

152 FERC ¶ 61,144
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. ER15-1775-000

ORDER ACCEPTING TARIFF REVISION IMPLEMENTING FORMULA RATES
AND ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued August 21, 2015)

1. In this order, we conditionally accept Southwest Power Pool, Inc.'s (SPP) proposed revisions to its Open Access Transmission Tariff (Tariff) to add a formula rate template and implementation protocols and to accommodate the recovery of an annual transmission revenue requirement for SPP member Basin Electric Power Cooperative (Basin Electric),¹ effective October 1, 2015, subject to refund, and establish hearing and settlement judge procedures.

I. Background

A. The Integrated System

2. The Integrated System is the backbone of the bulk electric transmission system across seven states in the Upper Great Plains region consisting of approximately 9,500 miles of transmission lines rated 115 kV through 345 kV. Spanning the Eastern and Western Interconnections of the U.S. electric grid, the Integrated System includes the combined transmission facilities of Western Area Power Administration – Upper Great Plains region, Basin Electric, and Heartland Consumers Power District (Heartland) (collectively, Integrated System Parties). It also includes, through facility credits, facilities owned by Northwestern Energy and Missouri River Energy Services (Missouri River). The collaborative development of the Integrated System has resulted in transmission facilities that are highly integrated, and in some instances jointly owned, among the Integrated System Parties and with other transmission owners in the region.

¹ Basin Electric is a rural electric cooperative that provides wholesale electric power to 137 electric member systems. It states that it is not a “public utility” as defined in section 201(e) of the Federal Power Act, 16 U.S.C. § 824e (2012) (FPA).

The Integrated System is planned to be transferred to the functional control of SPP effective October 1, 2015.

B. The Instant Filing

3. On May 22, 2015, SPP made the instant rate filing on behalf of Basin Electric, pursuant to section 205 of the FPA and Part 35 of the Commission's regulations. SPP's proposed revisions to its Tariff are designed to govern SPP's transmission service using the facilities of Basin Electric when Basin Electric transfers functional control of its facilities to SPP.²

4. In the instant filing, SPP submits proposed Tariff modifications to Attachment H to accommodate Basin Electric's recovery of its revenue requirement for its transmission facilities. Specifically, SPP proposes to include as Addendum 22 to Attachment H, Basin Electric's formula rate and formula rate protocols which calculates Basin Electric's revenue requirement. Additionally, SPP requests approval to revise Attachment T, Rate Sheet for Point-To-Point Transmission Service, to add a reference to the Basin Electric formula rate template to the Upper Missouri Zone 19 rate sheet. SPP asserts that the Commission has previously approved similar modifications to the Tariff to accommodate zones that include multiple owners.³ Finally, SPP requests approval to revise Addendum 2 of Attachment O to include Basin Electric as a participant in SPP's planning region.⁴

5. In support of its filing, SPP has submitted testimony to support the formula rate and requested return on equity (ROE). Mr. Heintz's testimony on behalf of Basin Electric argues that the formula rate template and protocols are just and reasonable and consistent with Commission precedent. Basin Electric contends that the proposed formula rate and true-up mechanism are similar to those approved by the Commission in other proceedings.⁵ Basin Electric further contends that the formula rate protocols are consistent with the Commission's orders and guidance regarding formula rate protocols.

² SPP Transmittal at 1.

³ *Id.* at 9, n.31.

⁴ *Id.*

⁵ Ex. No. SPP-1, Direct Testimony of Alan C. Heintz, at 5 (citing *American Transmission Company, LLC*, 97 FERC ¶ 61,139 (2001), *Boston Edison Company*, 91 FERC ¶ 61,198 (2000), and *Transource Missouri, LLC*, 141 ¶ FERC 61,075 (2012), citations omitted).

