

144 FERC 61,255
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER13-2078-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued September 30, 2013)

1. On July 31, 2013, the Southwest Power Pool, Inc. (SPP) filed revisions to its open access transmission tariff (Tariff) to address the treatment of grandfathered agreements (GFAs) that are “carved-out” from the SPP Integrated Marketplace.¹ In this order, the Commission conditionally accepts the tariff revisions for filing, to be effective March 1, 2014. The Commission directs SPP to submit a compliance filing within 30 days of the date of this order, as discussed below.

I. Background

2. On October 18, 2012, the Commission issued an order conditionally accepting SPP’s proposed treatment of GFAs within SPP’s Integrated Marketplace, which is scheduled to commence on March 1, 2014.² The October Order accepted SPP’s treatment of GFAs conditioned on SPP negotiating informally with GFA holders to resolve issues about integrating GFAs into the new market.³ On March 15, 2013, in a status report to the Commission, SPP reported that it was at an impasse with Omaha Public Power District (OPPD) regarding its GFAs. Thereafter, on June 6, 2013, the Commission established formal settlement judge procedures at the request of OPPD and subsequently expanded the settlement judge procedures to include all GFAs that had not

¹ See Appendix for E-Tariff designations.

² *Southwest Power Pool, Inc.*, 141 FERC ¶ 61,048 (2012) (October 2012 Order), *order on reh’g and clarification*, 142 FERC ¶ 61,205 (2013).

³ October 2012 Order, 141 FERC ¶ 61,048 at P 309.

been integrated into the Integrated Marketplace.⁴ The Commission stated that if the parties were unable to resolve the issues involving OPPD GFAs by August 1, 2013, then SPP was to file a carve-out proposal for unresolved GFAs by August 8, 2013.⁵ SPP's instant filing addresses that directive. Concurrently with its filing in this docket, SPP submitted in Docket No. ER12-1179-000 an Offer of Settlement and Explanatory Statement (collectively, Settlement) that sets forth the criteria for determining carve-out eligibility and that identifies the GFAs that satisfy those criteria.⁶

II. SPP's Filing

3. SPP's filing revises Tariff Attachment AE to define and establish the GFA carve-out, i.e., to establish rules for *not* charging GFAs for certain charges that would otherwise be assessed. The proposed tariff revisions: (1) describe the process for electing and qualifying for a GFA carve-out; (2) address scheduling needed to implement the GFA carve-out; (3) prescribe settlement rules for a GFA carve-out; (4) set special rules for Auction Revenue Rights (ARRs) and Transmission Congestion Rights (TCRs) associated with a GFA carve-out; and (5) establish a process to account for these charges not assessed to a carved-out GFA, and to allocate and recover those costs.⁷ SPP also proposes to make a related tariff change to Attachment AG to make clear that the scope of Market Monitoring in SPP includes carved-out GFAs.⁸

4. SPP proposes to define a GFA carve-out as “[r]emoval of the congestion and marginal loss charges for the amount of energy (MWh) actually transacted associated with GFAs.”⁹ SPP states that the charges associated with the cost of congestion and

⁴ *Southwest Power Pool, Inc.*, 143 FERC ¶ 61,219 (2013) (June 2013 Order) (establishing settlement judge proceedings to address unresolved issues regarding the integration of one party's GFAs); *Southwest Power Pool, Inc.*, 143 FERC ¶ 63,016 (2013) (expanding the scope of the settlement judge proceedings to include all GFAs that had not been integrated into the Integrated Marketplace). On August 8, 2013 SPP submitted a copy of GFA No. 494 to comply with the June 2013 Order.

⁵ June 2013 Order, 143 FERC ¶ 61,219 at P 21.

⁶ The Commission is issuing an order concurrently with this order concerning the Settlement filed by SPP in Docket No. ER12-1179-000.

⁷ SPP Transmittal Letter at 6.

⁸ *Id.* at 17.

⁹ *Id.* at 6.

losses for transactions under a carved-out GFA are based on the submitted schedules and the day-ahead market clearing price for the settlement locations.¹⁰ The proposal does not excuse GFA parties from any other rates, charges, terms, or conditions of the Integrated Marketplace that are applicable to those that are responsible for resources and load in the SPP region.

5. SPP explains that parties to a carved-out GFA will not receive ARR, but because a GFA is usually a firm transmission service, SPP must reflect that firm commitment in its system modeling that supports the allocation of ARRs to other firm services. Accordingly, SPP proposes under new section 8.2.2(c) that SPP shall account for the GFA carve-out in the TCR market, but SPP shall not allocate ARRs or assign TCRs to the parties to a carved-out GFA. Section 7.0(b) provides that an entity taking firm transmission service under a carved-out GFA will not be eligible to participate in the TCR market for the MW capacity associated with the carved-out GFA.¹¹ Further, section 7.0(b)(i) provides that the MW capacity associated with each carved-out GFA shall be included in the Transmission Provider's ARR allocation and TCR auction processes in a manner that reflects the transmission service under the carved-out GFA.¹²

A. Designation of GFA Responsible Entity and GFA Status

6. Under new section 2.2(12), a Transmission Owner that provides firm transmission service under a carved-out GFA must designate the GFA Responsible Entity.¹³ The proposal states that a GFA Responsible Entity is an entity that is: (1) designated by the Transmission Owner; (2) registered as a Market Participant; and (3) financially responsible for all day-ahead and transactional costs pursuant to a carved-out GFA.¹⁴ Under new section 2.2(13), the GFA Responsible Entity must, among other things, provide SPP with the information necessary to administer the carved-out GFA, submit schedules, and be responsible for the administrative costs associated with the carved-out GFA.¹⁵

¹⁰ *Id.* at 11.

