

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Southwest Power Pool, Inc.

Docket Nos. ER06-432-000,
ER06-432-001, and
ER06-432-002

ORDER ON TECHNICAL CONFERENCE, REHEARING AND
COMPLIANCE FILING

(Issued August 22, 2006)

1. On December 30, 2005, Southwest Power Pool, Inc. (SPP) submitted revisions to its open access transmission tariff (Tariff), specifically a proposed new credit policy (Attachment X or Credit Policy) and conforming changes to the Tariff. On February 28, 2006, the Commission conditionally accepted and suspended SPP's filing to become effective on March 1, 2006, subject to refund and outcome of a technical conference and directed a compliance filing no later than 30 days from the date of the order.¹ At the technical conference, the Commission staff was directed to examine SPP's proposed total debt to total capitalization and debt service coverage scores, and SPP's proposed \$50,000 unsecured credit floor for not-for-profit entities.²
2. SPP submitted its compliance filing on March 30, 2006. A technical conference was convened on April 10, 2006 and the Commission received pre- and post-technical conference comments as well as reply comments. Rehearing of the February Order was sought by Kansas Municipal Utilities (KMEA) and Kansas Power Pool (KPP) (collectively, Kansas Municipals); and East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives).
3. Rehearing of the February Order is denied in part, and granted in part, as discussed below. SPP is directed to revise sections 4.2.3 and 4.2.3.3 of the Credit Policy related to the calculation of a not-for-profit credit customer's composite credit score, as discussed below. In addition, SPP is hereby directed to modify its tariff provisions to increase the \$50,000 unsecured credit floor for not-for-profit entities to \$250,000 under Credit Policy section 4.3.1.2, as discussed in the body of this order. SPP's compliance filing, as

¹ *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,222 (2006) (February Order).

² *Id.* at P 32 and 62.

modified, is accepted and made effective March 1, 2006 as requested. Finally, we direct SPP to submit a compliance filing within 30 days from the date of this order reflecting the modifications, as discussed below.

I. Background

4. SPP submitted its credit policy as Attachment X to its Tariff and several conforming Tariff revisions in its filing to the Commission on December 30, 2005. SPP's credit policy will apply to all its "credit customers,"³ including those that participate in its energy imbalance service market (market participants).

5. SPP's filing was one of several that have recently been made by independent system operators (ISOs) and regional transmission organizations (RTOs) to revise the credit or collateral requirements for participation in the markets run by these organizations.⁴ In the February Order, the Commission encouraged all of SPP's customers to participate in the stakeholder process and to vet their proposals through that forum to gauge overall stakeholder benefits before proposals are submitted to the Commission. However, the Commission noted that it could not accept any proposal from the stakeholder process that is unduly burdensome or unduly discriminatory. The Commission also explained that in reviewing the proposed credit policies, it must balance the goals of allowing the ISOs and RTOs to reduce their risk of exposure in the event of default while at the same time ensuring that the credit or collateral requirements are not so stringent that they unnecessarily inhibit access to the marketplace. The Commission noted that in order to permit it to balance these interests, it was incumbent on the ISOs and RTOs to include in their filings support for their proposals, including a full justification for their proposed credit or collateral provisions, and an explanation of why they reflect an appropriate balance.⁵

6. On February 28, 2006, the Commission conditionally accepted but suspended SPP's proposed Credit Policy and other Tariff revisions, to become effective March 1, 2006, subject to certain additional revisions and refund and outcome of a technical

³ SPP defines a credit customer as "[a]ny person that takes or seeks to take service under the [OATT] including all Transmission Service or other services under the [OATT], including any market services." Section 2.1 of Attachment X.

⁴ February Order at P 19 citing *Outback Power Marketing, Inc. v. PJM Interconnection, LLC*, 104 FERC ¶ 61,079 (2003); *New York Independent System Operator, Inc.*, 104 FERC ¶ 61,311 (2003); *New England Power Pool*, 107 FERC ¶ 61,201 (2004); *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (*TEMT II Order*), *order on reh'g*, 111 FERC ¶ 61,043, *order on reh'g and compliance filing*, 111 FERC ¶ 61,250 (2005); and *PJM Interconnection, LLC*, 109 FERC ¶ 61,241 (2004) (order on tariff revisions).

⁵ February Order at P 19-20.

conference held on April 10, 2006. In particular, the Commission directed Commission staff to examine SPP's proposed total debt to total capitalization and debt service coverage scores and SPP's proposed \$50,000 unsecured credit floor for not-for-profit credit customers at the technical conference. In addition, SPP was directed to submit a compliance filing within 30 days from the date of the February Order. Furthermore, SPP was directed to submit Tariff provisions implementing a shortened settlement period 250 days after the start up date of market operations or provide an explanation why the settlement period could not be shortened.

