

154 FERC ¶ 61,148
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. ER15-2265-001

ORDER ON COMPLIANCE FILING

(Issued February 29, 2016)

1. On October 22, 2015, Southwest Power Pool, Inc. (SPP) submitted revisions to its Open Access Transmission Tariff (Tariff) in compliance with directives in a September 22, 2015 order.¹ In this order, we accept SPP's Tariff revisions,² subject to condition, to be effective September 23, 2015.

I. Background

2. On July 24, 2015, SPP submitted revisions to its Tariff to establish separate procedures for the establishment, modification, and termination of trading hubs and resource hubs in its Integrated Marketplace. TDU Intervenors submitted a motion to intervene and limited protest in response to SPP's proposal.³ Among other things, TDU Intervenors objected to proposed language that they argued would improperly permit the seller in a bilateral transaction to unilaterally terminate a resource hub used in the parties' bilateral settlement schedules. TDU Intervenors argued that such a termination should be prohibited unless agreed upon by both parties to the transaction. TDU Intervenors also requested that the Commission require that the preservation of long-term and incremental

¹ *Sw. Power Pool, Inc.*, 152 FERC ¶ 61,225 (2015) (September Order).

² Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 3.1.6, Attachment AE \(MPL\) Section 3.1.6, 0.1.0](#).

³ TDU Intervenors include the City of Independence, Missouri, the Kansas Power Pool, and Missouri Joint Municipal Electric Utility Commission.

long-term Transmission Congestion Rights (TCR) be reflected in the Tariff language.⁴ In the September Order, the Commission conditionally accepted SPP's proposed Tariff revisions and directed SPP to submit a compliance filing within 30 days.⁵

II. Notice of Filing and Responsive Pleadings

3. Notice of SPP's filing was published in the *Federal Register*, 80 Fed. Reg. 65,990 (2015), with interventions and protests due on or before November 12, 2015. TDU Intervenors filed a limited protest.

III. Discussion

A. Substantive Matters

4. We accept SPP's compliance filing to the September Order, subject to condition,⁶ to be effective September 23, 2015, as discussed below.

1. Bilateral Transactions

a. Compliance Requirement

5. In the September Order, the Commission required SPP to revise section 3.1.6 of Attachment AE in its Tariff to specify that termination of a resource hub tied to a bilateral contract, and related bilateral settlement schedule, was prohibited unless agreed upon by both parties to the transaction. The Commission agreed with TDU Intervenors that proposed section 3.1.6 of Attachment AE should provide a safeguard to preserve market participants' rights under bilateral contracts.⁷

b. SPP Compliance Filing

6. SPP proposes to revise section 3.1.6 of Attachment AE to provide that SPP "shall not terminate a Resource Hub that is tied to a bilateral contract and related Bilateral

⁴ TDU Intervenors August 14, 2015 Limited Protest at 5-8.

⁵ September Order, 152 FERC ¶ 61,225 at P 26.

⁶ The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

⁷ September Order, 152 FERC ¶ 61,225 at P 30.

Settlement Schedule, where the Resource Hub was created by the seller associated with the Bilateral Settlement Schedule, unless both parties to the Bilateral Settlement Schedule agree to the termination of the Resource Hub.” SPP asserts that this provision addresses TDU Intervenors’ concerns regarding a seller’s unilateral ability to terminate a resource hub.⁸

c. Limited Protest

7. TDU Intervenors object to the phrase “where the Resource Hub was created by the seller associated with the Bilateral Settlement Schedule” proposed in section 3.1.6 of Attachment AE. TDU Intervenors argue that the proposed language should be rejected because it is ambiguous, unduly restrictive, and not in compliance with the Commission’s directive in the September Order.⁹

8. TDU Intervenors state that SPP has not explained what it means by this language, claiming that a fair reading would suggest that SPP intends the seller’s act of creating a resource hub to be associated with a particular bilateral settlement schedule. TDU Intervenors contend that this is not a valid restriction on the rights of buyers to preserve their contractual arrangements. According to TDU Intervenors, the seller could have created the resource hub in anticipation of making sales from a collection of resources, rather than in connection with a particular sale/bilateral settlement schedule. TDU Intervenors are concerned that, contrary to the Commission’s intent, this language may not offer the protection to the buyers whose bilateral settlement schedule rights depend on the continued existence of the resource hub.¹⁰

9. TDU Intervenors also argue that SPP could intend the proposed language to mean that it was the seller under the contract/bilateral settlement schedule (as opposed to the buyer or some third party) that created the resource hub. If this is the case, TDU Intervenors contend that the language adds nothing of substance to the Tariff because it is virtually impossible for anyone other than the seller to establish a resource hub, unless SPP intends to distinguish a current seller from a predecessor seller under the same contract. TDU Intervenors assert that SPP has offered no justification for why it should be possible to unilaterally terminate any resource hub that is still needed to implement a

⁸ SPP October 22, 2015 Filing at 4.