¹¹ *Id.* at 12.

¹² *Id.*

¹³ *Id.* at 8-9.

¹⁴ *Id.*

¹⁵ *Id.* at 9.

7. SPP proposes that the Transmission Owner that is a party to a GFA eligible for carve-out must elect one of the following three options: (1) elect a GFA carve-out; (2) elect to have the GFA be treated comparably to other firm transmission reservations eligible for ARR and TCRs;¹⁶ or (3) convert the GFA into SPP Tariff transmission service.¹⁷ Such option must be made by no later than 30 days¹⁸ before the start of SPP's process to verify existing transmission service entitlements in connection with the ARR nomination and allocation process. The revised Tariff provides that once an election is made, it is "irrevocable."¹⁹ Further, there is no option for GFA carve-out status for any GFA added to Tariff Attachment W after October 18, 2012, the date of Commission acceptance of the Integrated Marketplace.²⁰

B. Scheduling and Reporting Requirements

8. SPP proposes under new section 8.2.2(b) that it will remove congestion and marginal loss charges for a carved-out GFA only if the GFA Responsible Entity submits a carved-out GFA Schedule and e-Tag (as applicable) for the day-ahead market for the carved-out GFA transaction.²¹ SPP explains that energy transactions under the GFA that are to be relieved from congestion and marginal loss charges must be scheduled consistent with Tariff rules applicable to the type of service for the GFA. According to SPP, this will ensure that SPP can calculate the costs that the Integrated Marketplace would have imposed on the GFA, but now must be recovered through uplift.²²

9. Further, under the revised Tariff the GFA Responsible Entity must update its carved-out GFA schedule after the close of the day-ahead market with the actual energy

¹⁶ Under this option, the GFA remains in effect, but is subject to congestion and marginal loss charges and is entitled to ARRs and TCRs.

¹⁷ SPP Transmittal Letter at 7.

¹⁸ SPP states that elections may be made by the Transmission Owner before October 18, 2013 for the first ARR cycle. For future years, the GFA Responsible Entity may elect in writing to cancel the GFA carve-out treatment and therefore be eligible to participate in the ARR allocation and TCR markets.

¹⁹ SPP Transmittal Letter at 8.

²⁰ *Id.*

²¹ *Id.* at 9.

²² *Id.* at 10.

transacted, and submit monthly GFA invoices and hourly details to the Transmission Provider for auditing purposes.²³

C. Cost Allocation of the GFA Carve-Out Uplift

10. SPP explains that the congestion and marginal loss charges that are not assessed to GFA parties must be recovered in some other manner to ensure that SPP's market settlements remain revenue neutral. SPP proposes that the costs associated with each carved-out GFA will be recovered on a load ratio share basis from the loads in the transmission zone that is associated with that GFA.²⁴ In support of this proposal, SPP argues that congestion and marginal loss charges are location-based charges, and that GFAs that have been identified for carve-out treatment in the concurrently filed Settlement are all associated with Transmission Owners that joined SPP in 2009. For this reason, SPP asserts that it is appropriate to allocate the uplift costs to these Transmission Owner zones.²⁵ Further, SPP contends that no Commission precedent forecloses zonal allocation of these costs.²⁶ SPP explains that, as proposed, initially it will allocate these uplift costs regionally, and then will reallocate all past amounts as well as future uplift amounts on a zonal basis after it develops new software necessary to allocate the costs zonally.

11. SPP proposes changes in section 8.9 of Attachment AE to detail its cost recovery on a zonal basis. SPP also states that the associated market protocols elaborate that the GFA carve-out uplift amount will be offset by any revenues from awarded ARR or resulting TCRs, and by the distribution of marginal loss for the over-collection of funds. For TCR revenues, SPP proposes to allocate ARR that otherwise would be associated with the carved-out GFAs to the uplift account that collects the congestion and marginal loss costs. In some cases, SPP notes that an ARR that is converted into a TCR can result in a payment obligation rather than a credit. Therefore, when an ARR would be expected to increase the GFA carve-out uplift distribution amount, SPP will not include it in the ARR allocation and TCR auction processes. Such a determination will be made pursuant to the market protocols, which state that if the same ARR would have resulted in a payment obligation had it been in effect during the most recent 12-month period for

²³ *Id.*

²⁴ *Id.* at 14.

²⁵ *Id.*

²⁶ *Id.* at 15.

which data is available, and would have resulted in a payment obligation, then it will not be nominated, and therefore will not be awarded.²⁷

12. SPP also states that systems modifications are needed to implement the zonal allocation of uplift costs associated with carved-out GFAs. SPP explains that section 8.9 of Attachment AE provides for zonal allocation, but directs that “prior to the time that [SPP] has made the appropriate software modifications to calculate the hourly transmission zonal uplift charges or credits,” the GFA Carve-Out Uplift Distribution Amount shall be recovered by adding those costs to SPP’s existing Revenue Neutrality Uplift charge, which is recovered on an SPP-wide basis.²⁸

13. SPP also proposes under section 7.0(b)(i) that the GFA Responsible Entity will be financially responsible for SPP’s administrative costs associated with accounting for the ARR allocations and TCR auctions associated with the GFA carve-out.²⁹

III. Comments and Protests

14. Notice of SPP’s filing was published in the *Federal Register*, 78 Fed. Reg. 49,498 (2013), with interventions, comments, and protests due on or before August 21, 2013.

