

148 FERC ¶ 61,013
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 8, 2014

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER14-1928-000
ER14-1937-000
ER14-1938-000

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

Attention: Tessie Kentner
Reference: Arkansas Electric Cooperative Corporation Network Service Agreements

Dear Ms. Kentner:

1. On May 9, 2014, Southwest Power Pool, Inc. (SPP) submitted for filing, pursuant to section 205 of the Federal Power Act (FPA),¹ three agreements in the above captioned proceedings. SPP submitted in each docket a service agreement consisting of: (1) an executed Network Integration Transmission Service Agreement (NITSA) between SPP as transmission provider and Arkansas Electric Cooperative Corporation (AECC) as network customer; and (2) an executed Network Operating Agreement among SPP, AECC, and American Electric Power Service Corporation, as agent for Southwestern Electric Power Company, as host transmission owner (collectively, the AECC Agreements).² SPP also requested waiver of certain Tariff provisions to permit use of an expedited study process to accommodate the requested service in Original Service Agreement No. 2888 and Seventh Revised Service Agreement No. 1518.

¹ 16 U.S.C. § 824d (2012).

² SPP designated the AECC Agreements as follows under its Open Access Transmission Tariff (Tariff): Sixth Revised Service Agreement No. 1518 (Docket No. ER14-1928-000), Original Service Agreement No. 2888 (Docket No. ER14-1937-000), and Seventh Revised Service Agreement No. 1518 (Docket No. ER14-1938-000). *See* Appendix for eTariff citations.

2. In this order, we accept the AECC Agreements, as discussed below, effective May 1, 2014, in the case of Sixth Revised Service Agreement No. 1518, and June 1, 2014, in the case of Original Service Agreement No. 2888 and Seventh Revised Service Agreement No. 1518, as requested. Additionally, we grant SPP's Tariff waiver request, for good cause shown.
3. AECC is an incorporated, non-profit cooperative electric power association owned and controlled by 17 distribution cooperative members, who in turn provide electricity to approximately 500,000 customers, primarily in Arkansas. The loads and resources of AECC and its members are located in three balancing authority areas: (1) SPP, for transmission owned by American Electric Power Service Corporation's Southwestern Electric Power Company and Oklahoma Gas and Electric Company; (2) the Midcontinent Independent System Operator, Inc. (MISO), for transmission owned by Entergy Corporation's (Entergy) Entergy Arkansas, Inc. (Entergy Arkansas); and (3) the Southwestern Power Administration. AECC is a member of both SPP and MISO.³
4. Before Entergy Arkansas joined MISO, AECC had established various transmission service arrangements that allowed it to integrate its geographically dispersed loads and resources in an economic and efficient manner. These arrangements required transmission service on both the Entergy Arkansas and SPP transmission systems. AECC joined MISO as a transmission-owning member after Entergy Arkansas elected to join MISO and integrate its load and resources with MISO markets.⁴
5. On December 18, 2013, in Docket No. ER14-684-000, MISO filed a NITSA between itself and AECC that provided MISO network integration transmission service for AECC's native load located at certain of its delivery points in SPP, subject to AECC having arrangements in place by June 1, 2014 to pseudo-tie that load into MISO. The Commission accepted the NITSA, effective December 19, 2013, in an order issued on February 14, 2014.⁵ In that order, the Commission noted that AECC needed to secure transmission service arrangements, or modify existing ones, for use of SPP's transmission system.⁶

³ AECC May 30, 2014 Comments at 2.

⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,094, at PP 2-4 (2014) (MISO AECC Order); SPP Transmittals in Docket Nos. ER14-1937-000 and ER14-1938-000 at 2.

⁵ MISO AECC Order, 146 FERC ¶ 61,094 at P 1.

⁶ *Id.* P 45.

6. On May 9, 2014, SPP submitted the AECC Agreements. SPP states that the AECC Agreements include terms and conditions that do not conform to the standard form of service agreements in the SPP Tariff. In the case of Sixth Revised Service Agreement No. 1518, SPP proposes updating the list of network resources, adding redispatch requirements, and including changes based on the standard form of service agreements applicable in the SPP Integrated Marketplace. SPP also proposes retaining non-conforming language from the previous iteration of the agreement, which accommodates AECC's status as a Rural Utilities Service borrower and provides for Direct Assignment Facilities Charges and Wholesale Distribution Service Charges, contained in an Interconnection and Local Delivery Service Agreement appended to the agreement.⁷

7. SPP explains that because of the reallocation of AECC's load and resources, it notified AECC that, in order to establish the desired pseudo-tie arrangement, the existing agreement that serviced AECC's network load within SPP, Service Agreement No. 1518, would have to be separated into two agreements. One agreement would govern the pseudo-tied load served exclusively from AECC's Entergy resources (Original Service Agreement No. 2888); the other would govern the remaining AECC load served exclusively from AECC's SPP resources (Seventh Revised Service Agreement No. 1518). According to SPP, these agreements contain the same non-conforming provisions proposed in Sixth Revised Service Agreement No. 1518, with the exception of changes made to specify and accommodate the separate agreements for load served by AECC's Entergy and SPP resources, as well as additional language providing for short-term load shifts for emergency, maintenance, or construction purposes.⁸

8. SPP requests an effective date of May 1, 2014 for Sixth Revised Service Agreement No. 1518. SPP requests waiver of the Commission's 60-day prior notice requirement, set forth in 18 C.F.R. § 35.3 (2013), to accommodate this effective date. SPP asserts that waiver is appropriate because it filed the agreement within 30 days of the commencement of service.⁹ SPP requests an effective date of June 1, 2014 for Original Service Agreement No. 2888 and Seventh Revised Service Agreement No. 1518. SPP

⁷ SPP Transmittal in Docket No. ER14-1928-000 at 2-4.