II. Notice of Technical Conference and Comments, and Compliance Filing

7. Pursuant to the Commission's direction in the February Order, Commission staff issued a notice on March 22, 2006, scheduling a technical conference on April 10, 2006 at the Commission's headquarters. Parties were requested to provide certain information prior to the date of the technical conference. On April 11, 2006, the Commission issued a notice that allowed parties to submit comments pursuant to the discussion held at the technical conference until April 25, 2006.

8. Missouri Joint Municipal Electric Utility Commission and the Oklahoma Municipal Power Authority (collectively, TDU Intervenors), SPP and Kansas Municipals submitted pre-technical conference comments. SPP, Kansas Municipals, TDU Intervenors, National Rural Utilities Cooperative Finance Corporation, American Electric Power and Golden Spread Electric Cooperative, Inc. submitted post-technical conference comments.

9. SPP submitted its compliance filing on March 30, 2006. Notice of SPP's filing was published in the *Federal Register*, 71 Fed. Reg. 19,720 (2006), with comments, interventions and protests due on or before April 20, 2006. None were filed.

10. On April 25, 2006, Tenaska Power Services Co. (Tenaska) and American Electric Power Service Corporation, as agent for the operating companies of Southwestern Electric Power Company and Public Service Company of Oklahoma (AEP) filed motions to intervene out-of time and comments in support of SPP's Credit Policy. They state that their comments are filed pursuant to the Commission's April 11, 2006 notice that provided an opportunity for comments following the discussion at the technical conference. Tenaska argues that it is a power marketer that actively engages in transactions in the areas served by SPP and other areas in the nation. AEP states that it is a member and customer of SPP, and it participated substantially in the stakeholder process that resulted in the development of the SPP Credit Policy. It encourages the Commission to incorporate SPP's Credit Policy unconditionally into SPP's Tariff.

11. We will grant Tenaska and AEP's late interventions. Generally, when late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting

such late intervention.⁶ However, in this instance since the February Order did not resolve all of the outstanding issues, we find that Tenaska and AEP have demonstrated good cause and we will grant the motions for late intervention given the absence of any undue delay, prejudice, or burden to the parties.⁷

III. Rehearing Requests

12. Kansas Municipals and East Texas Cooperatives sought clarification and rehearing of the February Order. SPP submitted an answer to the rehearing requests.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a request for rehearing unless otherwise ordered by the decisional authority. We are not persuaded to accept SPP's answer and will, therefore, reject it.

A. Acceptable Types and Forms of Financial Security

14. Kansas Municipals argue that SPP should be required to maintain some reasonable degree of flexibility to determine the types and forms of security it finds acceptable. Kansas Municipals claim that the Commission's reasoning for limiting the acceptable types of financial security to cash deposits, irrevocable letters of credit and corporate guaranties to achieve administrative efficiency and a one-size-fits-all approach can have discriminatory impacts, be time-consuming and costly. Kansas Municipals suggest that SPP consider pledges of revenues from KPP's and KMEA's respective member cities as an acceptable form of security. In addition, they argue that limiting the types of financial security in SPP's credit policy will place an undue burden on certain entities because posting letters of credit is an expensive undertaking. Kansas Municipals indicate that it would cost KPP at least \$350,000 to get and maintain letters of credit for one year, with significant annual fees. Once the lender is paid, Kansas Municipals note that KPP cannot recover this money if SPP later decides that it does not need to post the letter of credit. In addition, Kansas Municipals state that KPP has to post \$13 million in letters of credit within 15 days or lose its pending transmission service upgrade request. Kansas Municipals note that they received an additional 15-day reprieve after challenging SPP's request. Therefore, Kansas Municipals argue that the credit or collateral requirements

⁶ See, e.g., *California Independent System Operator Corp.* 114 FERC ¶ 61,194, at P 10 (2006); *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250, at P 7 (2003).

⁷ 18 C.F.R. § 385.214 (2006).

unnecessarily inhibit access to the marketplace,⁸ and also adds considerable and unnecessary expense to KPP's and KMEA's operations by reducing the availability of funds or credits for other electricity related activities.

15. Kansas Municipals also argue that SPP should recognize that a not-for-profit credit customer's long-term power purchase agreements, entered into in lieu of ownership arrangements, should be considered as a proxy for equity. For example, Kansas Municipals explain that KMEA cannot take ownership in the base-load generating resources underlying its contracts with federal entities, including Southwestern Power Administration and Western Area Power Administration, which own and operate but do not have the authority to sell the generation. Thus, Kansas Municipals argue that KMEA is paying fixed investment costs in the form of contractual payments, and these contractual payments are a functional equivalent of debt service obligation and should be used as a proxy for equity just as a long-term debt is used as a proxy.