15. Timely motions to intervene were filed by East Texas Cooperatives and Xcel Energy Services, Inc., Midwest Energy, Inc. (Midwest), Westar Energy, Inc. (Westar) and American Electric Power Service Corporation, on behalf of its affiliates, Public Service Company of Oklahoma and Southwestern Electric Power Company (AEP). Midwest, Westar and AEP (collectively, SPP TOs) filed joint comments. Timely motions to intervene and protests were filed by Basin Electric Power Cooperative and Tri-State Generation Transmission Association, Inc. (Tri-State) (collectively, Cooperatives), Lincoln Electric System (Lincoln), and Nebraska Public Power District (NPPD). Omaha Public Power District (OPPD) submitted a motion to intervene out-of-time.

16. SPP and SPP TOs filed answers to the comments and protests. Cooperatives, NPPD and Lincoln filed answers to the answer of SPP TOs.

²⁷ *Id.* at 16-17.

²⁸ *Id.* at 17.

²⁹ *Id.* at 12.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), the Commission will grant OPPD's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

18. Rule 213(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2013), prohibits answers to protests unless otherwise permitted by the decisional authority. We accept the answers to protests and answers because they have provided information that has assisted us in our decision-making process.

B. Commission Determination

19. We conditionally accept the GFA carve-out proposal subject to certain revisions explained in detail below. As modified, we find the proposal resolves the GFA issue in a reasonable manner and satisfactorily implements the GFA carve-out agreed to by the parties to the Settlement to facilitate the commencement of the Integrated Marketplace.³⁰

1. Designation of GFA Responsible Entity and GFA Status

a. Comments and Protests

20. The SPP TOs state that the options provide an appropriate level of flexibility to GFA parties to determine how best to handle their transmission service in light of the commencement of the Integrated Marketplace. Further, they agree with SPP's proposal

³⁰ As discussed below, the applicability of the carve-out to GFA No. 494 is to be determined in a separate Commission proceeding. Nonetheless, based on the GFAs the parties expect to be carved out including GFA No. 494, the total GFA carve-out is approximately 919.5 MW, which is less than two percent of SPP's total load. *Cf. Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,236 (2004) (MISO GFA Order) (In comparison, when Midcontinent Independent Transmission System Operator, Inc. (MISO) carved out GFAs for its region-wide market, the GFAs carved out equaled approximately 9.6 percent of the total MISO region-wide load.). ³¹ Lincoln Protest at 13.

to allow the GFAs identified after October 18, 2012 to either convert to transmission service or subject their GFAs to congestion and marginal loss charges. They argue that it is just and reasonable, because those entities have been given the opportunity to analyze the impact of the Integrated Marketplace participation upon their GFAs.

21. Lincoln argues that SPP should change its proposal to clarify that the Transmission Owner cannot be the party that unilaterally decides whether the GFA should be carved out while also unilaterally designating which party will be the GFA Responsible Entity.³¹ According to Lincoln, if the Transmission Owner is designated to make this determination, the Transmission Owner will be granted the unilateral right to make decisions that may alter the terms and conditions of the GFA.³² Lincoln argues that the Commission must allow the parties to a GFA eligible for carve-out treatment to decide what treatment the GFA should receive under the SPP Tariff, and when applicable, who should be the GFA Responsible Entity.³³ Lincoln asserts that if the parties to the GFA cannot agree on these designations, then the Commission should employ settlement judge procedures to facilitate resolution of this issue.³⁴ In support of this proposal, Lincoln states that this is the process followed in the MISO GFA proceeding.³⁵ Lincoln argues that in MISO, one party was not simply designated by MISO as the GFA Responsible Entity, and no one party automatically had decision-making rights that affected the counterparty to a GFA.³⁶

22. Cooperatives contend that if the Transmission Owner has the right to designate who is the GFA Responsible Entity and whether the GFA is carved out, the Transmission Owner may be able to require the counterparty to bear the financial costs of the

³¹ Lincoln Protest at 13.

³² *Id.* at 12.

³³ *Id.*

³⁴ *Id.* at 13-14.

³⁵ *Id.* at 14. Specifically, in the MISO GFA proceeding, the parties attempted to agree on various matters regarding the GFA, including which party would be the GFA responsible entity. If the parties could not agree, then settlement judge procedures were instituted. If such procedures were unsuccessful at resolving the dispute, then it was ultimately decided by the Commission, and the Commission determined that the Transmission Owner should be the responsible entity by default.

