

155 FERC ¶ 61,290  
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 Nos. ER15-2265-002  
ER15-2265-003

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued June 21, 2016)

1. On March 30, 2016, Southwest Power Pool, Inc. (SPP) submitted a filing to comply<sup>1</sup> with a February 29, 2016 Commission order accepting a compliance filing, subject to condition.<sup>2</sup> Concurrently, SPP sought rehearing of the February 2016 Order, with respect to a compliance directive regarding provisions for the termination of resource hubs.<sup>3</sup> As discussed below, we deny SPP's Request for Rehearing and accept the revisions to the SPP Open Access Transmission Tariff (Tariff) proposed in the SPP Compliance Filing, effective September 23, 2015.<sup>4</sup>

**I. Background**

2. On September 22, 2015, the Commission accepted, subject to condition, SPP's Tariff revisions for the establishment, modification, and termination of trading hubs and

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<sup>1</sup> SPP Compliance Filing, Docket No. ER15-2265-002 (Mar. 30, 2016) (Compliance Filing).

<sup>2</sup> *Sw. Power Pool, Inc.*, 154 FERC ¶ 61,148 (2016) (Feb. 2016 Order).

<sup>3</sup> SPP Request for Rehearing, Docket No. ER15-2265-003 (Mar. 30, 2016) (Request for Rehearing).

<sup>4</sup> 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, 0.2.0.

resource hubs in its Integrated Marketplace.<sup>5</sup> In response to concerns regarding the availability of resource hubs for bilateral settlement schedules, the Commission stated that “we will require SPP to revise section 3.1.6 to specify that termination of a resource hub tied to a bilateral contract, and related bilateral settlement schedule, is prohibited unless agreed upon by both parties to the transaction.”<sup>6</sup>

3. On October 22, 2015, SPP submitted a compliance filing that proposed revisions to section 3.1.6 of Attachment AE stating that SPP “shall not terminate a Resource Hub that is tied to a bilateral contract and related Bilateral 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 termination of the Resource Hub.”<sup>7</sup>

4. In the February 2016 Order, the Commission accepted SPP’s proposed Tariff revisions, subject to SPP removing the phrase “where the Resource Hub was created by the seller associated with the Bilateral Settlement Schedule” from the proposed Tariff language.<sup>8</sup> The Commission found this phrase ambiguous, further stating that it went beyond the compliance requirement articulated in the September 2015 Order and that SPP had not provided adequate support for the inclusion of the language.<sup>9</sup>

## **II. SPP Rehearing Request and Compliance Filing**

5. On March 30, 2016, SPP sought rehearing of the February 2016 Order in an effort to retain its proposed Resource Hub tariff language. SPP alleges that, contrary to the Commission’s finding, the disputed language is not ambiguous when read in context with the balance of section 3.1.6 of Attachment AE.<sup>10</sup> SPP further argues that the February 2016 Order ignores Commission precedent permitting buyers and sellers to unilaterally terminate bilateral agreements entered into after the launch of the Integrated Marketplace.

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<sup>5</sup> *Sw. Power Pool, Inc.*, 152 FERC ¶ 61,225 (2015) (September 2015 Order).

<sup>6</sup> *Id.* P 30.

<sup>7</sup> SPP Filing, Docket No. ER15-2265-001 (Oct. 22, 2015), Proposed SPP Tariff, Attachment AE § 3.1.6.

<sup>8</sup> February 2016 Order, 154 FERC ¶ 61,148 at P 11.

<sup>9</sup> *Id.*

<sup>10</sup> Request for Rehearing at 6.

Finally, SPP contends that requiring removal of the subject phrase could have unintended consequences upon the Integrated Marketplace.

6. Concurrently, SPP made the Compliance Filing that removes the disputed phrase “where the Resource Hub was created by the seller associated with the Bilateral Settlement Schedule.”<sup>11</sup> Notice of the Compliance Filing was published in the *Federal Register*, 81 Fed. Reg. 19,963 (2016), with interventions and protests due on or before April 20, 2016. None was filed.

### **III. Commission Determination**

7. We deny SPP’s Request for Rehearing. Although SPP styles its March 30, 2016 filing in Docket No. ER15-2265-003 as a request for rehearing of the February 2016 Order, we find that SPP seeks to limit the availability of resource hubs in contravention of the Commission’s directives in the September 2015 Order. In particular, SPP’s filing takes issue with the directive to revise section 3.1.6 to specify that the unilateral termination of certain resource hubs is prohibited.<sup>12</sup> SPP did not request rehearing of the resource hub compliance directive set forth in the September 2015 Order. Instead, SPP filed Tariff language inconsistent with the condition set by the Commission in the September 2015 Order “that termination of a resource hub tied to a bilateral contract... is prohibited unless agreed upon by both parties.”<sup>13</sup>

8. SPP’s current attempt to challenge rulings made in the September 2015 Order violates the 30-day statutory deadline for requesting rehearing. Section 313(a) of the Federal Power Act and Rule 713 of the Commission’s Rules of Practice and Procedure provide that any party aggrieved by a Commission order must apply for rehearing within 30 days after issuance of that order.<sup>14</sup> The opportunity to seek rehearing of the September 2015 Order lapsed on October 22, 2015. It is not permissible for SPP at this late date to seek rehearing of the September 2015 Order under the guise of a request for

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<sup>11</sup> SPP Filing, Docket No. ER15-2265-002 (Mar. 30, 2016).

<sup>12</sup> September 2015 Order, 152 FERC ¶ 61,225 at P 30.

<sup>13</sup> *Id.* P 30.

<sup>14</sup> 16 U.S.C. § 8251(a) (2012); 18 C.F.R. § 385.713(b) (2015).

rehearing of the February 2016 Order. Therefore, we deny SPP's Request for Rehearing.<sup>15</sup>

10. Finally, we accept SPP's Compliance Filing, effective September 23, 2015, because it complies with the Commission's directive in the February 2016 Order.

The Commission orders:

(A) SPP's Request for Rehearing is hereby denied, as discussed in the body of this order.

(B) SPP's Compliance Filing is hereby accepted, effective September 23, 2015, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>15</sup> Because rehearing does not lie, we do not consider the substantive arguments raised by SPP.