

143 FERC ¶ 61,262
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 24, 2013

In Reply Refer To:
Southwest Power Pool, Inc.
Docket No. ER13-661-000

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

Reference: Compliance Filing

Dear Mr. Harward:

1. On December 28, 2012, pursuant to section 205 of the Federal Power Act (FPA),¹ Southwest Power Pool, Inc. (SPP) submitted a filing proposing revisions to SPP's Open Access Transmission Tariff (Tariff) in compliance with the Commission's directives in Order No. 741.²

2. Order No. 741, among other things, reformed the Commission's existing credit policies by requiring the adoption of minimum criteria for market participation and the adoption of steps to address the risk that regional transmission operators (RTO) and independent system operators (ISO) may not be allowed to use netting and set-offs in the event of the bankruptcy of a market participant (netting requirement).³ The Commission was concerned that merely including the ability to net in RTO/ISO Tariffs would not

¹ 16 U.S.C. § 824d (2006).

² *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, 75 FR 65942 (Oct. 27, 2010), FERC Stats. & Regs. ¶ 31,317 (2010) (Order No. 741), *order on reh'g*, Order No. 741-A, 76 FR 10492 (Feb. 25, 2011), FERC Stats. & Regs. ¶ 31,320 (2011) (Order No. 741-A), *reh'g. denied*, Order No. 741-B, 135 FERC ¶ 61,242 (2011) (Order No. 741-B).

³ Order No. 741, FERC Stats. & Regs. ¶ 31,317 at P 4.

provide sufficient protection to ensure the right of an RTO/ISO to net in the bankruptcy context.⁴ Therefore, to mitigate this risk, the Commission required each RTO and ISO to submit a compliance filing that includes tariff revisions to include one of the following options: (1) establish a central counterparty; (2) require market participants to provide a security interest in their transactions in order to establish collateral requirements based on net exposure; (3) propose another alternative, which provides the same degree of protection as options 1 and 2; or (4) establish credit requirements for market participants based on their gross obligations.⁵

3. To comply with the Commission's directives to enhance its ability to offset market obligations in bankruptcy, SPP proposes to revise its Tariff to provide a mechanism whereby it will become counterparty to certain market transactions which are "pooled" within the Integrated Marketplace.⁶ SPP asserts that as a central counterparty, it identifies the obligations of both parties in a transaction and interjects itself as the buyer to the seller and as the seller to the buyer, establishing mutuality in the transactions, and creating legal standing to enable the set-off of amounts owed to and from a market participant in a bankruptcy proceeding.⁷

4. Specifically, SPP proposes revisions to Attachment AE of the Tariff that include: (1) a new definition of Integrated Marketplace Counterparty;⁸ (2) and a new section to provide for SPP's assumption of the role under the Tariff;⁹ and (3) new sections to Attachment AE to define and limit SPP's liability as counterparty to market transactions.¹⁰

5. SPP requests an effective date of March 1, 2014, to coincide with the implementation of SPP's Integrated Marketplace. According to SPP, good cause exists to allow the proposed revisions to be effective on the date requested because the netting requirement of Order No. 741 is applicable to transactions in the Integrated Marketplace.

⁴ *Id.* P 121.

⁵ *Id.* P 117.

⁶ SPP Transmittal at 4.

⁷ *Id.*

⁸ *Id.* See also SPP Tariff, Attachment AE, § 1.1 – definitions.

⁹ SPP Transmittal at 5. See also SPP Tariff, Attachment AE, § 3.1.

¹⁰ SPP Transmittal at 5-9. See also SPP Tariff, Attachment AE, §§ 3.8 and 10.

6. SPP also requests waiver of the Electric Quarterly Report (EQR) reporting requirements regarding the Integrated Marketplace Counterparty's sales to market participants that result from SPP's administration of the Integrated Marketplace. According to SPP, its role is limited to facilitation of transactions in a centralized market. Furthermore, SPP asserts that it will not be a market participant, and it will not have any discretion regarding price. SPP notes that market participants selling into the Integrated Marketplace will continue to have EQR reporting requirements with respect to their sales transactions, and EQR reporting by SPP will not provide any significant additional information beyond that already received by the Commission from the market participants. SPP asserts that the Commission has previously approved waivers of the EQR reporting requirements regarding sales to market participants that result from an RTO's/ISO's presence as the central counterparty for all market-related transactions.¹¹

7. Notice of SPP's filing was published in the *Federal Register*, 78 Fed. Reg. 2383 (2013), with interventions and protests due on or before January 18, 2013. Exelon Corporation and, collectively, East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc., filed motions to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹² the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. The Commission finds that SPP's proposed Tariff revisions to become the central counterparty for market-related transactions in the Integrated Marketplace comply with the netting requirements of Order No. 741. Accordingly, we accept SPP's filing to become effective on March 1, 2014, consistent with the effective date approved by the Commission in the order implementing SPP's Integrated Marketplace.¹³

¹¹ SPP Transmittal at 10 (citing *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207, at PP 60-61 (2010); *ISO New England Inc.*, 140 FERC ¶ 61,177, at P 32 (2012); *California Independent System Operator Corporation*, 140 FERC ¶ 61,169, at P 37 (2012)).

¹² 18 C.F.R. § 385.214 (2012).

¹³ *Southwest Power Pool, Inc.*, 141 FERC ¶ 61,048 (2012), *order on reh'g*, 142 FERC ¶ 61,205 (2013).

9. We also grant SPP's request for waiver of the EQR reporting requirements regarding the Integrated Marketplace Counterparty's sales to market participants that result from SPP's administration of the Integrated Marketplace as consistent with the Commission's actions regarding similar waiver requests.¹⁴

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁴ See *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207 at PP 60-61; *ISO New England Inc.*, 140 FERC ¶ 61,177 at P 32; *California Independent System Operator Corporation*, 140 FERC ¶ 61,169 at P 37 (granting EQR reporting requirement waivers for sales to market participants that result from an RTO's/ISO's presences as the central counterparty for market-related transactions).