

157 FERC ¶ 61,083
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER16-1912-000
ER16-1912-001

ORDER ACCEPTING TARIFF REVISIONS SUBJECT TO CONDITION

(Issued November 4, 2016)

1. On June 10, 2016, in Docket No. ER16-1912-000, Southwest Power Pool, Inc. (SPP) filed proposed revisions to Attachment AE in its Open Access Transmission Tariff (Tariff) to clarify and consolidate SPP's processes regarding out-of-merit energy.¹ On September 6, 2016, in Docket No. ER16-1912-001, SPP proposed additional Tariff revisions in its response to a July 28, 2016 deficiency letter issued by Commission staff. The Commission accepts SPP's proposed Tariff revisions, subject to condition, to be effective August 10, 2016 as discussed below.

I. Background

2. SPP is a Commission-approved Regional Transmission Organization (RTO) based in Little Rock, Arkansas that administers open access transmission service across a transmission system spanning the central region of the United States, from North Dakota to northern Texas. On March 1, 2014, SPP began administering the Integrated Marketplace, which features day-ahead and real-time energy and operating reserve markets and a transmission congestion rights market. As part of its proposal for the Integrated Marketplace, SPP included out-of-merit energy and manual dispatch instruction provisions in Attachment AE of its Tariff. SPP also proposed procedures allowing a local transmission operator to call on a generator to address a local emergency

¹ See Appendix for e-Tariff designations.

condition on low voltage facilities, which the Commission conditionally accepted, subject to further compliance.² The Commission also directed SPP, local transmission operators, and the owners of affected generators to develop operating guides to address known and recurring reliability issues associated with manual commitments, a directive SPP implemented through revising its Tariff.³

II. SPP Filing

3. SPP proposes a number of revisions to Attachment AE to clarify and consolidate provisions related to out-of-merit energy in its Tariff. SPP explains that the proposed revisions initially arose from its efforts to clarify the processes associated with issuing instructions to Dispatchable Variable Energy Resources (DVER) and Non-Dispatchable Variable Energy Resources (NDVER), in connection with out-of-merit energy processes. SPP states that it also discovered an opportunity to enhance the consistency of Tariff terminology related to operational dispatch instructions. SPP asserts that its proposed revisions consolidate the operational dispatch terminology to mitigate the use of multiple terms that have no necessary functional distinction. SPP contends this will enhance the efficiency and effectiveness of the Tariff and reduce the potential for confusion and implementation issues. Additionally, SPP states that the proposed Tariff revisions focus the terminology on the functional purpose of the operational action and associated dispatch instruction surrounding an out-of-merit energy instruction, as well as remove procedural requirements related to communication protocol. SPP avers that this will facilitate a clearer understanding of the scope and purpose of the operating action and dispatch function. SPP also states that the revisions will mitigate overlap and potentially confusing or conflicting requirements with the North American Electric Reliability Corporation (NERC) communication reliability standards (COM).⁴

4. SPP states that its use of the term “Out-of-Merit Energy” in the transmittal letter of its filing refers to both the actual concept of out-of-merit energy (i.e., energy provided by a generator outside of normal market system solutions) and the out-of-merit energy-related dispatch instruction itself. SPP states that it is clarifying the scope of this term by proposing a new definition of “Out-of-Merit Energy” and replacing the term “Manual

² *Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048, at PP 184-185 (2012), *order on compliance*, 144 FERC ¶ 61,224, at PP 107-111 (2013) (First Compliance Order), *order on compliance*, 146 FERC ¶ 61,050, at PP 62, 68 (2014) (Second Compliance Order).

³ First Compliance Order, 144 FERC ¶ 61,224 at P 110; Second Compliance Order, 146 FERC ¶ 61,050 at P 62.

⁴ SPP Filing at 4-5.

Dispatch Instruction”⁵ in its Tariff. SPP proposes the following definition for “Out-of-Merit Energy:”

A Dispatch Instruction from the Transmission Provider to address an Emergency Condition or reliability issue that the market systems cannot resolve or from a local transmission operator to address a Local Emergency Condition.⁶

SPP states that adding this definition of out-of-merit energy clarifies the fact that SPP may issue an out-of-merit energy instruction to address either an emergency condition or a reliability issue that has not yet risen to the level of an emergency condition. SPP notes that section 6.2.4 of Attachment AE already identifies the distinction between emergency conditions and reliability issues that the market system cannot resolve, and it proposes incorporating this distinction within the definition of out-of-merit energy.⁷

5. Further, SPP states that defining out-of-merit energy as encompassing the act of issuing a dispatch instruction eliminates the need to accompany the term with additional terms such as “directive” or “instruction.” SPP states that this simplification reduces the risk of inadvertently implicating terms contained in relevant NERC reliability standards which could, in turn, impact the scope of parties’ obligations surrounding an out-of-merit energy instruction. SPP notes that NERC has adopted a newly defined term, “Operating Instruction,” which became effective on July 1, 2016. SPP states that this term will be included in NERC COM-002-4 (Operating Personnel Communications Protocols). SPP contends that the evolution of these standards and the use of different terminology highlight the need to remove inconsistent and potentially confusing language from its Tariff.⁸

6. Additionally, SPP proposes numerous revisions within Attachment AE in its Tariff. SPP proposes revisions to section 6.2.4, which SPP explains is the primary Tariff section describing the SPP out-of-merit energy process. SPP proposes replacing various

⁵ The current Tariff defines “Manual Dispatch Instruction” as “[a] Dispatch Instruction and/or Operating Reserve procurement after the Day-Ahead Market clears that originates from SPP outside of the normal Real-Time Balancing Market security constrained economic dispatch solution to address a system reliability condition.” SPP Tariff, Attachment AE § 1.1—Definitions M.

