

153 FERC ¶ 61,249
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER15-2705-000

ORDER REJECTING TARIFF REVISIONS

(Issued November 30, 2015)

1. On September 24, 2015, Southwest Power Pool, Inc. (SPP) filed, under section 205 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's Regulations,² proposed revisions to its Open Access Transmission Tariff (Tariff) to create a Seams Transmission Project category and associated cost allocation. As discussed below, we reject SPP's filing.

I. Background

2. In Order No. 1000, the Commission required that each public utility transmission provider in a transmission planning region have—together with the public utility transmission providers in its own transmission planning region and a neighboring transmission planning region—a common method or methods for allocating the costs of a new interregional transmission facility among the beneficiaries of that transmission facility in the two neighboring transmission planning regions in which the transmission facility is located.³ To be eligible for interregional cost allocation, an interregional

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2015).

³ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at PP 578, 582 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

transmission facility must be selected in the relevant transmission planning regions' regional transmission plans for purposes of cost allocation.⁴

3. The Commission conditionally accepted SPP's Order No. 1000 interregional coordination and cost allocation compliance filings with both Midcontinent Independent System Operator, Inc. (MISO) and the Southeastern Regional Transmission Planning (SERTP) region, subject to further compliance.⁵ The Order No. 1000 interregional coordination process between SPP and MISO relies on the development of the SPP-MISO Coordinated System Plan, as outlined in the SPP-MISO Joint Operating Agreement.⁶ The Order No. 1000 interregional coordination process between SPP and SERTP relies primarily on identifying projects that can replace a regional project. In addition, the Order No. 1000 interregional coordination process between SPP and MISO or SERTP places certain criteria on potential projects. For example, for SPP-SERTP such criteria include that a project be greater than 50 miles, be greater than 300 kV, and be a new project rather than a rebuild. To qualify in the SPP-MISO process a project must have a benefit/cost ratio of 1.25 to the entire MISO region, notwithstanding that the project may be beneficial to particular public utilities within MISO.⁷

4. The Commission accepted SPP's regional cost allocation method, referred to as Highway/Byway, as part of its Order No. 1000 regional transmission planning and cost allocation compliance process.⁸ Under SPP's Highway/Byway regional cost allocation method, SPP allocates the costs of regional transmission facilities on a voltage threshold basis. For transmission facilities at 300 kV or above (Highway facilities), SPP allocates all of the costs on a region-wide, postage stamp basis (Highway cost allocation method). For transmission facilities between 100 kV and 300 kV (Byway facilities), SPP allocates one-third of the costs region-wide and two-thirds of the costs to the zone in which the facilities are located (Byway cost allocation method). For transmission facilities at or

⁴ *Id.* P 400.

⁵ *Sw. Power Pool, Inc.*, 150 FERC ¶ 61,093 (2015) (MISO-SPP Interregional Order); *Sw. Power Pool, Inc.*, 150 FERC ¶ 61,210 (2015) (SPP-SERTP First Interregional Order); *Sw. Power Pool, Inc.*, 152 FERC ¶ 61,172 (2015) (SPP-SERTP Second Interregional Order).

⁶ SPP states that it is still unknown which projects may qualify as interregional projects between SPP and MISO because its Order No. 1000 interregional compliance filing in Docket No. ER13-1937-002 is currently pending at the Commission.

⁷ SPP Transmittal at 7.

⁸ *Sw. Power Pool, Inc.*, 144 FERC ¶ 61,059, at P 347 (2013).

below 100 kV, SPP allocates 100 percent of the costs to the zone in which the facilities are located.⁹ SPP's Highway/Byway cost allocation method is designed to allocate the costs of new transmission facilities in a manner that is roughly commensurate with the benefits of those facilities. Additionally, for Order No. 1000 interregional projects above 100 kV, SPP proposed to allocate its share of the costs under its Highway cost allocation method and SPP's proposal is still pending Commission review.

II. SPP's Proposal

A. Seams Transmission Projects

5. SPP proposes a new category of transmission facility, Seams Transmission Project,¹⁰ that SPP believes will fill a gap in its transmission planning.¹¹ SPP states that the underlying purpose of its Seams Transmission Project proposal is to provide a project category and cost allocation for transmission facilities identified and approved through one of SPP's diverse set of transmission planning processes or pursuant to coordinated transmission planning between SPP and external entities that are not neighboring planning regions.

