

158 FERC ¶ 61,005
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 No. ER17-310-000

ORDER ACCEPTING TARIFF REVISIONS, SUBJECT TO CONDITION

(Issued January 4, 2017)

1. On November 4, 2016, Southwest Power Pool, Inc. (SPP) filed, pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's regulations,² proposed revisions to Attachment AE of the SPP Open Access Transmission Tariff (Tariff). In this order, we accept the proposed revisions, subject to condition, to be effective January 5, 2017, and direct SPP to submit a compliance filing within 30 days of the date of this order, as discussed below.

I. Background

2. On February 29, 2012, SPP submitted to the Commission proposed revisions to its Tariff to transition from its Real-Time Energy Imbalance Service Market to the SPP Integrated Marketplace, which includes, among other things, Day-Ahead and Real-Time Energy and Operating Reserve Markets, a Transmission Congestion Right (TCR) market, a consolidated SPP Balancing Authority Area, and a market power monitoring and mitigation plan based on conduct and impact thresholds. The Commission accepted the Integrated Marketplace proposal and subsequent compliance and amendatory filings in a series of orders issued between October 18, 2012 and June 19, 2014.³ SPP commenced operation of the Integrated Marketplace on March 1, 2014.

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2016).

³ *Sw. Power Pool, Inc.*, 146 FERC ¶ 61,050 (2014); *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,212 (2014); *Sw. Power Pool, Inc.*, 144 FERC ¶ 61,224 (2013); *Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048 (2012), *order on reh'g and clarification*, 142 FERC ¶ 61,205 (2013), *appeal dismissed sub nom. Neb. Pub. Power Dist. v. FERC*, No. 13-1181, 2014 U.S. App. LEXIS 10064 (D.C. Cir. Apr. 15, 2014).

II. SPP's Filing

3. SPP proposes changes to the language of sections 7.3.2 (Auction Revenue Right Allocation), 7.4.1 (Transmission Congestion Right Offer and Bid Submittal), and 7.5.1 (Monthly Transmission Congestion Right Offer and Bid Submittal) of Attachment AE of the SPP Tariff.⁴ SPP states that the current language in Attachment AE could be interpreted to mean that, when a Market Participant submits an Auction Revenue Right (ARR) or TCR comprising prohibited Electrically Equivalent Settlement Locations (EESL) pairs, the Market Participant is in violation of the Tariff, despite the fact that these prohibited ARRs and TCRs never make it into the analysis. SPP explains that, under the current Tariff language, the act of submission itself could be interpreted to be a violation.

4. In addition, SPP states that the current language in Attachment AE uses the term “collocated” when referring to EESL pairs. According to SPP, “collocated” is an ambiguous and imprecise term as used, and the proposed revision removes the term “collocated” when referring to EESL pairs. SPP states that, from a modelling perspective, it is critical that all EESLs are prohibited whether in the same physical location or not, and, accordingly, it is removing the term “collocated”.

5. SPP states that the proposed revisions are supported by system changes that will automatically prevent EESL bids from being part of the TCR auction/allocation process. According to SPP, the prohibition of EESLs currently relies on manual actions. The Tariff specifically prohibits Market Participants from submitting EESL bids, but SPP also employs a manual process to ensure no such bids are included in the TCR auctions/allocations.⁵ SPP states that the change to the systematic administration of the EESL prohibition mitigates the potential for human error, and, therefore, enhances the efficiency and effectiveness of the TCR process with respect to the exclusion of EESLs.

⁴ SPP Transmittal at 4. For example, SPP proposes to revise section 7.3.2(3) of Attachment AE as follows (in redline/strikeout):

In round 3, any Eligible Entity may nominate ARRs from any source to sink that total no more than one hundred percent (100%) of its ARR Nomination Cap less any nominated candidate ARR amounts awarded in rounds 1 and 2 less the sum of all awarded LTCRs. In this round an Eligible Entity is limited to a maximum combined submittal of two-thousand (2,000) ARR nominations for each Asset Owner it represents. ~~Market Participants may not nominate candidate ARRs between Settlement Locations that are collocated and electrically equivalent.~~ ARR nominations between Settlement Location pairs that have the potential for unconstrained flow will not be included in the annual ARR allocation.

⁵ SPP Transmittal at 4.

6. SPP explains that the proposed changes accomplish the EESL restriction by replacing the Market Participant prohibition on the submission of EESLs with a general rule that EESLs cannot be used in the relevant TCR processes, and this exclusion of the prohibited EESLs is accomplished via automated systems. SPP states that this change removes the potential for Tariff violations related to the Market Participant prohibition, and simultaneously enhances the efficacy of the EESL exclusion rules.

7. SPP concludes that the proposed revisions clarify the language in Attachment AE of the Tariff, making it clear that a validation process will occur and that process will remove any prohibited EESL pairs. SPP states that the current process of manually checking for and removing prohibited pairs will be replaced by a systematic validation process that will block prohibited EESL pairs, thereby eliminating the potential issue of Tariff violations arising from the submission of a prohibited EESL pair.

