

152 FERC ¶ 61,255  
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. ER15-2347-000

ORDER ACCEPTING AND SUSPENDING PROPOSED AGREEMENT AND  
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued September 30, 2015)

1. On July 31, 2015, pursuant to section 205 of the Federal Power Act<sup>1</sup> and section 35.13 of the Commission's regulations,<sup>2</sup> Southwest Power Pool, Inc. (SPP) submitted revisions to its Open Access Transmission Tariff (Tariff) to incorporate an agreement (Agreement) governing tariff administration and other duties that SPP will perform on behalf of SPP member Western Area Power Administration – Upper Great Plains Region (Western-UGP) for its transmission facilities in the Western Interconnection that will transfer to the functional control of SPP on October 1, 2015.<sup>3</sup> In this order, we accept SPP's proposed Agreement for filing, suspend it for a nominal

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. § 35.13 (2015).

<sup>3</sup> The United States Department of Energy, Western Area Power Administration (Western) is a federal power marketing agency that markets federal power and owns and operates transmission facilities throughout 15 western and central states, encompassing a geographic area of 1.3 million square miles. Western comprises four regions, one of which is Western-UGP. Western-UGP owns an extensive system of high-voltage transmission facilities and markets federally generated hydroelectric power in the Pick-Sloan Missouri-Basin Program-Eastern Division of Western, and manages two balancing authorities: Western Area Power Administration, Upper Great Plains West (WAUW) and Western Area Power Administration, Upper Great Plains East (WAUE). Transmittal at 2-3.

period, to become effective October 1, 2015, subject to refund, and establish hearing and settlement judge procedures.

## **I. Background**

2. SPP explains that on September 11, 2014, it submitted revisions to its Tariff and the SPP Bylaws and standard Membership Agreement to facilitate the integration of Western-UGP, Basin Electric Power Cooperative (Basin Electric), and Heartland Consumers Power District (Heartland), which together jointly own and operate a significant portion of the bulk electric transmission system in the Upper Great Plains region of the United States (collectively, the Integrated System) into full SPP membership. In an order issued on November 10, 2014, the Commission conditionally accepted in part and rejected in part SPP's proposed revisions, and established hearing and settlement judge procedures.<sup>4</sup> SPP states that its proposal intended to govern the transmission facilities of the Integrated System that are electrically located in both the Eastern and Western Interconnections and included under the Tariff in the Upper Missouri Zone (UMZ Zone 19).<sup>5</sup> Upon integration, the Western-UGP transmission facilities located in the Eastern Interconnection (East Facilities) will be transferred to the functional control of SPP, be considered Transmission Facilities under the Tariff, be included in the SPP balancing authority area, and in SPP's Integrated Marketplace. By contrast, upon integration, the Western-UGP transmission facilities located in the Western Interconnection (West Facilities-UGP) will be transferred to the functional control of SPP and be considered Transmission Facilities under the Tariff; however, the West Facilities-UGP will not be included in SPP's balancing authority area or in SPP's Integrated Marketplace.<sup>6</sup>

3. SPP notes that in its September 11, 2014 filing, it represented to the Commission that an agreement was to be negotiated that would allow SPP to provide Tariff-related services and related functions for that portion of Western-UGP's transmission facilities located in the Western Interconnection. SPP explains that the Integrated System's transmission facilities in the Eastern and Western Interconnections are linked via a Direct Current tie.<sup>7</sup> SPP states that one unique characteristic of its proposal is that the West Facilities-UGP will remain in the balancing authority areas in which they are currently located. For example, Western-UGP will remain in the WAUW balancing

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<sup>4</sup> *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113 (2014).