6. Under proposed section IV.7 (Evaluation of a Proposed Seams Transmission Project) of Attachment O, SPP sets forth requirements for identifying, evaluating, and approving a Seams Transmission Project. Pursuant to section IV.7, SPP may identify a Seams Transmission Project through one of the following: (1) a high priority study; (2) a transmission study between SPP and a Seams Partner (Joint Special Study);¹² (3) a

⁹ *Id.* P 6 & n.10.

¹⁰ SPP proposes that a Seams Transmission Project meet the following criteria: (i) the transmission facility must operate at 100 kV or above; (ii) the proposed transmission facility may include interconnection between SPP and the Seams Partner(s) (one or more transmission owner(s) or transmission provider(s) external to SPP, Tariff, section 1, Definitions, S) or may be wholly contained within the service area of SPP or a Seams Partner; (iii) the project cost must be equal to or greater than five million dollars; (iv) the in-service date of the Seams Transmission Project must be projected to occur within 10 years of the date of approval of the project; (v) the projected benefit to cost ratio must be greater than or equal to 1.0 for the SPP region; (vi) SPP and the Seams Partner(s) must agree to cost sharing; and (vii) a minimum of five percent of the total estimated benefits associated with the proposed Seams Transmission Project must be attributed to SPP. Tariff, Attachment O, section IV.7(b).

¹¹ SPP Transmittal at 10.

¹² A Joint Special Study is "independent from a preexistent planning process and is (continued ...)

coordinated system transmission planning process (Coordination Agreement);¹³ or (4) the integrated transmission plan process, SPP's regional Order No. 1000 planning process.

7. SPP asserts that its proposal will identify “potential transmission project[s] [that] may fall outside of the Order No. 1000 interregional planning process or may not be eligible for cost allocation under SPP's Order No. 1000 interregional processes.”¹⁴ In addition, SPP states that the “process proposed in this filing is intended to be utilized only in order to evaluate projects that do not qualify for Order No. 1000 treatment.”¹⁵ In regards to Seams Transmission Projects identified through Coordination Agreements, SPP notes that under Addendum 1 of Attachment O, “Network Upgrade[s] approved pursuant to the coordination agreements under this Addendum 1 shall not be considered an approved Interregional Project pursuant to the Interregional Planning Process....”¹⁶

8. SPP proposes different methods for evaluating proposed Seams Transmission Projects depending on how each project is identified. Specifically, for a Seams Transmission Project identified through a Coordination Agreement or a Joint Special Study, section IV provides that SPP shall develop, in consultation with its stakeholders, a “regional review methodology” that will include certain components.¹⁷ For Seams

performed to address a need identified by the Transmission Provider or the Seams Partner(s).” Tariff, Attachment O, section IV.7(a).

¹³ SPP Transmittal at 8 (citing Tariff, Attachment O, Addendum 1) (“Prior to Order No. 1000, SPP already engaged in interregional coordinated transmission planning with its external neighbors through its regional planning process contained in Attachment O of the Tariff...Order No. 1000 did not replace Addendum 1. Rather, interregional coordination between SPP and an external transmission service provider pursuant to Addendum 1 to Attachment O was retained as an additional option to study potential seams projects that may not qualify for Order No. interregional processes.”).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 12.

¹⁶ *Id.* at 8 (citing Tariff, Attachment O, Addendum 1 at 3).

¹⁷ Tariff, Attachment O, section IV.7(c)(i)-(iv) (The methodology will contain, at a minimum, specific procedures to: (1) determine the assumptions and criteria necessary to complete the regional review of proposed Seams Transmission Projects; (2) determine the regional models to be used in the evaluation of proposed Seams Transmission Projects; (3) determine the appropriate updates to the regional models to be used in the evaluation of proposed Seams Transmission Projects; (4) quantify the benefits of each proposed Seams Transmission Project using the Transmission provider's regional benefit (*continued ...*))

Transmission Projects “identified in an [integrated transmission planning] process” or a high priority study, section IV provides that SPP may use the assumptions, models and benefit criteria already identified in the integrated transmission planning process.¹⁸

9. To facilitate the approval of a Seams Transmission Project, under section IV, SPP will publish a report that includes, among other things, the results of the regional review analysis, study input assumptions and criteria used to assess the proposed Seams Transmission Project.¹⁹ According to section IV, the report shall be reviewed by stakeholder groups, pursuant to the Tariff. Subsequently, the stakeholder groups and SPP will provide a recommendation to the Market and Operations Policy Committee, which will make a recommendation to the SPP Board of Directors regarding whether the Seams Transmission Project should be approved.²⁰ If the SPP Board of Directors decides to approve a Seams Transmission Project, construction of the project will be contingent upon a written agreement between SPP and the relevant external transmission providers or transmission owners.²¹

