156 FERC ¶ 61,187
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Public Service Company of Colorado | Docket No. ER16-1772-000

ORDER REJECTING PROPOSED TARIFF REVISIONS

(Issued September 20, 2016)

1. On May 24, 2016, Public Service Company of Colorado (PSCo), on behalf of its affiliate Southwestern Public Service Company (SPS),[1] filed proposed tariff revisions pursuant to section 205 of the Federal Power Act (FPA)[2] to incorporate a new section 44.1 and a new Schedule 17 to govern the costs that would be charged to a customer in the event the customer disconnects its load from the SPS transmission system. In this order, we reject as premature the proposed tariff revisions without prejudice.

I. **Background**

2. Lubbock Power & Light (Lubbock), a member of the West Texas Municipal Power Agency (WTMPA), is a full requirements customer of SPS under a wholesale power supply contract that was executed in 2004 and expires on May 31, 2019 (WTMPA Agreement).[3] The WTMPA Agreement requires SPS to obtain firm transmission service

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[1] Both PSCo and SPS are operating companies of the Xcel Energy Inc. (Xcel). PSCo is the Xcel Energy Operating Company designated for filing revisions to the Xcel Joint Open Access Transmission Tariff (Xcel Joint Tariff) under Order No. 714. *See Electronic Tariff Filings*, Order No. 714, FERC Stats & Regs ¶ 31,276 (2008).

[2] 16 U.S.C. § 824d (2012).

[3] In 2015 Lubbock's total peak load was approximately 605 MW of which 433 MW was for load on Lubbock's traditional distribution system and 172 MW was for Lubbock's new distribution system discussed below. SPS Transmittal at 5; Testimony of Wesley L. Berger, Exhibit No. SPS-5 at 5-6.

on WTMPA's behalf and obligates WTMPA to pay SPS's actual costs for the transmission service.[4] In 2009, Lubbock agreed to purchase a majority of SPS's distribution system in the city of Lubbock, which added approximately 172 MW of load to Lubbock's distribution system. SPS explains that to serve this load upon the expiration of the WTMPA Agreement, Lubbock and SPS entered into the Lubbock Transaction Agreement, under which SPS will continue to supply a specified amount of power (170 MW plus 1.2 percent of load growth per year) for 25 years.[5]

3. SPS states that it does not intend to extend the WTMPA Agreement beyond May 31, 2019 to continue supplying power for approximately 400 MW of Lubbock load.[6] SPS states that Lubbock announced that it would explore options to serve the load not covered by the Lubbock Transaction Agreement. These options included migrating from the Eastern Interconnection and interconnecting with the Electric Reliability Council of Texas (ERCOT). SPS states that preliminary studies conducted by ERCOT and Lubbock indicate that between $312 million and $364 million in ERCOT transmission upgrades will be necessary with the preferred option, which would provide a margin for future load growth, requiring $364 million in transmission upgrades.[7] SPS states that Lubbock is still in the preliminary stages of moving its load and has not yet formally requested that the Public Utility Commission of Texas (Texas Commission) approve the migration to ERCOT, has not received the authorization of the Texas Commission, and has not given formal notice to SPS or Southwest Power Pool, Inc. (SPP) that it will migrate its load to ERCOT.[8]

II. Instant Filing

4. The proposed revisions to the Xcel Joint Tariff implement an Interconnection Switching Fee (Switching Fee) to be billed to Lubbock in the event that Lubbock moves its load to ERCOT. SPS states that such a fee is necessary to send the appropriate price

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[4] SPS Transmittal at 5 (citing WTMPA Agreement, section 4.1).

[5] *Id.* at 5-6.

[6] SPS explains that it will not renew the WTMPA Agreement because retail rate case settlements place limits on SPS wholesale sales services priced on a system-average embedded cost basis. *Id.* at 7, n.32.

[7] *Id.* at 8. SPS states that Lubbock anticipates the costs of these upgrades would be regionalized throughout ERCOT and thereby mostly avoided by Lubbock and borne by other ERCOT customers. *Id*. at 9.

