

158 FERC ¶ 61,063
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER17-366-000
ER17-366-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued January 27, 2017)

1. On November 16, 2016, as amended on November 29, 2016, Southwest Power Pool, Inc. (SPP) filed proposed revisions to section 2.2.(10) of Attachment AE of SPP's Open Access Transmission Tariff (Tariff) requiring all new non-wind Variable Energy Resources (VERs) to register as Dispatchable Variable Energy Resources (DVERs). SPP also proposed revisions to Attachment V to exempt all non-synchronous generation from implementing and operating power system stabilizers. As discussed below, we accept SPP's proposed Tariff revisions effective January 15, 2017.

I. Filing

2. As part of the proceedings related to the establishment of SPP's Integrated Marketplace in 2014, the Commission accepted SPP's proposal requiring all *wind* VERs with an interconnection agreement executed after May 21, 2011 that commenced Commercial Operation *on or after* October 15, 2012 to register as DVERs.¹ Wind resources whose relevant dates fell prior to the specified dates were permitted to retain their non-dispatchable Variable Energy Resource (NDVER) status, now referred to as legacy status. *Non-wind* VERs, however, were not required to register as DVERs. SPP explains that resources not registered as DVERs cannot be incrementally dispatched

¹ *Southwest 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).

by the Transmission Provider, and, as such, cannot be relied upon for economic or reliability dispatch.²

3. In the instant filing, SPP proposes to revise its Tariff to require all VERs to register as DVERs except for: (1) existing legacy wind-powered VERs; (2) a Qualifying Facility exercising its rights under Public Utility Regulatory Policies Act of 1978 (PURPA)³ to deliver its net output to its host utility; or (3) a non-wind-powered VER registered with SPP on or prior to January 1, 2017, and having an interconnection agreement executed on or prior to January 1, 2017.⁴ SPP states that the number of non-wind VERs on its system continues to grow and that its proposal responds to this increase by expanding the scope of dispatchable resources available for responsive economic and operational dispatch.

4. SPP also proposes Tariff revisions to exempt all non-synchronous generation from implementing and operating power system stabilizers.⁵ Currently, there is an exemption for wind generation only.

5. SPP states that the proposed revisions were approved through the SPP stakeholder process.⁶

6. SPP's filing proposes no changes to the existing status for legacy wind-powered VERs. SPP also retains the option provided in the Tariff permitting NDVERs (i.e., wind and non-wind resources previously registered as NDVERs) to choose to register as DVERs if they have the relevant operational characteristics and, therefore, can respond to the relevant economic and operational set points/signals and directives.⁷

² SPP November 16 Filing at 6.

³ 16 U.S.C. § 824a-3 (2012).

⁴ We note that SPP in its transmittal defines new non-wind VERS required to register as DVERS as those that are registered *on* or after January 1, 2017. Here we address the exemption as defined in the Tariff language.

⁵ SPP November 16 Filing at 6-7. The proposed change is to Article 5.4 of Appendices 6, 8, 13 and 14 of Attachment V of the SPP Tariff. Article 5.4 is the same in each of these appendices.

⁶ *Id.* at 4-5.

⁷ *Id.*

II. Notice of Filing and Responsive Pleadings

7. Notice of SPP's November 16, 2016 filing was published in the *Federal Register*, 81 Fed. Reg. 84,574 (2016), with interventions and protests due on or before December 7, 2016. Notice of SPP's November 29, 2016 amendment was published in the *Federal Register*, 81 Fed. Reg. 87,553 (2016) with interventions and protests due on or before December 20, 2016. Motions to intervene were filed by NextEra Energy Resources, LLC; Westar Energy, Inc.; Kansas City Power & Light Company and KCP & L Greater Missouri Operations Company; Western Farmers Electric Cooperative; Golden Spread Electric Cooperative, Inc.; Xcel Energy Services Inc.; E.ON Climate & Renewables North America, LLC; American Wind Energy Association; Acciona Wind Energy USA LLC; and Enel Green Power North America, Inc. Wind DVER Group⁸ members individually filed motions to intervene and jointly filed a protest. SPP filed an answer.

8. Wind DVER Group argues that operational characteristics should determine whether non-wind VERs are required to register as DVERs, and not an arbitrary date (i.e., those registered on or after January 1, 2017). Wind DVER Group further argues that all non-wind VERs that have the operational capability to be dispatched should be required to register as DVERs immediately.⁹ Wind DVER Group contends that the Commission should direct SPP to only exempt from DVER registration those non-wind resources that are operationally incapable of being dispatched automatically and it should direct SPP to require that those resources become dispatchable and register as DVERs, within one year.¹⁰ Wind DVER Group asserts that, in a Midwest Independent Transmission System Operator, Inc. (MISO) proceeding, the Commission deemed it just and reasonable to require such wind resources to incur the cost to become dispatchable.¹¹

9. Wind DVER Group also argues that SPP has a significant amount of wind resources with legacy exemption status that are not required to register as dispatchable resources, but that are capable of automated dispatch. Wind DVER Group states that these wind resources are not available for curtailment or subject to ramp restrictions, giving them unfair monetary advantages. Wind DVER Group requests the Commission

⁸ EDF Renewable Energy, Inc., Enel Green Power North America, Inc. and its affiliates, Invenergy Wind LLC and E.ON Climate & Renewables North America, LLC (collectively, Wind DVER Group).

