

154 FERC ¶ 61,178
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. ER16-704-000

ORDER ON TARIFF REVISIONS

(Issued March 8, 2016)

1. On January 8, 2016, Southwest Power Pool, Inc. (SPP) filed proposed revisions to its Open Access Transmission Tariff (Tariff) to identify the border between the United States and Canada as the point-of-sale for market transactions that SPP may administer that involve a Canadian transmission service provider. In this order, we accept SPP's proposed Tariff revisions, subject to condition, to become effective March 8, 2016.

I. Background

2. When Basin Electric Power Cooperative (Basin) joined SPP as a Transmission Owner, it provided SPP with an interconnection with a Canadian transmission service provider. SPP explains that this interconnection allows Canadian utilities to participate in the SPP Integrated Marketplace.¹ However, SPP states that its Tariff needs to be revised to recognize the United States-Canada border as the point-of-sale for transactions involving Canadian entities because it will allow Canadian entities to register resources and make them available under SPP's market rules.²

II. SPP Filing

3. SPP's proposed revisions to its Tariff provide that the point-of-sale for market transactions between SPP and Canadian entities will be at the border between the United States and Canada. SPP states that its proposed revisions are consistent with language in its Tariff that employs the concept of point-of-delivery and point-of-receipt for energy transactions as the point where energy is delivered by the market to sell to the receiving

¹ See *Sw. Power Pool, Inc.*, 146 FERC ¶ 61,130 (2014).

² SPP January 8, 2016 Transmittal at 2.

entity.³ SPP explains that under its Tariff and in accordance with its market protocols, a schedule is the evidence of a sale for purposes of settlement.

4. SPP states that in Attachment AE of the Tariff, three schedule types will be affected by its proposed changes—the Export Interchange, the Import Interchange and the Through Interchange. SPP explains that, as proposed, the United States-Canada border will be the point-of-delivery for exports to serve load that is located in Canada (Export Interchange Transaction)⁴ and the point-of-receipt when importing energy into the Integrated Marketplace (Import Energy Transaction).⁵ The United States-Canada border will also be the external interface for Through Interchange Transactions⁶ for both energy imports and exports. SPP also explains that the Tariff revisions stipulate that the point-of-delivery for market transactions must be located at an interconnection between a transmission facility under the functional control of SPP and a transmission facility operated by a Canadian transmission service provider, i.e., at an interconnection between an SPP transmission facility and the Canadian entity’s transmission facility.⁷

5. According to SPP, these proposed Tariff revisions provide the legal recognition of the United States-Canadian border as the point-of-sale for the three market transaction types, which will allow Canadian entities to participate in the Integrated Marketplace and satisfy their own provincial regulatory requirements.⁸ Further, SPP explains that it will benefit from the stipulation that the border is the recognized demarcation point where energy is handled from both directions.⁹ SPP asserts that Canadian entities transacting in

³ *Id.*

⁴ SPP Tariff at Attachment AE, section 1.1 Definitions E: Export Interchange Transaction is defined as “[a] Market Participant schedule for exporting Energy out of the SPP Balancing Authority Area.”

⁵ *Id.* at Definitions I: Import Interchange Transaction is defined as “[a] schedule for importing Energy into the SPP Balancing Authority Area.”

⁶ *Id.* at Definitions T: Through Interchange Transaction is defined as “[a] Market Participant schedule submitted between two External Interfaces for use in the Day-Ahead Market or Real-Time Balancing Market for moving Energy through the SPP Balancing Authority Area.”

⁷ SPP January 8, 2016 Transmittal at 3.

⁸ *Id.* at 4.

⁹ *Id.*

the Integrated Marketplace will not receive special treatment or accommodation and will be subject to the same rules as any other Market Participant. Finally, SPP comments that the proposed Tariff revisions are similar in concept to tariffs approved by the Commission for other regional transmission organizations engaged in market transactions involving Canadian entities.¹⁰

III. Notice of Filing and Responsive Pleadings

6. Notice of SPP's filing was published in the *Federal Register*, 81 Fed. Reg. 2209 (2016), with interventions and protests due on or before January 29, 2016. A timely motion to intervene was filed by Western Area Power Administration. A timely motion to intervene and comment was filed by Manitoba Hydro. On February 16, 2016, SPP filed an answer.

