

143 FERC ¶ 61,025
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 8, 2013

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER13-301-001
ER13-301-002

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223
Attention: Matthew Harward

Reference: Tariff Revisions to Implement Formula Rate

Dear Mr. Harward:

1. On November 2, 2012, as amended on December 10, 2012, and February 7, 2013, Southwest Power Pool, Inc. (SPP) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to the SPP Open Access Transmission Tariff (OATT) to implement a cost-based transmission formula rate for Mid-Kansas Electric Company, LLC (Mid-Kansas).² SPP requests an effective date of January 1, 2013, for the proposed OATT revisions. As discussed below, we conditionally accept the proposed OATT revisions, with an effective date of January 1, 2013, as requested.

2. SPP administers its OATT on behalf of its 68 members, including Mid-Kansas, a non-profit coalition of five consumer-owned cooperatives and one corporation that is wholly owned by a sixth Kansas consumer-owned cooperative. Mid-Kansas has been a transmission-owning member of SPP since 2007. Mid-Kansas's rates are subject to the jurisdiction of the Kansas Corporation Commission (Kansas Commission).

3. In the November 2, 2012 filing, SPP proposes the following revisions to Attachment H of the SPP OATT: (1) in section 1, Table 1, change the Network Integration Transmission Service (NITS) rate for the Mid-Kansas zone from a stated rate

¹ 16 U.S.C. § 824d (2006).

² The OATT revisions are listed in the Appendix.

to the formula rate posted on SPP's website; and (2) in Addendum 19, insert an unpopulated formula rate template and Formula Rate Implementation Protocols (Protocols) for the Mid-Kansas NITS rate. SPP proposes the following revisions to Attachment T of the SPP OATT: change the Mid-Kansas Point-to-Point Transmission Service rate from a stated rate to a rate based in part on the formula rate for NITS for Mid-Kansas set out in Attachment H and posted on SPP's website.³

4. In the December 10, 2012 filing, SPP proposes to revise the proposed formula in Addendum 19 of Attachment H so that regulatory expenses for transmission will be allocated using the "wages and salaries" allocation factor instead of the "directly assigned" allocation factor.⁴ SPP's filing also included, for informational purposes, the "populated" formula rate template, as Appendix A to the transmittal letter.

5. In the February 7, 2013 filing, SPP proposes to revise the formula rate template in Addendum 19 of Attachment H to correct a typographical error and to revise Attachment T to refer to Addendum 19 (rather than Addendum 18) of Attachment H.

6. SPP states that it is submitting the proposed OATT revisions at the request of Mid-Kansas, pursuant to SPP's obligation to submit rate filings to this Commission on behalf of SPP members.⁵ SPP explains that the Kansas Commission approved Mid-Kansas's formula rate on October 31, 2012,⁶ and that the Kansas Commission expressly required the additional changes proposed in the December 10, 2012 filing.⁷

7. SPP requests waiver of the Commission's filing requirements in 18 C.F.R. § 35.13 (2012) to the extent they require cost support in the form of cost-of-service statements for the proposed OATT revisions, because the revisions update Mid-Kansas's transmission rates and implement a formula rate, and because the Kansas Commission approved the rate.⁸

³ The formula rate template may not be changed without Commission approval, and rates recovered under the formula are subject to a true-up process.

⁴ SPP December 10, 2012 Filing, Transmittal Letter at 1-2.

⁵ SPP November 2, 2012 Filing, Transmittal Letter at 4-5.

⁶ *Id.* at 2.

⁷ SPP December 10, 2012 Filing, Transmittal Letter at 2.

⁸ SPP November 2, 2012 Filing, Transmittal Letter at 6.

8. Notice of the November 2, 2012 filing was published in the *Federal Register*, 77 Fed. Reg. 67,641 (2012), with comments, protests, or interventions due on or before November 23, 2012. The Kansas Commission filed a notice of intervention and comments in support of the filing. On November 28, 2012, Mid-Kansas and Sunflower Electric Power Corporation (Sunflower) filed a joint motion to intervene out of time and comments, noting that Sunflower, an affiliate of Mid-Kansas, will be filing similar proposed tariff revisions in the future.