February Order

16. With regard to acceptable forms of irrevocable letters of credit, the Commission stated that section 7.1.3.1 of the Credit Policy gave SPP discretion to accept variations to the form letter on a case-by-case basis. Consistent with the Commission's emphasis on transparency in credit policies, SPP was directed to amend its Credit Policy to provide a credit customer, upon its request, a written explanation of why SPP rejected that customer's proposed variation to a letter of credit. However, the Commission accepted SPP's proposal to use only cash deposits, corporate guaranties and irrevocable letters of credit as the acceptable types of financial security in its Credit Policy.⁹ It noted that this issue was vetted through and approved by SPP's stakeholders. Further, the Commission agreed with SPP that limiting the types of financial security avoids the potential that different terms will be applied to different types of credit customers and has the benefit of diminishing SPP's administrative burden, while ensuring that the financial security is liquid.

Commission Determination

17. We deny Kansas Municipals' request for rehearing on this issue. Kansas Municipals have failed to provide any new arguments on rehearing to persuade us to

⁸ Kansas Municipals' Rehearing Request at 6 citing *PJM Interconnection, LLC*, 104 FERC ¶ 61,309, at P 19.

⁹ February Order at P 28 citing *TEMT II Order* at P 460. See also *PJM Interconnection, L.L.C.*, FERC Electric Tariff Sixth Revised Volume No. 1, Attachment Q, First Revised Sheet No. 523I.01, Second Revised Sheet No. 523J, Original Sheet No. 523J.01; and *Midwest Independent Transmission System Operator (Midwest ISO)*, FERC Electric Tariff, Third Revised Volume No. 1, Attachment L: Credit Policy, First Revised Sheet No. 1240.

allow additional types of financial security such as pledges of revenues by member cooperatives or long-term power purchase agreements. Our decision in the February Order to limit financial security to cash deposits, irrevocable letters of credit and corporate guaranties is consistent with the Commission's precedent.¹⁰ As we explained, in balancing various factors, the Commission found that limiting the types of financial security avoids the potential that different terms will be applied to different types of credit customers and has the benefit of diminishing SPP's administrative burden (time-consuming and costly for SPP, who will then pass on the costs to all the consumers), while ensuring that the financial security is liquid.¹¹ Moreover, Kansas Municipals have failed to explain how the pledges of revenues from KPP's and KMEA's respective member cities is a type of financial security that can be easily and quickly liquidated in the event of default by Kansas Municipals. In addition, Kansas Municipals seem to argue that pledges of revenues are functional equivalents to corporate guaranties, but have failed to explain how such pledges could be reduced to a form document analogous to a corporate guaranty.

18. Similarly, we deny Kansas Municipals' request that SPP should be required to use a not-for-profit credit customer's long-term power purchase agreements, entered into in lieu of ownership agreements, as proxy for equity. Kansas Municipals have failed to persuade us that contractual payments are a functional equivalent of debt service obligation and should be used as a proxy for equity just as a long-term debt is used as a proxy. Moreover, SPP is not in the business of establishing a credit rating for an entity, unlike credit rating agencies. We are also concerned that Kansas Municipals' request will introduce subjectivity into the process, for example, SPP would be required to evaluate the likelihood that KMEA's underlying power purchase agreement could be terminated early or suspended, and the impact that such an event would have on its finances. This could also lead to different terms being applied to different credit customers. We also are concerned that the expertise needed and the amount of work in calculating and updating the value of a long-term power purchase agreement over various

¹⁰ *Id.* See also ISO New England, Inc., FERC Electric Tariff No. 3, section 1, Exhibit 1A – California Independent System Operator Corporation, FERC Electric Tariff, Third Replacement Volume No. 1, section 12: Creditworthiness, Original Sheet No. 264; ISO New England Financial Assurance Policy for Market Participants, Original Sheet No. 73; and New York Independent System Operator, Inc., FERC Electric Tariff, Original Volume No. 2, Attachment K: Creditworthiness Requirements for Customers, First Revised Sheet No. 503-504D. Other RTOs' and ISOs' credit policy do not allow pledges of revenues. The types of financial security allowed are letters of credit, cash and corporate guarantees. We have also allowed surety bonds, netting of amounts receivable, cash collateral investment alternatives, pay-down agreements, alternative security agreements, payment bond, payment bond certificates, escrow agreements, and certificates of deposit.

¹¹ February Order at P 28.

intervals will place an undue burden on SPP. For example, SPP will have to collect information such as the creditworthiness of the counterparties of such contracts. For these reasons, we deny Kansas Municipal's rehearing request.

B. Tangible Net Worth

19. According to Kansas Municipals, SPP should recognize a municipal agency's contracts with its members as an asset when calculating the agency's tangible net worth¹² when the member's payment obligations have priority over their debt repayment. For example, they argue that payment by KMEA's member to KMEA for power supply constitute operating expenses of the member's system which are to be paid prior to payment of debt service obligations of any such member. Kansas Municipals also argue that the contracts obligate the members to maintain their rates at the levels necessary to generate the funds to meet their obligations to KMEA. Therefore, Kansas Municipals argue that the contracts, revenues and accounts receivable are assets of KMEA and should be recognized as such when SPP calculates KMEA's tangible net worth.

