

168 FERC ¶ 61,145
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 6, 2019

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER19-1672-001
ER19-1672-002

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223

Attention: Justin A. Hinton

Dear Mr. Hinton:

1. On July 8, 2019, in Docket No. ER19-1672-001, 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 (July 8 Filing):² (1) an unexecuted Network Integration Transmission Service Agreement (NITSA) between SPP as transmission provider and American Electric Power Service Corporation (AEP), as agent for Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO), as network customer; and (2) an executed Network Operating Agreement among SPP as transmission provider, AEP, as agent for PSO and SWEPCO, as both network customer and host transmission owner, and Western Farmers Electric Cooperative (Western Farmers) as host transmission owner (together, AEP Agreement).³ The July 8 Filing amends and supersedes an earlier filing submitted by SPP on April 25, 2019 in Docket

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2019).

³ The AEP Agreement is designated as Twenty-Fifth Revised Service Agreement No. 1148 under SPP's Service Agreements Tariff. *See* Southwest Power Pool, Inc., FERC FPA Electric Tariff, Service Agreements Tariff, [1148 AEP NITSA NOA, 1148 American Electric Power NITSA and NOA, 11.1.0.](#)

No. ER19-1672-000 (April 25 Filing). As discussed below, we accept the AEP Agreement, effective April 1, 2019, as requested, subject to the outcome of the pending rehearing in Docket No. ER18-1702-002.

2. On May 31, 2018, in Docket No. ER18-1702-000, SPP filed the prior version of the AEP Agreement, designated as Twenty-Fourth Revised Service Agreement No. 1148 under SPP's Service Agreements Tariff (Twenty-Fourth Revised Service Agreement). AEP protested this filing due to the inclusion of Creditable Upgrade⁴ information, pursuant to Attachment Z2 in the SPP Open Access Transmission Tariff, within Section 8.13 of Attachment 1 in the NITSA. On October 26, 2018, the Commission accepted the Twenty-Fourth Revised Service Agreement.⁵ On November 26, 2018, in Docket No. ER18-1702-002, AEP requested rehearing of the October 2018 Order, which is currently pending before the Commission.

3. In the April 25 Filing, SPP proposed, among other things, revisions to the Creditable Upgrade information contained in Section 8.13 of Attachment 1 in the NITSA. AEP protested the April 25 Filing, continuing its objections to the inclusion of certain Creditable Upgrade information in Section 8.13 of Attachment 1 in the NITSA and contending that it was unclear how SPP implemented changes to the Creditable Upgrade information contained in this section.⁶ On June 7, 2019, Commission staff issued a deficiency letter (Deficiency Letter) requesting clarification of the changes to the Creditable Upgrade information in Section 8.13 of Attachment 1 in the NITSA.

4. In the July 8 Filing, SPP explains that since the April 25 Filing, it has determined that it was premature to revise the Creditable Upgrade information in Section 8.13 of Attachment 1 in the NITSA. Instead, SPP states that it will wait for further Commission guidance on the Attachment Z2 refund plan that SPP submitted in Docket No. ER16-1341-003. SPP affirms that the AEP Agreement, as amended, restores the Creditable Upgrade information in Section 8.13 of Attachment 1 in the NITSA contained in the Twenty-Fourth Revised Service Agreement. SPP states that AEP declined to execute the revised NITSA

⁴ A Creditable Upgrade is “[a] Network Upgrade which was paid for, in whole or part, through revenues collected from a Transmission Customer, Network Customer, or Generation Interconnection Customer through Directly Assigned Upgrade Costs....” SPP Open Access Transmission Tariff, Attachment Z2, Section I.A.

⁵ *Sw. Power Pool, Inc.*, 165 FERC ¶ 61,048 (2018) (October 2018 Order).

⁶ AEP, Protest, Docket No. ER19-1672-000 at 2 (filed May 16, 2019).

because of the inclusion of Creditable Upgrade information in Section 8.13 of Attachment 1 in the NITSA.⁷

5. Additionally, in the July 8 Filing, SPP proposes updates to the service upgrade information in Section 8.10 of Attachment 1 in the NITSA and revisions to Appendices 1 and 3 of the NITSA, which maintain conformity with SPP's *pro forma* NITSA. SPP states that the NITSA retains non-conforming terms and conditions in Sections 2.0, 3.0, 5.0, 8.1, 8.3, and 8.11 of Attachment 1 of the NITSA contained in the Twenty-Fourth Revised Service Agreement.⁸

6. SPP requests waiver of the Commission's prior notice requirement to permit the AEP Agreement to become effective on April 1, 2019.⁹ SPP contends that good cause exists to grant waiver because April 1, 2019 was the effective date requested in the April 25 Filing, which SPP notes was filed within 30 days of the commencement of service.

7. Concurrently with the July 8 Filing, in Docket No. ER19-1672-002, SPP submitted a response to the Deficiency Letter (Deficiency Response). SPP states that the July 8 Filing moots the questions in the Deficiency Letter because the AEP Agreement no longer contains the revisions to the Creditable Upgrade information listed in Section 8.13 of Attachment 1 in the NITSA.¹⁰

8. Notice of the July 8 Filing was published in the *Federal Register*, 84 Fed. Reg. 33,250 (2019), with interventions and protests due on or before July 29, 2019. No protests were filed.¹¹ A timely motion to intervene was filed by AEP. Oklahoma Gas

⁷ July 8 Filing at 3.

⁸ SPP notes that the Network Operating Agreement conforms to the *pro forma* Network Operating Agreement contained in Attachment G of the SPP Open Access Transmission Tariff. July 8 Filing at n.7.

⁹ July 8 Filing at 4 (citing *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *reh'g denied*, 65 FERC ¶ 61,081 (1993); 18 C.F.R. § 35.3(a)(2)).

¹⁰ SPP Deficiency Response at 2-3.

¹¹ AEP filed a protest to the April 25 Filing that focused solely on SPP's proposed revisions to Section 8.13 of Attachment 1 in the NITSA. *See* AEP, Protest, Docket No. ER19-1672-000 at 1-2 (filed May 16, 2019). As discussed above, SPP rescinded

and Electric Company (OG&E) and Western Farmers filed motions to intervene out-of-time.

9. Notice of SPP's Deficiency Response was published in the *Federal Register*, 84 Fed. Reg. 33,767 (2019), with interventions and protests due on or before July 29, 2019.

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), AEP's timely, unopposed motion to intervene serves to make it a party to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2019), we grant OG&E'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.

11. We accept the AEP Agreement, subject to the outcome of the pending rehearing in Docket No. ER18-1702-002. We find that SPP's proposed revisions to the AEP Agreement either conform to SPP's *pro forma* NITSA or represent non-conforming terms and conditions that were previously accepted by the Commission.¹² Because the AEP Agreement was originally filed within 30 days of the commencement of service, we grant SPP's request for waiver of prior notice to permit the AEP Agreement to become effective on April 1, 2019, as requested.¹³

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

the revisions to Section 8.13 of Attachment 1 in the NITSA in the July 8 Filing that replaced the April 25 Filing, and AEP did not file a protest to the July 8 Filing.

¹² See *Sw. Power Pool, Inc.*, Docket No. ER18-753-000 (Mar. 27, 2018) (delegated order).

¹³ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *reh'g denied*, 65 FERC ¶ 61,081.