8. SPP requests an effective date of January 5, 2017, for these Tariff revisions.

III. Notice of Filing and Responsive Pleadings

9. Notice of SPP's filing was published in the *Federal Register*, 81 Fed. Reg. 79,470 (2016), with interventions and protests due on or before November 25, 2016.

10. A timely motion to intervene was filed by Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company. On November 18, 2016, DC Energy, LLC (DC Energy) filed a timely motion to intervene and comments. On November 23, 2016, Independence Power & Light, Kansas Power Pool, Municipal Energy Agency of Nebraska, and Missouri Joint Municipal Electric Utility Commission (collectively, TDU Intervenors) filed a timely motion to intervene and comments. On November 28, 2016, Mid-Kansas Electric Company, LLC (Mid-Kansas Electric) and Sunflower Electric Power Corporation (Sunflower) filed motions to intervene out-of-time. On November 29, 2016, Western Farmers Electric Cooperative (Western Farmers) filed a motion to intervene out-of-time.

IV. Comments

11. DC Energy states that the proposed Tariff revisions were subject to the review and approval by numerous SPP stakeholder committees and working groups. DC Energy states that the revisions were ultimately approved by the SPP Board on July 25, 2016 and that automatically excluding EESL bids will enhance the efficiency and clarity of SPP's rules. Accordingly, DC Energy supports SPP's proposed Tariff revisions.⁶

12. TDU Intervenors state that they are concerned that SPP's proposed language is just as ambiguous as the language SPP seeks to replace, and could be read as vastly

⁶ DC Energy Comments at 2.

expanding both the scope of exclusions from ARR eligibility and SPP's discretion to determine that scope.⁷ TDU Intervenor state that, while it may be appropriate to remove the term "collocated" as being too narrow, there is no explanation for the removal of "electrically equivalent."⁸ Moreover, TDU Intervenor assert that SPP has not justified its proposed terminology of "pairs that have the potential for unconstrained flow" and that this phrase is potentially very broad. TDU Intervenor contend that, unless SPP's analysis shows that constraints bind in all hours of the year between two points (which TDU Intervenor state seems unlikely even in the few Frequently Constrained Areas identified within SPP), it seems that those points "have the potential for unconstrained flow."⁹ TDU Intervenor argue that SPP should be directed to restore the "electrically equivalent" language, or propose alternative language that will clearly and objectively delineate the parameters for excluding Settlement Location pairs from the ARR eligibility process in a manner that is consistent with SPP's current practice.¹⁰

V. Discussion

A. Procedural Matters

13. 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 the 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 Mid-Kansas Electric's, Sunflower's and Western Farmers' 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.

B. Substantive Matters

14. We accept SPP's proposed Tariff revisions, subject to condition, to be effective January 5, 2017, and direct SPP to submit a compliance filing, within 30 days of the date of this order, as discussed below.¹¹

⁷ TDU Intervenor Comments at 4-5.

⁸ *Id.* at 5.

⁹ *Id.*

¹⁰ *Id.* at 5-6.

¹¹ The Commission can revise a proposal 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.

15. SPP states that the proposed Tariff revisions remove the potential for Tariff violations related to the Market Participant prohibition, and simultaneously enhance the efficacy of the EESL exclusion rules. However, we agree with TDU Intervenors that the revised Tariff language may be overly broad. While we agree with SPP that, under the Tariff, all EESLs are prohibited whether in the same physical location or not and therefore, removal of the term “collocated” makes the Tariff more precise, SPP’s replacement of “Settlement Locations that are collocated and electrically equivalent” with “Settlement Location pairs that have the potential for unconstrained flow” appears to add ambiguity to the Tariff. SPP’s proposed substitute language could be read as expanding the scope of exclusions from ARR eligibility and SPP’s discretion to determine that scope. In addition, SPP has not explained why the term “electrically equivalent” is problematic or why it should be removed, especially given SPP’s use of the term Electrically Equivalent Settlement Locations in its transmittal. Therefore, we will direct SPP to submit a compliance filing within 30 days of the date of this order to continue using the term “electrically equivalent” in lieu of the language proposed by SPP, as it is too broad, as shown by TDU Intervenors.¹²

¹² Thus, the language would state the following:

In round 3, any Eligible Entity may nominate ARRs from any source to sink that total no more than one hundred percent (100%) of its ARR Nomination Cap less any nominated candidate ARR amounts awarded in rounds 1 and 2 less the sum of all awarded LTCRs. In this round an Eligible Entity is limited to a maximum combined submittal of two-thousand (2,000) ARR nominations for each Asset Owner it represents. ~~Market Participants may not nominate candidate ARRs between Settlement Locations that are collocated and electrically equivalent.~~ ARR nominations between Settlement Location pairs that are electrically equivalent have the potential for unconstrained flow will not be included in the annual ARR allocation.

The Commission orders:

(A) SPP's filing is hereby accepted, subject to condition, to be effective January 5, 2017, 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.