February Order

20. The Commission accepted Midwest ISO's proposal to value the security provided by revenue bond obligations when determining the amount of unsecured credit to extend to a market participant.¹³ Such revisions ensured that appropriate unsecured credit was received by public power entities with outstanding revenue bonds without diminishing Midwest ISO's credit position.¹⁴ SPP was directed to modify section 4.3 of Attachment X to use outstanding revenue bond indebtedness in the calculation of tangible net worth as a proxy for equity, but only for not-for-profit credit customers whose energy and transmission service payments receive priority over bond payments.¹⁵ The Commission found that such a modification would allow the unsecured credit allowance of entities whose energy and transmission payments receive priority over their bond payments to be based on a percentage of their tangible net worth plus outstanding revenue bond debt.

¹² SPP defines tangible net worth as total equity less intangibles less treasury stock. Section 4.3 of the Credit Policy.

¹³ February Order at P 44 citing *Midwest ISO Independent Transmission System Operator, Inc.*, 112 FERC ¶ 61,163 at P 1 (2005).

¹⁴ *Id.*

¹⁵ See Midwest ISO's tariff, Attachment L, section II.B.3.

Commission Determination

21. In the February Order, we directed SPP to modify its Credit Policy for the benefit of not-for-profit credit customers.¹⁶ We reiterate that Kansas Municipals is allowed to provide the types of information they discuss as qualitative information in their application that they believe improves their creditworthiness under section 4.2.3.2 of the Credit Policy. Kansas Municipals can seek a written explanation from SPP under section 4.4 of the Credit Policy of how SPP determined the amount of required financial security for them if they believe that the information was not used fairly in their qualitative evaluation.

22. We deny Kansas Municipals' rehearing request that a municipal agency's contracts with its members, revenues and accounts receivable are assets of KMEA and should be recognized as such when SPP calculates KMEA's tangible net worth. As discussed, Kansas Municipals is allowed to submit this type of information for SPP to consider when it undertakes a qualitative evaluation under section 4.2.3.2 of the Credit Policy. As we explain earlier, our concern with using long-term power purchase agreements is that their use introduces subjectivity into the process. Also as explained above, such reviews could be administratively burdensome and could result in dissimilar treatment to credit customers.

C. Evaluation of Qualitative and Quantitative Factors

23. Kansas Municipals seek clarification that by requiring SPP to adopt a weighted approach of 60 percent qualitative analysis and 40 percent quantitative analysis for not-for-profit entities, the Commission intended to improve such an entity's composite score and not worsen it compared to a 50-50 percent approach for for-profit entities. Kansas Municipals do not oppose the 60-40 percent approach but are concerned that for KMEA, such an approach results in a composite credit score that is less desirable,¹⁷ and increases the municipal entity's credit risk profile. Kansas Municipals argue that the Commission changed the ratio to ensure that "public power market participants will not be

¹⁶ See, e.g., February Order at P 37 (requiring SPP to give greater weight to the qualitative than the quantitative factors), P 44 (allowing the use of outstanding revenue bond indebtedness in the calculation of tangible net worth as proxy for equity for the not-for-profit entities whose energy and transmission service payments receive priority over bond payments), P 68-69 (allowing not-for-profit entities to request additional time to provide information or post security).

¹⁷ KMEA gets a less desirable credit score of 2 under the 60-40 percent approach, versus a credit score of 1 under the 50-50 approach.

discriminated against in the credit scoring process.”¹⁸ Therefore, Kansas Municipals argue that SPP should use the lower of the composite scores that result from the 50-50 approach or the 60-40 approach for a not-for-profit credit customer.

February Order

24. In its order, the Commission noted that ISOs and RTOs are required to consider both qualitative and quantitative measures in assessing the credit risk of a party and post the criteria used to determine these factors to prevent these entities from potentially discriminating against certain market participants.¹⁹ The Commission explained that its precedent used examples of municipalities and cooperatives that may be non-rated companies, but may have strong credit for transmission service due to the nature of their businesses and their ability to charge their customer base for service.²⁰ The Commission recognized that, generally, public power entities have good credit records that may not be reflected through financial statements alone.²¹ Consistent with Midwest ISO's proposal to weight the qualitative factors (60 percent) heavier than financial criteria (40 percent) to develop a total composite credit score for public power utilities to be reasonable and acceptable, the Commission directed SPP to adopt Midwest ISO's 60-40 percent approach and weight qualitative measures heavier than financial ones because such an approach demonstrates to us that public power market participants will not be discriminated against in the credit scoring process.²²

25. Also, the Commission found that there was no need to add further qualitative factors, because section 4.2.3.2 of the Credit Policy did not limit the qualitative measures reviewed to the measures enumerated in the section, that not-for-profit entities could submit qualitative information in their application that they believe improves their creditworthiness and that any entity could seek a written explanation from SPP under section 4.4 of the Credit Policy of how SPP determined the amount of required financial security for that credit customer.