[8] *Id.* at 8.

signals to Lubbock as it assesses its future supply options and considers migrating to ERCOT.[9] SPS states that it proposes to add the Switching Fee to the Xcel Joint Tariff because SPS calculates the cost for transmission service in the SPS zone (Zone 11 under the SPP Open Access Transmission Tariff (SPP Tariff)), and bills such costs to wholesale customers, pursuant to the Xcel Joint Tariff. Specifically, SPS proposes a new section 44.1 to the Xcel Joint Tariff which provides SPS's general right to recover stranded transmission costs that are authorized by the Commission on a case-by-case basis. Additionally, SPS proposes Schedule 17 to the Xcel Joint Tariff that calculates the Switching Fee pursuant to a formula rate that SPS states is based on the stranded production cost methodology of Order No. 888[10] and which reflects the revenues that would be lost over a period of up to ten years.[11] SPS also proposes revisions to the SPS transmission formula rate in the Xcel Joint Tariff to provide for crediting of the Switching Fee revenues to the remaining SPS wholesale transmission customers.[12]

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[9] *Id.* at 2.

[10] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[11] Specifically, SPS's proposed formula calculates the transmission revenues that SPS would have received from Lubbock if Lubbock's load did not move to ERCOT based on actual billings for Schedules 1, 1A, 9, and 11 of the SPP Tariff. The formula subtracts the amount of revenue that would be shifted to other SPP transmission zones if Lubbock moves to ERCOT from the total transmission revenues that SPS would have received. The formula is then adjusted by the net amount of transmission investment that would be avoided, if any, and the amount of transmission investment that would be accelerated or built as a result of Lubbock's move to ERCOT. Finally, the formula multiplies the resulting revenue stream estimate by ten years to account for the planning horizon in SPP (or a number less than ten years if Lubbock gives official notice of its move to ERCOT prior to the termination of the WTMPA Agreement). SPS Transmittal at 32-35.

[12] SPS states that after the Commission approves the revisions to the transmission formula in the Xcel Joint Tariff, SPS will work with SPP to include a crediting provision in the SPS formula rate included in the SPP Tariff.

SPS states that it will only assess the Switching Fee if Lubbock leaves the system and Lubbock can either pay the Switching Fee as a lump sum present value amount (approximately $88.7 million in a sample calculation) or in equal installments over the same length of time used to calculate the Switching Fee.[13]

5. SPS states that until Lubbock receives approval from the Texas Commission to migrate its load, SPS and SPP must still plan the SPS system to serve Lubbock's current and future load levels. SPS states that the primary planning horizon for new transmission projects in SPP is ten years and SPS has built new projects specifically for the Lubbock load. SPS also states that it has built other upgrades to its system since 2012 totaling $1.3 billion, which benefit all loads including Lubbock, and it plans to build other upgrades totaling $1.7 billion between 2016 and 2020.[14] SPS estimates that, based on 2015 data, the Lubbock load that is planned for migration is responsible for about $3.9 million for annual regional charges under Schedule 11 (Region-Wide Charge for SPP Base Plan Upgrades costs allocated on a regional basis), $3.4 million for annual zonal charges under Schedule 11 (Zonal Charge for SPP Base Plan Upgrade costs allocated on a zonal basis) and $9.4 million for annual zonal charges of SPS's other facilities under Schedules 9 (Network Integration Transmission Service) under the SPP Tariff, totaling about $16.7 million annually.[15] SPS states that Lubbock is also responsible for about $327,000 under Schedule 1 (System Control and Load Dispatching) and $1.19 million under Schedule 1A (Tariff Administration) of the SPP Tariff.[16] SPS argues that the proposed Switching Fee will prevent Lubbock from shifting costs incurred for its benefit to SPS's remaining transmission customers who would have to pay more, on a per-kW level, for transmission charges under Schedules 9 and 11 of the SPP Tariff.[17]

6. SPS states that without the Switching Fee, Lubbock's migration to ERCOT will shift transmission costs to the remaining transmission customers in the SPS zone. SPS asserts that these shifted costs reflect investments which were made to serve load on the SPS system, including the load of Lubbock. SPS states that Lubbock could have served this load with resources within SPP, but concluded that moving its load to ERCOT would

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[13] SPS Transmittal at 18, 21.

[14] *Id.* at 12-13.