9. Notice of the December 10, 2012 filing was published in the *Federal Register*, 77 Fed. Reg. 74,840 (2012), with comments, protests, or interventions due on or before December 31, 2012. No responsive filings were received. Notice of the February 7, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 11,634 (2013), with comments protests, or interventions due on or before February 28, 2013. No responsive filings were received.

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the Kansas Commission's notice of intervention makes it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), we will grant Mid-Kansas's and Sunflower's joint motion to intervene out of time, given their interest in the proceeding, the early stage of the proceeding, and the absence of prejudice or delay from granting the motion.

11. Our review indicates that the proposed OATT revisions appear to be just and reasonable and not unduly discriminatory or preferential. Accordingly, we conditionally accept them effective January 1, 2013, as requested. While the Kansas Commission has jurisdiction over the rates of Mid-Kansas and has approved the proposed formula rate, this Commission has jurisdiction over SPP's rates, of which Mid-Kansas's rate is a component.⁹ Therefore, the Commission is required under FPA section 205 to review Mid-Kansas's rate, as filed by SPP, to ensure that SPP's rates are just and reasonable.

12. In addition, we note that Note P of the formula rate template provides that the approved margins for interest (MFI) ratio and debt service coverage (DSC) ratio will be established by the Kansas Commission and cannot be changed absent a filing with the Kansas Commission.¹⁰ Similarly, section C.5.a. of the Protocols provides that a change to the formula rate inputs related to MFI or DSC (and other inputs) may not be made

⁹ See, e.g., *City of Vernon, Calif., et al.*, 112 FERC ¶ 61,207, at P 30 (2005), *reh'g denied*, 115 FERC ¶ 61,297 (2006), *remanded on other grounds sub nom. Transmission Agency of No. Calif. v. FERC*, 495 F.3d 663 (D.C. Cir. 2007) (*City of Vernon*).

¹⁰ SPP November 2, 2012 Filing, Exhibit, proposed revisions to SPP OATT, Attachment H, Addendum 19, at p. 8 of 71.

absent a filing with and order of the Kansas Commission. Our acceptance of these provisions referring to the Kansas Commission's jurisdiction over Mid-Kansas's rates should not be read to affect our jurisdiction over jurisdictional rates, nor does our acceptance of these provisions delegate to the Kansas Commission our review authority over any jurisdictional rate. Accordingly, we require SPP, within 30 days of the date of this order, to revise the proposed formula rate and Protocols to state that no changes to the ratios used to establish rates under the SPP tariff will take effect unless accepted for approval by this Commission pursuant to the FPA.

13. Finally, SPP's request for waiver of the full filing requirements in 18 C.F.R. § 35.13 (2012) is granted, based upon Mid-Kansas's non-jurisdictional status.¹¹

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹ See, e.g., *City of Vernon*, 112 FERC ¶ 61,207 at P 15 (noting that the City of Vernon had "appropriately" been excused from the Commission's regulatory filing requirements, but was required to provide enough information for the Commission to review the rate); *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,240, at P 36 (2012) (stating that, because the entity was not subject to FPA section 205, it was not subject to the Commission's regulatory filing requirements, but was required to provide enough information for the Commission to review the rate).

Appendix

Southwest Power Pool, Inc.
FERC FPA Electric Tariff
Open Access Transmission Tariff, Sixth Revised Volume No. 1

[Att. H Addendum 19 Part 1, Attachment H Addendum 19 \(MKEC\) Part 1, 0.2.0](#)

[Att. H Addendum 19 Part 2, Attachment H Addendum 19 \(MKEC\) Part 2, 0.1.0](#)

[Att. H Addendum 19 Part 3, Attachment H Addendum 19 \(MKEC\) Part 3, 0.1.0](#)

[Attachment H, Attachment H Annual Transmission Revenue Requirement For ..., 25.1.0](#)

[Attachment T MKEC, Attachment T Mid-Kansas Electric Company, 3.2.0](#)