

151 FERC ¶ 61,284
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. ER15-1531-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued June 30, 2015)

1. On April 20, 2015, Southwest Power Pool, Inc. (SPP) submitted, pursuant to section 206 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's rules and regulations,² proposed revisions to its Open Access Transmission Tariff (Tariff) to incorporate a mechanism to distribute penalty revenues collected by SPP for unreserved use of non-firm point-to-point transmission service. In this order, we accept SPP's Tariff revisions, to become effective April 20, 2015.

I. Background

2. In Order No. 890, the Commission required, among other things, that transmission providers submit a proposed methodology for the distribution of unreserved use penalty revenues to non-offending transmission customers.³ In Order No. 890-A, the Commission clarified that each transmission provider must submit a one-time compliance filing under section 206 of the FPA proposing the transmission provider's methodology for distribution of penalty revenues from unreserved use of the transmission system. The Commission further stated that this compliance filing can be made any time prior to the

¹ 16 U.S.C. § 824e (2012).

² 18 C.F.R. § 35.13 (2014).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 861, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

first distribution of penalties.⁴ In addition, the transmission providers should request an effective date for the distribution mechanism as of the date of the filing and may begin implementing the methodology immediately, subject to refund if the Commission alters the mechanism on review.⁵ SPP submitted a compliance filing in October 2007, which proposed to use the penalty revenues collected to reduce SPP's Schedule 1-A Tariff Administration Charge (Administration Charge).⁶ On May 16, 2008, the Commission rejected SPP's proposal as inconsistent with the requirements of Order No. 890 because it did not assure that offending customers would not benefit from the reduction in Administration Charges.⁷ The Commission, therefore, directed SPP to submit a one-time compliance filing proposing a methodology for distributing revenues from unreserved use penalties prior to the distribution of such penalties.⁸

II. Proposal

3. SPP proposes to implement a distribution mechanism for penalty revenues for unreserved use of non-firm point-to-point transmission service. SPP claims that its proposed mechanism complies with the requirements of Order No. 890 by distributing unreserved use penalty revenues for non-firm point-to-point transmission service to non-offending transmission customers as a credit to their Administration Charge. SPP claims the Commission approved a similar mechanism for the Midcontinent Independent System Operator, Inc. (MISO).⁹ Further, SPP states that its proposed mechanism is identical to the mechanism already in place for the distribution of penalty revenues for unreserved use of firm point-to-point transmission service.¹⁰ SPP requests an effective

⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 472.

⁵ *Id.*

⁶ All transmission service within SPP carries an Administration Charge to be paid to SPP to carry out its responsibilities under the Tariff.

⁷ *Southwest Power Pool, Inc.*, 123 FERC ¶ 61,176, at P 34 (2008).

⁸ *Id.* P 35.

⁹ SPP Transmittal at 6 n.28 (citing MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff §§ 13.7(e). 14.5).

¹⁰ SPP notes that, on December 11, 2013, it submitted a compliance filing in Docket No. ER14-596-000 to implement a distribution mechanism for penalties for unreserved use of firm point-to-point transmission service. SPP proposed to use the collected penalty revenues to reduce the Administration Charge of all transmission customers, except the offending customer, on a *pro rata* basis. On January 14, 2014, the
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date of April 17, 2015, which it states is the date of the submission of the filing to the Commission.

III. Notice and Responsive Pleadings

4. Notice of SPP's filing was published in the *Federal Register*, 80 Fed. Reg. 22,991 (2015), with interventions and protests due on or before May 8, 2015. Motions to intervene were filed by Exelon Corporation, American Electric Power Service Corporation, and Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company. On May 14, 2015, Westar Energy, Inc. (Westar Energy) filed a motion to intervene out of time. On April 23, 2015, Eric S. Morris filed a protest. Mr. Morris protests SPP's requested effective date of April 17, 2015. Mr. Morris asserts that the effective date should be April 20, 2015.

IV. Discussion

A. Procedural Matters

5. 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

6. We find that SPP's proposed penalty distribution mechanism complies with the requirements of Order No. 890 and does not distribute penalty revenues to offending customers. We further find that because the filing was received after business hours on April 17, 2015, it is considered received on the following business day, April 20, 2015.¹¹ Accordingly, we accept SPP's proposed revisions effective April 20, 2015.

Commission accepted SPP's proposal. *Southwest Power Pool, Inc.*, Docket No. ER14-596-000 (Jan. 14, 2014) (delegated letter order).

¹¹ See 18 C.F.R. § 385.2001(a)(2) (2014).

The Commission orders:

SPP's proposed Tariff revisions are hereby accepted for filing, to become effective April 20, 2015, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.