[15] Testimony of Michael Schnitzer, Exhibit No. SPS-1, Table 1 at 28. SPS states that the migration of Lubbock load will result in a decrease of about 7.4 percent in the load on SPS transmission system. SPS Transmittal 16-17.

[16] Testimony of Michael Schnitzer, Exhibit No. SPS-1, Table 1 at 28.

[17] SPS Transmittal at 16-17.

provide certain benefits not available in SPP. These benefits include buying the most cost effective power, eliminating expensive fixed capacity charges, and avoiding primary regulation by the federal government.[18] SPS expresses concern that if Lubbock migrates to ERCOT, other additional wholesale customers could follow Lubbock to ERCOT.[19] SPS states that the Switching Fee will appropriately assign sunk costs and allow Lubbock to compare the costs of generation inside and outside of SPP on a "more economically efficient basis."[20]

7. SPS cites previous Commission decisions to support its proposed Switching Fee and argues that the principles of cost causation support the imposition of a Switching Fee on an entity for which it was obligated to plan. SPS explains that under Order No. 888-A it has an obligation to plan and construct its transmission system for the needs of its third party customers, so Lubbock should remain responsible for the costs of the transmission facilities, even if it withdraws its load.[21] SPS also argues that in Order Nos. 888 and 888-A the Commission allowed for the recovery of stranded generation costs and the same principles regarding the shifting of costs and the expectations to serve customers are applicable here because SPS has historically served Lubbock's load and SPS has the obligation to plan to continue to serve Lubbock's load.[22]

8. SPS argues that its proposed Switching Fee is also consistent with Order No. 1000,[23] which requires that the cost of transmission facilities be allocated in a manner that is roughly commensurate with their benefits and that entities causing or

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[18] *Id.* at 9.

[19] *Id.* at 9-10.

[20] *Id.* at 25.

[21] *Id.* at 23 (citing Order No. 888-A, FERC Stats. & Regs. 31,048 at 30,220).

[22] SPS states that because section 2.2 of the SPP Tariff gives existing firm transmission service customers a right of first refusal to roll over their existing agreements when they expire, SPP has an ongoing obligation to plan its system and maintain available transmission capacity to provide existing transmission customers' rollover rights. *Id.* at 28-29

[23] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011) (cross-referenced at 136 FERC ¶ 61,051), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

benefitting from the new transmission should bear those costs.[24] Furthermore, SPS argues that there is no requirement for a pre-existing contract to provide for the Switching Fee because the Commission allowed for the recovery of transmission costs from parties without pre-existing contracts.[25]

9. SPS adds that the Commission has also relied upon these same stranded cost principles in approving exit fees for transmission owners withdrawing from a Regional Transmission Organization and it should apply the same principles for withdrawing load serving customers.[26]

III. Notice and Responsive Pleadings

10. Notice of the filing was published in the *Federal Register*, 81 Fed. Reg. 35,008 (2016), with interventions and protests due on or before June 14, 2016. On May 27, 2016, as amended on June 1, 2016, Lubbock filed a motion for extension of time to file comments. On June 8, 2016, the Commission issued a notice extending the due date for interventions and protests to June 28, 2016.

11. Timely motions to intervene were filed by American Electric Power Service Corporation, on behalf of Public Service Company of Oklahoma and Southwestern Electric Power Company; Central Valley Electric Cooperative, Inc., Farmers Electric Cooperative, Inc., Lee County Electric Cooperative, Inc., and Roosevelt County Electric Cooperative Inc.; Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Lincoln Electric Systems; Lubbock; Midwest Energy, Inc.; Mid-Kansas Electric Company, LLC; Occidental Permian Ltd.; Oklahoma Gas & Electric Company; SPP; Sunflower Electric Power Corporation; Westar Energy Inc.; and Western Farmers Electric Cooperative, Inc. A notice of intervention and comments was filed by the Texas Commission. A motion to intervene and conditional protest was filed by Golden Spread Electric Cooperative, Inc. (Golden Spread). Lubbock filed a protest. Golden Spread, Lubbock, SPS, and SPP each filed answers.