<sup>5</sup> Transmittal at 3-4.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.*

authority area where the majority of the West Facilities-UGP are located. However, SPP asserts that under the Agreement, it will take over administration of transmission service, and it will provide billing services for ancillary services provided by Western-UGP to transmission customers on the West Facilities-UGP in the Western Interconnection.<sup>8</sup>

## II. Filing

4. SPP states that the purpose of the Agreement is to memorialize the terms and conditions under which SPP will provide administrative services for Western-UGP's eligible transmission facilities in the Western Interconnection and to limit the application of the Tariff to such transmission facilities.<sup>9</sup> SPP proposes to include the Agreement as new Attachment AS of the Tariff. According to SPP, the Agreement is narrowly structured to define the services provided by SPP upon Western-UGP's transfer of functional control of the West Facilities-UGP in the Western Interconnection, and to appoint SPP to provide services for its West Facilities-UGP under the terms of the Tariff. SPP states that the Agreement sets forth the limited application of the Tariff to the West Facilities-UGP.<sup>10</sup> SPP explains that it will perform the functions of Transmission Service Provider and Planning Coordinator, as these functions are defined by the North American Electric Reliability Corporation (NERC). The services SPP will provide under the Agreement include, but are not limited to, the following: administration of transmission service; ancillary services; generator interconnection services; administration of the Open Access Same-Time Information System (OASIS); and transmission planning.<sup>11</sup> SPP states that under the Agreement, provision of transmission service and charges for transmission service over the West Facilities-UGP shall be according to the Tariff, including ancillary services under Schedules 1 and 2 (Scheduling System Control and Dispatch Service and Reactive Supply and Voltage Control From Generation or Other Sources Service), Schedule 1-A (Tariff Administration Service) and Attachment M loss compensation charges.<sup>12</sup>

5. With the Agreement, SPP explains that it will administer the special requirements for the West Facilities-UGP, which will transfer to SPP's functional control in the UMZ Zone 19 along with Western-UGP's East Facilities as a result of Western-UGP's

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 1.

<sup>10</sup> *Id.* at 11-12.

<sup>11</sup> *Id.* at 5-6.

<sup>12</sup> *Id.* at 6.

incorporation of its Annual Transmission Revenue Requirement under Appendix H of the Tariff under a separate SPP filing.<sup>13</sup> According to SPP, the Agreement is necessary because the SPP Integrated Marketplace is not being extended into the Western Interconnection. Therefore, the West Facilities-UGP can only be integrated into certain functions of SPP and on a limited basis under the Tariff.

6. According to SPP, one key element of the Agreement is the provision of other ancillary services provided only in the balancing authority areas in the Western Interconnection. In this regard, SPP states that there are certain ancillary services that it will not provide under the Agreement; rather, these ancillary services will be obtained from the balancing authority area where the specific West Facilities-UGP are located. As an example, SPP states that WAUW, as the balancing authority for the area where the West Facilities-UGP are located, will continue to offer these ancillary services to transmission customers in the WAUW. SPP states that for these ancillary services, SPP will act as a billing agent on behalf of Western-UGP, and SPP will pass through the revenues it receives for such services to the balancing authority or other suppliers providing service. Accordingly, SPP includes Ancillary Service Schedules 3, 4, 5, 6, and 9 as appendixes to the Agreement.<sup>14</sup> SPP states that these ancillary service schedules provide the terms whereby the SPP transmission customer shall obtain ancillary services on the West Facilities–UGP, because these facilities are not included in the SPP Integrated Marketplace or the SPP balancing authority area.<sup>15</sup>

7. Further, SPP explains that Ancillary Service Schedules 3, 4, 5, 6, and 9 may also be applied in other balancing authority areas in the Western Interconnection because some of the West Facilities-UGP are also located in the NorthWestern Energy balancing authority area and some are located in the Western Area Power Administration, Colorado-Missouri Region balancing authority area. SPP states that transmission customers taking service on facilities in these balancing authority areas may also need to obtain certain ancillary services. Therefore, the Agreement also includes Schedule 1, an ancillary service specifically for use in only the NorthWestern Energy balancing

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<sup>13</sup> *Id.* at 11.