³⁶ *Id.*

Integrated Marketplace that were never contemplated by the GFA.³⁷ Cooperatives argue that the Commission should direct SPP to revise the Tariff so that the right to elect carve-out treatment falls to the GFA customer rather than to the Transmission Owner providing service to the GFA. Additionally, Cooperatives contend that the Commission should require the Transmission Owner to be the GFA Responsible Entity, absent agreement of the parties to the GFA.³⁸

23. In response to the protestors, the SPP TOs argue that making the Transmission Owners eligible to elect carve-out treatment or name the GFA Responsible Entity is consistent with the fact that Transmission Owners are by default responsible for congestion costs under the Tariff. Cooperatives respond by arguing that because it is the GFA load, and not the Transmission Owner, that is by default responsible for congestion costs, SPP should modify its Tariff to provide that the right to elect carve-out treatment falls to the GFA load rather than to the Transmission Owner providing service under the GFA. Moreover, SPP should provide specifically that the Transmission Owner cannot assign financial responsibility for Integrated Marketplace costs to its GFA counterparty under a carved-out GFA.³⁹ Cooperatives argue that if the election privilege is given to the Transmission Owner as SPP proposes, non-jurisdictional GFAs become vulnerable to unlawful modification or abrogation.⁴⁰

b. Commission Determination

24. We conditionally accept SPP's proposal, subject to a compliance filing to revise the Tariff provisions governing the designation of the GFA Responsible Entity. We find that the designation of the GFA Responsible Entity should be determined by mutual consent of the parties to the GFA, and absent such consent, the Transmission Owner should be the GFA Responsible Entity. Allowing the Transmission Owner to elect unilaterally the GFA customer as the GFA Responsibility Entity could subject the GFA customer to costs associated with the Integrated Marketplace that would change the terms of the GFA.⁴¹ This finding is consistent with Commission precedent in the MISO GFA

³⁷ Cooperatives Protest at 5.

³⁸ *Id.* at 5-6.

³⁹ Cooperatives September 13, 2013 Answer at 3-4.

⁴⁰ *Id.* at 3.

⁴¹ Even if the Transmission Owner elected to carve out the GFA, as the GFA Responsible Entity, the GFA customer could be subject to costs other than congestion costs and marginal loss costs (e.g., ancillary services costs).

carve-out proceeding where the Commission generally encouraged parties to a GFA to agree as much as possible on the terms of the GFA.⁴²

25. If the parties to the GFA cannot agree on who should serve as the GFA Responsible Entity, they may request the Commission to initiate settlement judge procedures. Regardless of whether such procedures are instituted, absent an agreement between the parties, we find that the Transmission Owner should be the default GFA Responsible Entity until the parties are able to reach agreement otherwise because the Transmission Owner must take service under the SPP Tariff to provide service under the GFA.⁴³ This finding is consistent with the Commission's determination in the MISO GFA carve-out proceeding where the Commission found that Transmission Owners are responsible entities unless the parties have agreed otherwise because the Transmission Owner must take transmission service to satisfy its obligations.⁴⁴ We direct SPP to submit revisions to its Tariff to reflect these modifications within 30 days of the date of this order.

2. Scheduling and Reporting Requirements

a. Comments and Protests

26. SPP TOs support the reporting requirements as necessary in order to calculate the amount of congestion and marginal losses.⁴⁵ SPP TOs also support the reporting requirements of monthly invoices with hourly details to ensure that parties to a carved-

⁴² *Midwest Independent Transmission System Operator, Inc.*, 107 FERC ¶ 61,191, at P 80 (2004). (“To avoid the expensive and time-consuming hearing process that would otherwise be necessary and to provide all parties the benefits of a functional organized market in a more timely manner than would otherwise be possible, the Commission strongly encourages GFA settlements and intends to process such settlements expeditiously.”)⁴³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,042, at P 148 (2005) (citing MISO GFA Order, 108 FERC ¶ 61,236 at PP 160, 300 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, Opinion No. 453, 97 FERC ¶ 61,033, at 61,173 (2001))).

⁴³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,042, at P 148 (2005) (citing MISO GFA Order, 108 FERC ¶ 61,236 at PP 160, 300 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, Opinion No. 453, 97 FERC ¶ 61,033, at 61,173 (2001))).

⁴⁴ *Id.* PP 142, 148.

⁴⁵ SPP TOs Comments at 5.

out GFA are not picking and choosing when energy is transacted under the GFAs and when it benefits the GFA Responsible Entities to transact under some other agreement.⁴⁶

27. Cooperatives argue that the proposal requires the GFA Responsible Entity to comply with special reporting requirements even though the GFA establishes the terms of the transactions. Lincoln asserts that the need for SPP's new day-ahead market reporting requirements is unclear and has not been not justified.⁴⁷ Lincoln explains that because the terms of the carved-out GFA are established in the agreement, it is unclear why SPP is requiring GFA Responsible Entities to update the GFA carve-out schedule after the close of the day-ahead market. Further, Lincoln argues that SPP has not explained why monthly reporting is necessary when hourly details must be submitted during the daily reporting of actual load meter and resource output values.⁴⁸

28. In its answer, SPP explains that the requirement to update the day-ahead schedule to actual energy taken is necessary to ensure that SPP properly credits the bill for the congestion and marginal losses attributable to actual service rather than scheduled service because not every GFA is a price-taker. SPP contends that the requirement to provide monthly GFA invoices and hourly details is to assist SPP in auditing whether there are any deviations between schedules and actual energy transactions. Therefore, this information is needed to enable SPP to determine that each GFA invoice is accurately and appropriately calculated. SPP states that any such deviations may be reported to the Commission's Office of Enforcement.

b. Commission Determination

29. We conditionally accept SPP's proposal, subject to a compliance filing to revise the scheduling and reporting requirements. We find that SPP has shown that the reporting requirements to update the day-ahead schedules after the close of the day-ahead market to report the actual energy transacted under the GFA are necessary to implement the GFA carve-out. While Lincoln is correct that for price-takers, the amount originally scheduled would be the amount actually taken, this is not true for all GFAs. The requirement to update the day-ahead market schedule to report the actual energy transacted will allow SPP to determine more accurately the amount of service taken under the GFA for parties that are not price-takers. With the more detailed information on the amount of service actually taken under the GFA, SPP will be able to accurately

⁴⁶ *Id.* at 6.

