146 FERC ¶ 61,224
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 25, 2014

In Reply Refer To:
Southwestern Public Service
Company v. Southwest Power
Pool, Inc.
Docket Nos. EL13-15-000
EL13-35-000

Morgan, Lewis & Bockius LLP
Attention: Stephen M. Spina
Joseph W. Lowell
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Spina and Mr. Lowell:

1. On January 10, 2014, you filed on behalf of: (1) Southwestern Public Service Company (SPS); (2) Southwest Power Pool, Inc. (SPP); (3) Central Valley Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc. (collectively, New Mexico Cooperatives); (4) Western Farmers Electric Cooperative; and (5) Tri-County Electric Cooperative, Inc. (collectively, the Settling Parties) a Settlement Agreement and Offer of Settlement (Settlement) in the above-captioned proceedings. The Settlement resolves issues arising from the complaints filed by Xcel Energy Services Inc., which the Commission set for hearing and settlement judge procedures.[1]

2. On January 30, 2014, Commission's Trial Staff filed comments supporting the Settlement. On February 21, 2014, the Settlement Judge certified the Settlement to the Commission as uncontested.[2]

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[1] *Sw. Pub. Serv. Co. v. Sw. Power Pool, Inc.*, 142 FERC ¶ 61,136 (2013); *Sw. Pub. Serv. Co. v. Sw. Power Pool, Inc.*, 142 FERC ¶ 61,134 (2013).

[2] *Sw. Pub. Serv. Co. v. Sw. Power Pool, Inc.*, 146 FERC ¶ 63,014 (2014). On January 30, 2014, East Texas Electric Cooperative, Inc. (East Texas Electric

(continued…)

3. The Settlement resolves all the issues set for hearing in the above-captioned proceedings. The Settlement requires SPP to sponsor certain revisions to the SPP Open Access Transmission Tariff (SPP OATT) through SPP stakeholder review, in order to obtain the SPP Board of Directors' approval to seek Commission acceptance of the revisions through a Federal Power Act (FPA) section 205 filing. The Settlement also describes the Settling Parties' rights and obligations should the proposed OATT revisions be approved pursuant to, or modified as a result of, the SPP stakeholder process. Exhibit A to the Settlement sets forth the Settling Parties' revisions to Attachment AI of the SPP OATT to define "Transmission Facility(ies)" and documents SPP's review process for initial Transmission Owner (TO) rate filings to incorporate TO revenue requirements into Attachment H. Exhibit A of the Settlement also contains the Settling Parties' proposed revisions to Attachment H of the SPP OATT, in order to specify the terms under which SPP will file a TO's new or amended revenue requirement, as well as the terms under which TOs must refund ratepayers the difference, if any, between the amount of the as-filed rate and the rate ultimately found to be just and reasonable by the Commission, with interest.

4. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principal or issue in this proceeding.

5. As provided in section 4.1 of the Settlement, the applicable standard of review for proposed changes to the Settlement by a Settling Party shall be the "public interest" application of the just and reasonable standard. The applicable standard of review for proposed changes to the Settlement by a non-Settling Party, a non-party, or the Commission acting *sua sponte* shall be the ordinary just and reasonable standard of review under FPA sections 205 and 206 (not the public interest standard).

6. Consistent with section 3.5 of the Settlement, the Settling Parties request that the Commission, after acting on the Settlement, defer action on pending requests for rehearing or clarification of its orders in the above-captioned dockets, unless the Settling Parties notify the Commission that action on these requests is desired. After the Final

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Cooperative) filed a late motion to intervene and comments; the late motion was denied by the Chief Administrative Law Judge on February 11, 2014. As a result of the Chief Administrative Law Judge's denial of East Texas Electric Cooperative's late intervention, its opposing comments were a nullity, and neither those comments nor any replies thereto were considered in the Settlement Judge's certification.

Settlement Tariff Revisions are presented to the SPP Board of Directors,[3] and SPP notifies other Settling Parties of this presentation, SPS and the New Mexico Cooperatives shall promptly withdraw their pending requests for rehearing or clarification of the Commission's orders in the above-captioned dockets.

7. Insofar as the Settlement and its Exhibit A Tariff Revisions were not filed in the eTariff format required by Order No. 714,[4] SPP must make the appropriate filings in eTariff format in order to implement the Settlement and reflect the Commission's action in this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

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[3] As to the Settling Parties, all issues in Docket Nos. EL13-15-000 and EL13-35-000 shall be deemed resolved upon the presentation of the Final Settlement Tariff Revisions, as reflected in Exhibit A to the Settlement or as modified in the SPP stakeholder process, to the SPP Board of Directors.

[4] *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).