B. Cost Allocation

10. Under proposed section IX, to ensure that costs are roughly commensurate with the benefits, and that the projects will be funded appropriately,²² SPP states that the SPP Regional State Committee approved the default Highway cost allocation method for approved Seams Transmission Projects, and an alternative Highway/Byway cost allocation method. Specifically, SPP proposes that the default cost allocation for all approved Seams Transmission Projects (i.e., 100 kV and above) will be SPP’s Highway regional cost allocation method.²³ SPP avers that the regional cost allocation proposal for Seams Transmission Projects is just and reasonable because the study process that will

metrics consistent with Section III.6 of this Attachment O.).

¹⁸ Tariff, Attachment O, section IV.7(d).

¹⁹ Tariff, Attachment O, section IV.7(e).

²⁰ Tariff, Attachment O, section IV.7(g).

²¹ Tariff, Attachment O, section IV.7.

²² SPP Transmittal at 16-17.

²³ *Id.* at 11-12.

evaluate these projects has been designed to identify projects that provide benefits at a regional level.²⁴

11. For those projects where the benefits to an SPP zone are 60 percent or more based on established criteria, SPP proposes an alternative Highway/Byway cost allocation method. To implement the alternative Highway/Byway cost allocation for a Seams Transmission Project, SPP proposes Tariff revisions that would allow the SPP Board of Directors the discretion to waive the default Highway regional cost allocation method if the following conditions exist: (i) the proposed Seams Transmission Project has a nominal operating voltage rating of between 100 kV and 300 kV; (ii) any SPP zone is expected to receive 60 percent or more of the proposed Seams Transmission Project's calculated benefits to the SPP Region; and (iii) the benefit to cost ratio for the host zone is greater than or equal to 1.0.²⁵ SPP proposes that if the SPP Board exercises its discretion under these conditions, then the cost allocation would revert to the Highway/Byway cost allocation method.²⁶

12. SPP contends that granting the SPP Board such discretion to change the cost allocation of a transmission facility is consistent with Attachment J of the SPP Tariff which includes two circumstances where the Commission has approved waiver authority for the SPP Board. SPP states that first, the SPP Board has limited waiver authority to determine that a transformer's higher voltage level, rather than its lower voltage level, may be used to determine its cost allocation under the Highway/Byway cost allocation method. Second, SPP explains that the SPP Board has limited authority to apply regional funding to directly assigned upgrade costs for transmission service upgrades.

III. Notice of Filing and Responsive Pleadings

13. On September 30, 2015, notice of SPP's filing was published in the *Federal Register*, 80 Fed. Reg. 58,728 (2015), with interventions and protests due on or before October 15, 2015. On October 2, 2015, SPP re-submitted its original transmittal sheet as

²⁴ *Id.*

²⁵ Tariff, Attachment J, Section IX.B; SPP Transmittal at 20.

²⁶ *Id.*; SPP Transmittal at 13.

a supplemental filing in order to correct a single footnote and reiterated its initial request for a December 1, 2015 effective date.²⁷

14. Timely motions to intervene were filed by the following: Exelon Corporation; ITC Great Plains, LLC; and Xcel Energy Services Inc. (Xcel). The Missouri Public Service Commission submitted a notice of intervention.

15. The following entities filed motions to intervene out-of-time: Tri-County Electric Coop. Inc.; City Utilities of Springfield, Mo.; The Empire District Electric Co.; Mid-Kansas Electric Co.; Sunflower Electric Co.; and Westar Energy, Inc. South Central MCN, LLC submitted an out-of-time motion to intervene and comments in support. Xcel submitted an out-of-time comment.

IV. Discussion

A. Procedural Issues

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notice of intervention and 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) (2015), we will grant the late-filed motions to intervene filed by Tri-County Electric Coop. Inc., City Utilities of Springfield, Mo., The Empire District Electric Co., Mid-Kansas Electric Company, LLC, Sunflower Electric Power Corporation, Westar Energy, Inc., and South Central MCN, LLC given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Issues

1. Protest

17. Xcel asserts that SPP's proposal to provide regional cost allocation for a Seams Transmission Project that is between 100 kV and 300 kV is unsupported.²⁸ Specifically, Xcel argues that in an order on SPP's Order No. 1000 interregional compliance effort, the

²⁷ On October 8, 2015, notice of SPP's supplemental filing was published in the *Federal Register*, 80 Fed. Reg. 60,894-95 (2015), with interventions and protests due on or before October 23, 2015. This second notice was rescinded on October 16, 2015, after the Commission determined that an extension of the comment period was not necessary because SPP had not requested an alternative effective date.