12. The Texas Commission states that the filing is premature because Lubbock has not yet requested approval of the migration to ERCOT. The Texas Commission also states that it would not act on any such request prior to 2017. Moreover, the Texas Commission asserts that Lubbock would not migrate prior to the expiration of the WTMPA

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[24] SPS Transmittal at 27 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622).

[25] *Id.* at 26-27.

[26] *Id.* at 29-30.

Agreement. Therefore, according to the Texas Commission, the actual shift of the ERCOT load would not occur until mid-2019, at the earliest, assuming the necessary additional facilities to connect a portion of Lubbock's electrical system to the ERCOT grid could be built and in service by that time.[27]

13. The Texas Commission also states that, in anticipation of Lubbock's potential request, it initiated a project to solicit comments from all interested parties.[28] Additionally, the Texas Commission notes that ERCOT completed a study of the cost and reliability issues associated with the interconnection of the Lubbock electric system into the ERCOT electric system that included the estimated capital costs of the interconnection, with ERCOT's preferred option having estimated capital costs of $364 million.[29]

14. The Texas Commission states that it will review Lubbock's request to migrate some load to ERCOT, if the request is actually made, affording interested parties an opportunity to provide evidence on the cost and impacts on the migration.[30] Moreover, the Texas Commission notes that if it did approve the migration, it would likely be with conditions to protect retail ratepayers, Texas utilities, and the State of Texas.[31] The Texas Commission asserts that because no charges would be assessed to Lubbock under SPS's proposed tariff until the Lubbock load is actually shifted to ERCOT, it is not essential that the Commission consider SPS's requested tariff amendment now. In the event that the Texas Commission approves the Lubbock shift, the Commission could then evaluate whether the Xcel Joint Tariff should be amended to add the Switching Fee. Thus, the Texas Commission requests that the Commission abate this proceeding while it reviews Lubbock's anticipated request to shift a portion of its electric system to ERCOT so that the Commission could evaluate any proposal in light of any terms the Texas Commission imposes.[32]

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[27] Texas Commission Comments at 5.

[28] *Id.* at 6-7.

[29] *Id.* at 7 (citing Tex. Pub. Util. Comm'n, *Project to Identify Issues Pertaining to Lubbock Power & Light's Proposal to Become Part of the Electric Reliability Council of Texas,* Project No. 45633 (ERCOT Letter to Commissioners – LP&L System Study) (June 17, 2016)).

[30] *Id.* at 7-8.

[31] *Id.* at 8.

[32] *Id.* at 8.

15. Golden Spread requests that the Commission: (1) clarify that any determination as to the Switching Fee in this case is not precedential for future cases and that the Commission will continue to evaluate each stranded cost or exit fee proposal using a case-by-case analysis, consistent with the approach adopted in Order No. 888; (2) clarify that if the filing is denied, in whole or in part, Golden Spread or any other transmission customer in SPP is not foreclosed from any subsequent challenge or proceeding to determine where appropriate cost allocation rests for Golden Spread or any other remaining wholesale transmission customer in SPP Zone 11; and (3) grant any other relief as may be appropriate under the circumstances.[33]

16. Lubbock disputes the reasoning SPS offers in support of the Switching Fee. Lubbock argues that there is no contractual right to assess the Switching Fee because Lubbock is not a member of SPP, does not take service under the Xcel Joint Tariff, and its contracts with SPS contain no such fee. Lubbock also disputes SPS's interpretation of Commission policy and Commission precedent as supporting SPS's attempt to recover transmission costs from Lubbock.[34]

17. Lubbock argues that there are no transmission costs that would be stranded by Lubbock's move to ERCOT. According to Lubbock, SPS has made minimal transmission investments to serve Lubbock load and the cost of investments that would become "stranded" if Lubbock moves to ERCOT have been recovered many times over by SPS and no further cost recovery is required. Lubbock argues that since SPS cannot demonstrate how Lubbock's remaining transmission investments – past and planned – have or will be incurred for Lubbock's benefit, such investments will still be necessary to serve the rest of SPS's load and, thus, are not stranded.[35]

18. Lubbock also argues that SPS's stranded transmission cost calculations are fundamentally flawed. Lubbock contends that SPS ignores the benefits to SPS customers and SPP of its move to ERCOT including: (1) the value of the generation and transmission assets that are no longer needed to serve Lubbock load that are repurposed to serve other customers; (2) mitigation of congestion in the Texas panhandle, mitigation of the scope of SPS's needed investment in Order No. 1000 and other transmission upgrades; and (3) that the move to ERCOT allows SPP customers to avoid paying Lubbock's transmission revenue requirement and cover Lubbock's safe harbor costs for

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[33] Golden Spread Conditional Protest at 5-8.