⁹ TDU Intervenors November 12, 2015 Limited Protest at 2.

¹⁰ *Id.* at 2-3.

bilateral settlement schedule, even if someone other than the seller (including the seller's predecessor) happened to create the resource hub.¹¹

10. TDU Intervenors contend that SPP appears to be making resource hubs as disposable as possible, despite the Commission's finding in the September Order that buyers whose purchases are tied to those resource hubs must have their contractual rights protected. TDU Intervenors assert that bilateral contracts implemented through bilateral settlement schedules, which are often long in duration, are entitled to stability and protection. Therefore, TDU Intervenors urge the Commission to require SPP to make a further compliance filing to delete the problematic language identified in its limited protest.¹²

d. Commission Determination

11. We accept SPP's proposed revisions to section 3.1.6 of Attachment AE in its Tariff relating to bilateral transactions, subject to condition. We agree with TDU Intervenors that the phrase "where the Resource Hub was created by the seller associated with the Bilateral Settlement Schedule" is ambiguous. We find that this phrase goes beyond the compliance requirement articulated in the September Order and that SPP has not supported the inclusion of this language. Therefore, we require SPP to remove this phrase from section 3.1.6 of Attachment AE in a compliance filing due within 30 days of the date of this order.

2. Long-Term Transmission Congestion Rights

a. Compliance Requirement

12. In the September Order, the Commission required SPP to make explicit in the Tariff that any long-term or incremental long-term TCR based on a settlement location associated with a resource hub would be honored by SPP for the full term of those TCRs.¹³

b. SPP Compliance Filing

13. SPP proposes to revise section 3.1.6 of Attachment AE to provide that SPP shall honor any long-term TCR or incremental long-term TCR that is based on a resource hub for the full term of the long-term TCR or incremental long-term TCR. SPP explains that

¹¹ *Id.* at 3.

¹² *Id.* at 3-4.

¹³ September Order, 152 FERC ¶ 61,225 at P 28.

it will not terminate a settlement location, in its commercial and network models, associated with a resource hub used by a long-term TCR or incremental long-term TCR for the duration of those TCRs.¹⁴

c. Commission Determination

14. We accept SPP's proposed revisions to section 3.1.6 of Attachment AE relating to long-term and incremental long-term TCRs because the provision complies with the directive in the September Order.

3. Modification and Termination of Trading Hubs

a. Compliance Requirement

15. In the September Order, the Commission directed SPP to clarify why it was necessary to restrict modification or termination of a trading hub to situations when SPP could no longer calculate the Locational Marginal Price (LMP), as well as what conditions SPP anticipated would lead to an inability to calculate an LMP at a trading hub. The Commission explained that, because any proposed modification or termination of a trading hub was already subject to review by the Markets and Operations Policy Committee and SPP Board of Directors, this requirement may be overly restrictive and could render trading hubs inflexible.¹⁵

b. SPP Compliance Filing

16. With regard to limits to the modification or termination of trading hubs, SPP asserts that changes to trading hubs should be relatively inflexible to ensure price certainty for purposes of financial trading associated with those hubs. SPP states that trading hubs are used to facilitate liquidity in the market and that their modification or termination requires a rigorous level of scrutiny. SPP also contends that restricting the modification or termination of trading hubs to situations where SPP can no longer calculate the LMP prevents the Markets and Operations Policy Committee and the SPP Board of Directors from modifying or terminating a trading hub unilaterally, which could result in the disruption of market or transmission transactions, or transactions occurring on other markets and exchanges outside of SPP's control (e.g., transactions involving contracts pegged to the SPP North or SPP South trading hubs that are trading on the Intercontinental Exchange). SPP explains that the inability to calculate LMPs at a trading

¹⁴ SPP October 22, 2015 Filing at 3-4.

¹⁵ September Order, 152 FERC ¶ 61,225 at P 27.

hub could be triggered, for example, if an entire settlement area exits SPP,¹⁶ rendering it impossible to calculate prices at the price nodes associated with that settlement area. SPP explains that it would need to modify the definition of the trading hub in such circumstances.¹⁷

c. Commission Determination

17. We accept SPP's clarification regarding proposed limits to the modification and termination of trading hubs in section 3.1.1 of Attachment AE. We find that the safeguards proposed by SPP are reasonable measures to prevent a unilateral modification or termination of a trading hub, which could result in market disruption.

The Commission orders:

(A) SPP's proposed Tariff revisions are hereby accepted, subject to condition, effective September 23, 2015, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ SPP notes that the SPP North and SPP South trading hubs each consist of price nodes from several different settlement areas. SPP October 22, 2015 Filing at 5.

¹⁷ *Id.*