⁶ See Proposed SPP Tariff, Attachment AE § 1.1—Definitions O.

⁷ SPP Filing at 5-6.

⁸ *Id.* at 6-7.

terms — such as “dispatch instruction” and “Manual Dispatch Instruction” — with the term “Out-of-Merit Energy.” SPP also proposes revisions to sub-section 6.2.4(7) to reflect that an out-of-merit energy instruction is a dispatch instruction, not a commitment of a resource.⁹ In section 4.1.2.4, which describes the conditions applicable to market participant offers for DVERs, SPP proposes a new section 4.1.2.4(8) to clarify that DVERs may receive an out-of-merit energy instruction pursuant to the rules set forth in section 6.2.4. SPP proposes similar revisions to section 4.1.2.5(5) to clarify that NDVERs may receive an out-of-merit energy instruction pursuant to section 6.2.4. SPP proposes removing terms relating to dispatch instructions and out-of-merit energy instructions from section 6.1.2, a section that deals exclusively with reliability unit commitment processes. Further, SPP proposes replacing the term “Manual Dispatch Instruction” with “Out-of-Merit Energy” in sections 6.3, 6.4.1.1, and 8.6.6. SPP also proposes additional language in section 8.6.6 to acknowledge a local transmission operator’s ability to issue an out-of-merit energy instruction. Revisions to the first paragraph in this section also clarify that an out-of-merit energy instruction issued by the transmission provider is subject, in the same manner as those issued by a local transmission operator, to the SPP Market Monitor’s determination of whether the out-of-merit energy instruction was issued in a non-discriminatory manner, for purposes of real-time market out-of-merit energy payment eligibility.¹⁰

7. SPP requests that its Tariff revisions become effective on July 1, 2016, the date on which NERC COM-002-4 and the related definition of “Operating Instruction” become effective, in order to avoid any potential conflict or complications associated with SPP and its stakeholders’ respective obligations under SPP’s Tariff and NERC COM-002-4. SPP requests waiver of the Commission’s 60-day notice requirement to permit its requested effective date.¹¹

III. Notices of Filing and Responsive Pleadings

8. Notice of SPP’s filing was published in the *Federal Register*, 81 Fed. Reg. 39,637 (2016), with interventions and protests due on or before July 1, 2016. Timely motions to intervene were filed by Westar Energy, Inc.; Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Xcel Energy Services Inc., on behalf of its utility operating affiliate Southwestern Public Service Company; EDP Renewables North America LLC; EDF Renewable Energy, Inc. (EDF); and E.ON Climate & Renewables North America, LLC (E.ON). On July 5, 2016, the American

⁹ SPP also proposes moving references to out-of-merit energy coordination between the transmission provider and a local transmission operator from the first to the second paragraph of section 6.2.4 of Attachment AE.

¹⁰ SPP Filing at 7-10.

¹¹ *Id.* at 1, 10.

Wind Energy Association filed a motion to intervene out of time. On July 15, 2016, Invenergy Wind LLC (Invenergy) and Buckeye Wind Energy LLC filed an out-of-time motion to intervene. Also on July 15, 2016, EDF, E.ON, and Invenergy (collectively, the Wind Generation Group) filed a motion to submit comments out-of-time and comments.

9. On July 28, 2016, Commission staff issued a letter informing SPP that its filing was deficient and that additional information was required to process the filing (Deficiency Letter). On August 25, 2016, SPP filed a motion for an extension of time to respond to the Deficiency Letter. On August 26, 2016, the Commission granted that motion. On September 6, 2016, SPP submitted a response to the Deficiency Letter (Deficiency Response). Notice of SPP's Deficiency Response was published in the *Federal Register*, 81 Fed. Reg. 63,178 (2016), with interventions and protests due on or before September 27, 2016. On September 27, 2016, the Wind Generation Group filed comments (Deficiency Comments). On October 14, 2016, SPP filed a motion for leave to answer and answer to the Deficiency Comments (Deficiency Answer).

A. Comments of the Wind Generation Group

10. The Wind Generation Group seeks clarification regarding the effects of SPP's proposed Tariff revisions. The Wind Generation Group asserts that SPP has not demonstrated why its proposed Tariff revisions are necessary to avoid confusion and to comply with NERC COM-002-4.¹²

11. The Wind Generation Group also argues that SPP's proposal will result in confusion, financial harm, and opportunities for increased litigation. The Wind Generation Group explains that in the Integrated Marketplace, the treatment of variable wind energy resources is bifurcated into DVERs and NDVERs. The Wind Generation Group states that, for DVERs, SPP issues automated dispatch instructions as a function of its Security-Constrained Economic Dispatch (SCED) and issues out-of-merit energy instructions, as needed. In contrast, the Wind Generation Group explains that NDVERs are incapable of responding to automated dispatch directives and are thus only subject to manual dispatch instructions. The Wind Generation Group states that a manual dispatch instruction is issued only when there is a reliability need that remains after automated SCED dispatch occurs.¹³

12. The Wind Generation Group asserts that distinguishing among economic, reliability, and emergency causes for manual curtailments has important financial implications for wind developers. The Wind Generation Group explains that this is

¹² Wind Generation Group Comments at 7-8.

