

153 FERC ¶ 61,368  
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. ER16-241-000

ORDER ACCEPTING SERVICE AGREEMENT

(Issued December 30, 2015)

1. On November 2, 2015, Southwest Power Pool, Inc. (SPP) submitted, pursuant to section 205 of the Federal Power Act<sup>1</sup> and section 35.13 of the Commission's regulations:<sup>2</sup> (1) an executed service agreement for Network Integration Transmission Service (Service Agreement) between SPP as transmission provider and Basin Electric Power Cooperative (Basin Electric) as network customer; and (2) an unexecuted Network Operating Agreement among SPP as transmission provider, Basin Electric as network customer, and Corn Belt Power Cooperative, East River Electric Power Cooperative, Inc., Northwest Iowa Power Cooperative, Nebraska Public Power District (NPPD), NorthWestern Corporation, and Western Area Power Administration (Western) as host transmission owners (together, Basin Electric Agreement).<sup>3</sup> In this order, we accept the Basin Electric 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 Western Area Power Administration-Upper Great Plains (Western-UGP), Basin Electric, and Heartland Consumers Power District (Heartland) (collectively,

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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 Basin Electric Agreement is designated as Original Service Agreement No. 3125.

Integrated System Parties),<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

3. On November 2, 2015, in connection with the Integrated System Parties' integration into SPP, SPP filed the Basin Electric Agreement. SPP states that the Basin Electric Service Agreement is fully executed but the Basin Electric Network Operating Agreement is executed by all parties except NPPD. SPP states that, due to time constraints, it was still reviewing proposed edits to the agreements until the due date for filing with the Commission. SPP contends that it sent the final drafts of the Basin Electric Agreement on the same day that the Basin Electric Agreement was filed. SPP asserts that NPPD had informed SPP that it had not had sufficient time to complete its review of the Basin Electric Service Agreement or to obtain signatures for the Basin Electric Network Operating Agreement. SPP states that, as a result SPP submitted the Basin Electric Network Operating Agreement without the signature of NPPD. SPP notes that, once NPPD completes its review, SPP will work with the parties to make any revisions to the Basin Electric Agreement that may be necessary. SPP commits to make any filings necessary to supplement or amend this filing.<sup>7</sup>

4. SPP states that the Basin Electric Agreement conforms to the *pro forma* agreements except for the non-conforming language in the Basin Electric Service Agreement. According to SPP, Basin Electric requested the addition of the following language in section 2.0 of Attachment 1 in the Basin Electric Service Agreement:

In instances in which Network Customer and Western Area Power Administration ("Western-UGP") co-supply load at a delivery point, Network Customer's Network Load at each

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<sup>4</sup> 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.

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

<sup>6</sup> *See* Rehearing Order, 153 FERC ¶ 61,051.

<sup>7</sup> Transmittal at 2.

such delivery point shall be based on the total of the metered deliveries of power at that delivery point less the Network Load that is served pursuant to Western-UGP's Network Integration Transmission Service Agreement at that delivery point consistent with Section 39.3(d) of the Tariff. Delivery points that are co-supplied by Network Customer and Western-UGP are designated in Appendix 3 to this Attachment 1. In instances in which the Network Load is located outside the Transmission Provider's Balancing Authority Area, the Network Customer shall determine the Network Load pursuant to a metering agreement with the interconnected transmission system and shall provide the quantity of the Network Load to the Transmission Provider. Network Loads that are determined pursuant to a metering agreement are designated in Appendix 3 to this Attachment 1.<sup>[8]</sup>

SPP notes that the non-conforming language was added to clarify how network load shall be determined for load that is co-supplied with Western and the load located outside of SPP's Balancing Authority Area.<sup>9</sup>

5. According to SPP, in section 8.4.1 of Attachment 1, Basin Electric requested the addition of language to clarify how certain ancillary services will be purchased for loads in the Eastern Interconnection and the Western Interconnection. SPP states that, specifically for loads in the Eastern Interconnection and in zone 19, Basin Electric will purchase ancillary services through the SPP Integrated Marketplace, while ancillary services for loads in the Western Interconnection will be purchased from SPP in accordance with Attachment AS of the SPP Tariff.<sup>10</sup> SPP states that, in section 8.10 of Attachment 1, Basin Electric added language to clarify the application of Schedule 11 charges. Specifically, Basin Electric proposed the following language:

Network Customer's loads in the [Western Area Power Administration, Upper Great Plains West Balancing

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<sup>8</sup> Basin Electric Service Agreement at Attachment 1, section 2.0.