Commission Determination

26. As we discussed in the February Order, the Commission's intent in allowing greater weight to the qualitative factors than the quantitative factors, was to prevent not-

¹⁸ February Order at P 37.

¹⁹ *Id.* at P 36 citing *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186, at P 13 (2004) (*Credit Policy Statement*).

²⁰ *Id.* at P 36 citing *Credit Policy Statement* at P 14.

²¹ *Id.* at P 36 citing *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,285, at P 355 and n.157 (2004) (*Compliance Order*).

²² *Id.*

for-profit entities from being discriminated against in the credit scoring process. We explained that our precedent used examples of municipalities and cooperatives that may be non-rated companies, but may have strong credit for transmission service due to the nature of their businesses and their ability to charge their customer base for service.²³ In addition, we recognized that, generally, public power entities have good credit records that may not be reflected through financial statements alone.²⁴ Given our intent, we are persuaded that SPP should use the lower of the composite credit scores that result from the 50-50 percent approach or the 60-40 percent approach for a not-for-profit. We note that given that SPP's credit scoring system only approximates a municipal's credit quality and appears to be designed for metrics which make more sense for investor-owned utilities, we will allow "the lower of" composite credit scoring. Since calculating the composite credit score after calculating the quantitative and qualitative scores is straightforward, we find that no undue administrative burden is imposed upon SPP. For example, a not-for-profit credit customer with a qualitative score of 4 and quantitative score of 2 will have a composite credit score of 3 under the 50-50 percent approach or 3.2 under a 60-40 percent approach. In this instance, SPP would use the composite credit score of 3 for a not-for-profit. SPP is directed to amend section 4.2.3 of its Credit Policy to reflect this change.

D. Total Potential Exposure

27. East Texas Cooperatives seek clarification that the Commission intended to direct SPP to shorten the transmission exposure period,²⁵ not the settlement period, to 50 days. In addition, East Texas Cooperatives seek clarification that the Commission accepted SPP's proposed market exposure periods under section 5.2 of Attachment X and not the transmission exposure period.

28. East Texas Cooperatives also argue that the shortened transmission exposure period (50-days) should become effective 250 days after the effective date of the new credit policy, rather than 250 days after the start of market operations. According to East Texas Cooperatives, SPP currently provides transmission service under its Tariff, and it will continue to provide transmission service regardless of when the SPP markets begin operation. Therefore, they assert that there is no reason to tie the start of the 250-day period to the start-up date for SPP's market operations and would unnecessarily delay the institution of a shortened transmission exposure period.

²³ *Id.* at P 36 citing *Credit Policy Statement* at P 14.

²⁴ *Id.* at P 36 citing *Compliance Order*, 109 FERC ¶ 61,285, at P 355 and n.157.

²⁵ Market exposure is SPP's potential exposure to non-payment associated with market transactions that involve physical delivery of energy, while transmission exposure is SPP's potential exposure to non-payment associated with transmission service transactions. *See* sections 5.2.1 and 5.2.2 of SPP's Credit Policy.

February Order

29. In its order, the Commission discussed its precedent and other ISO and RTO attempts at shortening the exposure periods (an element of the settlement period) and ultimately, the settlement periods.²⁶ The February Order noted that reductions in exposure periods were desirable because they could significantly reduce the credit risk to all market participants by reducing the time between when a cost is incurred and when payment is ultimately received by an ISO/RTO, *i.e.*, shortening the settlement period. In addition, regarding transmission service exposure, the Commission found that such a change would benefit transmission customers by making more credit available to conduct other market activities and increase the liquidity of the market as new participants were encouraged to transact and existing participants transacted more frequently.²⁷ The Commission recognized that SPP's proposal voted on by stakeholders and having different markets at different states of maturity compared to other ISOs/RTOs may require slightly different credit policies. Therefore, it allowed SPP to have a 250 day period at the outset based on their proposal (*i.e.*, two full 125-day "settlement cycles"), but directed SPP to shorten its "settlement period" to a 50-day period at the end of that time, or explain why it cannot shorten it to 50 days. In addition, the Commission accepted SPP's proposed exposure periods under section 5.2 of Attachment X but required it to clarify that the Maximum Estimated Market Exposure will not include any additional time period for service termination.