6. Regarding the requested ROE, Basin Electric asserts that the courts have made clear that when a non-jurisdictional transmission owner such as Basin Electric voluntarily joins a Regional Transmission Organization (RTO), the Commission “can ensure by examining [the non-jurisdictional utility’s revenue requirement] that the [RTO’s] rates will ultimately be just and reasonable.”⁶ Basin Electric notes that the Commission has permitted non-jurisdictional transmission owners in RTOs to use the same overall rate of return as that of the dominant zonal transmission owner⁷ and has also permitted non-jurisdictional entities to use ROEs that fall within the range of reasonable returns approved by the Commission.⁸ Basin Electric explains that because there is no dominant transmission owner in SPP’s Upper Missouri Zone, the proposed base cost of common equity uses the average of the ROEs on file for the existing SPP transmission owners (excluding ROEs of independent transmission companies) to arrive at a base ROE of 10.37 percent, with a 50 basis point RTO participation adder, for a total ROE of 10.87 percent.⁹

7. SPP states that, in the event the Commission determines further proceedings are necessary in order to complete its evaluation of Basin Electric’s revenue requirement, formula rate and formula rate protocols, Basin Electric has voluntarily agreed to allow its revenue requirement, formula rate and formula rate protocols to be treated as being accepted, subject to refund with interest at Commission interest rates. SPP further states that Basin Electric has informed SPP that Basin Electric makes this voluntary commitment without waiving or in any way limiting or altering Basin Electric’s non-jurisdictional status.¹⁰

8. SPP states that it has filed these proposed revisions to its Tariff at Basin Electric’s request and on Basin Electric’s behalf. SPP adds that it is not independently supporting or justifying the Basin Electric annual transmission revenue requirement, formula rate, or

⁶ *Id.* (citing *Pac. Gas and Elec. Co. v. FERC*, 306 F.3d 1112, 1116 (D.C. Cir. 2002)).

⁷ *Id.* (citing *City of Vernon, California*, 109 FERC ¶ 63,057, at P 126 (2004)).

⁸ *Id.* (citing *Sw. Power Pool*, Letter Order, Docket Nos. ER11-2309-000, ER11-2309-001 (Jan. 31, 2011)).

⁹ *Id.* at 11-12.

¹⁰ SPP Transmittal at 9, n.32.

protocols, but merely modifying the Tariff to accommodate Basin Electric's recovery of transmission service revenues for its transmission facilities.¹¹

C. Notice of Filing and Responsive Pleadings

9. Notice of SPP's filing was published in the Federal Register, 80 Fed. Reg. 31,027 (2015), with interventions and protests due on or before June 12, 2015. Timely motions to intervene were filed by Otter Tail Power Company, South Central MCN, LLC, Heartland Consumers Power District (Heartland), and Xcel Energy Services, Inc. Notices of intervention and protests were filed by Missouri Public Service Commission (Missouri Commission) and Kansas Corporation Commission (Kansas Commission). Upper Missouri Power Cooperative (Upper Missouri), East River Electric Power Cooperative, Inc. (East River), Western Area Power Administration (Western), Corn Belt Power Cooperative, Northwest Iowa Power Cooperative (NIPCO), and Basin Electric filed timely motions to intervene with comments. Missouri River filed a timely motion to intervene and a protest. On June 19, 2015, NorthWestern Corporation (NorthWestern) filed a late-filed motion to intervene. On June 29, 2015, Basin Electric filed an answer.

II. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), we will grant NorthWestern's late-filed motion to intervene, given its interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Basin Electric's answer because it has provided information that assisted us in our decision-making process.

¹¹ SPP Transmittal at 8.

B. Responsive Pleadings**1. Comments and Protests**

12. East River, Upper Missouri, Corn Belt, NIPCO, and Basin Electric filed comments in support of the proposal and assert that the proposed formula template and protocols submitted by SPP are just and reasonable and consistent with Commission precedent. They further assert that the requested ROE is just and reasonable and consistent with Commission precedent.

