

145 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER13-1914-000
ER13-1914-001

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued December 6, 2013)

1. On July 9, 2013, Southwest Power Pool, Inc. (SPP) submitted for filing, pursuant to section 205 of the Federal Power Act,¹ revisions to its Open Access Transmission Tariff (Tariff) to clarify the determination of credits and distribution of credit revenue for network upgrades under its Tariff and to implement procedures to simplify and streamline the crediting process. SPP amended its filing on October 9, 2013 to withdraw a portion of the proposed Tariff revisions. In this order, we conditionally accept SPP's proposed Tariff revisions, subject to a compliance filing.

I. Background

2. SPP is a Commission-approved Regional Transmission Organization. SPP administers transmission service pursuant to its Tariff over portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. SPP has 72 members and serves more than six million customers over a 370,000 square mile area.²

3. Attachments Z1 and Z2 in SPP's Tariff contain procedures for studying long-term transmission service requests, termed the Aggregate Transmission Service Study (ATSS) process,³ and revenue crediting for transmission service customers that pay for directly

¹ 16 U.S.C. § 824d (2012).

² July 9 Filing at 1-2.

³ In addition to study procedures, Attachment Z1 includes provisions for cost allocation and recovery for service upgrades.

assigned service upgrade costs, respectively. Service upgrades necessary for granting long-term transmission service requests are identified as a part of the ATSS process. Transmission customers who have paid for directly assigned service upgrade costs are eligible to receive revenue credits when the sale of additional transmission service could not be granted without the service upgrades. Currently, SPP allocates directly assigned upgrade costs across all upgrades required to grant transmission service for a transmission service request, which creates multiple Creditable Upgrades.⁴

II. SPP Filing

4. SPP indicates that tracking Creditable Upgrades has become a burdensome process. SPP's proposals would create new mechanisms to minimize the number of new upgrades eligible for credits, thus simplifying and streamlining the crediting process. SPP asserts that its proposals will not modify the fundamental crediting process or substantively harm current customers. Additionally, SPP claims that its proposals are revenue neutral. SPP states that its proposed Tariff modifications were developed and vetted through the SPP stakeholder process and should receive "appropriate deference" from the Commission.⁵ To provide further clarity to its crediting process, SPP proposes new definitions, modifications to an existing definition, and revisions to Attachments H, J, L, O, Z1, and Z2 in its Tariff.

A. Attachments Z1 and J

5. SPP proposes a new subsection (c) within section V (Cost Recovery for Service Upgrades) of Attachment Z1 in its Tariff, which outlines a process for allocating directly assigned upgrade costs so as to minimize the number of new Creditable Upgrades resulting from the ATSS process. First, SPP will identify each network upgrade that is ineligible for 100 percent base plan funding that will become a Creditable Upgrade. SPP will also identify each existing Creditable Upgrade affected by any transmission service request in the ATSS.⁶ Second, SPP will allocate any directly assigned upgrade costs

⁴ SPP proposes to define Creditable Upgrade as "[a]ny Network Upgrade which meets the requirements of Section I of Attachment Z2." Proposed section I.A of Attachment Z2 states "[a]ny Network Upgrade which was paid for, in whole or part, through revenues collected from a Transmission Customer, Network Customer, or Generation Interconnection Customer through Directly Assigned Upgrade Costs shall be considered a Creditable Upgrade." Section I.B and I.C provide additional detail on treatment of Creditable Upgrades.

⁵ July 9 Filing at 3-5.