<sup>9</sup> Transmittal at 2-3.

<sup>10</sup> Attachment AS is a service agreement between Western and SPP governing tariff administration and other duties that SPP performs on behalf of Western for its transmission facilities in the Western Interconnection.

Authority Area] served by resources that do not use the Transmission Provider's Transmission System in the Eastern Interconnection shall not be subject to regional Schedule 11 charges associated with facilities in the Eastern Interconnection consistent with Schedule 11 of the Tariff.<sup>[11]</sup>

SPP asserts that this language is consistent with Schedule 11 of the SPP Tariff. SPP states that in section 11.0 of Attachment 1, Basin Electric requested the addition of provisions to clarify:

Any disputes relating to the Network Customer's determinations, decisions, conduct and actions taken by such entity pursuant to its participation in SPP shall be subject to binding resolution only to the extent agreed upon by Network Customer's board of directors and subject to the terms and conditions set by the Network Customer's board of directors.<sup>[12]</sup>

6. SPP also 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 Basin Electric Agreement. SPP argues that waiver is appropriate because the Basin Electric Agreement is being filed within 30 days of the commencement of service.<sup>13</sup>

## **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 Energy Services (Missouri River) filed a timely motion to intervene and comment. On December 8, 2015, SPP filed an answer.

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<sup>11</sup> Basin Electric Service Agreement at Attachment 1, section 8.10.

<sup>12</sup> *Id.*, section 11.0.

<sup>13</sup> Transmittal 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)).

**A. Comment**

8. Missouri River states that it purchases network integrated 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 the Basin Electric Agreement could affect the allocation of SPP transmission costs to load in the Upper Missouri Zone, including Missouri River load, and could impact the transmission costs paid by Missouri River in SPP.<sup>14</sup>

9. Missouri River questions how SPP has calculated the Basin Electric load, and asserts 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 asserts that SPP should file the metering agreement(s) referenced in the additional language that Basin Electric requested be added to section 2.0 of Attachment 1 of the Service Agreement. Missouri River avers that Basin Electric should provide more details concerning Tri-State Generation and Transmission Association, Inc.'s (Tri-State) load, specifically what SPP zone that load will be reported in.<sup>15</sup>

10. Missouri River contends that language contained in some delivery points in the Basin Electric Agreement is inconsistent with section 34.4 of SPP's Tariff. Missouri River cites "a Delivery Point within Zone 19, and the Network Load at that Delivery Point shall be based on the Network Customer's scheduled deliveries to that Delivery Point consistent with section 34.4 of the Tariff." Missouri River avers that section 34.4 does not allow for only designating portions of load scheduled from SPP network integration transmission service resources, but instead requires designating the network load fully where service has been reserved on a firm basis, not simply the scheduled deliveries as suggested in the Basin Electric Agreement. Missouri River asserts that SPP should clarify the methods being utilized to report these loads.<sup>16</sup>

11. Missouri River requests that SPP explain why some loads supplied by Basin Electric are noted as co-supplied and others are not. Missouri River further requests that SPP clarify what grandfathered load noted in Attachment W of the SPP Tariff served by Basin Electric is being reported in the Basin Electric Agreement. Missouri River

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<sup>14</sup> Missouri River Comment at 3.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 4.

contends that if grandfathered load is not being reported by Basin Electric 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 Basin Electric 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. Missouri River requests that for delivery points that are subject to change January 1, 2016 due to inclusion of Central Power Electric Cooperative, Inc. (Central Power) facilities, SPP should be required to determine what loads are network integration transmission service load and which are not. Missouri River contends that the determination of network integration transmission service should not be subject to change, outside the normal SPP Tariff mechanisms.<sup>17</sup>

**B. Answer**

12. 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.<sup>18</sup> With regard to Missouri River's request that SPP file metering agreements referenced in the Service Agreement, SPP states that it is not a party to the agreements, and is, therefore, unable to file them. SPP further states that Tri-State loads will be reported in the NPPD zone.

