better alignment with charges allocated to internal SPP transmission service.

15. SPP notes that under the Balanced Portfolio cost allocation methodology, zonal revenue requirements associated with Schedule 11 are reallocated to regional cost recovery to ensure a benefit-cost ratio of 1.0 for the zones that otherwise would have a benefit-cost ratio of less than 1.0 as a result of the Balanced Portfolio methodology. SPP states that the Balanced Portfolio's reallocation of revenue requirements (Balanced Portfolio transfers) is intended to allocate costs equitably among SPP zones for the costs to construct upgrades that benefit the SPP region.[16]

16. SPP acknowledges, however, that this methodology results in even more disparity among zonal rates because certain zonal rates are further reduced, with some reduced to zero. According to SPP, by design, the Balanced Portfolio transfers move costs from zonal recovery to regional recovery. SPP states that the Balanced Portfolio methodology does not take into account the benefit-cost ratios for loads outside the SPP region. SPP also asserts that no benefit-cost analysis is conducted with regard to such loads and none is required under its Tariff because the Balanced Portfolio methodology focuses on customer loads within the SPP region. SPP argues that for this reason, the rate structure applicable to external loads should be relatively neutral with respect to the Balanced Portfolio transfers, and SPP's proposal achieves this neutrality by utilizing the regional average zonal rate under Schedule 11 for through-and-out service. Because SPP began the Balanced Portfolio reallocations in October 2012, SPP now contends that it is the appropriate time to restructure the through-and-out rates proposed in the instant filing.[17]

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[14] Base Plan Upgrades are defined as:

> Those upgrades included in and constructed pursuant to the SPP Transmission Expansion Plan in order to ensure the reliability of the Transmission System. Base Plan Upgrades shall also include: (i) those Service Upgrades required for new or changed Designated Resources to the extent allowed for in Attachment J to this Tariff, (ii) ITP Upgrades that are approved for construction by the SPP Board of Directors, and (iii) high priority upgrades, excluding Balanced Portfolios, that are approved for construction by the SPP Board of Directors.

[15] SPP Response at 5.

[16] *Id*. at 7.

[17] *Id*.

17. SPP notes that its rate design approach is not unique. According to SPP, similar average rate designs for point-to-point service sinking at the border or outside the RTO footprint are included in the respective Tariffs of MISO and PJM Interconnection LLC (PJM).[18]

18. SPP explains that its proposed revisions are wholly consistent with the purpose of the Highway/Byway cost allocation methodology, because the proposed rates recover the costs associated with zonal usage, at the level of an individual upgrade based on the nominal voltage. According to SPP, the zonal allocation will be recovered throughout the footprint for the services traversing the zone. SPP states that the Highway/Byway methodology was developed to determine pricing for transmission service for SPP load. Additionally, SPP asserts that the Highway/Byway methodology was developed as part of SPP's ongoing effort to move from a traditional transmission planning approach that focuses on local reliability issues to one that focuses on meeting the needs of the region as a whole and that will facilitate integration of the western and eastern portions of the SPP region. SPP states that the methodology was also developed with the assumption that point-to-point transactions sinking within SPP would be assessed the zonal component of the zone where the transaction sinks. Through-and-out transactions, by definition, service load outside SPP and thus represent a different type of transmission service from what was contemplated when the rate design was implemented.[19]

D. <u>Protests to SPP's Response to Deficiency Letter</u>

i. <u>City of Independence's Protest</u>

19. City of Independence and Flat Ridge assert that while SPP expresses concern with excessive variability among through-and-out rates, SPP ignores the fact that its current rate design is intended to produce variability among customers, based on the zone in which their point of delivery is located.[20] City of Independence notes that SPP has failed

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[18] *Id*. at n.7 (citing MISO Tariff, Schedule 7 (2), which provides that "[Transmission Customer] shall pay the applicable single system-wide rate for (1) Firm Point-to-Point Transmission Service where the generation source is located within the Transmission System Region and the load is located outside of the Transmission System Region; and (2) Firm Point-to-Point Transmission Service where both the generation source and the load are located outside of the Transmission System Region"); PJM Tariff, Schedule 7 and 8 (providing a single rate in addition to other applicable charges, for point-to point transmission service where the point of delivery is at the "Border of PJM").

[19] *Id*. at 4-5.