⁸ SPP Transmittal in Docket No. ER14-1937-000 at 3, 5-6; SPP Transmittal in Docket No. ER14-1938-000 at 2, 5-7.

⁹ SPP Transmittal in Docket No. ER14-1928-000 at 4 (citing *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-984, *order on reh'g*, 65 FERC ¶ 61,081 (1993)).

requests waiver of the Commission's 60-day prior notice requirement to accommodate this effective date, asserting that waiver is appropriate because it filed the agreements prior to the commencement of service.¹⁰

9. Additionally, SPP requests waiver of certain Tariff provisions to permit use of an expedited study process to accommodate the requested service in Original Service Agreement No. 2888 and Seventh Revised Service Agreement No. 1518. Because of the separation of the current AECC network agreement into two agreements, SPP needed to study the requested transmission service. Rather than pursue the Aggregate Transmission Service Study process for long-term transmission service requests under its Tariff, SPP states that it determined that the Delivery Point Transfer screening study process, outlined in Attachment AR of its Tariff, would be sufficient. According to SPP, because no new network resource was being requested and because load and commensurate resources were being moved from one service agreement into another, the Delivery Point Transfer screening process would be appropriate. SPP explains that this screening study is intended to be used for cases where network load is changing suppliers, which SPP acknowledges is not the case in the instant proceedings, because AECC is the network customer for both Original Service Agreement No. 2888 and Seventh Revised Service Agreement No. 1518. SPP notes, however, that a finding of a potential significant impact in the Delivery Point Transfer screening study requires that SPP conduct an additional study in the Aggregate Transmission Service Study process. According to SPP, it conducted a Delivery Point Transfer screening study for AECC's requested service and found no significant impacts to the transmission system to accommodate the request.¹¹

10. SPP asserts that waiver of the definition of Delivery Point Transfer in its Tariff and using associated study procedures is appropriate and meets the Commission's criteria for waiver. SPP affirms that: (1) the waiver is limited in scope and is meant solely to accommodate AECC's requested service; (2) the use of the Delivery Point Transfer screening study presents a solution to a concrete problem in need of remedy (in this case, AECC's need to secure arrangements by June 1, 2014 to accommodate the pseudo-tie arrangement required by its transition to MISO); (3) granting waiver will not have undesirable consequences, like harming third parties, because the results of the Delivery Point Transfer screening study found no significant impact to the transmission system, and SPP expects changes to be revenue neutral; and (4) there is no underlying error.¹²

¹⁰ SPP Transmittals in Docket Nos. ER14-1937-000 and ER14-1938-000 at 7.

¹¹ SPP Transmittal in Docket No. ER14-1937-000 at 3, SPP Transmittal in Docket No. ER14-1938-000 at 2-3.

¹² SPP Transmittals in Docket Nos. ER14-1937-000 and ER14-1938-000 at 3-4.

11. Notice of SPP's filings was published in the *Federal Register*, 79 Fed. Reg. 28,706 (2014), with interventions and protests due on or before May 30, 2014. AECC submitted timely motions to intervene and comments in support of the filings. 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 AECC a party to these proceedings.

12. We accept the AECC Agreements and grant waiver of the Commission's prior notice requirement to permit the agreements to be effective on the dates requested. We will also grant SPP's request for waiver of Attachment AR's provisions with respect to AECC's request for changes to its transmission service arrangements.

13. The Commission has historically granted waiver requests where an emergency situation or an unintentional error was involved.¹³ Waiver, however, is not limited to those circumstances. Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, the Commission has held that a one-time waiver may be appropriate.¹⁴ Applying those same standards, we grant SPP's Tariff waiver request, for good cause shown. The requested waiver is of limited scope because it is a specific, one-time request from a single customer, AECC, in order to accommodate its transition to MISO. The waiver will not have undesirable consequences because the screening study that SPP relied upon pursuant to the requested waiver found that there would be no significant impact to the transmission system associated with the AECC Agreements. Additionally, SPP expects the change in service agreements to be revenue neutral.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹³ See, e.g., *ISO New England, Inc.*, 117 FERC ¶ 61,171, at P 21 (2006).

¹⁴ See, e.g., *California Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031, at P 19, *reh'g denied*, 124 FERC ¶ 61,293 (2008).

Appendix—eTariff Citations

- SPP Tariff, Sixth Revised Volume No. 1, Sixth Revised Service Agreement No. 1518 (2.0.0).
- SPP Tariff, Sixth Revised Volume No. 1, Original Service Agreement No. 2888 (0.0.0).
- SPP Tariff, Sixth Revised Volume No. 1, Seventh Revised Service Agreement No. 1518 (3.0.0).