⁶ See *id.*, Proposed Tariff, Attachment Z1 § V.c.1.

associated with a transmission service request to the identified Creditable Upgrades, up to a maximum amount of upgrade costs per transmission service request for such Creditable Upgrades.⁷ Finally, SPP will allocate any remaining directly assigned upgrade costs associated with a transmission service request in a way that (1) minimizes the number of new Creditable Upgrades arising from the ATSS, and (2) when possible, allocates any remaining directly assigned upgrade costs to the network upgrade(s) required by that request that is affected by the most transmission service requests.⁸

6. SPP proposes referencing this procedure in section III.B.1.d.ii of Attachment J in its Tariff.⁹ SPP also proposes revising section III.B.1.f of Attachment J to provide that, for each transmission service request, the amount of base plan upgrade costs eligible for cost allocation will be allocated among all upgrades required to grant the transmission service request based upon the cost remaining after allocation of any directly assigned upgrade costs, in accordance with section III.B.1.d.ii of Attachment J.¹⁰

7. SPP asserts that these Tariff revisions are just and reasonable because they will reduce the number of Creditable Upgrades arising from each ATSS, the complexity of the crediting process, and administrative costs. SPP claims that this allocation process has no impact on charges to transmission service customers, and that charges to customers would be the same without these modifications.¹¹

B. Attachments Z2 and O

8. In the July 9 filing, SPP proposes a new section III to Attachment Z2 of its Tariff, which describes a mechanism that would allow current customers eligible to receive credit revenues for Creditable Upgrades under Attachment Z2 to elect to either (1) roll the cost of applicable upgrades into general rates and receive a “fair and equitable buy-

⁷ See *id.*, Proposed Tariff, Attachment Z1 § V.c.2.

⁸ See *id.*, Proposed Tariff, Attachment Z1 § V.c.3.

⁹ Attachment J in the SPP Tariff includes provisions for the recovery of costs associated with new facilities.

¹⁰ See July 9 Filing, Proposed Tariff, Attachment J § III.B.1.f. This section currently provides that these costs will be pro-rated among all base plan upgrades required to grant the service request based on each upgrade’s cost that is allocated to the transmission service request, in accordance with Attachment Z1.

¹¹ *Id.* at 9.

out” or (2) continue to receive revenue credits.¹² SPP asserts that these provisions would be revenue neutral and result in the tracking of fewer Creditable Upgrades, thereby reducing administrative costs.¹³

9. SPP also proposes revisions to section III.5 of Attachment O (Transmission Planning Process) to require review of all Creditable Upgrades for possible inclusion in transmission rates as part of the procedure for preparing SPP’s annual assessment of system upgrades required in the near-term planning horizon.¹⁴

10. On October 9, 2013, SPP filed an amendment to the July 9 filing (October 9 Amendment) withdrawing the proposed revisions to section III of Attachment Z2 and proposing, instead, to retain the original provision for “Future Roll-In” that currently exists in the Tariff.¹⁵ SPP did not withdraw proposed revisions in Attachment O relating to SPP’s withdrawn proposal in section III of Attachment Z2.

C. Attachments H and L

11. SPP proposes revisions to Attachment H that, it asserts, will increase transparency by allowing SPP to track separately the zonal and regional Annual Transmission Revenue Requirement (ATRR) amounts used to pay upgrade sponsors.¹⁶ SPP states that this will ensure that these amounts are not commingled with amounts allocable to transmission owners.¹⁷ SPP also proposes updating Attachment L in its Tariff to reflect revenue distributions made to customers under the Tariff’s crediting provisions.¹⁸

¹² *See id.*, Proposed Tariff, Attachment Z2 § III.

¹³ *Id.* at 9.

¹⁴ *See id.*, Proposed Tariff, Attachment O § III.

¹⁵ *See* October 9 Amendment at 2-3.

¹⁶ Attachment H in SPP’s Tariff sets forth SPP’s ATRR for network integration transmission service.

¹⁷ July 9 Filing at 8.

¹⁸ Attachment L contains the mechanism in the SPP Tariff for allocating revenues.