[20] City of Independence December 21 Protest at 8; Flat Ridge December 21 Protest at 4-5.

to support its claims that there may be cases where through-and-out customers pay a lower rate than customers within SPP. According to City of Independence, SPP points only to the unique situation involving the Southwest Power Administration (SPA) zone, which does not participate in Base Plan Upgrade cost allocation, and therefore has a Schedule 11 charge of zero.[21] City of Independence also questions SPP's complaint that the "lower of" pricing may result in a situation where an external customer may pay a lower combined rate than a customer internal to SPP. In City of Independence's view, this alleged result is no different today than when SPP first implemented the through-and-out rate policy in 1999, well before Schedule 11 Base Plan Funding was contemplated.[22] Apart from the unique SPA situation, City of Independence argues that SPP offered no support for why averaging all zones for all through-and-out transactions is the appropriate remedy to address issues involving external transactions connected through SPA. Finally, City of Independence requests that the Commission grandfather existing long-term transmission service so that the proposed rates will not apply to previously confirmed through-and-out transactions.[23]

ii. <u>Flat Ridge's Protest</u>

20. According to Flat Ridge, SPP cannot credibly argue that it is inequitable to maintain variability between through-and-out transactions on the one hand, and internal transactions on the other hand, when its proposed rate design would continue to embrace this variability among internal transactions.

21. Flat Ridge asserts that because the proposed Schedule 11 rates will reflect an average of the zonal rates, some internal customers will pay more than through-and-out customers, while others may pay less.[24] That is the natural consequence when some customers pay on the basis of zones and others pay a rate on the basis of an average of those zones. Thus, to the extent differences in rates paid by customers serving internal or external loads are considered to be discriminatory, Flat Ridge contends that SPP's proposal will not alter this discriminatory effect.

22. Flat Ridge contends that when SPP designed its Balanced Portfolio methodology, SPP should have placed stakeholders on notice that the Balanced Portfolio relied on SPP's need to undertake a future overhaul of the Schedule 11 rates for through-and-out

[21] City of Independence December 21 Protest at 7-8.

[22] *Id.*

[23] *Id.* at 9.

[24] Flat Ridge December 21 Protest at 5-6.

service to ensure adequate cost-benefit ratios for internal loads.[25] Flat Ridge contends that SPP is improperly attempting to "bootstrap" its rate design proposal on alleged concerns about the impact of the current rate design on implementation of the Balanced Portfolio methodology. Further, Flat Ridge asserts that SPP must demonstrate that its proposal will produce rates that are just and reasonable and not unduly discriminatory for the services provided.[26]

23. Flat Ridge notes that not all other ISOs have implemented through-and-out rates that are similar to SPP's proposal. For example, in the New York Independent System Operator region, through-and-out rates are based on the zonal charge that applies at the point of delivery.[27] Flat Ridge adds that in ISO-New England, while through-and-out customers pay rates reflecting a postage stamp methodology, this is consistent with the pricing applied to internal customers; i.e., with respect to the same bucket of costs, the rate design for internal and external customers is similar. Flat Ridge concludes that each ISO's cost allocation methodologies that govern through-and-out transactions must be evaluated individually, in the context of the ISO's unique characteristics.[28] Flat Ridge points out that the Commission has confirmed that there is no single cost allocation principle that is appropriate for all markets.[29]

E. SPP's Answer to Protests

24. In its answer, SPP reiterates that its proposed rate change does not undermine or otherwise affect the Highway/Byway cost allocation method for transmission service within SPP, because this methodology was developed to determine pricing for transmission service specifically designated for SPP load. SPP states that the variability among internal customers that its current rate design produces needs further clarification; this variability reflects the differences in the costs of local transmission facilities required to get power to the various delivery points of SPP's network customers, which do vary from pricing zone to pricing zone. In contrast, SPP states, external customers who utilize SPP's transmission system to service load external to SPP do not have a point of delivery within SPP; rather, through-and-out transmission service utilizes SPP transmission facilities to service load outside SPP's transmission footprint, sometimes several states away, so a simplistic comparison with SPP zonal pricing for internal deliveries is not

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[25] *Id.* at 7-8.

[26] *Id.* at 8.

[27] *Id.* at 6.

[28] *Id.*

[29] *Id*. at 7, n.17.

applicable. SPP explains that through-and-out transmission service may affect multiple SPP zones; however, for settlement purposes, those transactions are designated to a point of delivery with a non-Tariff /non-rate designation external entity with no recoverable costs.[30]

25. SPP also explains that the use of the least-cost interconnected zone methodology has resulted in substantial inequities between internal and external customers. The result is that the transmission rate paid by external load on average is lower than the transmission rate paid by load within the SPP footprint on average, under Schedule 11. SPP concludes that its proposed cost-allocation methodology adequately addresses these inequities.[31]

26. SPP challenges Flat Ridge's contention that SPP is attempting to "bootstrap" the proposed revisions in the August 27 Filing to the Balanced Portfolio methodology and ultimately concludes that the Commission should reject all of Flat Ridge's proposed revisions.[32]