¹³ *Id.* at 3-4.

a critical component under many existing wind generator long-term power purchase agreements, many of which allocate the risk of manual curtailments between the generator and off-taker differently depending on the cause of the manual curtailment. Thus, the Wind Generation Group argues, it is vital that parties to these power purchase agreements be able to distinguish among manual curtailment causes, in order to avoid expensive litigation and upsetting the economic risk allocations negotiated between parties.¹⁴ Although the Wind Generation Group states that SPP may be unaware of these financial impacts on wind developers, it contends that SPP's single out-of-merit energy standard will distort and mask market signals.¹⁵

13. Further, the Wind Generation Group asserts that the need for SPP's current Tariff revisions will not be as great once a significant amount of NDVERs move to automated status, a proposal currently being discussed in the SPP stakeholder process. The Wind Generation Group argues that implementing the Tariff revisions in the instant proceeding could undermine the ability to clearly assess the dollar value of moving technologically capable NDVERs to DVER status. Thus, the Wind Generation Group reasons, the better course is for SPP to wait and revise its Tariff to address NDVER conversion.¹⁶

14. The Wind Generation Group asserts that SPP should clarify that local transmission operator authority to issue dispatch directives is limited to local emergency conditions. The Wind Generation Group explains that this was an important caveat that resulted from the Integrated Marketplace proceeding,¹⁷ and the SPP Tariff vests local transmission operators with a narrow set of circumstances under which they can issue dispatch directives to wind generators. The Wind Generation Group states that it appears SPP did not intend to expand local transmission operator authority to issue an out-of-merit energy instruction without the restraint of local emergency conditions. However, the Wind Generation Group notes that SPP proposes to remove all references to "Local Emergency Conditions" in section 6.4.2 of Attachment AE and to place this reference within the catch-all definition of "Out-of-Merit Energy." The Wind Generation Group states that the proposed definition of "Out-of-Merit Energy" lacks clarifying punctuation and suggests the following revisions to the definition, in order to avoid misinterpretations:

¹⁴ *Id.* at 5-6.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 8-11.

¹⁷ *Id.* at 11-12 (citing First Compliance Order, 144 FERC ¶ 61,224 and Second Compliance Order, 146 FERC ¶ 61,050 at PP 37-79).

A Dispatch Instruction from (a) the Transmission Provider to address an Emergency Condition or reliability issue that the market systems cannot resolve, or (b) from a local transmission operator only to address a Local Emergency Condition.¹⁸

The Wind Generation Group contends that, to the extent SPP does intend to expand local transmission operator authority to issue out-of-merit energy instructions beyond situations involving local emergency conditions, then the Commission should reject this expansion.¹⁹

15. Finally, the Wind Generation Group notes that section 6.4.2(7) of Attachment AE provides that SPP shall develop operating guides to apply to out-of-merit energy instructions. The Wind Generation Group states that, while the Commission has declined to impose a deadline for the creation of these guides, the significant increase in wind generation in SPP suggests that SPP should complete these operating guides. The Wind Generation Group asserts that operating guides that address recurring reliability circumstances should be known before the Commission can assess whether SPP's proposed Tariff revisions are just, reasonable, and not unduly discriminatory or preferential, and at the very least, the Commission should condition acceptance of SPP's proposal on the development of these guides.²⁰

B. Deficiency Letter, Deficiency Response, and Responsive Pleadings

1. Duplicative and Conflicting Requirements

a. Deficiency Letter and Response

16. Commission staff requested that SPP provide more detail on how the current Tariff creates duplicative and potentially conflicting requirements with NERC communication reliability standards. Commission staff also requested that SPP explain how its proposed Tariff revisions would eliminate any duplicative or conflicting requirements with the NERC communication reliability standards.²¹

17. In response, SPP asserts that its proposed Tariff revisions remedy, or at least represent a necessary and beneficial step toward addressing, the problems identified in

¹⁸ *Id.* at 12-13 (proposed revisions underlined).

¹⁹ *Id.* at 13-15.

²⁰ *Id.* at 16-17.

²¹ Deficiency Letter at 1.

its June 10, 2016 filing.²² SPP states that it is subject to obligations under section 205 (its RTO functional activities) and section 215 (NERC reliability compliance) of the Federal Power Act (FPA).²³ SPP states that if it introduced the same NERC terminology and corresponding protocol obligations (e.g., communication protocols) in its Tariff, it arguably would have duplicative compliance obligations under sections 205 and 215 of the FPA.²⁴

18. SPP asserts that its Tariff should establish effective functional obligations, which SPP contends its proposed Tariff revisions accomplish by streamlining the out-of-merit operational steps and communications under a single term for use in all relevant scenarios. SPP states that it will then apply communication protocols to those functional interactions to ensure they comply with NERC communication standards. SPP contends that this approach is the most effective way of facilitating compliance with its functional tariff obligations and NERC reliability compliance obligations.²⁵

19. SPP also asserts that the applicability of some reliability standards in a given scenario may turn on particular terms specifically defined in the NERC glossary or that otherwise have specific interpretations within the scope of the standard in which they appear. As an example, SPP points to NERC COM-002-2, which until July 1, 2016, used the term “directives” and specified particular actions and communication methods for directives issued to address real-time emergencies. SPP states that, beginning on July 1, 2016, NERC replaced the standard with NERC COM-002-4, which stopped using the term “directive” in favor of the new term “Operating Instruction” and specifies procedures that will apply to certain types of communications of operating instructions during an emergency. SPP notes that this potential for confusion is not limited to reliability standards related to communications. Moreover, SPP states that NERC reliability standards will continue to evolve.²⁶

20. SPP asserts that its proposed Tariff revisions reduce the potential for misinterpretation of similar language in NERC reliability standards. SPP states that, although its out-of-merit energy instructions may sometimes meet the NERC definition of an operating instruction or an operating instruction during an emergency, these terms

²² SPP Deficiency Response at 4.

