

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Southwest Power Pool, Inc.

Docket Nos. ER05-651-000
ER05-651-001
ER05-651-002

ORDER ACCEPTING INTERCONNECTION
AGREEMENT SUBJECT TO CONDITIONS

(Issued August 25, 2005)

1. In this order, we conditionally accept a large generator interconnection agreement (Interconnection Agreement) among Southwest Power Pool, Inc. (SPP), FPL Energy Cowboy Wind, LLC (FPL Energy), and Public Service Company of Oklahoma (PSO),¹ subject to SPP's filing a compliance filing, within 30 days of the date of issuance of this order.

Background

2. On February 28, 2005, SPP submitted for filing an unexecuted Interconnection Agreement (February 28 filing) in order to interconnect FPL Energy's 106.5 MW wind-power generation facility located in Custer and/or Washita Counties, Oklahoma to the PSO transmission system. SPP states that the Interconnection Agreement was filed unexecuted to allow it to be filed on a timely basis prior to the March 1, 2005 energization date and to allow additional time for the parties to resolve certain issues.² SPP states that the Interconnection Agreement largely conforms to the Order No. 2003 pro forma Large Generator Interconnection Agreement (pro forma LGIA)³ contained in

¹ PSO is a subsidiary of American Electric Power Company and along with its affiliate Southwestern Electric Power Company, comprise a pricing zone within SPP.

² The unresolved issues were not specifically identified in the transmittal letter.

³ See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC

(continued)

Attachment V of the SPP Open Access Transmission Tariff with one minor change.⁴ Specifically, SPP states that article 2.2 of the Interconnection Agreement states that the term of the Interconnection Agreement is 20 years, while the same article in the pro forma LGIA established a term of 10 years, which allowed the parties to use a longer term as requested by the customer. This change from the pro forma LGIA, which FPL Energy requested, ties the term of the Interconnection Agreement to the length of a related power sales agreement between FPL Energy and PSO.

3. On April 15, 2005, SPP submitted a request for the Commission to defer acting on the February 28 filing for 30 days so the parties could continue negotiating toward resolving the outstanding issues.

4. On May 17, 2005, SPP submitted a revised executed Interconnection Agreement (May 17 filing), which contains a number of revisions to the February 28 filing. The proposed changes include: (1) updated milestone dates and cost estimates; (2) description of certain optional upgrades; (3) correction of a typographical error in article 5.14; and (4) the addition of language in Appendix A, section 2.K, stating that FPL Energy is to be reimbursed for the amounts of network upgrades it has funded through a lump sum payment within 60 days of when the facility achieves commercial operation. SPP further states that the revision to Appendix A, section 2.K has been agreed to by all parties and is consistent with article 11.4.1 of SPP's pro forma LGIA, which allows for alternative reimbursement provisions, as well as with article 11.4.1 of the Commission's pro forma LGIA.⁵ In addition, SPP states that the term of the agreement in article 2.2 has been revised to 20 years and three months.

5. On June 30, 2005, in response to a request from Commission Staff regarding a non-conforming provision that was not identified in the May 17 filing, SPP submitted information explaining the inclusion of the American Electric Power West Guidelines for Generation, Transmission and Transmission Electricity End-Users Interconnections Facilities (AEP Guidelines) in Appendix C to the Interconnection Agreement. SPP states that the AEP Guidelines were added at the request of PSO, the affected transmission

Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005) FERC Stats. & Regs. ¶ 31,190 (2005).

⁴ See *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,254 (2004).

⁵ See Order No. 2003-A, *Standardization of Generator Interconnection Agreements and Procedures*, FERC Stats. & Regs. Preambles ¶ 31,160 at P 620; see also Appendix B, LGIA section 11.4.1.

owner, with FPL Energy's consent. According to SPP, the AEP Guidelines are intended to establish a consistent standard for the minimum requirements for the interconnection of a generator to the PSO transmission system and are included because SPP has not implemented specific guidelines. SPP states that the guidelines address design, engineering and construction practices, as well as metering and telemetry requirements in order to assure compatibility between a generator's facilities and AEP's facilities. SPP further states that it has retained control over the interconnection process, which remains subject to the provisions of SPP's pro forma interconnection procedures. Finally, SPP states that the AEP Guidelines are not intended to supersede any SPP interconnection requirements or procedures.

6. Finally, SPP requests waiver of the Commission's 60-day prior notice requirement, 18 C.F.R. § 35.3 (2005), to permit an effective date of March 1, 2005 for the Interconnection Agreement and notes that the Interconnection Agreement was initially filed within 30 days of the commencement of service.

Notice of Filing and Responsive Pleadings

7. Notice of the February 28 filing was published in the *Federal Register*, 70 Fed. Reg. 12,673 (2005), with interventions and protests due on or before March 15, 2005. FPL Energy filed a timely motion to intervene with comments in support of the proposed Interconnection Agreement.

8. Notice of the May 17 filing was published in the *Federal Register*, 70 Fed. Reg. 30,431 (2005), with interventions and protests due on or before May 26, 2005. None were filed.

9. Notice of the June 30 filing was published in the *Federal Register*, 70 Fed. Reg. 41,213 (2005), with interventions and protests due on or before July 18, 2005. None were filed.

Discussion

Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motion to intervene serves to make FPL Energy a party to this proceeding.