Commission Determination

30. The Commission grants East Texas Cooperatives' requested clarifications regarding the transmission exposure period. As noted above, the Commission found that a shorter exposure period would benefit customers by making more credit available for additional market activities as well as increase the liquidity of the market. In directing SPP to shorten its transmission exposure period from 125 to 50 days, the Commission stated that SPP should shorten its "settlement period." Additionally, the Commission directed that this change be effective after two "125-day settlement cycles." We affirm the Commission's original conclusion that the benefits of a shortened transmission exposure period outweigh the risk of customer defaults and clarify that the Commission intended to state that SPP should shorten its "transmission exposure period" rather than "settlement period." Accordingly, SPP is directed to amend its Tariff consistent with this discussion. Further, we clarify that the Commission's acceptance of SPP's proposed

²⁶ February Order at P 57 citing *Credit Policy Statement* at P 21 (Commission encouraging the shortening of *settlement periods* in order to "lower the level of financial assurances required."); *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,250 at P 21 (accepting Midwest ISO's proposal to reduce the *transmission exposure period* from 120 days to 50 days).

²⁷ February Order at P 57 citing *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,250 at P 21.

exposure periods “under section 5.2 of Attachment X” referred only to the market exposure period and not the transmission exposure period. Lastly, we agree with East Texas Cooperatives that while it is appropriate to tie the market exposure requirements to SPP’s market startup, there is no reason to delay the reduced transmission exposure period. Accordingly, SPP is directed to count from the March 1, 2006 effective date of Attachment X rather than the start of its energy market, the two 125-day transmission exposure periods to calculate the date the reduced transmission exposure period should commence.

IV. Technical Conference

31. In the February Order, the Commission directed Commission staff to convene a technical conference concerning two issues and report the results of the technical conference to the Commission.²⁸ Specifically, the Commission directed that a technical conference address: (1) the total debt to total capitalization and debt service coverage scores under Credit Policy section 4.2.3.1;²⁹ and (2) SPP’s proposed \$50,000 unsecured credit floor for not-for-profit entities.³⁰

A. Total Debt to Total Capitalization Ratio

February Order

32. The Commission found that SPP’s proposed total debt to total capitalization and debt service coverage scores may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepted SPP’s Credit Policy for filing and suspended its effectiveness, subject to refund and the outcome of a technical conference. The Commission noted that SPP sought to establish scores that will protect other SPP stakeholders from the risk that they will have to cover the liabilities of a cooperative that defaulted, while protecting not-for-profit entities and their customers from being unduly burdened with excessive costs of posting unnecessarily high levels of financial security. Under SPP’s proposal, it was not clear whether a for-profit entity would be rated higher than a not-for-profit entity

²⁸ *Id.* at P 1.

²⁹ *Id.* at P 32.

³⁰ *Id.* at P 62.

despite being rated the same under a Rating Agency's³¹ report, therefore, the Commission found that SPP's proposed scores under section 4.2.3.1 of Attachment X warranted further examination and discussion at a technical conference.

Commission Determination

33. Golden Spread argues that SPP should revise section 4.2.3.1 of the Credit Policy to allow a not-for-profit credit customer to obtain the best quantitative score of 1 if its debt to capitalization ratio is between .5 and .75.³² SPP proposes to require a not-for-profit credit customer to have a ratio of below .5 in order to obtain the best quantitative score of 1. Golden Spread notes that in the data provided by SPP, only one of ten cooperatives had a debt to capitalization ratio of below .5 and qualified for the best score under SPP's Credit Policy.³³ Golden Spread observes that its suggestion of awarding a score of 1 to each of the not-for-profit cooperatives with a debt to capitalization ratio of .75 would allow six additional cooperatives to qualify. Thus, it argues that given the strong financial condition of not-for-profit entities in general, and cooperatives in particular, and given the lack of evidence presented by SPP that a ratio between .5 and .75 demonstrates a significant risk of non-payment for not-for-profit entities, Golden Spread requests that the Commission direct SPP to provide that not-for-profit entities with a debt to capitalization ratio between .5 and .75 be awarded a score of 1.

34. AEP argues that the debt to capitalization and debt coverage ratios have to be adjusted to reflect the risk across different business profiles for the for-profit and not-for-profit credit customers.³⁴ AEP explains that Moody's and S&P are widely accepted as experts in the field of establishing debt ratings and methodologies for determining the creditworthiness of both types of entities, and cites relevant articles issued by both

³¹ A Rating Agency is defined as “[a]ny Rating Agency that is a ‘Nationally Recognized Statistical Rating Organizations’ as defined by the US Securities Exchange Commission. Currently there are four – Dominion Bond Rating Service Ltd., Fitch, Inc., Moody's Investors Service, and the Standard & Poor's Division of McGraw Hill Companies, Inc.” Section 2.1 of Attachment X.

³² Golden Spread's Post Technical Conference Comments at 2-3, Docket No. ER06-432-000, filed April 25, 2006.

³³ SPP's Pre-Technical Conference Comments at 6, Docket No. ER06-432-000, filed on April 3, 2006 (SPP's April 3 Comments).