13. Western requests more detailed information regarding the specific transmission facilities that are included in Basin Electric's filing and the basis for qualification of such facilities.¹² Similarly, Missouri River seeks clarification on which facilities are included, and verification that the cost of such facilities has not been included in a separate formula rate template.¹³ Western requests inclusion in the instant filing of Basin Electric's share of the Integrated System true-up for the last three months of 2013, all of 2014, and the first nine months of 2015.¹⁴ Western further requests clarification that Basin Electric intends to true-up the last three months of 2015. Finally, Western requests clarification of whether the facilities leased by Basin Electric in the Western Interconnection and that are currently in the Integrated System have been included in Basin Electric's revenue requirement.¹⁵

14. Missouri Commission asserts that the proposed protocols contain provisions that may not provide interested parties an adequate opportunity to review and seek information related to the annual update and true-up. According to Missouri Commission, Basin Electric should be required to provide remote access to its annual meetings.¹⁶ Missouri Commission explains that Basin Electric should be required to coordinate a public meeting with other SPP transmission owners that use the same regional-cost-sharing mechanism, similar to the Commission's requirement on other SPP transmission owners.¹⁷ Similarly, Kansas Commission argues that SPP has failed to

¹² Western Comments at 8.

¹³ Missouri River Protest at 9.

¹⁴ Western Comments at 7-8.

¹⁵ *Id.* at 8-9.

¹⁶ Missouri Commission Protest at 3 (citing *The Empire District Electric Co.*, 150 FERC ¶ 61,200 (2015)).

¹⁷ *Id.* at 3.

show that the proposed protocols are just and reasonable because the cited precedent predates the MISO formula rate protocol proceedings,¹⁸ and cases where the Commission initiated FPA section 206 investigations of SPP transmission owners “after finding their existing protocols to be unjust and unreasonable.”¹⁹

15. Missouri Commission is concerned that Basin Electric’s method for determining its ROE is deficient and contends that developing the base ROE using the average of the ROEs on file for the existing SPP transmission owners may not lead to an ROE within the range of reasonableness. Missouri Commission states that numerous ROE complaint cases are pending before the Commission, and asserts that the approach used by Basin Electric is deficient. Specifically, Missouri Commission argues that the methodology fails to provide an analysis of what the current range of reasonableness is for SPP transmission owners, and that the use of this average would allow Basin Electric to rely on outdated information that does not reflect current capital market conditions or the results of the application of the Commission’s currently approved discounted cash flow methodology. Missouri Commission contends that the Commission should reject SPP’s proposed Tariff revisions, suspend them for the maximum five month statutory period, and set the ROE for a full evidentiary hearing and direct that the parties engage in settlement negotiations.²⁰

16. Kansas Commission argues that Commission precedent requires that an ROE for a non-jurisdictional utility be justified either by a discounted cash flow analysis²¹ or by the use of an established and reasonable margin above the cost of its debt.²² Kansas

¹⁸ Kansas Commission Protest at 5-6 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013); *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014)).

¹⁹ *Id.* at 5-6 (citing *The Empire District Electric Co.*, 148 FERC ¶ 61,030 (2014); *Louisville Gas and Electric Co. & Kentucky Utilities Co.*, 148 FERC ¶ 61,031 (2014); *UNS Electric, Inc.*, 148 FERC ¶ 61,032 (2014); *Westar Energy, Inc.*, 148 FERC ¶ 61,033 (2014); *Kansas City Power & Light Co., KCP&L Greater Missouri Operations Co.*, 148 FERC ¶ 61,034 (2014); *Black Hills Power, Inc.*, 148 FERC ¶ 61,035 (2014)).

²⁰ Missouri Commission Protest at 4-5.

²¹ Kansas Commission Protest at n.3 (citing *City of Vernon, California*, Opinion No. 479, 111 FERC ¶ 61,092, at PP 96, 101-103, *order on reh’g*, Opinion No. 479-A, 112 FERC ¶ 61,207 (2005), *reh’g denied*, Opinion No. 479-B, 115 FERC ¶ 61,297 (2006)).

²² *Id.* n.4 (citing *Pinnacle West Capital Corp.*, 131 FERC ¶ 61,143, at PP 52-53, *reh’g denied*, 133 FERC ¶ 61,034 (2010)).