⁴⁷ Lincoln Protest at 6.

⁴⁸ *Id.* at 7.

calculate the amount of the credit for congestion costs and marginal losses for these carved-out GFAs and potentially reduce the amount of the uplift. We further note that the Commission directed Transmission Owners in MISO that use the MISO tariff to meet their obligations under carved-out GFAs to submit day-ahead and modified real-time schedules to MISO in accordance with the timelines in the tariff.⁴⁹ SPP's requirement to update the day-ahead schedule to the amount of service actually taken is similar to what the Commission required in MISO and, for the reasons discussed above, we find it to be just and reasonable.

30. We will require SPP to remove its proposed requirement for GFA Responsible Entities associated with carved-out GFAs to submit monthly invoices with hourly details because SPP has not shown the reporting requirements to be necessary to implement the GFA carve-out. Moreover, these reporting requirements may be unduly burdensome for carved-out GFAs. SPP argues the information is necessary to audit the information provided by the GFA Responsible Entity to discourage gaming. The Commission understands SPP's concern over gaming by GFA customers that also take service in the spot market; however, we find that SPP has not adequately demonstrated that this extra reporting requirement is a just and reasonable way to address such gaming.

31. We note that in the past, the Commission has addressed concerns about gaming by GFA customers with carved-out GFAs through monitoring by the Market Monitor instead of increased reporting by the party to a GFA. In the MISO GFA carve-out proceeding, the Commission recognized the potential for gaming by entities with carved-out GFAs that also transact in the energy market.⁵⁰ In this instance, the Commission required the Market Monitor to monitor for gaming behavior by parties with carved-out GFAs, and to report to the Commission prior to the second annual allocation. We find that a similar approach is appropriate here and, thus, we direct SPP to revise its Tariff to provide that the Market Monitor will monitor for gaming by GFA customers and to report any such instances to the Commission.

3. Cost Allocation of the GFA Carve-Out Uplift

a. Comments and Protests

32. SPP TOs support the zonal allocation of costs associated with the GFA carve-out as consistent with cost causation. They assert that the Commission recently approved the

⁴⁹ MISO GFA Order, 108 FERC ¶ 61,236 at P 144.

⁵⁰ *Id.* P 101.

use of zonal cost assignment for two region wide markets, and that these decisions provide precedent for using a zonal allocation in this instance.⁵¹

33. Cooperatives, NPPD, and Lincoln oppose SPP's proposed zonal-based allocation of congestion and marginal losses associated with the carved-out GFAs. They contend that SPP's proposal to allocate uplift costs to the zone in which the GFA customers' loads are located negates the Commission's finding in the October Order that a carve-out for GFAs in the Integrated Marketplace is consistent with Commission precedent.⁵² In even stronger terms, Cooperatives contend that SPP's proposed zonal-based allocation "completely eviscerates the intended GFA protections."⁵³ More specifically, NPPD contends that the carved-out GFAs represent approximately 35 percent of the total demand in the NPPD zone; therefore, allocating the uplift associated with the carved-out GFAs back to the NPPD zone would have a large rate impact on non-carved-out NPPD load.⁵⁴ NPPD asserts that the Commission's order for MISO's GFA carve-out required such an analysis, but SPP did not conduct any analysis of rate impact of the carve-out proposal.⁵⁵ NPPD states that under SPP's proposal, uplift costs related to the carved-out GFAs would be allocated to other market participants in NPPD's zone such as Municipal Energy Association of Nebraska (MEAN) which has no connection to the carved-out GFAs.⁵⁶ Similarly, Lincoln asserts that SPP has not explained how Nebraska loads

⁵¹ SPP TOs Comments at 8 (citing *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,100, at P 31 (2013) (allocating costs of must-offer backstop capacity procurement prior to the launch of the Market Redesign and Technology Upgrade) and *New York Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,059, at PP 312-313 (2013) (allocating costs for reliability and economic transmission projects under Order No. 1000)).

⁵² Cooperatives Protest at 4-7; NPPD Protest at 1-2; Lincoln Protest at 8.

⁵³ Cooperatives Protest at 7.

⁵⁴ NPPD argues that although allocating costs using a zonal based formula would leave NPPD with an estimated \$2.6 million in costs attributable to the 919.5 MW of NPPD's 10 GFAs, using a region-wide based allocation formula for all of NPPD's eligible GFAs would be equal to only 1.7 percent of the SPP coincident peak demand of 53,984 MWs and, therefore, allocating these costs system-wide would have a *de minimis* impact upon system-wide uplift costs. NPPD Protest at 21.

⁵⁵ NPPD Protest at 13-14 (citing MISO GFA Order, 108 FERC ¶ 61,236 at PP 99-100).