<sup>14</sup> Schedule 3 (Regulation and Frequency Response Service-Western Interconnection), Schedule 4 (Energy Imbalance Service – Western Interconnection), Schedule 5 (Operating Reserve – Spinning Reserve Service – Western Interconnection), Schedule 6 (Operating Reserve – Supplemental Reserve Service – Western Interconnection), Schedule 9 (Generator Imbalance Service – Western Interconnection).

<sup>15</sup> SPP Transmittal at 6.

authority area (NWMT) or the Western Area Power Administration, Colorado-Missouri Region balancing authority area.<sup>16</sup>

8. SPP also states that loads on the West Facilities-UGP will not be subject to settlement in SPP's Real-Time Balancing Market, except in limited cases where the loads are temporarily connected to the Eastern Interconnection and inside the SPP balancing authority area. In these cases, SPP explains that it will perform billing services and distribute revenues to Western-UGP in accordance with the Tariff.<sup>17</sup>

9. With respect to operations and planning, SPP explains that both SPP and Western-UGP will comply with applicable NERC reliability standards, North American Energy Standards Board (NAESB) standards, and SPP criteria, consistent with Western-UGP's Membership Agreement and Tariff for all transmission transactions under the Agreement, as well as in the planning and operation of their transmission systems. According to SPP, it shall have the responsibility for NERC's compliance requirements for the planning coordinator and transmission service provider functions. However, SPP will not be responsible for Western-UGP's compliance with applicable NERC standards, and Western-UGP will remain the transmission owner and transmission operator, as defined and registered by NERC. In addition, SPP explains that Western-UGP's West Facilities-UGP will not participate in SPP's operating reserve sharing services, rather, Western-UGP will be responsible to ensure participation in a reserve sharing group in the Western Interconnection.<sup>18</sup> SPP also states that, as the Planning Coordinator, it may recommend the expansion or upgrading of the West Facilities-UGP. According to SPP, Western-UGP shall be part of the SPP planning region to the extent defined in the Agreement, which provides that Western-UGP's participation in SPP's planning process for West Facilities-UGP is to meet Western-UGP's NERC obligations. SPP asserts that this term is consistent with how the Southwestern Power Administration participates in SPP's planning region.<sup>19</sup>

10. In addition, SPP states that the Agreement retains consistency with Tariff revisions with regard to the federal terms applicable to Western-UGP as a federal power marketing agency. According to SPP, the Agreement incorporates all federal statutes, regulations,

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<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.* at 7-8.

<sup>18</sup> *Id.* at 8-9.

<sup>19</sup> *Id.* at 9 (citing Tariff at Attachment AD, section 14(b)).

and limitations contained in section 39.3 of the Tariff, which contains the terms and conditions the Commission has accepted to allow Western-UGP to join SPP.<sup>20</sup>

11. SPP also explains that all transmission service administered by SPP which uses the West Facilities-UGP shall be under the Tariff, and that the West Facilities-UGP and the East Facilities are included in UMZ Zone 19. SPP states that, as a result, there is no pancaking of transmission service charges for deliveries between UMZ Zone 19 transmission facilities in the Eastern and Western Interconnections. Further, according to SPP, under the Agreement the term “transmission service” represents both Network Integration Transmission Service and Point-to-Point Transmission Services. As a result, SPP asserts that, upon transfer of functional control of the West Facilities-UGP to SPP, Western-UGP will no longer offer transmission service on the West Facilities-UGP. SPP also contends that, unless otherwise agreed to in writing, SPP shall not apply, via settlements or any other mechanism, its existing and future market methodologies or protocols to loads on the West Facilities-UGP that are not participating in SPP markets, except during times that such loads are connected to the Eastern Interconnection and inside the SPP balancing authority area.<sup>21</sup>

12. SPP requests an October 1, 2015 effective date for the Agreement.

### **III. Notice of Filing and Responsive Pleadings**

13. Notice of SPP’s filing was published in the *Federal Register*, 80 Fed. Reg. 46,973 (2015), with interventions and protests due on or before August 21, 2015. Timely motions to intervene were filed by: Basin Electric; Missouri River Energy Services; Nebraska Public Power District; and Xcel Energy Services, Inc. NorthWestern Corporation (NorthWestern) and Western each filed timely motions to intervene and comments. On September 10, 2015, SPP and Western each filed answers.