²³ 16 U.S.C. §§ 824d, 824o (2012).

²⁴ *Id.* at 2.

²⁵ *Id.*

²⁶ *Id.* at 2-4.

should not be considered synonymous. SPP states that its proposed Tariff revisions more clearly state its existing policy that instructions regarding out-of-merit energy may be issued either to address an “Emergency Condition,” as that term is defined in the Tariff, or a reliability condition that cannot be resolved by market systems but does not meet the definition of “Emergency Condition.”²⁷

21. Additionally, SPP notes that, at various times when drafting Tariff language in the past, it used a variety of terms, such as “OOME Dispatch instruction,” “OOME dispatch directive,” and “Manual Dispatch Instruction.” SPP states that it did not intend these terms to match, track, or carry the specific association that “directive” or “operating instruction” may have in connection with their use in various NERC reliability standards.²⁸

b. Deficiency Comments and Answer

22. The Wind Generation Group argues that SPP’s proposed Tariff revisions are unsupported because no confusion currently exists between NERC COM-002-4 and SPP’s Tariff.²⁹ The Wind Generation Group also contends that if the purpose of SPP’s proposed Tariff revisions is to limit opportunities for miscommunication, SPP should address the existence of thousands of megawatt hours of NDVERs on SPP’s system as a primary source of potential miscommunication.³⁰ Consequently, the Wind Generation Group urges the Commission to reject SPP’s proposed Tariff revisions and issue a show cause order and investigation into how market rules affect NDVERs versus DVERs.³¹

23. In its answer, SPP asserts that its proposed Tariff revisions accomplish the relevant objectives explained in its filing and are just and reasonable. SPP contends that the Wind Generation Group attempts to raise broad policy issues with regard to NDVERs and DVERs that are outside the scope of the instant proceeding.³²

²⁷ *Id.* at 4.

²⁸ *Id.*

²⁹ Wind Generation Group Deficiency Comments at 2-3.

³⁰ *Id.* at 5-6.

³¹ *Id.* at 6-7.

³² SPP Deficiency Answer at 3.

2. Scope of the Term Out-of-Merit Energy and Distinguishing between Causes for Out-of-Merit Energy Instructions

a. Deficiency Letter and Response

24. Commission staff requested that SPP confirm that the proposed term “Out-of-Merit Energy” would apply to both manual dispatch instructions and automated dispatch instructions resulting from SCED solutions. Commission staff also noted that the Tariff defined the term “Dispatch Instruction” within the context of the energy market.³³ Commission staff pointed out that the current definition of “Manual Dispatch Instruction,” which SPP proposed to remove from the Tariff and subsume within the definition of “Out-of-Merit Energy,” applied to dispatch instructions and/or operating reserve procurements.³⁴ Commission staff asked SPP to explain whether it intended the new term “Out-of-Merit Energy” to apply to operating reserve procurements, in addition to energy dispatch instructions. If SPP did not intend the term “Out-of-Merit Energy” to apply to operating reserve procurements, Commission staff requested that SPP provide the terminology it would use to describe a manual dispatch instruction for operating reserve procurement to address a system reliability condition.³⁵

25. Additionally, Commission staff requested that SPP explain in detail whether, and if so how, its proposal would affect market participants’ ability to distinguish between each cause for out-of-merit energy instructions (i.e., economic, reliability, and emergency causes). If the proposal would affect a market participant’s ability to distinguish between causes for out-of-merit energy instructions, Commission staff requested that SPP explain how this change was just, reasonable, and not unduly discriminatory or preferential.³⁶

26. In response, SPP asserts that its proposed Tariff revisions will not substantially change the existing process for issuing an out-of-merit energy instruction. SPP states that the process will continue to include both manual and automated SCED components. SPP explains that if it issues an out-of-merit energy instruction in response to a reliability issue the market systems cannot solve, a resource will receive notification of the target energy level systematically, and the resource will see that the out-of-merit energy

³³ The SPP Tariff defines “Dispatch Instruction” as the “communicated Resource target Energy Megawatt output level at the end of the Dispatch Interval.” SPP Tariff, Attachment AE § 1.1—Definitions D.

³⁴ See SPP Tariff, Attachment AE § 1.1—Definitions M.

³⁵ Deficiency Letter at 1-2.