27. With respect to the City of Independence request for grandfathered treatment for existing contracts, SPP explains that the question of whether to exclude pre-existing transmission service that sinks outside of the SPP footprint was considered during the SPP stakeholder process. According to SPP, the proposal that emerged from the stakeholder process and was filed with the Commission did not include a grandfathering provision, because the stakeholders determined that SPP's proposal omitted Schedule 7 and 8 rates, which mitigated the impact of the proposal.[33]

F. Commission Determination

28. We accept SPP's OATT revisions as a reasonable solution for the growing rate disparity among transmission service customers. As SPP notes, the least-cost interconnected zone methodology was implemented six years before SPP implemented its first regional cost sharing regime in 2005 and 11 years before the Commission approved SPP's Highway/Byway cost allocation methodology. From the time that SPP implemented Base Plan Upgrades, which were the result of SPP's initial cost allocation methodology based on regional cost sharing and which established the Schedule 11 zonal and regional rates, and continuing through the subsequent Balanced Portfolio and

[30] SPP January 10, 2013 Answer at 4.

[31] *Id*. at 4.

[32] *Id*. at 8-11.

[33] *Id.* at 7.

Highway/Byway methodologies, an increasing number of Base Plan Upgrades have been placed into service increasing the size and significance of SPP's Schedule 11 zonal component. The result, according to SPP, is the substantial variability among the Schedule 11 zonal rates for through-and-out service. This variability was especially significant in the case of transactions involving SPA, and it will be exacerbated by Balanced Portfolio transfers, which will reduce the Schedule 11 zonal rates of other zones, potentially to zero.[34]

29. Faced with these realities, SPP proposes to use a rate for through-and-out transactions equal to the average rate of all the Schedule 11 zonal components. We find SPP's proposal to be a practical solution to an unanticipated problem. We also find that the resulting rates paid by through-and-out customers will be consistent with the cost causation principle. As SPP explains, through-and-out transactions do not sink within, and thus are not associated with, any specific zone. Accordingly, use of a region-wide average rate for through-and-out service fairly and equitably recovers the Schedule 11 zonal costs when transmission service sinks outside of the SPP footprint.

30. We disagree with protestors' arguments that it is unduly discriminatory to maintain the zonal Schedule 11 rates for delivery to loads within SPP while implementing a regional average rate for through-and-out service. We find that the zonal rates for delivery within SPP reflect the differences in the costs of local transmission facilities required to transmit power to the various points of delivery of SPP's network customers, and these costs vary from zone to zone. In contrast, through-and-out service customers serve load external to SPP, sometimes several states away, and thus do not have a point of delivery within SPP. Therefore, the rationale for the zonal rates for delivery within SPP is not applicable to through-and-out service. As SPP explains, through-and-out transactions, by definition, serve load outside SPP and thus represent a different type of transmission service from what was contemplated when the Highway/Byway rate design was implemented. Moreover, the Balanced Portfolio methodology focuses solely on the costs and benefits for loads within SPP. The Balanced Portfolio does not account for benefit-cost ratios for loads outside the SPP region; thus it is not unduly discriminatory to exclude through-and-out service from the impacts of the Balanced Portfolio transfers.

31. In addition, while we agree with protestors that each ISO's cost allocation methodologies that govern through-and-out transactions are to be evaluated individually, we note that MISO and PJM have similar cost allocation methodologies: costs associated with higher voltage facilities are allocated regionally, and lower voltage facilities are allocated locally, yet both RTOs use an average rate design for through-and-out service.

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[34] The Balanced Portfolio transfers move costs from the zonal to the regional component of Schedule 11 in order to raise the benefit-cost ratio of all zones to 1.0.

32. Finally, we disagree with Westar that a grace period is necessary to provide existing customers an opportunity to evaluate their transmission needs based on the new rate design. We also decline to require grandfathered treatment for existing contracts as requested by City of Independence. Likewise, we deny Flat Ridge's request for a 7-10 year transition period. These requests would provide special treatment for certain transmission customers, perpetuating the inequities among SPP transmission customers that SPP's proposal is intended to eliminate. As noted above, the least cost interconnected zone methodology was introduced before regional cost sharing began in SPP. It was only after the implementation of regional cost sharing that the unintended result of through-and-out customers paying a lower rate on average than internal customers using the same facilities became apparent. Through-and-out customers have paid lower rates on average than internal customers, and SPP's proposal promptly brings through-and-out rates more inline with the cost causation principle on a going forward basis.

33. Moreover, Schedule 11 rates are based on regionally-planned facilities whose costs are allocated zonally and regionally, and the facilities reflected in Schedule 11 rates are subject to change through successive transmission expansion plans. Thus, Flat Ridge and City of Independence were on notice that Schedule 11 rates are subject to change over time.

The Commission orders:

SPP's tariff sheets are hereby accepted for filing, effective November 1, 2012, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.