⁵⁶ *Id.* n.35.

contribute to the congestion that is included in the uplift more than loads located anywhere else in the SPP footprint. Moreover, Lincoln argues that cost causation requires costs imposed on a party to be commensurate with the burdens imposed by that party, and asserts that SPP has not addressed whether the uplift charges to be allocated to Nebraska loads are commensurate with the congestion burdens imposed by these loads in comparison to the congestion burdens imposed by other loads in SPP or with the benefits received by them after their 2009 integration with SPP.⁵⁷

34. With respect to the GFA carve-out Settlement filed by SPP, Lincoln asserts that even though the Settlement carves out both congestion and marginal loss costs for certain GFAs,⁵⁸ SPP's proposed Tariff provisions implementing the GFA carve-out "renders the Settlement carve-out useless."⁵⁹ Lincoln explains that, as proposed in section 8.9 of the Tariff, for each carved-out GFA, "the Transmission Provider shall calculate an hourly uplift charge or credit on a load ratio share basis to each Market Participant for all load Asset Owners it represents within the transmission Zone(s) associated with the GFA." Lincoln asserts that because the GFA Responsible Entity is required to be a Market Participant, the terms of section 8.9 of the Tariff appear to require load served under the carved-out GFA to pay the congestion and marginal loss cost. Lincoln concludes that this uplift cost allocation is in breach of the Settlement terms as well as the Commission's October 2012 Order.⁶⁰

35. Protesting parties argue that the Commission should direct SPP to recover GFA uplift costs from all loads (except carved-out GFAs)⁶¹ on a load-ratio share basis throughout the SPP region. NPPD asserts that SPP's zonal-based allocation is contrary to the Commission determination in the MISO GFA Order that it is reasonable to share the costs of congestion and marginal losses associated with carved-out GFAs with all firm customers on a system-wide basis. NPPD also contends that SPP's proposal is based on the erroneous assumption that the costs are local because they are associated with GFAs in the NPPD pricing zone. NPPD and Lincoln disagree with SPP's assertion that it is

⁵⁷ Lincoln Protest at 10.

⁵⁸ *Id.* at 7 (citing Settlement, Docket No. ER12-1179-000, at Article 2.1) (filed July 31, 2013).

⁵⁹ *Id.* at 9.

⁶⁰ *Id.* at 8.

⁶¹ Lincoln recognizes that it may be reasonable to assess the uplift equally across the entire footprint. Lincoln Protest at 8.

appropriate to allocate uplift costs to those transmission owner zones with GFAs that joined SPP after 2009, because loads in zones that joined before that time cannot have caused those costs. Rather, they assert that the entire SPP region benefits from the integration in 2009 of the Nebraska Transmission Owners into SPP; therefore it would be unjust and unreasonable to allocate those costs only to the NPPD zone.

36. Lincoln and NPPD object to SPP's proposal to recover from the GFA Responsible Entity the administrative costs for SPP's accounting of ARRs and TCRs, rather than treating these expenses as part of the overall administrative costs of ARRs and TCRs generally. Lincoln argues that the proposed administrative charges undermine the spirit of the Commission's intent that SPP negotiate a GFA carve-out. Lincoln asserts that SPP's new administrative fee is an indirect way of holding GFA Responsible Entities responsible for carve-out congestion costs, thereby contradicting the Settlement.⁶²

37. NPPD argues that, as compared to SPP's original Integrated Marketplace proposal for GFAs, SPP has added to its revised proposal approximately \$570,000 in costs for system software modifications to administer a zonal-based system.⁶³ Further, NPPD asserts that SPP has not submitted any details as to how these administrative costs will be identified, calculated or recovered.⁶⁴ NPPD asserts that by using a region-wide system, SPP could avoid these software costs.⁶⁵ According to NPPD, these costs should be treated as administrative costs recoverable pursuant to the applicable SPP Tariff provisions.

38. SPP TOs reply that NPPD's argument that zonal allocation would result in unnecessary incurrence of software costs by SPP is misleading because the Nebraska entities were on notice since at least 2009 that they would have to convert the GFA contracts to integrate them into the Integrated Marketplace.⁶⁶ However, according to the SPP TOs, these parties, including NPPD, have failed to take steps to integrate their GFA contracts and continued to renew them. Thus, the SPP TOs assert that NPPD has itself to blame for incremental SPP software costs.

⁶² *Id.* at 6.

⁶³ NPPD does not provide support for its contention that SPP's proposal adds approximately \$570,000 in costs for system software modifications. NPPD Protest at 18-19.

⁶⁴ NPPD Protest at 24.

⁶⁵ *Id.* at 18.

⁶⁶ SSP TOs Reply at 7.

39. NPPD answers SPP TO's reply by disagreeing with the implication by SPP TOs that NPPD has been less than diligent in proposing to carve-out GFAs from the Integrated Marketplace, and now has itself to blame for software costs incurred to implement the resulting allocation of uplift costs to the NPPD.⁶⁷ NPPD states that it has taken all available steps to convert pre-existing service to service under the SPP Tariff, and that, contrary to the argument of the SPP TOs, NPPD has not continued to renew its GFAs to avoid integration into the Integrated Marketplace.⁶⁸

b. Commission Determination

40. We find that SPP has not justified its proposal to uplift the costs of the GFA carve-out, and we direct SPP to submit a compliance filing to incorporate the modifications discussed below. We find that SPP has not provided support to justify its proposed zonal allocation of uplift costs or the separate assessment of administrative costs to GFA Responsible Entities. Further, we find that the proposed zonal based allocations would impose costs upon carved-out GFAs that would affect the terms of these agreements, which have a non-jurisdictional entity as the transmission owner,⁶⁹ and that SPP's proposed zonal based allocation appears to conflict with SPP's Settlement filed in Docket No. ER12-1179-000. Therefore, we conclude that SPP has not shown its proposed cost allocation of the uplift and administrative costs to be reasonable. Moreover, the Integrated Marketplace is expected to result in SPP region-wide benefit for all Market Participants. It is therefore consistent with the scope of this benefit that all Market Participants share the cost of the carved-out GFAs.