#### **A. Comments**

14. Western supports the principles, terms, and conditions of the Agreement. According to Western, Commission approval of the Agreement will allow the integration of the Western-UGP facilities in UMZ Zone 19 located in the Western Interconnection, which will provide for coordinated transmission planning for such facilities and improve the reliability of the bulk electric transmission system. Western states that the Agreement continues the history of a single transmission rate in the Integrated System by

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 10.

establishing a single transmission rate in UMZ Zone 19 across facilities in the Western Interconnection, the Direct Current tie, and the Eastern Interconnection.

15. Western explains that SPP's proposal for Western-UGP, Basin Electric, and Heartland to join SPP created the new UMZ Zone 19 pricing zone, which was defined to include Western's eligible transmission facilities in both the Eastern and Western Interconnections.<sup>22</sup> Western states that Western-UGP's Annual Transmission Revenue Requirement, which is pending review and approval at the Commission on a final basis in Docket No. EF15-8-000, includes Western-UGP's transmission facilities located in both the Eastern and Western Interconnections.<sup>23</sup> According to Western, for the past 19 years Western-UGP has provided transmission service at a single rate across its facilities located in the Western Interconnection, the Direct Current tie, and its facilities located in the Eastern Interconnection. In light of this past history, and consistent with the way it has provided transmission service over the Integrated System for almost two decades, Western contends that it worked with SPP to effectuate this same level of service as Western-UGP transfers functional control to SPP.<sup>24</sup>

16. Western states that the Agreement is an integral part of, and necessary for the integration and transfer of functional control of the Western-UGP facilities to SPP. Western explains that as described in Docket No. EF15-8-000, ancillary services made available by Western-UGP in the Western Interconnection will be administered by SPP as part of the administration duties it is to perform under the Agreement, and "[t]he cost basis for such ancillaries will be a pass through by SPP."<sup>25</sup> In addition, Western states that entities in the Western Interconnection will benefit from the ancillary services provided under the Agreement.<sup>26</sup>

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<sup>22</sup> Western Comments at 6.

<sup>23</sup> Western notes that rates developed by Western pursuant to its delegated authority, and approved on an interim basis by the Deputy Secretary of Energy, include the Annual Transmission Revenue Requirement of Western-UGP facilities in both the Eastern and Western Interconnections, Scheduling, System Control, and Dispatch Service in both Interconnections, as well as ancillary services in the Western Interconnection for Regulation and Frequency Response Service, Energy Imbalance Service, Operating Reserve- Spinning Reserve Service, Operating Reserve- Supplemental Reserve Service and Generator Imbalance Service. *Id.* at n.5.

<sup>24</sup> *Id.* at 7.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 8.

17. NorthWestern supports Western's efforts to join SPP effective October 1, 2015; however, it has questions and concerns regarding how the Agreement will affect NorthWestern and the existing relationship between NorthWestern and Western in Montana. Therefore, NorthWestern requests that the Commission set the Agreement for hearing and settlement judge procedures so that the parties can address and resolve NorthWestern's questions and concerns.<sup>27</sup>

18. According to NorthWestern, the Agreement is unclear and does not adequately protect NorthWestern's rights in Montana. First, NorthWestern asserts that it and Western both own transmission in each other's balancing authority areas in Montana, and they have developed several complex but cooperative arrangements for operating their respective facilities. NorthWestern states that it is not clear how the Agreement will change existing arrangements between Western and NorthWestern in Montana, and it is not clear whether the Agreement is intended to supersede all existing arrangements between Western and NorthWestern regarding transmission facilities in Montana or if other agreements will be developed. NorthWestern asserts that the Agreement should recognize NorthWestern's contractual rights under existing agreements with Western.<sup>28</sup>

