

151 FERC ¶ 61,087
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Southwest Power Pool, Inc.

Docket No. ER15-1152-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued May 1, 2015)

1. On March 2, 2015, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Southwest Power Pool, Inc. (SPP) filed proposed revisions to its Open Access Transmission Tariff (Tariff). The proposed revisions would implement a process for allocating Auction Revenue Rights (ARRs)³ to transmission owners in the process of incorporating existing transmission facilities into the SPP transmission system under the Tariff, as well as other entities with firm transmission service on those facilities. In this order, we conditionally accept SPP's revisions, to be effective May 1, 2015, subject to a compliance filing.

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2014).

³ The Tariff defines an "ARR" as "[a] right, awarded during the annual Auction Revenue Right allocation process and the monthly Auction Revenue Right allocation process, which entitles the holder to a share of the auction revenues generated in the applicable Transmission Congestion Rights auction(s) and entitles the holder to self-convert the Auction Revenue Right to a Transmission Congestion Right." Tariff Attachment AE § 1.1A.

I. Background

2. On February 29, 2012, as amended on May 15, 2012, SPP proposed revisions to its Tariff to implement the Integrated Marketplace,⁴ which the Commission conditionally accepted on October 18, 2012.⁵ On February 26, 2014, the Commission approved the start-up and operation of the Integrated Marketplace, which became effective on March 1, 2014.⁶ SPP's Integrated Marketplace includes day-ahead and real-time energy and operating reserves markets, a reliability unit commitment process, and a market for transmission congestion hedging instruments.

3. SPP's transmission congestion hedging instruments include ARR and Transmission Congestion Rights (TCRs).⁷ Entities obtain ARRs that are consistent with their firm transmission service entitlements⁸ through a cycle of nominations and allocations that occurs prior to the annual and monthly TCR auctions.

⁴ SPP's Integrated Marketplace provisions are contained in Attachment AE of the SPP Tariff.

⁵ *Southwest Power Pool, Inc.*, 141 FERC ¶ 61,048 (2012), *order on reh'g and clarification*, 142 FERC ¶ 61,205 (2013).

⁶ *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,130 (2014).

⁷ The Tariff defines a "TCR" as "[a] right that entitles the holder to be compensated or charged for congestion in the Day-Ahead Market between two Settlement Locations." Tariff Attachment AE § 1.1T. An ARR is a financial instrument that entitles its holder to revenues from the auction purchase of a TCR. SPP's Integrated Marketplace processes also include the allocation of long-term transmission congestion rights.

⁸ "Eligible Entities" may obtain an allocation of ARRs. The Tariff defines an "Eligible Entity" as "[a] Transmission Customer or Market Participant having firm SPP Transmission Service or firm non-SPP transmission service (referred to as a 'grandfathered agreement' or 'GFA') into, out of, within or through the SPP Region." *Id.* § 1.1E.

II. SPP Filing

4. SPP states that it recognized an issue that could affect transmission owners that are joining SPP as new market participants; specifically, the timing requirements for incorporating such transmission owners' transmission facilities under the Tariff could prevent those entities from participating in the annual ARR allocation process. SPP observes that, under the current Tariff, there is no mechanism to allow transmission owners in such a position to participate in an ARR allocation prior to the monthly ARR allocations.⁹

5. SPP proposes to revise Attachment AE of its Tariff to implement a new allocation for transitional ARRs (Transitional ARR Allocation) that may be requested by transmission owners joining the Integrated Marketplace as new market participants to the extent that the transmission owner is incorporating existing transmission facilities into the SPP transmission system under the Tariff and the timing of such incorporation does not allow participation in the annual ARR allocation process.¹⁰ SPP proposes to define "Transitional ARR Allocation" as "[a]n interim, multi-period, single-round process, outside of the annual ARR process schedule, used by an Eligible Entity when a transmission owner brings existing transmission facilities and transmission service under the SPP Tariff."¹¹ Eligible Entities with firm transmission service on that transmission owner's facilities may participate in the allocation.¹²

6. The proposed Transitional ARR Allocation will consist of a single round and must, at a minimum, include the winter and spring seasons, and align with the other annual ARR periods.¹³ When determining a feasible allocation of Transitional ARRs,

⁹ See SPP Transmittal at 1. SPP explains that, under the current Tariff, a transmission owner that does not receive an annual ARR allocation would be limited to receiving any ARRs that remain available in the monthly ARR allocation process. *Id.* at 4-5.

¹⁰ Proposed Tariff Attachment AE § 7.11.

¹¹ *Id.* § 1.1T.

¹² *Id.* § 7.11.

¹³ *Id.* §§ 7.11(1)-(2).

SPP will treat TCRs previously awarded in the annual TCR auction, and remaining ARRs not accounted for in the annual TCR auction, as fixed quantities.¹⁴

7. SPP states that, as proposed, the Transitional ARR Allocation would generally be available only to transmission owners that are in the process of bringing their transmission facilities under the Tariff. However, SPP states, “other non-transmission-owning entities that have existing firm transmission service across the same transmission facilities will not be excluded from participating if they plan to join SPP along with the Transmission Owner.”¹⁵

8. SPP asserts that the Transitional ARR Allocation and the proposed Tariff revisions are just and reasonable. According to SPP, the new process will allow a more stable transition into the Integrated Marketplace for new market participants who are subject to timing requirements associated with incorporating their transmission facilities under the Tariff.¹⁶ SPP requests that the proposed Tariff changes become effective May 1, 2015.