13. SPP also notes that Missouri River requested clarification on the methods being utilized to report loads described in Appendix 3 of the Service Agreement as being based on scheduled deliveries. SPP contends that, for these delivery points, DC tie capacity has been reserved on a firm basis to serve the designated network load and schedules are limited to the amounts reserved. Therefore, SPP states that the total network load on the SPP system is limited to the amount scheduled.

14. SPP responds to Missouri River's request that SPP define why some loads supplied by Basin Electric are noted as co-supplied and others are not, and states that Western does not provide co-supply to all Basin Electric load. According to SPP, the Basin Electric loads that are not co-supplied are designated as such in Appendix 3 to the Service Agreement.

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<sup>17</sup> *Id.* at 4-5.

<sup>18</sup> SPP Answer at 2 (citing FERC Open Access Transmission Tariff, Sixth Revised Volume No. 1).

15. 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,<sup>19</sup> SPP explains that the Service Agreement specifies the network integration transmission service that SPP is providing to the network load designated by Basin Electric. SPP states that loads being served by a grandfathered agreement are included in resident load. 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.<sup>20</sup>

16. Finally, SPP states that certain delivery points listed in Appendix 3 of the Service Agreement include a note that the delivery points are subject to change effective January 1, 2016. SPP asserts that it is not attempting to make changes to the network load outside the Tariff mechanisms. SPP notes that Central Power is joining SPP as a transmission owner and is placing its facilities under the functional control of SPP effective January 1, 2016.<sup>21</sup> SPP states that this note simply reflects that the description of the delivery point may change with the addition of Central Power's facilities effective January 1, 2016, and if changes must be made to the Service Agreement as a result, SPP will revise the Service Agreement and make the necessary filings at the Commission.

### **III. Discussion**

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

17. 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.

18. 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.

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<sup>19</sup> *Id.* at 3 (citing Missouri River Comment at 4).

<sup>20</sup> *Id.* (citing SPP Tariff at Part V, section 41).

<sup>21</sup> *Id.* at 3-4 (citing Submission of Revenue Requirement, Formula Rate Template and Formula Rate Protocols for Central Power Electric Cooperative, Inc. of Southwest Power Pool, Inc., Docket No. ER16-209-000 (October 30, 2015)).

**B. Commission Determination**

19. We will accept the Basin Electric Agreement for filing, effective October 1, 2015. We also grant waiver of the Commission's 60-day notice requirement because SPP filed the Agreement within 30 days of commencement of service.<sup>22</sup>

20. We find that SPP has demonstrated that the proposed non-conforming additions to the Basin Electric Agreement are appropriate to clarify how network load shall be determined for load that is co-supplied with Western and the load located outside of SPP's Balancing Authority Area. Further, these additions clarify how certain ancillary services will be purchased for loads in the Eastern Interconnection and the Western Interconnection.

21. We will not require SPP to make any revisions to the Basin Electric Agreement in response to Missouri River's comments. We find that SPP's answer addresses Missouri River's request for more information concerning how SPP has calculated Basin Electric'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. We also decline to require SPP to file the metering agreements referenced in the Basin Electric Service Agreement, as SPP is not a party to these agreements and therefore is unable to file them. Further, we accept SPP's clarifications concerning: (1) the zone in which the Tri-State load will be reported; (2) the reporting of loads described in Appendix 3 of the Basin Electric Service Agreement as being based on scheduled deliveries; (3) why some loads supplied by Basin Electric are noted as co-supplied and other are not; and (4) that no changes will be made to network load outside of SPP Tariff mechanisms.

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<sup>22</sup> 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.”).

The Commission orders:

The Basin Electric 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.