III. Notice of Filings and Responsive Pleadings

12. Notice of SPP's July 9, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 43,195 (2013), with interventions and protests due on or before July 30, 2013. Timely motions to intervene were submitted by: Western Farmers Electric Cooperative; Westar Energy, Inc. (Westar); Oklahoma Gas and Electric Company; Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC; East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.; and Golden Spread Electric Cooperative, Inc. Manitoba Hydro submitted a timely motion to intervene and comments. Kansas Power Pool, Missouri Joint Municipal Electric Utility Commission, and West Texas Municipal Power Agency (collectively, TDU Intervenors) also submitted a timely motion to intervene and comments. A timely motion to intervene and protest was filed by the American Wind Energy Association and the Wind Coalition (collectively, the Wind Parties).

13. On August 14, 2013, SPP filed a motion for leave to answer and answer to the TDU Intervenors' comments and the Wind Parties' protest. Westar filed comments in support of SPP's answer on August 27, 2013.

A. Initial Comments and Protest

14. Manitoba Hydro's comments express support for SPP's subsequently withdrawn proposal in Attachment Z2 to permit customers to choose between rolling-in the costs of certain customer-funded upgrades or funding the upgrades and receiving revenue credits.

15. Although TDU Intervenors express general support for SPP's now-withdrawn proposal to roll more upgrade costs into transmission rates, they raise concerns regarding some of the language and methodologies SPP proposes to effectuate that goal.¹⁹ With respect to SPP's proposed revisions to Attachments Z1 and J, TDU Intervenors request that the Commission require SPP to explain: (1) how the process to allocate directly assigned upgrade costs in new section V.c to Attachment Z1 will support SPP's stated goal of minimizing the number of new Creditable Upgrades; and (2) the disparity in treatment between sponsors of economic upgrades (who receive all credits produced by subsequent uses of the upgraded facilities until paid in full) and customers who sponsor upgrades needed to accommodate their transmission service requests (who receive credits on a *pro rata* basis with subsequent users of the upgraded facilities).²⁰

¹⁹ TDU Intervenors Comments at 1, 7-9.

²⁰ *Id.* at 6-8.

16. In their protest, the Wind Parties also express concern that SPP has not provided sufficient support for its filing—noting that SPP currently owes several years' worth of credits to a number of customers who have funded network upgrades—and they request that the Commission issue a deficiency letter directing SPP to submit additional information regarding its proposed revisions.²¹ In addition to raising several concerns that are now moot due to the withdrawal of the proposed revisions to section III of Attachment Z2, the Wind Parties request that the Commission direct SPP to explain: (1) how minimizing the number of eligible upgrades will not reduce the value of revenue credits awarded; (2) whether parties who have funded upgrades will receive the same amount of revenue credits or refunds under the revised provisions; (3) whether the proposed revisions will affect the amount of directly assigned upgrade costs for network resources affiliated with wind resources; (4) how upgrades would be determined to be Creditable Upgrades, as opposed to the current process; (5) if the determination of Creditable Upgrades is made just once or annually, and whether this frequency affects the amount of credits; and (6) whether any of the proposed changes affect parties who are currently owed for upgrades.²²

B. SPP Answer and Responsive Pleadings

17. In its August 14, 2013 answer, SPP maintains that the proposed revisions to Attachment Z1 only affect the allocation of directly assigned upgrade costs among the various upgrades associated with a particular transmission service request, and they will not affect the current or future substantive rights of SPP's customers to receive revenue credits.²³ SPP again asserts that the revisions are needed to ease SPP's administrative burden, noting that SPP currently tracks 108 Creditable Upgrades and expects that number to increase over time.²⁴ SPP also clarifies that the proposed changes only apply to future transmission service requests and will not affect upgrade sponsors currently due revenue credits.²⁵

²¹ The Wind Parties Protest at 3.

²² *Id.* at 5-8.

²³ SPP August 14 Answer at 4, 9-10. Portions of SPP's Answer addressing the roll-in proposal in Attachment Z2 are omitted from this summary.

²⁴ *Id.* at 10.

²⁵ *Id.* at 10-11.