19. Second, NorthWestern argues that the Agreement appears to provide that SPP will serve as the NERC Planning Coordinator for Western's transmission facilities that are located in NorthWestern's balancing authority area. NorthWestern is concerned about whether SPP has the authority to serve as the NERC Planning Coordinator for transmission facilities located in NorthWestern's balancing authority area, and if so, how SPP intends to exercise that authority to avoid interference with NorthWestern's ability to perform integrated transmission planning for its facilities in its balancing authority area. According to NorthWestern, absent clarity on the planning responsibilities of SPP and NorthWestern, there is a risk that actions by SPP and NorthWestern could conflict and adversely affect reliability or create seams issues within the NorthWestern balancing authority area.<sup>29</sup>

20. Third, NorthWestern argues that, in the Agreement, SPP proposes to collect charges for ancillary services provided by NorthWestern from its transmission customers located in NorthWestern's balancing authority area, and to pass-through those amounts to NorthWestern. According to NorthWestern, although the Agreement includes a Schedule in which SPP will impose a charge for ancillary services provided by NorthWestern, the

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<sup>27</sup> NorthWestern Comments at 1.

<sup>28</sup> *Id.* at 6-7.

<sup>29</sup> *Id.* at 7.

Agreement is not clear in describing the rights and obligations of NorthWestern and SPP regarding the pass-through of revenues from SPP to NorthWestern.<sup>30</sup>

21. Fourth, NorthWestern argues that although the Agreement affects NorthWestern's rights and authorizes SPP to impose charges for ancillary services provided by NorthWestern, NorthWestern is not a party to the Agreement. NorthWestern asserts that without contractual privity with SPP, NorthWestern may have difficulty enforcing SPP's obligations towards NorthWestern under the Agreement, including its obligation to serve as billing agent for NorthWestern. NorthWestern argues that it should be made a party to the Agreement, or that some other contractual mechanism should be established to provide contractual privity between SPP and NorthWestern.<sup>31</sup>

22. Finally, NorthWestern argues that the Agreement authorizes SPP to provide transmission service over Western's transmission facilities in the Western Interconnection, and it authorizes SPP to charge those customers the transmission rates under the SPP Tariff, presumably the applicable rate in the new UMZ Zone 19. According to NorthWestern, the UMZ Zone 19 rate includes the costs of transmission facilities located in the Eastern Interconnection, including those owned by transmission owners other than Western. NorthWestern also argues that transmission customers in the Western Interconnection in Montana could be held responsible for region-wide charges under Schedule 11 of the SPP Tariff for transmission facilities built in SPP zones in the Eastern Interconnection. NorthWestern asserts that neither SPP nor Western have established under cost causation principles that transmission customers in the Western Interconnection, including NorthWestern, will sufficiently benefit from SPP's transmission facilities in the Eastern Interconnection to justify payment for those costs. Therefore, NorthWestern asserts that SPP has not shown that the rate that NorthWestern and other transmission customers in Montana must pay for transmission services provided by SPP under the Agreement is just and reasonable.<sup>32</sup> Therefore, NorthWestern requests that the Commission accept the Agreement and set it for hearing and settlement judge procedures.

## **B. Answers**

23. In its answer, SPP states that it is committed to engaging NorthWestern to satisfy its concerns and has begun discussions with NorthWestern in an effort to better understand its concerns. SPP is confident that resolution of the issues will be settled

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<sup>30</sup> *Id.* at 8.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 8-9.

shortly and anticipates an agreement between NorthWestern and SPP, the terms and substance of which is yet to be finalized. SPP argues that NorthWestern's request that the Agreement must clearly identify any changes to cooperative bilateral arrangements between NorthWestern and Western-UGP should be dismissed by the Commission as outside the scope of this proceeding. SPP asserts that the details and impacts of the existing cooperative agreements, to which SPP is not a signatory, are matters that are best left to the parties to the contracts, namely NorthWestern and Western-UGP. According to SPP, the Agreement does not affect any previous operational arrangements between the two parties and the Commission should not require SPP to take any action in regard to those bilateral cooperative contracts.<sup>33</sup>