Commission asserts that SPP, by failing to use either of these methods, has failed to establish the justness and reasonableness of the recovery of Basin Electric's ROE.²³ Kansas Commission questions the justness and reasonableness of the requested 50 basis point ROE adder and contends that "the existing level of subsidization, without the 50 basis point adder, is more than sufficient to compensate Basin Electric for whatever "risks" it confronts in joining SPP."²⁴ Kansas Commission also contends that Basin Electric should be required to state whether or not it will provide voluntary refunds if the Commission concludes that the proposed ROE, or other aspects of the filing, are not just and reasonable.²⁵

17. Missouri River argues that Basin Electric's proposed formula rate is not sufficiently transparent. Specifically, Missouri River explains that Basin Electric has not provided access to the data set from which its inputs into the formula template are drawn. Missouri River asserts that the Commission must require Basin Electric to provide its Rural Utilities Service (RUS) Form No. 12 for calendar years 2013 and 2014 to support the data in the filing and to require Basin Electric to file a process for making its subsequent RUS Form No. 12s publicly available annually as soon as filed with the RUS. According to Missouri River, it is essential that Basin Electric identify the publicly available source from which the cost input data may be obtained. Missouri River also argues that Basin Electric's formula rate template should be filed in working Excel format instead of the unworkable pdf format in which it was filed. Finally, Missouri River asserts that much more information about Basin Electric's underlying load data is necessary, including a comprehensive description of Basin Electric's arrangements made to serve the retail load of each non-electric utility affiliate. Missouri River alleges that Basin Electric's proposed formula rate appears to be deficient and requests that the Commission set this matter for a technical conference and permit full and open discovery to begin immediately.²⁶

2. Answer

18. In response to Missouri River, Basin Electric notes that a working Excel version of its formula rate template has been and is currently publicly available on the SPP website.

²³ *Id.* at 4.

²⁴ *Id.* at 5.

²⁵ *Id.* (citing *City of Azusa, California*, 138 FERC ¶ 61,049, at P 20 (2012)).

²⁶ Missouri River Protest at 4. Missouri River also submitted a sample of data requests, which it states it would submit to the Commission if the Commission sets this proceeding for a technical conference.

Basin Electric explains that the Commission's eTariff system does not permit entities to submit a working Excel version of the formula rate template, and contends that SPP's process thus calls for the posting of the template on the SPP website. Basin Electric also states that SPP, at Basin Electric's request, posted Basin Electric's completed RUS Form No. 12 for 2013 and 2014 at the same location. According to Basin Electric, the populated template with Basin Electric's projected revenue requirement will be posted on the public portion of SPP's website not later than ten days after the Commission issues an order accepting the formula rate. Further, Basin Electric states that the formula rate protocols require that SPP post the RUS Form No. 12 for each rate year on the SPP website when it posts its annual true-up in the future.²⁷ Basin Electric explains that its own load data would not be informative because Basin Electric's formula rate will be used as only one component of the calculation of rates for the Upper Missouri Zone.²⁸ According to Basin Electric, the other information sought by Missouri River is not necessary to evaluate whether the proposed formula rate is just and reasonable. Basin Electric asserts that Missouri River will have the opportunity to review and challenge inputs to the 2015 formula rate pursuant to Basin Electric's proposed protocols after the Commission accepts the filing. Basin Electric thus argues that the Commission should reject Missouri River's request to schedule a technical conference.

19. In response to comments from Missouri River, Basin Electric explains that its functionalization and allocation factors reflect standard Commission ratemaking.²⁹ Basin Electric contends that its allocation factors are the same as those it applied under the Integrated System Tariff and conform to Commission requirements. Specifically, Basin Electric explains that its administrative and general expense does not include amounts associated with its non-electric utility affiliates and asserts that it should not be required to provide the combined overall administrative and general expense for its electric and non-electric utility affiliates.³⁰

20. According to Basin Electric, its methodology ensures that the proposed ROE falls within the range of reasonable returns approved by the Commission.³¹ Basin Electric contends that the Commission should deny Kansas Commission's request and find that

²⁷ Basin Electric Answer at 4.

²⁸ *Id.* at 5-6.

²⁹ *Id.* at 5-6 (referencing Ex. No. SPP-1 at 13).

³⁰ *Id.* at 6.

³¹ *Id.* at 7-9.