³⁶ *Id.* at 2-3.

true/false flag will be set to “true.”³⁷ SPP states that manual inputs into the real-time market system will permit the SCED to solve and send automated dispatch instructions to the resource consistent with the out-of-merit energy megawatt level. SPP clarifies that until the out-of-merit energy instruction has ended, the real-time market will continue to send systematic dispatch instructions for each interval.³⁸

27. Further, SPP explains that if it issues the out-of-merit energy instruction in response to an emergency condition, it will contact the resource via telephone.³⁹ If a local transmission operator issues an out-of-merit energy instruction directly to a resource in response to a local emergency condition, SPP states that such dispatch instruction will be manual because a local transmission operator will not have access to the relevant SPP market systems. SPP explains that, pursuant to proposed section 6.2.4 of Attachment AE, the local transmission operator issuing an out-of-merit energy instruction in response to a local emergency condition will also notify SPP, who will then issue the dispatch instruction in the same manner as it would to address a reliability issue. SPP explains that it will issue the out-of-merit energy instruction for subsequent intervals in coordination with the local transmission operator until the out-of-merit energy instruction has ended.⁴⁰

28. With regard to the definition of “Manual Dispatch Instruction,” SPP states that it proposed, and the Commission approved, the phrase “and/or Operating Reserve procurement after the Day-Ahead Market clears” in Docket No. ER16-1037-000.⁴¹ SPP states that the addition of operating reserve language to the definition of “Manual Dispatch Instruction” was intended to address manual exclusion of cleared operating reserves, as opposed to procurement. SPP, therefore, proposes revising the definition of “Out-of-Merit Energy” as follows (proposed revisions underlined):

³⁷ SPP Deficiency Response at 5 (citing pending SPP Market Protocols § 4.4.2.5).

³⁸ *Id.*

³⁹ *Id.* (citing pending SPP Market Protocols § 4.4.2.5.1).

⁴⁰ *Id.*

⁴¹ SPP’s filing in Docket No. ER16-1037-000 was accepted by delegated authority on April 12, 2016. *Sw. Power Pool, Inc.*, Docket No. ER16-1037-000 (Apr. 12, 2016) (delegated letter order).

- (a) A Dispatch Instruction from the Transmission Provider to address an Emergency Condition or reliability issue that the market systems cannot resolve,
- (b) a Dispatch Instruction from a local transmission operator to address a Local Emergency Condition, or
- (c) a non-Energy manual exclusion, by the Transmission Provider, of a Resource from providing Operating Reserves after the Day-Ahead Market clears.

Additionally, SPP proposes revising section 8.6.6(3) of Attachment AE by replacing the phrase “Manual Dispatch Instruction for Energy or Operating Reserve” with “OOME.”⁴²

29. SPP states that it is unclear why the Wind Generation Group refers throughout its comments to manual curtailments “for economic reasons.” SPP explains that it will issue out-of-merit energy instructions, which will instruct a resource to reach a specified output level, only to address issues of reliability. SPP states that it will notify the resource if the out-of-merit energy instruction it receives is issued in response to a reliability issue that meets the definition of an emergency condition, thus making clear the distinction between an emergency condition and an otherwise unsolvable reliability issue. SPP notes that, according to proposed language in section 6.2.4 of Attachment AE, it will notify a resource of an emergency condition via an Open Access Same-Time Information System (OASIS) posting. SPP states that, in addition to the OASIS notification, the resource will be notified by phone if an out-of-merit energy instruction is issued in response to an emergency condition.⁴³

b. Deficiency Comments and Answer

30. The Wind Generation Group argues that SPP’s proposed Tariff revisions will have commercial implications because the revisions commingle SCED and manual dispatch directives under the blanket term out-of-merit energy. The Wind Generation Group again alleges that manual dispatch instructions under the proposal will not disclose the cause for the manual dispatch instruction, i.e., whether it is for economic, reliability, or emergency purposes. According to the Wind Generation Group, the cause of a curtailment should be transparent so that the “compensation mechanisms under existing power purchase agreements for operating wind resources can function.”⁴⁴ The Wind Generation Group states that wind generating resources typically are compensated for economic curtailment but are not compensated for reliability curtailment under existing

⁴² SPP Deficiency Response at 6-7.

⁴³ *Id.* at 7-8 (citing pending SPP Market Protocols § 4.4.2.5.1).

⁴⁴ Wind Generation Group Deficiency Comments at 7.

power purchase agreements. The Wind Generation Group disagrees with SPP's statement that economic dispatch information will not occur via an out-of-merit energy instruction. The Wind Generation Group claims that numerous provisions in SPP's proposed Tariff will replace pre-existing distinctions between NDVERs (manual) and DVERs (economic) with the generic term "Out-of-Merit Energy." Consequently, the Wind Generation Group states that it is unclear whether automated economic dispatch is excluded from out-of-merit energy instructions.⁴⁵

31. The Wind Generation Group argues that even if SPP were given the benefit of the doubt and its OOME usage will not affect economic dissemination of information, SPP's Deficiency Response shows that it does not have means in place so that wind resources will have access to the specific information that is vital to confirm power purchase agreement compensation.⁴⁶ The Wind Generation Group states that although an out-of-merit energy "flag" (on OASIS) will indicate the out-of-merit energy instruction, under a typical power purchase agreement, this flag is visible to the purchaser of the wind energy, but not the seller. The Wind Generation Group asserts that this information should be transparent, detailed, and simultaneously accessible to all parties. The Wind Generation Group asserts that simultaneous access may require wind resources to fund capital investments, which they should not have to do in order to accommodate SPP's proposed Tariff revisions. If the Commission were to accept the proposed Tariff revisions, the Wind Generation Group requests that the Commission suspend its effectiveness for five months to resolve this issue.⁴⁷

32. In its answer, SPP contends that the Wind Generation Group continues to misrepresent statements in SPP's filing, particularly the suggestion that SPP issues out-of-merit energy instructions for economic purposes. SPP reiterates that it issues out-of-merit energy instructions to respond to reliability issues only. With regard to power purchase agreements, SPP states that it is an independent transmission provider and is not privy to the private power purchase agreements of the Wind Generation Group members. SPP contends that the Commission should not require it to conform its Tariff language or operational practices solely to accommodate the terminology of a particular private contract or the actions of parties under certain contracts. SPP states that, to the extent the Wind Generation Group has actual concerns that counterparties to a power purchase agreement may withhold information SPP has made available regarding the underlying

⁴⁵ *Id.* at 7-8.