⁹ Wind DVER Group Protest at 4.

¹⁰ *Id.* at 8-9.

¹¹ *Id.* at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,141, at P 17 (2011)).

direct SPP to require that all wind VERs that have the operational capability to be dispatched be required to register as DVERs, including those that currently have legacy exemptions.¹²

10. In its answer, SPP argues that Wind DVER Group's arguments relating to wind NDVERs are outside the scope of this proceeding and should be rejected.¹³ SPP asserts that this filing only deals with changes to the non-wind NDVERs. SPP states that the stakeholder process is the appropriate venue for changes to the status of wind NDVERs. Regarding the proposed effective date for non-wind resources, SPP states that the January 1, 2017 date was chosen after reviewing the generator interconnection queue and discussions with stakeholders. SPP argues that the January 1, 2017 date provided sufficient time for the stakeholder process to review and adopt the recommendation and provides adequate notice to non-wind resources.¹⁴ SPP agrees with Wind DVER Group that there are benefits to adopting a requirement based on technical capabilities, but argues that determining whether a resource has the installed technical capabilities to respond to dispatch notices would be more difficult to determine.

III. Discussion

11. 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. 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.

12. We accept SPP's proposed Tariff revisions effective January 15, 2017, as requested. We find that the proposed revisions will increase the number of non-wind resources SPP can incrementally dispatch, supporting economic and reliability functions. We also find that the January 1, 2017 implementation date ensures parties have sufficient notice that, if they choose to register a new non-wind resource with SPP, then that resource must be registered as a DVER. SPP's proposal to apply the requirement only to non-wind VERs entering the market after January 1, 2017 also maintains the expectations under which existing non-wind resources entered the market.

¹² *Id.* at 3.

¹³ SPP Answer at 3-4.

¹⁴ *Id.* at 5-6.

13. We find that Wind DVER Group has not demonstrated that SPP's proposed implementation date of January 1, 2017 is unjust, unreasonable or unduly discriminatory. While we agree with Wind DVER Group that the Commission has accepted regional transmission organization (RTO) proposals requiring existing VERs to register as dispatchable, that fact alone is insufficient to find that SPP's proposal is unjust, unreasonable or unduly discriminatory. We note that market rules need not be identical among the regions to be just and reasonable, and there can be more than one just and reasonable rate.¹⁵ Furthermore, in determining whether to accept SPP's filing, the Commission need only determine that SPP's proposed solution is just and reasonable, not that it is superior to other possible solutions.¹⁶ Despite highlighting differences between MISO's approach and SPP's proposal, Wind DVER Group has not demonstrated that SPP's proposal is unjust and unreasonable.

14. Wind DVER Group's argument that wind resources with legacy status that are operationally capable of receiving and responding to SPP's dispatch signal should also be

¹⁵ See, e.g., *New England Power Generators Assoc. Inc. v. ISO New England Inc.*, 150 FERC ¶ 61,064 (2016) (citing *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,063, at P 39 (2007) (“[t]he Commission has permitted different just and reasonable rate designs reflective of particular system characteristics and stakeholder input. In this regard, we have stated our deference to regional preferences a number of times, for instance in Order No. 2000, and in *PJM Interconnection LLC*, 96 FERC ¶ 61,060, at 61,220 (2001), as well as in our approval of rate designs for difference regional markets”) (citing *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at 61,397 (2004); *Southwest Power Pool, Inc.*, 111 FERC ¶ 61,118, at 761,643 (2005); *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301 (2004), *reh'g denied*, 111 FERC ¶ 61,337 (2005); *New England Power Pool and ISO New England, Inc.*, 109 FERC ¶ 61,252 (2004), *order granting clarification*, 110 FERC ¶ 61,003 (2005)); *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,109, at P 20 (2009) (“[i]t is well established that there can be more than one just and reasonable rate”); *New York Indep. Sys. Operator, Inc.*, 126 FERC ¶ 61,320, at P 40 (2009) (“there can be more than one just and reasonable planning process and RTOs and ISOs are not required to have identical planning processes”)).

¹⁶ *Cities of Bethany v. FERC*, 727 F.2d 1131 (D.C. Cir. 1981) (“FERC has interpreted its authority to review rates under the FPA as limited to an inquiry into whether the rates proposed by a utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs”), *cert denied*, 469 U.S. 917 (1984); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (“[T]he Commission may approve the methodology proposed in the settlement agreement if it is 'just and reasonable'; it need not be the only reasonable methodology or even the most accurate.”).

required to register as dispatchable resources is outside the scope of this proceeding. We agree with SPP that the more appropriate venue for such discussion is, in the first instance, through the stakeholder process.

The Commission orders:

SPP's proposed Tariff revisions are hereby accepted, effective January 15, 2017, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.