24. In addition, SPP argues that the Commission should dismiss NorthWestern's question of whether SPP has the authority to serve as NERC Planning Coordinator. SPP contends that it knows of no prohibition that restricts a transmission owner from delegating or assigning responsibility for a NERC function to an independent entity, nor has NorthWestern quoted any standard that would prevent SPP from assuming that function from Western-UGP. SPP argues that the NERC Functional Model provides that the work performed to meet functional requirements may be self-performed or performed by others.<sup>34</sup> In addition, SPP argues that as the Planning Coordinator for its footprint, it performs this function on behalf of its members and is able to competently perform the role of Planning Coordinator for the West Facilities-UGP. SPP adds that it fully understands its obligations with respect to coordination of planning activities with NorthWestern or with NorthWestern's Planning Coordinator.<sup>35</sup>

25. SPP also argues that NorthWestern's concern as to whether it could collect from SPP the payments for ancillary services provided by NorthWestern as the balancing authority for some of the West Facilities-UGP is a non-issue. According to SPP, in these situations it typically procures ancillary services from the respective transmission owner and collects charges for such services from transmission customers, which are passed back to the transmission owner. SPP states that its Tariff (Part I section 3, Ancillary Services) governs any ancillary service charges SPP would collect on behalf of NorthWestern. Further, SPP asserts that NorthWestern recognizes that the Agreement directs an interested party to NorthWestern's schedules for ancillary services. Although SPP believes NorthWestern's concerns should be mitigated by the terms set forth in the

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<sup>33</sup> SPP Answer at 3-4.

<sup>34</sup> *Id.* at 4 (citing NERC's Reliability Functional Model Version 5 at 7).

<sup>35</sup> *Id.* at 4-5.

Tariff, SPP states that it has discussed the potential for a stand-alone agreement with NorthWestern to provide the contractual privity NorthWestern desires.<sup>36</sup>

26. SPP clarifies NorthWestern's confusion over the placement of the West Facilities-UGP in the newly created UMZ Zone 19, explaining that cost allocation is determined within UMZ Zone 19 as set forth in SPP's filing in Docket No. ER14-2850-000.<sup>37</sup> SPP argues that in its order in that proceeding accepting the integration proposal the Commission accepted the structure of UMZ Zone 19 in its general approval of the revisions to the Tariff among other documents necessary to integrate Western-UGP.<sup>38</sup> Thus, SPP asserts that the Commission should consider UMZ Zone 19 as the settled price zone for the West Facilities-UGP for purposes of this docket, and that any implication by NorthWestern that placing the West Facilities-UGP and the facilities in the Eastern Interconnection in the same pricing zone is unjust and unreasonable under cost causation principles should be rejected as outside the scope of this docket.

27. Finally, SPP clarifies that its Tariff provides specific answers to NorthWestern's questions regarding costs for which NorthWestern will be responsible when transmission service is provided on the West Facilities-UGP. In this regard, SPP states that for transmission service on the West Facilities-UGP, NorthWestern will be subject to only Schedule 11 base plan zonal charges, but not the Schedule 11 region-wide charge. However, SPP adds that NorthWestern's load located in the Western Interconnection may be responsible for Schedule 11 region-wide charges for transmission service when the West Facilities-UGP are temporarily connected and considered part of the Eastern Interconnection, or if NorthWestern uses resources located in the Eastern Interconnection to serve its load in the Western Interconnection.<sup>39</sup>

28. In its answer, Western responds to NorthWestern's concern as to how the Agreement will affect existing cooperative agreements by arguing that NorthWestern did not provide a list of contracts or arrangements about which it is concerned.<sup>40</sup> Western states that the only affected contracts of which it is aware are the network integration

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<sup>36</sup> *Id.* at 5-6.