⁴⁶ *Id.* at 8.

⁴⁷ *Id.* at 9.

nature of an out-of-merit energy instruction, such matters are best addressed in a different forum.⁴⁸

3. Expansion of Local Transmission Operator's Authority

a. Deficiency Letter and Response

33. Commission staff noted that the Wind Generation Group alleged that proposed revisions to section 6.4.2 of Attachment AE, as well as the newly proposed term “Out-of-Merit Energy,” could be interpreted as expanding local transmission operators’ authority to issue dispatch instructions beyond situations involving local emergency conditions.⁴⁹ Commission staff asked SPP to clarify whether it intended to expand the circumstances under which a local transmission operator could issue a manual dispatch instruction.⁵⁰

34. In response, SPP states that it has no intention of expanding the circumstances under which a local transmission operator may issue an out-of-merit energy instruction.⁵¹

b. Deficiency Comments and Answer

35. The Wind Generation Group asserts that SPP’s response is insufficient. The Wind Generation Group requests that the Commission order SPP to retain the existing language limiting local transmission operator authority to issue dispatch directives.⁵²

36. In its answer, SPP contends that the Wind Generation Group continues to erroneously claim that SPP is attempting to expand local transmission operators’ authority to issue out-of-merit energy instructions.⁵³

⁴⁸ SPP Deficiency Answer at 5-6.

⁴⁹ Wind Generation Group Comments at 11-13.

⁵⁰ Deficiency Letter at 3.

⁵¹ SPP Deficiency Response at 8.

⁵² Wind Generation Group Deficiency Comments at 10-11.

⁵³ SPP Deficiency Answer at 3.

4. Operating Guides

a. Deficiency Letter and Response

37. Commission staff requested that SPP outline the current status/progress in developing the operating guides for out-of-merit energy dispatch instructions resulting from recurring reliability issues, including those given by local transmission operators to relieve known and recurring local emergency conditions, as required under section 6.4.2(7) of Attachment AE in the Tariff.⁵⁴

38. In response, SPP states that, to the extent SPP or local transmission operators have identified any known and recurring local emergency conditions, the relevant local transmission operator has developed one or more operating guides. SPP states that, to the extent an operating guide includes measures to be taken by SPP in its role as Reliability Coordinator, SPP has coordinated with the local transmission operator to develop the guide. SPP notes that it has obtained copies of all such operating guides from local transmission operators.⁵⁵

b. Deficiency Comments and Answer

39. The Wind Generation Group expresses concern over the existence of operating guides for “known and recurring Local Emergency Conditions,” and it urges the Commission to require SPP to identify guides in order to avoid transmission owners giving preference to their own generation under the guise of a recurring local emergency condition. The Wind Generation Group believes that the SPP market should be SCED-driven, and it asserts that the Commission should impose a limited life to the exceptions to market solutions contained in operating guides. The Wind Generation Group requests that the Commission require SPP to confirm that it uses operating guide information to assess the need for new transmission to resolve “known and recurring” reliability issues. The Wind Generation Group suggests that SPP file periodic reports with the Commission that identify the establishment date of operating guides, the scope of transmission elements and requirements involved, and whether the issues necessitating the development of operating guides were discussed during the transmission planning process (and the outcome of those discussions). The Wind Generation Group further requests that the Commission require SPP to confirm that there are no “known and recurring” reliability issues on its system without an operating guide.⁵⁶

⁵⁴ Deficiency Letter at 3.

⁵⁵ SPP Deficiency Response at 9.

⁵⁶ Wind Generation Group Deficiency Comments at 11-13.

40. In its answer, SPP contends that the Wind Generation Group's Deficiency Comments include inaccurate statements regarding the use of operating guides in the SPP footprint. SPP asserts that the Wind Generation Group implies that operating guides are a recent adoption or were created solely for the purpose of out-of-merit energy scenarios, which SPP contends disregards the role operating guides have played in reliability preparedness. SPP also asserts that it is prudent for a local transmission operator to have an operating guide in place to address reliability issues that may arise from a local emergency condition. SPP notes that while some of these operating guides may be short-lived, standing operating guides may be necessary to respond to certain circumstances, such as maintenance or upgrade events. SPP criticizes the Wind Generation Group's call for the public reporting of operating guides, which SPP contends could expose critical energy infrastructure information.⁵⁷ Additionally, SPP notes that the Wind Generation Group raises broad policy issues regarding long-term transmission planning that are outside the scope of the instant proceeding.⁵⁸

5. Potential Discrepancies in Tariff

41. Commission staff noted that section 5.1.2(1)(c) of Attachment AE in the Tariff uses the term "out of merit" in the commitment context. Commission staff also pointed out that section 5.2.2(3)(a) of Attachment AE uses the term "out of merit" in both the commitment and dispatch contexts. Commission staff asked SPP to explain whether revisions to these sections were necessary given the revisions proposed by SPP in the instant proceeding.⁵⁹

42. In its response, SPP agrees that the language identified by the Commission should be modified, as an out-of-merit energy instruction is a dispatch instruction and not a commitment action. SPP proposes revising sections 5.1.2(1)(c) and 5.2.2(3)(a) of Attachment AE by replacing the phrase "out of merit" with the term "manual," where that phrase refers to commitment or decommitment. SPP also proposes removing the phrase "or dispatch instruction" from section 5.2.2(3)(a), which addresses the commitment of a resource, rather than the dispatch of energy.⁶⁰

⁵⁷ SPP Deficiency Answer at 4.

