

153 FERC ¶ 61,353
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. ER16-231-000

ORDER ACCEPTING SERVICE AGREEMENT

(Issued December 29, 2015)

1. On November 2, 2015, Southwest Power Pool, Inc. (SPP) submitted, pursuant to section 205 of the Federal Power Act¹ and section 35.13 of the Commission's regulations:² (1) an executed service agreement for Network Integration Transmission Service (Service Agreement) between SPP as transmission provider and Minnkota Power Cooperative, Inc. (Minnkota) as network customer; and (2) an executed Network Operating Agreement among SPP as transmission provider, Minnkota as network customer, and Western Area Power Administration (Western) as host transmission owner (together, Minnkota Agreement).³ In this order, we accept the Minnkota Agreement, effective October 1, 2015.

I. Background and SPP's Filing

2. On September 11, 2014, SPP submitted proposed revisions to its Open Access Transmission Tariff (Tariff), Bylaws, and Membership Agreement to facilitate the decision of the U.S. Department of Energy, Western Area Power Administration – Upper Great Plains Region (Western-UGP), Basin Electric Power Cooperative (Basin Electric), and Heartland Consumers Power District (Heartland) (collectively,

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2015).

³ The Minnkota Agreement is designated as Original Service Agreement No. 3082.

Integrated System Parties),⁴ to integrate into SPP. On November 10, 2014, the Commission conditionally accepted in part, rejected in part, and established hearing and settlement judge procedures with regard to SPP's proposed revisions.⁵ On October 15, 2015, the Commission issued a rehearing order affirming the issues set for hearing and settlement judge procedures, which are pending in Docket Nos. ER14-2850-000 and ER14-2851-000.⁶

3. On November 2, 2015, in connection with the Integrated System Parties' integration into SPP, SPP filed the Minnkota Agreement. SPP states that the Minnkota Agreement conforms to the standard forms of service agreements set forth in SPP's Tariff, except for certain deviations detailed below.⁷

4. Section 7.0 of the Minnkota Service Agreement provides that a party to the Service Agreement may transfer or assign the Service Agreement to any person succeeding to all or substantially all of the assets of such party, provided all required regulatory approvals, including approval of Rural Utilities Service as to Minnkota, are obtained in connection with a transfer or assignment. This section further provides that Rural Utilities Service shall have the right upon written notice to SPP to assume all obligations of Minnkota, whereupon Rural Utilities Service shall succeed to all rights of Minnkota. Section 3.0 of Attachment 1 states that the load is dynamically telemetered to and included in the Otter Tail Power Company local balancing authority area in the Midcontinent Independent System Operator, Inc. (MISO). Section 5.0 of Attachment 1 states that the loads of Minnkota are physically located in the Upper Missouri Zone and also states that the load is dynamically telemetered to and included in the Otter Tail Power Company local balancing authority area of MISO. SPP contends that the Commission has previously accepted service agreements with similar non-conforming provisions.⁸

⁴ Western-UGP, Basin Electric, and Heartland together jointly own and operate a significant portion of the bulk electric transmission system in the Upper Great Plains region of the United States.

⁵ *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113 (2014), *order on reh'g*, 153 FERC ¶ 61,051 (2015) (Rehearing Order).

⁶ *See* Rehearing Order, 153 FERC ¶ 61,051.

⁷ SPP Transmittal at 2.

⁸ *Id.*

5. In the Minnkota Network Operating Agreement, sections 3.1, 3.2, 3.4 and 10.3 clarify that the facilities and the Minnkota's system referenced are that portion of Minnkota's system which is interconnected to Western-UGP's system at the delivery points.

6. SPP requests waiver of the Commission's 60-day notice requirement set forth in section 35.3 of the Commission's regulations to allow an effective date of October 1, 2015 for the Minnkota Agreement. SPP argues that waiver is appropriate because the Minnkota Agreement is being filed within 30 days of the commencement of service.⁹

II. Notice of Filing and Responsive Pleadings

7. Notice of SPP's filing was published in the *Federal Register*, 80 Fed. Reg. 69,205 (2015), with interventions and protests due on or before November 23, 2015. Western-UGP filed a timely motion to intervene. Missouri River filed a timely motion to intervene and comment. On December 8, 2015, SPP and Minnkota each filed an answer.

8. Missouri River states that some issues need further examination before the Commission can approve the Minnkota Agreement. Specifically, Missouri River questions how SPP calculated the Minnkota load, and questions what load was included as the Upper Missouri Zone network integrated transmission service load.¹⁰

9. Minnkota states that the Service Agreement specifies the loads that are covered by the Service Agreement and how they are calculated, in accordance with the SPP Tariff.¹¹ SPP explains that it does not calculate network load amounts. Instead, network load amounts are provided by the network customer to SPP in accordance with section 2.0 of Attachment 1 of the Service Agreement and section 31.6 of the Tariff. SPP also notes that section 2.0 of the Service Agreement provides that the "Network Load consists of the bundled native load or its equivalent Network Customer load in the Upper Missouri Zone(s)."¹²

⁹ *Id.* at 3 (citing *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993); 18 C.F.R. § 35.3(a)(2) (2015)).

¹⁰ Missouri River Comment at 3.

¹¹ Minnkota Answer at 1.

¹² SPP Answer at 2-3.

III. 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 timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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 will accept SPP's and Minnkota's answers because they provided information that assisted us in our decision-making process.

B. Commission Determination

12. We accept the Minnkota Agreement for filing, effective October 1, 2015. We also grant waiver of the Commission's 60-day notice requirement because SPP filed the Minnkota Agreement within 30 days of the commencement of service.¹³

13. We find that SPP has demonstrated that the proposed non-conforming revisions to the Minnkota Agreement are appropriate. Further, we find that SPP and Minnkota's answers address Missouri River's request for more information concerning how SPP has calculated Minnkota's load. Specifically, SPP points to provisions in its Tariff that demonstrate that SPP does not calculate the load itself, but rather obtains the load data from network customers. Thus, we find that the Service Agreement adequately specifies the load, as required by SPP's Tariff and will not require additional revisions.

¹³ 18 C.F.R. § 35.3(a)(2) (2015); *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (“[W]aiver of notice will be granted if service agreements are filed within 30 days after service commences.”).

The Commission orders:

The Minnkota Agreement is hereby accepted effective October 1, 2015, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.