³⁴ AEP's Post Technical Conference Comments, Docket No. ER06-432-000, filed April 25, 2006 (AEP's Comments).

entities.³⁵ AEP notes that these articles discuss debt to capitalization and debt service coverage ratios as key criteria in the assessment of credit rating. For this reason, AEP explains that the SPP Credit Policy calibrates the debt to capitalization and debt service coverage ratios through the use of median ratios based on S&P and Moody's existing ratings for both for-profit and not-for-profit entities to measure risk equally for both types of entities. Tenaska states that SPP's total debt to capitalization scores bolster liquidity in the market, again furthering the goals promoted in the Credit Policy Statement without establishing excessive financial security requirements.

35. SPP argues that the chart it submitted in its post-technical conference comments shows that the composite credit scores for not-for-profit credit customers are equivalent to or better than the composite credit scores of for-profit entities with the same Rating Agency rating. SPP points out, for example, that "Coop 1, Muni 2, and IOUs 1, 8 and 9" have an S&P rating of BBB+, and "Coops 8 and [10], Munis 2, 3, and 8, and IOU 1" have a Moody's rating of A2.³⁶ Therefore, it contends that the different weighting of the total debt to total capitalization and debt service coverage scores among not-for-profit credit customers and other credit customers results in comparative SPP composite credit scores for similar Rating Agency rated entities.

36. We deny Golden Spread's request. The Commission set SPP's proposed debt to capitalization scores for a technical conference because it was concerned whether a for-profit entity would be rated higher than a not-for-profit entity despite being rated the same by a Rating Agency.³⁷ We find based on the evidence provided, this will not be the case. Golden Spread has failed to persuade us that SPP's scoring is arbitrarily skewed against not-for-profit entities. Our review of SPP's chart (with the resulting credit scores inserted) shows that various entities with similar ratings from Rating Agencies obtain similar debt to capitalization scores and composite credit scores.³⁸ The excerpt below from SPP's chart demonstrates this. In other words, SPP's scoring results are consistent with the results obtained from the Rating Agencies. Moreover, upon our review of the technical conference comments and the Rating Agencies' rating guidelines, we find that

³⁵ Attachments to AEP's Comments, Standards & Poor, *Power Companies* (undated), and Moody's Investor Service, Global Credit Research, Industry Outlook, *U.S. Public Power Electric Utilities' Credit Outlook Remains Stable, with Positive Trends Emerging as Electric Industry Restructuring Slows*, May 2005.

³⁶ SPP's Post Technical Conference Comments at 3-4, Docket No. ER06-432-000, filed April 25, 2006 (SPP's April 25 Comments).

³⁷ February Order at 32.

³⁸ SPP's April 25 Comments, Attachment A.

the weighting of qualitative and quantitative factors takes into account the differences among the not-for-profit and for-profit entities.³⁹ Accordingly, we find that SPP has provided adequate support to justify its proposal on its debt to capitalization scores.

Entity	Debt to Capitalization Ratio	Debt to Capitalization Score	Composite Credit Score	S&P
Coop 1	0.90	4	2.54	BBB+
Muni 2	0.91	4	2.40	BBB+
IOU 1	0.44	3	2.58	BBB+
IOU 8	0.51	4	2.34	BBB+
IOU 9	0.53	4	2.79	BBB+

B. Unsecured Credit Floor

February Order

37. The Commission found that SPP's proposed \$50,000 unsecured credit floor for not-for profit entities may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepted SPP's Credit Policy for filing but suspended its effectiveness, subject to refund and the outcome of a technical conference. The Commission noted that while it had allowed RTOs the discretion to set the credit floor, it had done so as long as it does not work to exclude other creditworthy participants.⁴⁰ It also observed that SPP's proposed \$50,000 unsecured credit floor was one-fifth of Midwest ISO's.⁴¹ The Commission observed that while it has valued the stakeholder process to determine regional creditworthiness, it

³⁹ As discussed earlier, the Commission required SPP to give more weight to the qualitative factors than the quantitative factors for not-for-profits because it wanted to prevent not-for-profit entities from being discriminated against in the credit scoring process. In fact, as observed above, we are directing SPP to use the lower of the credit score arising from a 60-40 percent and 50-50 percent weighting of qualitative factors and quantitative factors for not-for-profit entities.

⁴⁰ February Order at P 62 citing *TEMT II Order* at P 439 and *Compliance Order* at P 339.

⁴¹ *Id.* at P 62 citing *TEMT II Order* at P 439 and nn.248-50 and *Compliance Order* at P 339 and nn.151-53 (2004) *citing to* NYISO's OATT, Attachment W, Original Sheet No. 729B.

cannot accept any proposal from the stakeholder process that is unduly burdensome or unduly discriminatory.⁴² It also noted that, while different markets that are at different stages of maturity may require slightly different policies, the guiding principles should be the same and the general features of RTO/ISO credit policies accepted by the Commission should serve as a necessary guide.⁴³ Therefore, the Commission found that SPP's proposed unsecured credit floor warranted further examination and discussion at a technical conference.