18. Westar supports SPP's proposal, asserting that the revisions to Attachment Z1 will not affect the amount of credits due upgrade sponsors.

C. Deficiency Letter and Responsive Pleadings

19. On September 6, 2013, Commission staff issued a deficiency letter directing SPP to provide additional information about its proposed Tariff revisions. On October 7, 2013, SPP filed its response to the deficiency letter (Deficiency Response). Notice of SPP's October 7, 2013 Deficiency Response was published in the *Federal Register*, 78 Fed. Reg. 62,346 (2013), with interventions and protests due on or before October 28, 2013.²⁶ On October 9, 2013, SPP submitted the October 9 Amendment. Notice of SPP's October 9 Amendment was published in the *Federal Register*, 78 Fed. Reg. 62,345 (2013), with interventions and protests due on or before October 30, 2013. The Wind Parties submitted timely comments to the Deficiency Response. On November 14, 2013, SPP submitted an answer to the comments of the Wind Parties.

20. In light of its intent to withdraw the proposed revisions in section III of Attachment Z2 in the October 9 Amendment, SPP's Deficiency Response does not address Commission staff's questions regarding the ability of customers to elect between rolling-in upgrade costs or receiving revenue credits. In the Deficiency Response, SPP asserts that the proposed revisions to Attachment Z1 will minimize Creditable Upgrades by assigning directly assigned upgrade costs, when possible, to the network upgrades that affect the most transmission requests.²⁷ In other words, SPP explains, directly assigned upgrade costs would first be assigned to a network upgrade required to grant service for multiple transmission service requests within the same ATSS or, for subsequent studies, to the Creditable Upgrades affecting the most transmission service requests.²⁸ SPP provides two examples in its Deficiency Response. In the first example, SPP demonstrates how directly assigned upgrade costs that would result in the creation of five Creditable Upgrades under the existing Tariff provisions could result in the creation of only one Creditable Upgrade under the revised procedure.²⁹ A second example, SPP explains, shows a similar result where a subsequent transmission service request requires

²⁶ Commission staff also issued a letter on October 9, 2013, advising SPP that, due to the Deficiency Response, the filing date for the proceeding had been reset to October 7, 2013.

²⁷ Deficiency Response at 3-4.

²⁸ *Id.* at 4.

²⁹ *Id.* at 4-6.

use of a Creditable Upgrade (i.e., a network upgrade to which directly assigned upgrade costs already have been assigned).³⁰

21. SPP also provides tables illustrating the distribution of credit revenue to upgrade sponsors who sponsor generation interconnection and sponsored upgrades, as well as service upgrades.³¹ SPP notes that the Commission has accepted Tariff language providing for priority to sponsors of sponsored upgrades for distribution of revenue credits, further asserting that sponsors of generation interconnection upgrades should receive similar priority because these upgrades are “similarly situated.”³²

22. Finally, SPP provides an example illustrating the revenue allocation pursuant to the proposed language in section II.c(a) of Attachment L.³³

23. In their comments on the Deficiency Response, the Wind Parties express concern that the revisions to Attachment Z1 may result in reduced reimbursement for customers who help to fund multiple network upgrades. Specifically, the Wind Parties respond to the example in SPP’s Deficiency Response where directly assigned upgrade costs are allocated to one network upgrade instead of five. According to the Wind Parties, in the event that a future user requires the use of any of the four upgrades from the original study to which directly assigned upgrade costs were not allocated, the customers associated with those upgrades would receive a lower amount of refund or credit than they would under the current procedure. Accordingly, the Wind Parties request that, if the Commission approves SPP’s proposed revisions, the Commission should direct SPP to track and report on the impact of the proposed revision on credits and refunds to customers.³⁴

24. In its answer to the Wind Parties’ comments, SPP acknowledges that customers might receive a lower refund or credit under the proposed methodology compared to the current methodology. However, SPP argues that its proposal is consistent with the “but for” test and has not been shown to be unjust and unreasonable. SPP also contends that there are situations in which customers funding multiple upgrades may experience

³⁰ *Id.* at 6-7.