41. Specifically, we find that SPP has not provided any analysis to show that the zonal allocation of the uplift and the separate assessment to GFA Responsible Entities of administrative costs will not cause unjust and unreasonable rate impacts. However, protesting parties demonstrate that the zonal allocation could cause unreasonable rate impacts for some members of SPP and in particular to Nebraska entities. NPPD explains that the 919.5 MW of carved-out GFAs constitute approximately 35 percent of NPPD's peak load of 2,568 MW. Allocating all of those costs back to NPPD load on a load ratio basis could have a significant rate impact on NPPD load. In addition, NPPD notes that

⁶⁷ NPPD September 13, 2013 Answer at 2.

⁶⁸ *Id.* at 4.

⁶⁹ October 2012 Order, 141 FERC ¶ 61,048 at P 314 (citing MISO GFA Order, 108 FERC ¶ 61,236 at P 150). In the MISO GFA Order the Commission determined that it had no authority to modify some of the GFAs that had a non-jurisdictional entity as the transmission owner and directed MISO to carve-out such GFAs.

MEAN, which is located in NPPD's zone and has no connection to the carved-out GFAs, could be subject to significant price increases.

42. We are not persuaded by SPP TOs that there is recent precedent supporting SPP's proposal for zonal allocation of congestion and marginal loss costs, or administrative fees. Although SPP TOs offer two cases in support of this theory, we find that the cases represent materially different circumstances from the instant proceeding.⁷⁰ The California Independent System Operator, Inc. case involves allocation of must-offer backstop capacity procurement costs prior to the launch of the Market Redesign and Technology Upgrade in 2008, and the New York Independent System Operator, Inc. case concerns allocation of costs for reliability and economic transmission projects under Order. No 1000. In these cases, the RTOs made the case that an allocation of costs to zones was in a manner that is roughly commensurate with benefits.⁷¹ These circumstances are distinguishable from the instant matter because here SPP has not shown that its proposed zonal allocation is commensurate with the expected benefits of its proposal. Thus, we find that they do not support the assertion advanced by the SPP TOs that zonal allocation is appropriate in this proceeding.

43. Finally, we also note that the Commission approved as reasonable a region-wide allocation of uplift costs in the MISO GFA carve-out proceeding. NPPD states that the carved-out GFA load is less than two percent of the total SPP region-wide load. Allocating these carve-out costs throughout the Integrated Marketplace footprint would minimize any rate impact for any one particular customer and would allow the entire region to enjoy the benefits of the Integrated Marketplace. Thus, we find regional allocation of uplift costs on a load ratio share basis to all non-carved-out GFA load in the region to be just and reasonable, and we direct SPP to revise the Tariff to provide for a regional allocation.

44. When SPP submitted its proposed Tariff revisions, it also submitted a Settlement in Docket No. ER12-1179-000, which SPP negotiated with GFA parties to resolve issues concerning the treatment of GFAs in the Integrated Marketplace. In essence, the instant Tariff revisions are necessary to implement the Settlement. Consistent with the definition of a carved-out GFA in the Settlement, the proposed Tariff at section 8.2.2 defines a carved-out GFA as "an agreement with respect to which congestion and marginal loss charges will not be assessed for the transmission of energy under the GFA." However,

⁷⁰ *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,100 at P 31; *New York Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,059 at PP 312-313.

⁷¹ *New York Indep. Sys. Operator, Inc.*, 143 FERC ¶ 61,059 at PP 312-313; *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,100 at P 31.

we agree with protestors' argument that the Tariff revisions SPP proposes in section 8.9 regarding uplift costs do not appear to correspond with the definition of a carved-out GFA in the proposed Tariff, or with the terms of the Settlement. Specifically, proposed Tariff section 8.9 (GFA Carve-Out Uplift Distribution Amount) provides that “[f]or each GFA Carve Out, the Transmission Provider shall calculate an hourly uplift charge or credit on a load ratio share basis to each Market Participant for all load Asset owners it represents within the transmission Zone(s) associated with the GFA.” Because SPP proposes in Tariff section 1.1 (Definitions –G) that the GFA Responsible Entity is required to be a Market Participant, we find that section 8.9 appears to require that a carved-out GFA pay uplift costs associated with the transmission zone. Requiring carved-out GFAs to pay uplift costs appears to conflict with section 8.2.2 of the proposed Tariff, which states that carved-out GFAs will not be charged for the cost of congestion and cost of marginal losses in the day-ahead market for the amount of actual energy transaction as specified in the GFA Carve Out Schedule.⁷² Also, requiring carved-out GFAs to pay uplift costs appears to undermine the terms of the Settlement. Therefore, we find that SPP has not supported assessment of uplift costs to carved-out GFAs through a zonal allocation.

