

153 FERC ¶ 61,355
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. ER16-245-000

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 Western Area Power Administration (Western) as network customer; and (2) an executed Network Operating Agreement among SPP as transmission provider, Western as network customer, and Western, Basin Electric Power Cooperative (Basin Electric), East River Electric Power Cooperative, Northwest Iowa Power Cooperative, Nebraska Public Power District, NorthWestern Corporation, Lincoln Electric System, Omaha Public Power District, and Missouri River Energy Services (Missouri River) as host transmission owners (together, Western Agreement).³ In this order, we accept the Western Agreement, effective October 1, 2015, as discussed below.

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 Western Area Power Administration-Upper Great Plains (Western-UGP), 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 Western Agreement is designated as Original Service Agreement No. 3126.

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 Western Agreement. According to SPP, the Western Agreement conforms to the *pro forma* agreements with the exception of the following non-conforming language: language was added to section 7.0 to recognize Western's status as a federal agency, and sections 8.5 and 8.10 of Attachment 1 were revised to include references to section 39.3(e) of the SPP Tariff.⁷ SPP contends that these non-conforming provisions are consistent with the provisions added to the SPP Tariff to accommodate Western's status as a federal agency.⁸

4. 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 Western Agreement. SPP argues that waiver is appropriate because the Western Agreement is being filed within 30 days of the commencement of service.⁹

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) (November 2014 Order), *order on reh'g*, 153 FERC ¶ 61,051 (2015) (Rehearing Order).

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

⁷ Transmittal at 2.

⁸ *Id.* (citing Docket Nos. ER14-2850 and ER14-1204).

⁹ *Id.* (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)).

II. Notice of Filing and Responsive Pleadings

5. 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 and comments in support. Missouri River filed a timely motion to intervene and comment. On December 8, 2015, SPP filed an answer.

A. Comment

6. Missouri River states that it purchases network integration transmission service from SPP for that portion of its load located in the Upper Missouri Zone as well as for delivery to an adjoining utility for delivery to two other members in the Midcontinent Independent System Operator, Inc. footprint in order to deliver its power supply to its members. Missouri River explains that issues in this proceeding have the potential to affect the allocation of SPP transmission costs to load in the Upper Missouri Zone, including to Missouri River's load, and thus, could impact the overall transmission costs paid by Missouri River in SPP.¹⁰

7. Missouri River questions how SPP has calculated the Western load and how much of that load is being included as Upper Missouri Zone network integration transmission service load. Missouri River asserts that the filing includes no detail on the specific load being designated as Upper Missouri Zone network integration transmission service, and that SPP should share the details of the calculations because there have been substantial changes to the Upper Missouri Zone network integration transmission service load. Missouri River further requests that SPP clarify what grandfathered load noted in Attachment W of the SPP Tariff served by Western is being reported in the Western Agreement. Missouri River contends that if grandfathered load is not being reported by Western then SPP should clarify how the grandfathered load is being accounted for in the calculation of the Upper Missouri Zone load. Missouri River asserts that the exclusion of grandfathered load from the Western Agreement and exclusion from Upper Missouri Zone load calculations will result in other network integration transmission service customers subsidizing the service of the grandfathered agreement customers.¹¹

¹⁰ Missouri River Comment at 3.

¹¹ *Id.* at 3-4.

B. Answer

8. SPP states that it does not calculate load amounts. SPP explains that 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 SPP Tariff.¹²

9. In response to Missouri River's comment that "the filing includes no detail on the specific load amounts being designated as [Upper Missouri Zone] [Network Integration Transmission Service]," SPP states that section 31.1 of the SPP Tariff provides that the "Network Customer must designate the individual Network Loads on whose behalf the Transmission Provider will provide Network Integration Transmission Service. The Network Loads shall be specified in the Service Agreement."¹³ Accordingly, SPP asserts that the Service Agreement includes the network loads designated by Western. SPP notes that section 2.0 of Attachment 1 to 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] as listed in Appendix 3." SPP states that Appendix 3 of the Service Agreement therefore identifies the delivery points associated with the network load designated by Western.

10. Regarding Missouri River's request for clarification on whether grandfathered load is being reported in the Service Agreement, and if not, how is the load being accounted for in the calculation of Upper Missouri Zone load,¹⁴ SPP asserts that the Service Agreement specifies the network integration transmission service that SPP is providing to the network load designated by Western. SPP avers that, because loads being served by a grandfathered agreement are not being served by SPP network integration transmission service, those loads are not included in the Service Agreement. Further, SPP states that section 41 of the SPP Tariff requires transmission owners to report load under grandfathered agreements as part of the resident load reporting obligations.¹⁵

¹² SPP Answer at 2 (citing FERC Open Access Transmission Tariff, Sixth Revised Volume No. 1).

¹³ *Id.* (citing Missouri River Comments at 3).

¹⁴ *Id.* at 3 (citing Missouri River Comments at 4).

¹⁵ *Id.* (citing SPP Tariff at Part V, section 41).

III. Discussion

A. Procedural Matters

11. 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.

12. 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 answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

13. We will accept the Western Agreement for filing, effective October 1, 2015. We also will grant waiver of the Commission's 60-day notice requirement because SPP filed the Western Agreement within 30 days of commencement of service.¹⁶

14. We find that SPP has demonstrated that the proposed non-conforming additions to the Western Agreement are appropriate to recognize Western's status as a federal agency. In addition, we find that SPP has shown that the non-conforming provisions are consistent with the provisions added to the SPP Tariff to accommodate Western's status as a federal agency.¹⁷

15. We find that SPP's answer addresses Missouri River's request for more information concerning how SPP has calculated the Western 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. Finally, we find that the clarifications provided in SPP's answer adequately explain how grandfathered load is accounted for in the calculation of load in the Upper Missouri Zone.

¹⁶ 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 (“[W]aiver of notice will be granted if service agreements are filed within 30 days after service commences.”).

¹⁷ See, e.g., *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,113 (2014); *Sw. Power Pool, Inc.*, Docket No. ER14-1204-000 (Mar. 14, 2014) (delegated letter order).

The Commission orders:

The Western 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.