⁵⁸ *Id.* at 3.

⁵⁹ *See, e.g.*, SPP Proposed Tariff, Attachment AE § 6.1.2(4).

⁶⁰ SPP Deficiency Response at 9.

IV. Discussion

A. Procedural Matters

43. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), 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) (2016), the Commission will grant American Wind Energy Association, Invenergy, and Buckeye Wind Energy LLC's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

44. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), 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. Substantive Matters

45. We accept SPP's proposed Tariff revisions, subject to condition, as discussed below.⁶¹ SPP's current Tariff uses a variety of terms to describe out-of-merit and manual dispatch instructions and, at times, erroneously refers to out-of-merit and manual dispatch instructions in the commitment context. We find that the proposed Tariff revisions, modified as discussed in the Deficiency Response, should reduce possible ambiguity within the Tariff and potential conflicts with NERC terminology. Therefore, we will accept SPP's proposed revisions to Attachment AE in its Tariff, subject to condition.

46. The Wind Generation Group raises a number of concerns with SPP's proposed Tariff revisions. The Wind Generation Group contends that SPP's proposed Tariff revisions are not needed to avoid confusion and to comply with NERC COM-002-4 and that SPP's proposal will result in confusion, financial harm, and opportunities for increased litigation. The Wind Generation Group also argues that the proposed Tariff revisions will result in a loss of information that will negatively affect wind developers. We disagree.

47. The Wind Generation Group appears to believe that SPP's proposed Tariff revisions will change the scope of the term "out-of-merit energy" under the SPP Tariff.

⁶¹ 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.

However, as SPP explains, the proposed Tariff revisions are not intended to change its existing practice with regard to out-of-merit energy instructions. According to SPP, its proposed Tariff revisions reflect its existing practice that out-of-merit energy instructions address situations involving emergency conditions and reliability conditions that cannot be resolved by market systems but that have not reached the level of an emergency condition.⁶² Furthermore, SPP states that out-of-merit energy processes will continue to include both manual and automated SCED components.⁶³ Our review of SPP's current Tariff confirms that SPP has used the term out-of-merit energy in the emergency and reliability contexts; thus, the Tariff already allows for out-of-merit energy instructions arising from manual or automated means. For instance, current section 6.2.4 of Attachment AE states that the transmission provider may issue an out-of-merit energy instruction to a resource to resolve emergency conditions or a reliability issue that market systems cannot resolve.⁶⁴ Accordingly, we find that SPP's proposed Tariff revisions do not expand the scope of its current out-of-merit energy practices.

48. The Wind Generation Group also raises concerns that its members will lose the ability to distinguish between causes — whether economic, reliability, or emergency in nature — for manual curtailments. However, as SPP has confirmed, SPP issues out-of-merit energy instructions to respond to reliability issues only.⁶⁵ Accordingly, because SPP does not issue out-of-merit energy instructions for economic reasons, we fail to see how SPP's proposed Tariff revisions will affect the Wind Generation Group's members' economic decisions. With regard to distinguishing between manual curtailments for reliability and emergency causes, because SPP will use OASIS and a phone call to notify a resource when an out-of-merit energy instruction is issued in response to an emergency condition, resources can still distinguish between an emergency condition and other types of reliability issues.⁶⁶ In addition, as noted, current Tariff provisions use the term out-of-merit energy in the reliability and emergency contexts only. The current Tariff also defines manual dispatch instructions within the context of system reliability conditions. Thus, we do not agree that SPP's proposed Tariff revisions will result in the loss of the

⁶² SPP Deficiency Response at 4, SPP Deficiency Answer at 5-6.

⁶³ As clarified by SPP, in these situations, manual inputs into the real-time market system permit SCED to solve and send automated dispatch instructions to a resource. SPP Deficiency Response at 5.

⁶⁴ See SPP Tariff, Attachment AE § 6.2.4.

⁶⁵ SPP Deficiency Response at 7; SPP Deficiency Answer at 5-6.

⁶⁶ SPP Deficiency Response at 7-8 (citing pending SPP Market Protocols § 4.4.2.5.1).

ability to distinguish between causes for manual curtailments because an out-of-merit energy instruction for manual curtailments is, *de facto*, never made for economic reasons.

49. If SPP develops communication protocols outside of the Tariff that wind developers find problematic, they may raise those issues in the SPP stakeholder process. Further, if there is a potential loss of information due to a purchaser under a power purchase agreement withholding information from a wind developer, that is a contract issue between the buyer and seller and not at issue in the instant proceeding.

50. We find that the Wind Generation Group's concerns regarding the differences between NDVERs and DVERs are outside the scope of this proceeding. We therefore decline the Wind Generation Group's request to issue a show cause order and investigation into how market rules affect NDVERs and DVERs. Moreover, we decline to direct SPP to remove restrictions between NDVERs and DVERs that would require that NDVERs participate as dispatchable resources based on their technological capabilities.⁶⁷ We find that such a proposal is also outside the scope of this proceeding.

