

153 FERC ¶ 61,375
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. ER16-232-000

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 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 Basin Electric Power Cooperative (Basin Electric) as network customer; and (2) an executed Network Operating Agreement (Network Operating Agreement) among SPP as transmission provider, Basin Electric as network customer, and Corn Belt Power Cooperative (Corn Belt) as host transmission owner (together, Basin Agreement).³ In this order, we accept the Basin 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) (collectively, Integrated System Parties), Basin Electric, and Heartland Consumers Power District (Heartland),⁴ to integrate into SPP. On

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2015).

³ The Basin Agreement is designated as Original Service Agreement No. 3124.

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.

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 Basin Agreement. SPP states that the Basin Agreement conforms to the standard forms of service agreements set forth in SPP's Tariff, except for the following deviations in the Service Agreement. First, proposed section 4.0 of the Service Agreement clarifies that, if prior to April 1, 2023, North Iowa Municipal Electric Cooperative Association (NIMECA) becomes the Network Customer for the Network Loads described in the Service Agreement, that the Service Agreement could be terminated.⁷ Second, section 2.0 of Attachment 1 of the Service Agreement describes how Network Load shall be determined for load that is co-supplied with Western-UGP and for load located outside of SPP's Balancing Authority Area. This section also specifies that network loads that are determined pursuant to a metering agreement are designated in Appendix 3 to Attachment 1. Third, section 8.4.1 of Attachment 1 of the Service Agreement clarifies how certain ancillary services will be purchased for loads in the Eastern and Western interconnections, respectively.⁸ Fourth, section 8.10 of Attachment 1 of the Service Agreement clarifies the application of Schedule 11 charges. Finally, section 11.0 of Attachment 1 of the Service Agreement clarifies that "[a]ny disputes relating to 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 Network Customer's board of directors and subject to the terms and conditions set by the Network Customer's board of directors."⁹

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 Transmittal at 2. SPP states that Basin Electric requested this clarification to ensure that Basin Electric would be able to terminate its obligations as the Network Customer for the NIMECA Network Load should NIMECA later become the Network Customer responsible for its own Network Load.

⁸ *Id.* at 3.

⁹ *Id.*

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 Basin Agreement. SPP argues that waiver is appropriate because the Basin Agreement is being filed within 30 days of the commencement of service.¹⁰

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. Missouri River filed a timely motion to intervene, and comment. On November 25, 2015, Basin Electric filed for leave to intervene out-of-time. On December 8, 2015, SPP filed an answer.

6. Missouri River asserts that some issues need further examination before the Commission can approve the Basin Agreement. Specifically, Missouri River questions how SPP calculated the Basin Electric load to serve the Network Load for NIMECA. Missouri River also states that Basin Electric should file the metering agreement referenced in the additional language which Basin Electric requested to be added to section 2.0 of Attachment 1 to the Service Agreement.¹¹

7. SPP states that it does not calculate network load amounts, and instead contends that these are provided by the network customer to SPP in accordance with the Service Agreement and SPP's Tariff.¹²

III. Discussion

A. Procedural Matters

8. 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. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant Basin Electric's late-filed motion to intervene given its interest in

¹⁰ *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)).

¹¹ Missouri River Comment at 3.

¹² SPP Answer at 2.

the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

9. 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

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

11. We find that SPP has demonstrated that the proposed non-conforming revisions to the Basin Agreement are appropriate. Further, we find that SPP's answer addresses Missouri River's request for more information concerning how SPP has calculated the Basin Electric 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. Further, Missouri River has not supported its request that the metering agreement referenced in section 2.0 of Attachment 1 should be filed.

The Commission orders:

The Basin 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.

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