²⁸ Xcel Protest at 3.

Commission explained that if SPP sought, as it does here, to apply full regional cost allocation to interregional transmission projects between 100 kV and 300 kV, the Commission “would require, at that time, that SPP demonstrate why the highway cost allocation method [should be] applicable to th[e] new set of transmission facilities.”²⁹ Here, Xcel asserts that SPP has not provided adequate analytical support through the stakeholder process and in the filing. Xcel requests that the Commission consider whether the proposal for full regional allocation of Seams Transmission Projects is consistent with the Highway/Byway method, section 205 of the FPA, and Order No. 1000, which require that costs be allocated roughly commensurate with benefits.³⁰

2. Commission Determination

18. We find that SPP has not demonstrated that its Seams Transmission Project proposal and the associated cost allocation are just and reasonable. As discussed below, we reject SPP’s filing.

19. We find that SPP has not demonstrated that its proposed Tariff revisions are narrowly crafted so as to differentiate Seams Transmission Projects from projects that would qualify under SPP’s Order No. 1000 processes. Specifically, we find that SPP’s proposed Tariff revisions do not distinguish the criteria to be deemed a Seams Transmission Project from the criteria to qualify under SPP’s Order No. 1000 interregional processes. We note that while the Tariff states that SPP may identify a Seams Transmission Project through the integrated planning process, it does not explicitly limit SPP to projects that are ineligible for Order No. 1000 cost allocation. Further, the Tariff does not contain any prohibitions or limitations to support SPP’s assertions in its transmittal that projects that are eligible for SPP’s Order No. 1000 interregional processes may not be classified and evaluated as Seams Transmission Projects. For these reasons, we find that SPP’s proposed Tariff revisions do not limit the Seams Transmission Project process so as to prevent it from circumventing SPP’s Order No. 1000 interregional coordination process.

20. We also find that SPP’s planning process for Seams Transmission Projects lacks clarity and does not adequately explain how a Seams Transmission Project would progress from project identification to approval for construction. SPP states that Seams Transmission Projects may be identified through a diverse set of transmission planning processes including a transmission study between SPP and a potential Seams Partner. For Seams Transmission Projects identified through a Joint Special Study or

²⁹ *Id.* at 4 (citing SPP-SERTP First Interregional Order, 150 FERC ¶ 61,210 at P 206).

³⁰ *Id.* at 5.

Coordination Agreement, we find that SPP's proposal does not adequately define the methodology it will use to evaluate the project's regional benefits. Rather, SPP merely lists its minimum high level requirements that SPP and the respective Seams Partner will consider when developing a regional review methodology for the proposed project. Further, as for the regional review analysis used to facilitate the approval process, we find that SPP's proposal does not provide adequate detail as to what the analysis will entail. In addition, it is not clear that SPP's regional review will be transparent and include sufficient stakeholder involvement. Consequently, SPP has not demonstrated that the resulting facilities, which are chosen based on an undefined methodology, will result in just and reasonable rates under SPP's proposed cost allocation. We note that if Seams Transmission Projects were evaluated through SPP's regional Order No. 1000 process, SPP could propose and support a cost allocation method specific to such identified Seams Transmission Projects.

21. Additionally, SPP has proposed adding Seams Transmission Projects to its Order No. 1000 Transmission Owner Selection Process in Attachment Y (Transmission Owner Designation Process) of its Tariff. We find that SPP has not outlined how a Seams Transmission Project identified through various planning processes, both those under Order No. 1000 and not under Order No. 1000, ultimately becomes part of the Order No. 1000 Transmission Owner Selection Process. We note that the rejection of SPP's proposal in the instant filing does not preclude SPP from making a filing with the Commission on a project-by-project basis for facilities that are not Order No. 1000 facilities but may relate to seams concerns with an associated cost allocation and justifying the specific cost allocation for that specific type of non-Order No. 1000 project.

The Commission orders:

SPP's proposed Tariff revisions are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.