III. Notice of Filing, Interventions, and Protest

9. Notice of SPP’s filing was published in the *Federal Register*, 80 Fed. Reg. 12,474 (2015), with interventions and protests due on or before March 23, 2015.

10. The following entities filed timely motions to intervene: DC Energy, LLC; Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Western Area Power Administration; and American Electric Power Service Corporation. On March 23, 2015, the City of Independence, Missouri (City of Independence), and the Missouri Joint Municipal Electric Utility Commission (collectively, TDU Intervenors) filed a motion to intervene and limited protest. On April 10, 2015, Westar Energy, Inc. (Westar Energy) filed a motion to intervene out of time.

¹⁴ In assessing the feasibility of Transitional ARR allocations, SPP would model previously awarded TCRs from the annual TCR auction, and remaining ARRs not accounted for in the annual TCR auction, as fixed injections at the source location and fixed withdrawals at the sink location. *Id.* § 7.11(3).

¹⁵ *See* SPP Transmittal at 7.

¹⁶ *See id.*

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), 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) (2014), the Commission will grant Westar Energy'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.

B. Substantive Matters

1. Protest

12. TDU Intervenors argue that SPP's proposed revisions, while generally a positive development, are unduly limited in their application, and as a result are unjust, unreasonable, and unduly discriminatory. TDU Intervenors request that the Commission accept SPP's proposal, subject to the condition that SPP submit a compliance filing to modify its proposed Tariff language in section 7.11 of Attachment AE. TDU Intervenors suggest that SPP should remove the requirement that a new transmission owner also be a new market participant in order to request a Transitional ARR Allocation. According to TDU Intervenors, restricting eligibility to new transmission owners that are also new market participants would preclude an existing SPP market participant that later becomes an SPP transmission owner from requesting a Transitional ARR Allocation.¹⁷ TDU Intervenors state that City of Independence is currently an SPP market participant and is in the process of becoming an SPP transmission owner. TDU Intervenors contend that the Tariff should permit City of Independence to request a Transitional ARR Allocation, if needed.¹⁸

13. TDU Intervenors also state that SPP's transmittal letter conflicts with its proposed Tariff language with respect to participation in the Transitional ARR Allocation by

¹⁷ TDU Intervenors Protest at 4.

¹⁸ For instance, TDU Intervenors raise the possibility that unforeseen delays could cause City of Independence to become an SPP transmission owner on a date after the annual ARR allocation process is complete.

customers with firm transmission service agreements on a transmission owner's facilities. According to TDU Intervenors, SPP's transmittal letter states that "non-transmission-owning",¹⁹ entities may participate in a Transitional ARR Allocation if they hold firm transmission service on the requesting transmission owner's facilities. TDU Intervenors argue that the "non-transmission-owning" qualification in SPP's transmittal letter is more restrictive than the proposed Tariff revisions, because the proposed Tariff revisions do not include the "non-transmission-owning" language. TDU Intervenors request that the Commission confirm that a transmission owner's firm service customers will be eligible to participate in a Transitional ARR Allocation, regardless of whether such customers own transmission facilities themselves.²⁰

2. Commission Determination

14. We conditionally accept SPP's proposed Tariff revisions to implement a Transitional ARR Allocation.

15. We find SPP's proposal to create a Transitional ARR Allocation process just and reasonable as a necessary step to allow for initial, partial-year ARR allocations to entities that join SPP as transmission owners, and their firm transmission service customers. Without such a process to allocate transitional ARRs, entities that place their facilities under the Tariff after the annual ARR allocation may not have an opportunity to receive a sufficient allocation of ARRs. Such entities would only be eligible to obtain ARRs that are available in monthly ARR allocations, until the next annual ARR allocation takes place. Therefore, we find that SPP's proposed revisions will help transmission owners and their firm service customers that join SPP in the future to hedge congestion charges associated with their transmission rights.

16. However, we agree with TDU Intervenors that SPP's proposed requirement that a new transmission owner also be a new market participant in order to request a Transitional ARR Allocation is unnecessarily restrictive. Such a requirement may prevent an existing market participant that is in the process of becoming a transmission owner in SPP from requesting a Transitional ARR Allocation if its schedule for obtaining transmission owner status prevents participation in the annual ARR allocation process. SPP has not explained the need for such a restriction. Therefore, we will conditionally accept SPP's proposed Tariff revisions, subject to a compliance filing that revises the

¹⁹ *Id.* at 6-7 (citing SPP Transmittal at 7).

²⁰ *Id.* at 5-6.

Tariff to allow an entity who joins SPP as a transmission owner at such a time that it is prevented from participating in the annual ARR allocation, to request a Transitional ARR Allocation, regardless of whether the entity is a new or existing market participant.

17. With respect to TDU Intervenors' request that the Commission confirm the scope of eligibility for transmission customers to participate in a Transitional ARR Allocation, as TDU Intervenors acknowledge, SPP's proposed Tariff language does not restrict transmission customers that also own transmission from participating in a Transitional ARR Allocation. Nor should transmission customers that also own transmission be restricted from participating in a Transitional ARR Allocation, as that would be unduly discriminatory.

The Commission orders:

(A) SPP's proposed Tariff revisions are hereby conditionally accepted, to become effective May 1, 2015, 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 this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.