Revised Interconnection Agreement

11. In Order No. 2003, the Commission required Transmission Providers (such as SPP) to file pro forma interconnection documents and to offer their customers

interconnection service consistent with these documents.⁶ The use of pro forma documents ensures that Interconnection Customers, such as FPL Energy, receive non-discriminatory service and that all Interconnection Customers are treated on a consistent and fair basis. Using pro forma documents also streamlines the interconnection process by eliminating the need for an Interconnection Customer to negotiate each individual agreement. This reduces transaction costs, ensures that all Interconnection Customers are being treated fairly, and reduces the need to file interconnection agreements with the Commission to be evaluated on a case-by-case basis.⁷

12. At the same time, the Commission recognized in Order No. 2003 that there would be a small number of extraordinary interconnections where reliability concerns, novel legal issues or other unique factors would call for the filing of a non-conforming agreement.⁸ The Commission made clear that the filing party must clearly identify the portions of the interconnection agreement that differ from its pro forma agreement and explain why the unique circumstances of the interconnection require a non-conforming interconnection agreement.⁹

13. The Commission analyzes such non-conforming filings, which we do not expect to be common, to ensure that operational or other reasons necessitate the non-conforming provisions.¹⁰ A Transmission Provider seeking a case-specific deviation from its approved pro forma interconnection agreement bears an even higher burden to explain what makes the interconnection unique and why its changes are operationally necessary (not merely "consistent with or superior to") changes.¹¹

⁶ See Order No. 2003, *passim*.

⁷ See *Id.* at P 10 ("[I]t has become apparent that the case-by-case approach is an inadequate and inefficient means to address interconnection issues.")

⁸ *Id.* at P 913-15.

⁹ Order No. 2003-B at P 140 ("[E]ach Transmission Provider submitting a non-conforming agreement for Commission approval must explain its justification for each non-conforming provision .. .")

¹⁰ See, e.g., *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,098 at P 9 (2005) (*PJM Order*); see also *Midwest Independent Transmission System Operator*, 112 FERC ¶ 61,067 (2005) (*MISO Order*); *El Paso Electric Co.*, 110 FERC ¶ 61,163 at P 4 (2005).

¹¹ See, e.g., *PJM Order* at P 9.

14. As discussed more fully below, the Commission will conditionally accept the executed Interconnection Agreement, subject to SPP's re-filing of the Interconnection Agreement to conform to the SPP pro forma Interconnection Agreement and the requirements of this order, within 30 days of the date of issuance of this order.

A. Non-Conforming Provisions

1. Appendix C (Inclusion of AEP Guidelines)

15. SPP states that at the request of PSO, the transmission owner, it has included the AEP Guidelines in Appendix C of the Interconnection Agreement. It states that these guidelines are intended to establish a consistent standard for the minimum requirements for the interconnection of a generator to the PSO transmission system. We find that SPP has not demonstrated that the AEP Guidelines are operationally necessary or unique to the circumstances of this Interconnection Agreement, notwithstanding the fact that it was added at the request of PSO and with FPL Energy's consent.¹² Therefore, we will reject SPP's proposed inclusion of the AEP Guidelines in this Interconnection Agreement.

2. Article 11.4.1 (Repayment of Amounts Advanced for Network Upgrades)

16. SPP has added the following language in article 11.4.1: (1) the Transmission Provider or Affected System Operator will continue to provide payments to Interconnection Customer "on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges" and, (2) "[b]efore any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs..." As we previously discussed, a Transmission Provider seeking a case-specific deviation from its approved pro forma interconnection agreement bears an even higher burden to explain what makes the interconnection unique and why its changes are operationally necessary (not merely "consistent with or superior to") changes.¹³ The editorial change proposed by SPP does not meet this high threshold. Accordingly, we will reject this change.

¹² See, e.g., *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,163 at n. 10 (2005); see also *PJM Order* at n.13.

¹³ *PJM Order* at P 9.

B. Other Issues

1. Article 5.14

17. SPP has also revised article 5.14 of the Interconnection Agreement to correct a typographical error in the February 28 filing. Specifically, article 5.14 was revised to delete the words “Interconnection Owner.” We will allow this correction to ensure conformance with the SPP pro forma LGIA.

2. Article 2.2 (Term of Agreement) and Appendix A, section 2.K (Refund for Network Upgrades)

18. SPP states that article 2.2 of the revised Interconnection Agreement provides for a term of 20 years and three months, while the same provision in the pro forma LGIA establishes a term of 10 years. In Appendix A, section 2.K, SPP has stipulated that FPL Energy is to be reimbursed for the amounts of network upgrades it has funded through a lump sum payment within 60 days of when the facility achieves commercial operation. Our review of article 2.2 and Appendix A, section 2.K finds that these provisions are consistent with SPP’s pro forma LGIA and, therefore, we will accept these proposed revisions.

3. Waiver

19. SPP requests waiver of the Commission’s 60-day prior notice requirement to allow an effective date of March 1, 2005, which is the date the facility is scheduled to be energized. We will grant SPP's request for waiver of the 60-day prior notice requirement given that the Interconnection Agreement was filed within 30 days of commencement of service and allow the March 1, 2005 effective date, as requested.¹⁴

20. SPP is directed to revise the Interconnection Agreement and submit a compliance filing within 30 days of the date of issuance of this order, as discussed above.

The Commission orders:

(A) The Interconnection Agreement is accepted for filing, subject to the conditions discussed in the body of this order.

¹⁴ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993).

(B) The request for waiver of the Commission's 60-day notice requirement is hereby granted, as discussed in the body of this order.

(C) SPP is directed to make a compliance filing within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.