Basin Electric is entitled to a 50 basis point adder for initial and continuing RTO membership.³²

21. Basin Electric argues that the proposed protocols are consistent with the Commission's orders and guidance in both the MISO formula rate protocol proceedings as well as the SPP formula rate protocol proceedings.³³ Basin Electric further argues that the proposed protocols provide sufficient time for interested parties to conduct review and seek additional information.

22. In its answer, Basin Electric provides several clarifications. First, Basin Electric clarifies that there was an incorrect reference to a page number in Schedule 1, line 1, and agrees to submit a compliance filing correcting this reference.³⁴ In response to Western, Basin Electric clarifies that it will include its share of the Integrated System true-up for the last three months of 2013, all of 2014, and the first nine months of 2015.³⁵ Basin Electric also clarifies that all of its facilities included in the formula rate are qualified for inclusion under the SPP Tariff, and notes that a more detailed list is publicly available on the SPP website. Basin Electric states that it has consulted with SPP to determine that the facilities included in this list meet the criteria established in Attachment AI, Transmission Facility Criteria and Pre-Filing Review Process, for inclusion under the SPP Tariff.³⁶

23. Basin Electric states that, to the extent deemed necessary by the Commission, Basin Electric is willing to include language in its protocols providing for joint informational meetings with other SPP transmission owners. Basin Electric further states that it intends to provide remote access to its stakeholder meetings concerning the annual update and annual true-up.³⁷

C. Standard of Review

24. The Commission has addressed the standard of review to be applied to petitions involving non-jurisdictional transmission revenue requirements in an opinion reviewing

³² *Id.* at 9.

³³ *Id.* at 10.

³⁴ *Id.*

³⁵ *Id.* at 7.

³⁶ *Id.*

³⁷ *Id.* at 12.

the transmission revenue requirement filed by the City of Vernon, California (Vernon).³⁸ In Opinion No. 479, the Commission recognized that, as a municipally-owned utility, Vernon was not subject to the Commission's jurisdiction under FPA section 205. However, the Commission noted that because Vernon voluntarily submitted its transmission revenue requirement as a component of California Independent System Operator Corporation's (CAISO) jurisdictional rate, Vernon's transmission revenue requirement was "subject to a full and complete section 205 review as part of our section 205 review of that jurisdictional rate."³⁹ The Commission explained that, in *Pac. Gas & Elec. Co. v. FERC*, the U.S. Court of Appeals for the District of Columbia held that the Commission had statutory authority to review Vernon's transmission revenue requirement "to the extent necessary to ensure that the CAISO rates are just and reasonable."⁴⁰ Subsequently, the court upheld the Commission's decision that subjecting the transmission revenue requirements of non-jurisdictional utilities (such as Vernon) to a full section 205 review is "the only way to ensure that CAISO's rate is just and reasonable."⁴¹

25. However, in *TANC*, the court rejected the Commission's authority to order Vernon to pay refunds under FPA section 205. The court held that the structure of the FPA clearly reflects Congress's intent to exempt governmental entities and non-public utilities from the Commission's refund authority under FPA section 205 over wholesale electric energy sales.⁴² The court reasoned that FPA section 201(f) exempts from Part II of the FPA "any political subdivision of a state."⁴³

26. Therefore, while Basin Electric is not within the Commission's jurisdiction under FPA section 205, we find that, based on the precedent cited above, it is appropriate to apply the just and reasonable standard of FPA section 205 to SPP's proposed rates filed

³⁸ See *City of Vernon, California*, Opinion No. 479, 111 FERC ¶ 61,092, *order on reh'g*, Opinion No. 479-A, 112 FERC ¶ 61,207 (2005), *reh'g denied*, Opinion No. 479-B, 115 FERC ¶ 61,297 (2006).

³⁹ *Id.* P 44.

⁴⁰ *Id.* P 43 (quoting *Pac. Gas & Elec. Co. v. FERC*, 306 F.3d 1112, 1117 (D.C. Cir. 2002)).

⁴¹ *Transmission Agency of N. Cal. v. FERC*, 495 F.3d 663, 672 (D.C. Cir. 2007) (*TANC*).