51. We disagree with the Wind Generation Group that SPP intends to expand local transmission operators' authority to issue dispatch instructions beyond situations involving local emergency conditions. In addition to SPP's repeated denials,⁶⁸ SPP's proposed Tariff revisions do not suggest an expansion of local transmission operators' authority. While SPP proposes removing the term "Local Emergency Condition" from several provisions, the proposed definition of "Out-of-Merit Energy," as amended, specifically references "Local Emergency Conditions" in conjunction with dispatch instructions given by a local transmission operator. Thus, the term "Out-of-Merit Energy," when used in reference to a local transmission operator issuing a dispatch instruction, limits that ability to situations involving local emergency conditions. Moreover, SPP does not propose removing the safeguards and procedures that place limits on a local transmission operator's ability to issue dispatch instructions that the Commission required in the Integrated Marketplace proceeding. Significantly, SPP does not propose revisions to the definition of "Local Emergency Condition." Additionally, SPP does not propose changes to section 6.1.2.1 of Attachment AE, which describes a verification procedure, conducted by the SPP Market Monitor, to ensure that manual resource selections by the local transmission operator — and SPP — are not done in a

⁶⁷ We note that the Wind Generation Group is aware that SPP and its stakeholders are currently discussing proposals relating to NDVERs and DVERs. Wind Generation Group Comments at 8-11.

⁶⁸ SPP Deficiency Response at 8, SPP Deficiency Answer at 3.

discriminatory manner. For these reasons, we do not find that SPP intends to expand local transmission operators' authority to issue dispatch instructions.

52. We find that the Wind Generation Group's requests regarding operating guides are also outside the scope of this proceeding. As noted by SPP, while some of these operating guides may be short-lived, standing operating guides may be necessary to respond to certain circumstances, such as maintenance or upgrade events.⁶⁹ We also note that in the Integrated Marketplace proceeding, the Commission did not require that operating guides be subject to a stakeholder process and public notice, given the sensitive nature of data included in the operating guides.⁷⁰ Public reporting on the scope of transmission elements and requirements involved in operating guides, as requested by the Wind Generation Group, could expose some of this sensitive data. Further, the Commission did not require that operating guides inform the transmission planning process in the Integrated Marketplace proceeding, and we decline to do so here, as that issue is outside the scope of this proceeding.

53. We note that SPP has not yet filed, in e-Tariff, the Tariff revisions proposed in its Deficiency Response. We will require SPP to file its proposed revisions to sections 5.1.2(1)(c), 5.2.2(3)(a), 8.6.6(3), and the definition of "Out-of-Merit Energy" in section 1.1 of Attachment AE in a compliance filing due 30 days after the issuance of this order.

Finally, we deny SPP's request for waiver of the 60-day prior notice requirement for failure to show good cause. Absent waiver, public utilities must provide the Commission at least 60 days prior notice before any proposed rate, term, or condition is to become effective.⁷¹ Therefore, the earliest date that the proposed rates, terms, or conditions may become effective, absent waiver, is the 61st day after filing, i.e., the day after the 60-day prior notice period has expired. Thus, given that we are denying waiver of the 60-day prior notice requirement, the earliest permissible effective date is August 10, 2016, 61 days after SPP's initial filing in Docket No. ER16-1912-000. Accordingly, we establish an effective date for the proposed Tariff revisions of August 10, 2016, 61 days after filing.

The Commission orders:

(A) SPP's proposed Tariff revisions are hereby accepted, subject to condition, effective August 10, 2016, as discussed in the body of this order.

⁶⁹ SPP Deficiency Answer at 4.

⁷⁰ Second Compliance Order, 146 FERC ¶ 61,050 at P 72.

⁷¹ 16 U.S.C. § 824d(d) 2012; 18 C.F.R. § 35.3 (2016).

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix—E-Tariff Designations**June 10, 2016 Filing in Docket No. ER16-1912-000**

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 1.1 M, Attachment AE \(MPL\) Section 1.1 M, 4.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 1.1 O, Attachment AE \(MPL\) Section 1.1 O, 2.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 4.1.2, Attachment AE \(MPL\) Section 4.1.2, 5.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.1.2, Attachment AE \(MPL\) Section 6.1.2, 3.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.2.4, Attachment AE \(MPL\) Section 6.2.4, 1.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.3, Attachment AE \(MPL\) Section 6.3, 2.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.4.1, Attachment AE \(MPL\) Section 6.4.1, 4.0.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 8.6.6, Attachment AE \(MPL\) Section 8.6.6, 3.0.0](#)

September 6, 2016 Deficiency Response in Docket No. ER16-1912-001

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 1.1 M, Attachment AE \(MPL\) Section 1.1 M, 4.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 1.1 O, Attachment AE \(MPL\)](#)

[Section 1.1 O, 2.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 4.1.2, Attachment AE \(MPL\) Section 4.1.2, 5.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.1.2, Attachment AE \(MPL\) Section 6.1.2, 3.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.2.4, Attachment AE \(MPL\) Section 6.2.4, 1.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.3, Attachment AE \(MPL\) Section 6.3, 2.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 6.4.1, Attachment AE \(MPL\) Section 6.4.1, 4.1.0](#)

Southwest Power Pool, Inc., FERC FPA Electric Tariff. Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att. AE \(MPL\) 8.6.6, Attachment AE \(MPL\) Section 8.6.6, 3.1.0](#)