Commission Determination

38. We find that SPP's proposed \$50,000 unsecured credit floor for not-for-profit entities is not just and reasonable. SPP, AEP and Tenaska support the \$50,000 floor and argue that a higher number will exacerbate the overall loss by SPP members on an aggregate basis. On the other hand, TDU Intervenors support an increase in the unsecured credit floor for not-for-profit entities from \$50,000 to \$250,000. TDU Intervenors argue that there is a low likelihood that any of the four not-for-profit entities receiving credit floors of less than \$250,000, let alone all, would default. It also contends that in the absence of an increased credit floor, these entities will have to incur significant expense to post cash or provide letters of credit. SPP states that only four (out of 22) not-for-profit entities would receive credit floors of less than \$250,000.⁴⁴ Therefore, in balancing the goals of allowing SPP to reduce their risk of exposure in the event of default while at the same time ensuring that the credit or collateral requirements are not so stringent that they unnecessarily inhibit access to the marketplace, we find that a credit floor of \$250,000 is a reasonable amount given the low risk of default for not-for-profit entities. Accordingly, SPP should increase its unsecured credit floor for not-for-profit entities to \$250,000. Our decision is consistent with our precedent,⁴⁵ and will also eliminate the costs to certain not-for-profit market participants of providing additional credit security.

V. Compliance Filing

39. SPP submitted revisions to its Credit Policy in its compliance filing and seeks an effective date of March 1, 2006. The revisions address all of the points raised in the February Order, including the following.

40. With regard to the evaluation of qualitative factors and quantitative factors, SPP was directed to adopt the approach for weighting the qualitative factors heavier than quantitative factors in the determination of a not-for-profit credit customer's composite

⁴² *Id.* at P 62 citing *TEMT II Order* at P 432 and *Compliance Order* at P 356.

⁴³ *TEMT II Order* at P 430.

⁴⁴ SPP's April 3 Comments at 10.

⁴⁵ *TEMT II Order* at P 439 and *Compliance Order* at P 339.

credit score.⁴⁶ Accordingly, SPP submits revisions to sections 4.2.3 and 4.2.3.3 of the Credit Policy to reflect that for not-for-profit credit customers, qualitative factors will be weighted 60 percent and quantitative factors will be weighted 40 percent in determining such customer's composite credit score.⁴⁷

41. SPP was directed to revise section 19.4 of the Tariff to refer to "Appendix C" of the Credit Policy rather than "Attachment C" of the Credit Policy.⁴⁸ SPP claims that it made this change and that such a revision is reflected on Substitute First Revised Sheet No. 58.

Commission Determination

42. SPP's compliance filing generally conforms to the directives in the February Order. With the exception of section 19.4, 4.2.3 and 4.2.3.3 of the Credit Policy, we accept SPP's proposed Tariff revisions and make them effective March 1, 2006. With regard to section 19.4 of the Credit Policy, SPP was directed to revise the section to refer to "Appendix C" of the Credit Policy rather than "Attachment C." While SPP states that it made this revision,⁴⁹ it has failed to include this particular tariff sheet in its compliance filing. Also, as discussed above, SPP is directed to revise sections 4.2.3 and 4.2.3.3 of the Credit Policy to reflect that for not-for-profit credit customers, the lower of the credit score arising from (1) weighting the qualitative factors at 60 percent and quantitative factors at 40 percent, and (2) weighting the qualitative factors at 50 percent and quantitative factors at 50 percent will be used in determining such credit customer's composite credit score. Therefore, SPP is directed to submit the revisions to its Credit Policy no later than 30 days from the date of this order.

The Commission orders:

(A) Rehearing is hereby denied in part, and granted in part, as discussed in the body of this order.

(B) SPP's proposed compliance filing, as modified, is hereby accepted and made effective on March 1, 2006 as requested, as discussed in the body of this order.

(C) SPP is hereby directed to modify its tariff provisions related to the calculation of a not-for-profit credit customer's composite credit score under sections 4.2.3 and 4.2.3.3 of the Credit Policy, as discussed in the body of this order.

⁴⁶ February Order at P 37.

⁴⁷ SPP Tariff, Substitute Original Sheet Nos. 411R and 411T.

⁴⁸ February 28 Order at P 90.

⁴⁹ SPP's transmittal letter with compliance filing at 6.

(D) SPP is hereby directed to modify its tariff provisions to increase the \$50,000 unsecured credit floor to \$250,000 for not-for-profit entities under Credit Policy section 4.3.1.2, as discussed in the body of this order.

(E) SPP is hereby ordered to submit a compliance filing within 30 days from the date of this order reflecting the modifications, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.