<sup>37</sup> *Id.* at 6 (citing SPP's Revisions to Tariff, Bylaws and Membership Agreement, Integration of the Integrated System Parties into the Southwest Power Pool, Docket No. ER14-2850-000 (filed Sept. 11, 2014) (SPP/Integrated System Filing)).

<sup>38</sup> *Id.* at 7 (citing *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113).

<sup>39</sup> *Id.* at 8-9 (citing Agreement at Article 1, Section 6(a)(i)).

<sup>40</sup> Western Answer at 4-5.

transmission service contract and an operating reserves contract, both of which relate to NorthWestern's Montana operations. Western argues that Amendment No. 2 to the operating reserves contract executed between Western and NorthWestern on December 31, 2014, provides that the term of the contract ends at midnight, September 30, 2015. As to the network integration transmission service contract, Western states that it sent the required one year advance written termination notice to NorthWestern on September 25, 2014. Western asserts that these two contracts were terminated as a result of Western-UGP's decision to join SPP as a transmission owning member, and not as a result of the Agreement. Western does not believe any other contracts are affected by Western-UGP's decision to join SPP or by the Agreement. To the contrary, Western contends that Western-UGP staff has had multiple conversations and meetings over the past six to nine months, which did not result in identification of any other contracts affected by Western-UGP's transfer of functional control of its facilities to SPP, nor did they identify any currently effective contracts affected by, eroded by, or superseded by the Agreement.<sup>41</sup>

29. In response to NorthWestern's concerns about whether SPP may act as NERC Planning Coordinator for Western-UGP facilities, Western explains that Western-UGP has the planning responsibility for facilities within NorthWestern's NWMT balancing authority area, and it is responsible as the NERC Planning Coordinator for those facilities. Western states that the only change that occurs upon transfer of functional control and implementation of the Agreement is that those duties will reside with SPP as the Planning Coordinator for Western-UGP. Western argues that Western-UGP has the right and the authority to enter into the Agreement for planning coordinator services. To the extent a contractual or other coordination agreement is needed between planning coordinators, Western argues that such coordination can be best accomplished in a separate agreement between SPP and NorthWestern.<sup>42</sup>

30. With regard to NorthWestern's concerns about collection by SPP of charges for ancillary services provided by NorthWestern, and pass through to NorthWestern, Western argues that the Agreement was never intended to provide contractual relationships between SPP and NorthWestern or the Western Rocky Mountain Region under which they would provide those ancillary services to SPP. Western notes that a separate contract between NorthWestern and SPP is the logical vehicle to establish the proper terms and conditions between those parties. Western explains that, prior to the execution and filing of the Agreement, SPP was in contact with NorthWestern to begin negotiations for a separate agreement between it and NorthWestern. In addition, Western states that

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<sup>41</sup> *Id.* at 4-6.

<sup>42</sup> *Id.* at 6.

NorthWestern's concern for contractual privity for SPP to act as billing agent for NorthWestern is best reflected in a separate agreement between SPP and NorthWestern.<sup>43</sup>

31. Finally, Western argues that it addressed NorthWestern's argument that NorthWestern should not be subject to costs attributable to transmission facilities of transmission owners in the Eastern Interconnection of UMZ Zone 19 or region-wide Schedule 11 charges in its answer filed in Docket No. EF15-8-000. This proceeding involves Western's rate filing for UMZ Zone 19.<sup>44</sup> In that answer, Western explains that in the SPP/Integrated System Filing, SPP proposed, and the Commission accepted, revised Tariff sheets to exempt transmission customers in the Western Interconnection from the region-wide portion of Schedule 11 "to the extent that such load is served only by resources in the Western Interconnection."<sup>45</sup> In addition, Western explains that historically, it has provided transmission service under a single system rate for service over the facilities in the Eastern and Western Interconnections.<sup>46</sup>

#### **IV. Commission Determination**

##### **A. Procedural Matters**

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

33. 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 will accept the answers filed by SPP and Western because they have provided information that assisted us in our decision-making process.