[34] Lubbock Protest at 12-17.

[35] *Id.* at 17-21.

transmission uplift if it were to become a transmission owning member of SPP and require network upgrades to serve its load with SPP resources.[36]

19. Lubbock also disputes SPS's application of the stranded costs framework in Order No. 888 and contends that SPS fails to: (1) demonstrate that there are any transmission costs that need to be recovered, and (2) conduct a Competitive Market Value Estimate.[37] Lubbock states that this amount can be estimated but SPS choose not to do so.[38]

20. According to Lubbock, SPS has made it clear that it has no interest in providing service to Lubbock beyond the term of the WTMPA Agreement by unilaterally deciding not to extend or renew the WTMPA Agreement and failing to respond to the Lubbock request for proposal for wholesale power supply. Lubbock states that it is captive to SPS and would either have to become a member of SPP and incur significant and material transmission upgrade costs to ensure supply is deliverable under the SPP rules, or incur costs to interconnect and move its load to ERCOT to access its supply. Lubbock argues that the filing is not just and reasonable and by the very fact that it is targeted at a single entity that is not even a customer under the Xcel Joint OATT, the filing is unduly discriminatory. Lubbock requests that the Commission reject the filing with prejudice, or, at minimum, set the matter for hearing.[39]

21. SPP answers that the availability of SPP transmission service to Lubbock is independent of Lubbock being or becoming an SPP Member.[40] SPP clarifies that it is has not conducted any studies and so is unable to determine what, if any, transmission upgrades and costs would be associated with a request from Lubbock to serve its load using generation in SPP.[41] SPP also clarifies that it did not convey any conclusions about specific constraints and associated costs to Lubbock. SPP states that Lubbock may request such studies, but has not done so.[42] SPP adds that it has not conducted studies to

[36] *Id.* at 4, 21-22, 25.

[37] The Competitive Market Value Estimate is the estimated market value of SPS's generation and transmission resources that are unused as a result of Lubbock's migration of load to ERCOT.

[38] Lubbock Protest at 22-24.

[39] *Id.* at 4-5, 26.

[40] SPP Answer at 2, n.6.

[41] *Id.* at 3-4.

[42] *Id.*

determine the effect on the SPP system of the proposed transition of Lubbock to ERCOT, and so cannot confirm Lubbock's statements that its transition may relieve congestion on the SPP system.[43]

22. In response to the comments and protests, SPS opposes the Texas Commission's request to hold the filing in abeyance arguing that the Texas Commission would not be able to implement protections for SPS's retail ratepayers or wholesale transmission customers in New Mexico. SPS contends that an order issued by the Commission would help clarify Lubbock's potential cost obligations and therefore will assist Lubbock's and the Texas Commission's review of a proposed migration.[44]

23. SPS states that it agrees with Golden Spread that if the filing is approved in principle, it does not mean that any future load moving to ERCOT will pay a Switching Fee, or that such a fee will be structured like the Switching Fee proposed here. SPS explains that proposed section 44.1 to the Xcel Joint Tariff already addresses this issue.[45] SPS reiterates that if the Commission were to reject the filing, costs shifted as a result of Lubbock's load migration to ERCOT would need to be borne by the remaining customers in the SPS Zone.[46]

24. In response to Lubbock's protest of the Switching Fee, SPS offers several counter arguments. First, SPS asserts that it is irrelevant that there is no pre-existing contract that provides an exit fee, and contends that the Xcel Joint Tariff is the appropriate tariff to amend to add the Switching Fee.[47] Second, SPS argues that the appropriate cost allocation principle here is that costs should be allocated to those on whose behalf they were incurred, not whether the utility paying the exit fee will use the facilities after withdrawal.[48] SPS contends that its proposal is consistent with Commission precedent and is designed to ensure that SPS's rates remain just and reasonable.[49] SPS claims that the Switching Fee is not unduly discriminatory because there is no other similarly

[43] *Id.* at 4-5.

