

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 13, 2006

In Reply Refer To:
Southwest Transmission
Cooperative, Inc.
Docket No. NJ06-1-000

Slover & Loftus
Attn: Robert D. Rosenberg, Esq.
Attorney for Southwest Transmission Cooperative, Inc.
1224 Seventeenth Street, N.W.
Washington, DC 20036

Dear Mr. Rosenberg:

On January 6, 2006, Southwest Transmission Cooperative, Inc. (Southwest) filed a petition for declaratory order requesting a finding that its revised “safe harbor” reciprocity open access transmission tariff (reciprocity tariff) continues to be an acceptable reciprocity tariff pursuant to the provisions of Order No. 888,¹ and requests waiver of the Commission’s filing fee. In this order, the Commission finds that Southwest’s revised Schedules 2, 7, and 8 to its reciprocity tariff satisfy the Commission’s standard for a reciprocity tariff. The Commission also grants waiver of the filing fee.

I. Background

1. Southwest states that it is a transmission only, non-profit rural electric cooperative that serves six member rural electric distribution cooperatives. Southwest is subject to the jurisdiction of the Arizona Corporation Commission (Arizona Commission) with

¹ See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (1996), FERC Stats. & Regs. ¶ 31,036 at 31,760-61(1996), *order on reh’g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1997), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

respect to the rates charged to its member distribution cooperatives.² Southwest has a mortgage with the Rural Utilities Service of the Department of Agriculture and is thus not a public utility under the Federal Power Act.³

2. Previously, on April 11, 2001, as amended on April 13, 2001, in Docket No. ER01-1663-000, *et al.*, Southwest tendered for filing with the Commission a petition for declaratory order. On May 30, 2001, the Commission granted Southwest's petition, finding that its proposed reciprocity tariff was acceptable. In addition, the Commission granted waiver of the filing fee.⁴

3. Subsequently, on July 1, 2002, in Docket No. NJ02-5-000, Southwest filed revisions to its reciprocity tariff to update its rates to reflect changes in transmission costs and volumes, among other things. On December 23, 2002, the filing was accepted in an unpublished letter order.

4. On September 1, 2005, in Docket No. NJ05-6-000, Southwest filed revisions to its reciprocity tariff to incorporate its proposed Large Generator Interconnection Agreement (LGIA) and Large Generator Interconnection Procedures (LGIP) and to update its rates, among other things. On February 9, 2006, the Commission granted Southwest's petition, subject to modifications.⁵

II. Instant Filing

5. Southwest states that the impetus for the instant filing was the Arizona Commission's recent mandate that Southwest increase its transmission rates effective January 1, 2006. Southwest's filing reflects that increase, which includes an increase in the Times Interest Earned Ratio (TIER), which increases the transmission revenue requirement, and a reduction in transmission volumes, due to a terminated transmission contract. The rate increases flow through all of the transmission rates on Schedules 2, 7, and 8 including those for member network transmission customers and member and non-member point-to-point transmission customers.⁶

² Southwest states that it is contesting the Arizona Commission's assertion of such jurisdiction in litigation that was initiated before the Arizona Commission and is now pending on appeal in Arizona state court.

³ 16 U.S.C. § 824 (2000); Pub. L. No. 109-58, §1291(c), 119 Stat. 594, 985 (2005).

⁴ See *Sierra Southwest Cooperative Services, Inc.*, 95 FERC ¶ 61,310 (2001).

⁵ See *Southwest Transmission Cooperative, Inc.*, 114 FERC ¶ 61,125 (2006).

III. Notice and Intervention

6. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 2208 (2006), with interventions and protests due on or before January 13, 2006. None was filed.

IV. Discussion

Filing Fee

7. We will grant Southwest's request for waiver of the filing fee. As we stated in Order No. 888-A, "[the Commission's] regulations specifically exempt states, municipalities, and anyone who is engaged in the official business of the Federal Government from filing fees. Because of the nature of the safe harbor and waiver provisions, we will also waive the filing fee for declaratory orders for all other non-public utilities in those circumstances."⁷

Southwest's Reciprocity Tariff

8. In Order No. 888, the Commission established a safe harbor procedure for the filing of reciprocity tariffs by non-public utilities.⁸ Under this procedure, non-public utilities may voluntarily submit to the Commission a transmission tariff and a petition for declaratory order requesting a finding that the tariff meets the Commission's comparability (non-discrimination) standards. If the Commission finds that such a tariff contains terms and conditions that substantially conform or are superior to those in the *pro forma* tariff contained in Order No. 888, the Commission will deem it to be an

⁶ Schedules 2, 7, and 8 are Reactive Supply and Voltage Control, Long-Term Firm and Short-Term Firm Point-To-Point Transmission Service, and Non-Firm Point-To-Point Transmission Service, respectively.

⁷ Order No. 888-A at 30,288-89 (footnote omitted).

⁸ See *New York Power Authority*, 82 FERC ¶ 61,078 (1998), *reh'g denied*, 83 FERC ¶ 61,137 (1998); *Orlando Utilities Commission*, 81 FERC ¶ 61,397 (1997), *reh'g denied*, 84 FERC ¶ 61,069 (1998); *Colorado Springs Utilities*, 81 FERC ¶ 61,191 (1997); *Hoosier Energy Rural Electric Cooperative*, 81 FERC ¶ 61,153 (1997); *Omaha Public Power District*, 81 FERC ¶ 61,054 (1997); *Southern Illinois Power Cooperative*, 80 FERC ¶ 61,341 (1997); *United States Department of Energy-Bonneville Power Administration*, 80 FERC ¶ 61,119, *order on reh'g*, 81 FERC ¶ 61,165 (1997).

acceptable reciprocity tariff and will require public utilities to provide open access transmission service upon request to that particular non-public utility.⁹

9. We have previously explained that the review standard for reciprocity tariff rates is that the non-public utility must provide sufficient information for us to conclude that its rates are comparable to the rates that it charges itself.¹⁰ Southwest's proposed rates would be applicable to all of its customers, including its six member cooperatives.

10. We find that Southwest has provided sufficient information for us to conclude that Southwest's revised rates in Schedules 2, 7, and 8 are comparable to the rates it charges itself. Accordingly, we find that the proposed rates meet the standard for a reciprocity tariff.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁹ In Order No. 888-A, the Commission clarified that, under the reciprocity condition, a non-public utility must also comply with the OASIS and standards of conduct requirements or obtain waiver of them. *See* Order No. 888-A at 30,286.

¹⁰ *See, e.g., Long Island Power Authority*, 84 FERC ¶ 61,280 at 62,333 (1998); *Salt River Project Agricultural Improvement and Power District*, 83 FERC ¶ 61,280 at 62,162 (1998).