##### **B. Substantive Matters**

34. Our preliminary analysis indicates that SPP's proposed Agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. SPP's proposed Agreement raises issues of

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<sup>43</sup> *Id.* at 7-8.

<sup>44</sup> Western Answer at 4 (citing Western Answer, Docket No. EF15-8-000 (filed Sept. 8, 2015)). Western states that it incorporates by reference its answer in Docket No. EF15-8-000 filed on September 8, 2015.

<sup>45</sup> *See* SPP Tariff 39.3(e)(i); SPP Tariff Schedule 11, II,(B)(2).

<sup>46</sup> Western, Answer, Docket No. EF15-8-000, at 10-12 (filed Sept. 8, 2015).

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 ordered below. Therefore, with the exception of the issues summarily decided below, we will accept the Agreement for filing, suspend it for a nominal period, to become effective October 1, 2015, subject to refund, and set it for hearing and settlement judge procedures.

35. With respect to NorthWestern's concerns about whether SPP has the authority to serve as the NERC Planning Coordinator for Western-UGP's facilities located in NorthWestern's balancing authority area, we agree with SPP that there is no prohibition that restricts a transmission owner from delegating or assigning responsibility for a NERC function to an independent entity, nor has NorthWestern cited any standard that would prevent SPP from assuming that function from Western-UGP. Accordingly, we find that NorthWestern has not shown that Western-UGP does not have the authority to enter into the Agreement with SPP for planning coordinator services for the Western-UGP facilities and will accept that aspect of the Agreement.

36. With regard to NorthWestern's argument that SPP has not shown that the rate NorthWestern and other transmission customers in Montana must pay for transmission services provided by SPP under the Agreement is just and reasonable, we find this issue is beyond the scope of this proceeding. In Docket Nos. ER14-2850-000 and ER14-2851-000, SPP proposed and the Commission accepted the rate structure through which SPP will continue to provide a single system rate for the Western facilities in both the Western and Eastern Interconnections.<sup>47</sup> In addition, with respect to NorthWestern's argument that transmission customers in the Western Interconnection could be held responsible for region-wide charges under Schedule 11 of the Tariff for transmission facilities built in the Eastern Interconnection, we find this issue is also beyond the scope of this proceeding. The Commission also accepted SPP's proposed revisions to Schedule 11 relating to the integration of Western-UGP into SPP in Docket Nos. ER14-2850-000 and ER14-2851-000.<sup>48</sup> Transmission customers taking service over the Western Facilities-UGP are exempt from the region-wide charge under Schedule 11 except when the West Facilities-UGP are temporarily connected and considered part of the Eastern Interconnection, or if they use resources located in the Eastern Interconnection to serve their load in the Western Interconnection under the Tariff.

37. We note, however, that there are some questions regarding the effect of the proposed Agreement on existing agreements between Western and NorthWestern and the terms and conditions of providing ancillary services in the Western Interconnection. We

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<sup>47</sup> *Id.* at 12; *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113.

<sup>48</sup> *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113 at PP 24, 50.

also note that SPP states that it is currently discussing appropriate arrangements to address these issues. Therefore, we will set these issues for hearing and settlement judge procedures. While we are setting these matters 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.<sup>49</sup> If the parties desire, 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.<sup>50</sup> 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.

The Commission orders:

(A) SPP's proposed Agreement is hereby accepted and suspended for a nominal period, to become effective October 1, 2015, as requested, subject to refund, as discussed in the body of this 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 Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act (18 C.F.R. Part I), a public hearing shall be held concerning SPP's 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 Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Administrative Law Judge is 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

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<sup>49</sup> 18 C.F.R. § 385.603 (2015).

<sup>50</sup> 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 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>).

convene a settlement conference as soon as practicable after the Chief Judge 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 with the Chief Judge on the status of 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 Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.