[44] SPS Answer at 29.

[45] *Id.* at 27-28.

[46] *Id.* at 28-29.

[47] *Id.* at 6-7.

[48] *Id.* at 8-10.

[49] *Id.* at 10-12.

situated wholesale customer.[50] Third, SPS addresses Lubbock's arguments regarding the formula for the proposed Switching Fee by contending that the calculation of the Switching Fee should be based on the "revenues lost" approach, not by identifying specific assets that were built solely "for" Lubbock and would be "stranded" by its departure.[51] SPS contends that a customer paying for transmission service is paying only for the service, not for the facilities used to provide the service.[52] SPS contends it properly applied the Order No. 888 framework, including the Competitive Market Value Estimate element, when developing the Switching Fee.[53] Finally, SPS contends that Lubbock mischaracterized SPS's decision not to participate in the Lubbock request for proposal, and contends that it did not participate because the request for proposal was designed to favor a new Lubbock-built generation facility.[54]

25. Lubbock states in its answer that the attempt to recover the Switching Fee that was not part of the existing contract amounts to retroactive ratemaking.[55] Lubbock contends that there is a lack of Commission precedent to impose an exit fee in a circumstance such as this.[56] Lubbock states that SPP made it clear to Lubbock that there would need to be significant transmission upgrades to ensure reliable service from a supplier that was not SPS.[57]

26. Golden Spread answers to clarify the factual record regarding the actions of wholesale customers, including Golden Spread, in previous proceedings before the Commission and retail regulators.[58]

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[50] *Id.* at 12-13.

[51] *Id.* at 13-14; *see also* Reply Testimony of Michael M. Schnitzer, Exhibit No. SPS-18 at 8.

[52] SPS Answer at 15.

[53] *Id.* at 17-18.

[54] *Id.* at 26-27; *see also* Reply Testimony of William A. Grant, Exhibit No. SPS-19 at 2-5.

[55] Lubbock Answer at 6.

[56] *Id.* at 8.

[57] *Id.* at 23.

[58] Golden Spread Answer at 2.

IV. Discussion

A. Procedural Matters

27. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed notice of intervention and motions to intervene serve to make the entities that filed them parties to this proceeding.

28. 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 and to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by Golden Spread, Lubbock, SPP, and SPS because they provide information that has assisted in our decision-making process.

B. Commission Determination

29. We reject, as premature, the proposed tariff revisions, without prejudice to SPS submitting a new filing under section 205 of the FPA (or having such a filing submitted on its behalf) in the future to propose a Switching Fee for Lubbock. SPS contends that a decision on the merits of its proposal will help clarify Lubbock's potential cost obligations and will assist Lubbock's and the Texas Commission's review of the proposed migration. At this time, however, we are unable to evaluate the justness and reasonableness of the proposed revisions to the Xcel Joint Tariff, because the proposed revisions are based on the speculative assumption that Lubbock will migrate to an ERCOT power supply and leave the SPS system. At this time, Lubbock is in the process of evaluating its potential move to ERCOT, and although Lubbock has publicly declared its intentions to do so, Lubbock has yet to formally request that the Texas Commission evaluate its migration to ERCOT. As noted by the Texas Commission, approval of the migration, if it occurs, is not expected until 2017 at the earliest and may be subject to conditions. Furthermore, the migration of such load will not occur until after the expiration of the WTMPA Agreement in 2019. For these reasons, we find that the proposal to implement a Switching Fee is premature at this time.

30. By rejecting this filing as premature, the Commission makes no findings regarding the filing in this docket. Because we are rejecting the filing as premature, it is unnecessary to address the substantive concerns raised by commenters regarding the proposal to implement a Switching Fee. The Commission will address any future SPS proposal, and any comments submitted in response to that proposal, if and when SPS submits a new FPA section 205 filing, or has a new section 205 filing submitted on its behalf.

The Commission orders:

The proposed tariff revisions are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.