7. Manitoba Hydro agrees with SPP that revisions to Attachment AE are necessary to clarify the point-of-sale for international transactions. However, Manitoba Hydro asserts that in two sections of the proposed Tariff revisions, subsection 4.2.2(2) and subsection 4.4(3), the word "Resource" is inconsistent with the word "source" and needs to be changed to "source" to avoid unnecessarily restricting the application of the point-of-sale provisions.¹¹ According to Manitoba Hydro, not all imports need to be associated with a "Resource," as defined by SPP's Tariff. Manitoba Hydro asserts that sections 4.1 and 4.2 of the SPP Tariff create two distinct classes of Offers. According to Manitoba Hydro, Resource Offers, as defined in section 1.1, are sourced from various "Resources," while Non-Resource Offers, including Import Interchange Transaction Offers and Virtual Energy Offers, are not. Manitoba Hydro states that under section 1.1 of the SPP Tariff, an Import Interchange Transaction Offer is a "proposal by a Market Participant to provide Energy from a source external to the SPP Balancing Authority Area . . ."¹² Manitoba Hydro argues that by using the term "Resource" in the proposed point-of-sale provisions related to imports, an inconsistency is created that has not been explained or justified.¹³

¹⁰ *Id.* (citing Midcontinent Independent Sys. Operator, Inc, Open Access Transmission, Energy and Operating Reserve Markets Tariff, Module C at section 38.2.5.f.ii).

¹¹ Manitoba Hydro Comments at 3.

¹² *Id.* at 4 (citing SPP Tariff at Attachment AE, section 1.1 Definitions I).

¹³ *Id.*

8. Further, Manitoba Hydro comments that the definition of “Resource”¹⁴ would exclude external generating facilities that are not pseudo-tied to SPP or that are not dynamically scheduled into or out of SPP.¹⁵ Manitoba Hydro argues that Non-Resource Offers, such as Import Interchange Transaction Offers, are presumably intended for external Market Participants whose generating facilities do not meet the very specific definitions related to external “Resources.” Similarly, Manitoba Hydro asserts that Through Interchange Transactions were presumably intended to allow Market Participants whose generating facilities do not meet the very specific definitions related to external “Resources” to move energy through the SPP Balancing Authority Area. Manitoba Hydro requests that the Commission direct SPP to remedy the restrictive application of the point-of-sale provisions by replacing the word “Resource” with the word “source” in the sections so noted.¹⁶

9. In its answer, SPP states that although it would prefer that all external entities seeking to become Market Participants would transact in the Integrated Marketplace by registering their assets as Resources or load, it recognizes that to do so would require external entities to pseudo-tie such assets into the SPP Balancing Authority. As SPP explains, this option may not be available to all external entities due to provincial regulations governing the external entity’s participation in foreign markets. Further, SPP asserts that the Tariff term “Resources” could be viewed as a subset of the generalized term “source” and using “source” in sections 4.2.2(2) and 4.4(3) of Attachment AE of the Tariff would not limit SPP’s ability to administer the external transactions of non-pseudo-tied resources via interchange schedules. SPP comments that it would not oppose a

¹⁴ *Id.* at 4-5, citing SPP Tariff at Attachment AE, section 1.1 Definitions R define a Resource as:

an asset that injects energy into the transmission grid or reduces the withdrawal of energy from the transmission grid including a Demand Response Resource, a Variable Energy Resource, a Dispatchable Resource, External Resources, External Dynamic Resource and a Quick-Start Resource.

¹⁵ *Id.* at 5 (citing SPP Tariff at Common Service Provisions, I Definitions E and Attachment AE, section 1.1 Definitions E).

¹⁶ *Id.*

Commission determination that “source” is a viable replacement for the term “Resource,” and that it is willing to make this revision in a compliance filing should the Commission so order.¹⁷

IV. 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. 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 has assisted us in our decision-making process.

B. Substantive Matters

11. We accept SPP’s proposed Tariff revisions, subject to condition, as discussed below.¹⁸ We find that establishing a point of demarcation for transactions between SPP and Canadian entities at the United States-Canada border will clarify the regulatory authorizations required by Market Participants on both sides of the border for international exports and imports between SPP and Canada. Also, this demarcation will clarify those transactions that must be reported to regulators such as the National Energy Board of Canada and the U.S. Department of Energy.

12. However, we agree with Manitoba Hydro that the use of the Tariff term “Resource” may unnecessarily restrict the application of the point-of-sale provisions for certain types of imports, such as imports resulting from Non-Resource Offers. We note that SPP does not contest Manitoba Hydro’s requested modification of sections 4.2.2(2) and 4.4(3) of Attachment AE of the Tariff to replace the term “Resource” with “source.” Accordingly, we accept the proposed revisions, subject to SPP revising sections 4.2.2(2) and 4.4(3) of Attachment AE to change the term “Resource” to “source” in a compliance filing within 30 days of the date of this order.

¹⁷ SPP Answer at 4-5.

¹⁸ The Commission can revise a proposal under section 205 of the Federal Power Act 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.

The Commission orders:

(A) SPP's proposed Tariff revisions are hereby accepted, to become effective March 8, 2016, subject to condition, 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.