⁴² *Id.* at 673-74.

⁴³ *Id.* at 674.

on behalf of Basin Electric.⁴⁴ To determine the justness and reasonableness of such rates, we find that, as discussed below, hearing and settlement judge procedures are appropriate.

27. Furthermore, Basin Electric is not subject to Commission-imposed rate suspension and refund obligations under section 205 of the FPA.⁴⁵ However, we note that Basin Electric has voluntarily agreed to allow its revenue requirement, formula rate, and formula rate protocols to be treated as being accepted, subject to refund with interest at Commission interest rates.⁴⁶

D. Commission Determination

1. RTO Participation Adder

28. As discussed below, we conditionally grant Basin Electric's request for a 50-basis point adder to its base ROE for its participation in SPP. In the Energy Policy Act of 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.⁴⁷ The purpose of the rule that FPA section 219 directed the Commission to establish is, *inter alia*, to promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in electric transmission infrastructure.⁴⁸ The Commission subsequently issued Order No. 679,⁴⁹ which sets forth processes by which a public utility may seek transmission rate incentives, pursuant to section 219 of the FPA.

⁴⁴ See *Sw. Power Pool, Inc.*, 151 FERC ¶ 61,211, at PP 38-41 (2015).

⁴⁵ *Id.* P 41.

⁴⁶ SPP Transmittal at 9, n.32

⁴⁷ 16 U.S.C. § 824s(a), (b) (2012).

⁴⁸ *Id.*

⁴⁹ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 61,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

29. We find that, as conditioned below, Basin Electric's requested 50 basis point adder is consistent with section 219 of the FPA and Commission precedent.⁵⁰ However, we condition our approval on the adder being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash flow analysis, and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash flow analysis, as those may be determined in the hearing and settlement procedures ordered below. Further, our approval of this incentive is conditioned on Basin Electric's continuing membership in SPP.

2. Formula Rate, Facilities, and Base ROE

30. We find that, apart from the issues that were directly addressed above, SPP's proposed Tariff revisions filed on behalf of Basin Electric raise issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures we order below.

31. Our preliminary analysis indicates that SPP's proposed Tariff revisions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the proposed Tariff revisions, effective October 1, 2015, as requested, subject to refund, and set them for hearing and settlement judge procedures.

32. We will accept Basin Electric's commitment to provide refunds, with interest, as of October 1, 2015. Basin Electric is not subject to Commission-imposed refund obligations under section 205 of the FPA and the Commission has previously accepted commitments by non-jurisdictional transmission owners that they will refund the difference between the proposed rate and the rate ultimately determined by the Commission to be just and reasonable.⁵¹

33. While we are setting SPP's proposed Tariff revisions for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁵² If the parties desire,

⁵⁰ See, e.g., *Pac. Gas and Elec. Co.*, 148 FERC ¶ 61,245, at P 30 (2014) (granting 50-basis point adder for continued RTO participation); *Valley Elec. Ass'n, Inc.*, 141 FERC ¶ 61,238, at P 26 (2012) (granting 50-basis point adder for RTO participation); *Pac. Gas and Elec. Co.*, 141 FERC ¶ 61,168, at P 25 (2012).

⁵¹ See, e.g., *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,003, at P 19 & n.40 (2014).

⁵² 18 C.F.R. § 385.603 (2015).

they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.⁵³ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

34. We grant SPP's requested waiver of section 35.13 of the Commission's regulations. Because Basin Electric is not subject to section 205 of the FPA, it is not subject to the Commission's cost of service regulatory filing requirements. However, to the extent that parties at the hearing can show the relevance of additional information needed to evaluate the proposal, the Administrative Law Judge can provide for appropriate discovery of such information.

The Commission orders:

(A) SPP's Tariff proposed tariff revisions are hereby accepted for filing, to become effective October 1, 2015, as requested, subject to refund, as discussed in the body of the order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R., Chapter I), a public hearing shall be held concerning the justness and reasonableness of SPP's proposed tariff revisions. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge

⁵³ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience. (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.