45. Additionally, because we find that SPP has not supported a zonal-based allocation for the carved-out GFAs and because this approach conflicts with the terms of the proposed Tariff and Settlement, SPP's proposal regarding systems modifications that it asserts are needed to implement the zonal allocation of uplift costs will not be necessary. Moreover, to the extent SPP would charge any other administrative costs not related to zonal allocation, SPP has not fully detailed either the rate for these administrative costs or the rate impact on GFA Responsible Entities. Further, by assessing administrative costs related to the accounting for the ARR allocation and TCR auctions to the GFA Responsible Entity, SPP would be undermining the terms of the Settlement in a manner similar to the zonal allocation. In addition, while the carve-out was intended to shield the carved-out GFAs from the cost of congestion and marginal losses, the assessment of the administrative fee would essentially charge carved-out GFAs for costs related to the congestion and marginal costs from which they are supposed to be shielded. Accordingly, we find SPP has not supported the administrative costs and we reject its proposal to separately charge for administrative costs associated with carved-out GFAs.

46. With respect to SPP's proposal to offset the GFA carve-out uplift amount by revenues from awarded ARRs or resulting TCRs and marginal loss surplus refund, we

⁷² SPP describes its tariff proposal as “establish[ing] rules for *not charging* GFAs for certain charges that the Integrated Marketplace otherwise would assess” and “establish[ing] a process to account for charges not assessed on GFA Carve Outs.” SPP Transmittal Letter at 6 (emphasis in original).

find that because the process of offsetting the uplift with these revenues will affect the GFA carve-out uplift distribution amount, it could significantly affect rates. Therefore, we direct SPP to submit a compliance filing to include these provisions in its Tariff instead of in the market protocols to its Tariff.⁷³

4. Applicability of Carve-Out Proposal to GFA No. 494

a. Protest

47. Cooperatives contest the GFA carve-out as it pertains to GFA No. 494.⁷⁴ Cooperatives argue that the only compensation for Tri-State's use of NPPD's transmission facility is the reciprocal right of NPPD to use Tri-State's facilities, plus an equalization payment.⁷⁵ Accordingly, Cooperatives assert that if NPPD unilaterally elects to convert GFA No. 494 pursuant to one of the options proposed by SPP, or makes it subject to congestion and marginal loss uplift costs, NPPD will have effectively abrogated the GFA.⁷⁶

48. NPPD argues that GFA No. 494 should be treated as embedded load. NPPD explains that it was Tri-State's decision not to join NPPD as a member of SPP, and NPPD should not be held primarily responsible for these costs.⁷⁷ Further, NPPD explains that GFA No. 494 does not receive either Point-to-Point or Network Transmission Service from SPP or NPPD, and that Tri-State's use of the SPP system is limited to balancing services. NPPD asserts that such limited use of the SPP system is not a basis for holding NPPD responsible for Tri-State's entire 466 MW load. NPPD explains that all of its remaining GFAs that have the potential for carve-out status would constitute less than one percent of SPP's peak load.

⁷³ See *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271 (2008) (assessing whether certain business practice manual provisions significantly affect rates, terms and conditions, and, therefore, must be included in a tariff).

⁷⁴ GFA No. 494 is an agreement between NPPD and Tri-State to provide for the establishment of a joint transmission system whereby NPPD and Tri-State each have the right to use all of the facilities in the joint transmission system to serve their loads.

⁷⁵ Cooperatives Protest at 5.

⁷⁶ *Id.*

⁷⁷ NPPD Protest at 17.

b. Commission Determination

49. Because the tariff revisions in this filing provide only generically-applicable tariff revisions pertaining to the implementation of the GFA carve-out, and do not explicitly address the applicability of these provisions to GFA No. 494, we will not address whether GFA No. 494 should be carved out or not. However, we note that if GFA No. 494 is determined to be a carved-out GFA, our determination in this order requires NPPD to consult and obtain the agreement of Cooperatives prior to converting the GFA, which would address Cooperatives' concern. With regard to NPPD's concerns, we note that we are establishing procedures to address issues related to GFA No. 494 in the order on the Settlement that is being issued concurrently with this order.

The Commission orders:

(A) SPP's tariff filing is hereby conditionally accepted, effective March 1, 2014, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

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

Att. AE (MPL) 1.1 G, Attachment AE (MPL) Section 1.1 G, 0.2.0

Att. AE (MPL) 2.2, Attachment AE (MPL) Section 2.2, 1.1.0

Att. AE (MPL) Sect 2.16, Attachment AE (MPL) Section 2.16, 0.0.0

Att. AE (MPL) 7, Attachment AE (MPL) Section 7, 0.2.0

Att. AE (MPL) 8.2, Attachment AE (MPL) Section 8.2, 0.2.0

Att. AE (MPL) 8.2.1, Attachment AE (MPL) Section 8.2.1, 0.1.0

Att. AE Sect 8.2.2 GFA, Attachment AE (MPL) Section 8.2.2, 0.0.0

Att. AE 8.9 GFA Uplift Dist, Attachment AE (MPL) Section 8.9, 0.0.0

Att. AE (MPL) 10.1, Attachment AE (MPL) Section 10.1, 0.1.0

Att. AG Sect 4, Attachment AG Section 4, 2.4.0