³¹ *Id.* at 8-10.

³² *Id.* at 8 (citing *Southwest Power Pool, Inc.*, 123 FERC ¶ 61,208 (2008)).

³³ *Id.* at 10-11.

³⁴ The Wind Parties Comments at 4-5.

increased compensation under the proposed methodology. Finally, SPP states that it does not support the Wind Parties' proposal to track and report on both methodologies after implementation of its proposal because this would defeat the purpose of streamlining the crediting process and reducing SPP's administrative burden.³⁵

IV. Discussion

A. Procedural Matters

25. 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 the proceeding.

26. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers filed by SPP and Westar because they have provided information that assisted us in our decision-making process.

B. Commission Determination

27. We find that SPP's proposed Tariff revisions are just and reasonable and will therefore accept them, subject to a compliance filing due 30 days after the issuance of this order.

28. We find merit in SPP's efforts to decrease the number of Creditable Upgrades it must track to reduce its administrative burden. We also recognize that reforms to the crediting process articulated in Attachment Z1 could change the amount of reimbursement that customers funding Creditable Upgrades receive for subsequent use of the upgrades they fund. As noted by the Wind Parties, there may be scenarios in which a customer with multiple upgrades associated with its request could receive reduced reimbursement under SPP's proposal. However, as SPP points out, there are other scenarios in which a customer may receive greater reimbursement under the reformed crediting process than it would have received under the current methodology. The Wind Parties are correct that the customer in their example would not receive revenue credits in the event future users require the use of the four upgrades from the original study to which directly assigned upgrade costs were not allocated. However, the customer would receive increased revenue credits in the event future users require the use of the one upgrade from the original study to which directly assigned upgrade costs were allocated because it funded more of the costs of that upgrade.

³⁵ SPP November 14 Answer at 3-6.

29. As the Wind Parties and SPP agree, it is impossible to predict the specific impact on individual customers. Analysis of the subsequent use of the SPP transmission system is a contingent and probabilistic exercise, and different assumptions could be used—and scenarios crafted—to demonstrate that a customer funding upgrades could be negatively, positively, or minimally impacted by SPP’s proposed reforms. However, that does not render SPP’s proposal unjust and unreasonable. While SPP’s proposal changes which of the “but for” network upgrades associated with their requests transmission customers are deemed to fund on a direct assignment basis, customers will remain eligible for revenue credits for future use of the “but for” network upgrades that they do fund, in proportion to the amount of the cost of the upgrade that they fund. We find no reason to believe that SPP’s proposal should systematically reduce the value of credits for future use of network upgrades funded on a direct assignment basis.³⁶ Overall, we find SPP’s proposed revisions to Attachment Z1 just and reasonable.

30. We decline to accept the Wind Parties’ request that the Commission require SPP to report on the impacts of its proposal after implementation by comparing it to the previous methodology, as a condition to acceptance of SPP’s proposal. We agree with SPP that such a requirement would increase its administrative burden, which is contrary to the purpose of SPP’s filing. However, in light of SPP’s withdrawal of its proposed amendments to Attachment Z2, we will require SPP to remove references in Attachment O to the withdrawn proposal in Attachment Z2 in a compliance filing due 30 days after the issuance of this order. We also direct SPP to review Attachments H, J, and L to assess whether its withdrawn proposal in Attachment Z2 necessitates further changes and to include these revisions in the compliance filing due 30 days after the issuance of this order.

The Commission orders:

(A) SPP’s proposed Tariff revisions, as amended, are hereby conditionally accepted, effective September 8, 2013, as discussed in the body of this order.

³⁶ We also note that SPP states its proposal was the result of an extensive stakeholder process the purpose of which was to determine how the crediting process could be simplified without changing the cost allocation process and without reducing the credits paid to customers. July 9 Filing at 3-4.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.