

110 FERC ¶ 61,406
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Southwest Power Pool, Inc.

Docket Nos. ER05-156-000
ER05-156-001
ER05-156-002

ORDER ACCEPTING INTERIM AGREEMENT AND REVISED ATTACHMENT AD
OF OPEN ACCESS TRANSMISSION TARIFF

(Issued March 31, 2005)

1. In this order, we accept an interim agreement and a revised Attachment AD to Southwest Power Pool's (SPP) Open Access Transmission Tariff (OATT). Attachment AD governs SPP's administration of certain transactions over the Southwestern Power Administration's (SWPA) transmission system. SWPA, a transmission owning member of SPP, is considering whether to remain a transmission owning member of SPP after SPP's transition to a regional transmission organization (RTO). SWPA accordingly submitted a notice of withdrawal from SPP to become effective October 29, 2004. SPP and SWPA then entered into an interim agreement to allow SPP to continue administering SWPA's transmission system until December 31, 2004. The revised Attachment AD specifies the transmission service SPP will administer over SWPA system. Currently SPP and SWPA are in negotiation in an attempt to resolve issues concerning their relationship. The interim agreement and the revised Attachment AD are intended to allow SWPA's facilities to continue being available under the SPP Tariff while giving SPP and SWPA time to reach an agreement. This order benefits customers by preserving the status quo during negotiations about the future relationship between SPP and SWPA.

Background

2. SWPA had the right under the SPP Membership Agreement to withdraw from SPP as of October 31, 2004 without Commission approval. SWPA exercised that right. SWPA then entered into the Interim Agreement to allow SPP to continue to administer the transmission service as it has historically done (with the exception of renewal of service currently under SWPA contracts and new Point-To-Point Service totally within the SWPA system). SPP filed the Interim Agreement and the revised Attachment AD with the Commission on November 1, 2004 and filed an amendment (correcting

pagination) on November 3, 2004. SPP sought an effective date of November 1, 2004, and asked for waiver of the Commission's 60-day notice requirement. SPP states that waiver is appropriate because the proposed revision does not involve any change in rates, and seeks to maintain the status quo and SWPA's participation under the SPP OATT.

3. Notices of the filings were published in the *Federal Register*, 69 Fed. Reg. 67,340 and 67,568 (2004) with comments, protests and interventions due on or before November 24, 2004.

4. SWPA filed a motion to intervene stating that acceptance of the Interim Agreement would permit "SPP and [SWPA] to continue operations with minimal, if any, impacts while the parties continue work on a successor seams/coordination agreement."

5. The Empire District Electric Company filed a motion to intervene stating that it believed that acceptance of the interim agreement "may allow SPP and SWPA to continue operations with minimal consequences."

6. The Southwestern Power Resources Association (SPRA) filed a motion to intervene raising no issues.

7. The Oklahoma Municipal Power Agency (OMPA) filed a motion to intervene and request for a technical conference. OMPA states that it is concerned that SPP's filing signals that SWPA may withdraw from SPP, a move that OMPA states may affect SPP's ability to operate effectively as an RTO.

8. The City Utilities of Springfield, Missouri filed a motion to intervene stating that it is concerned about how it will operate as a member and participant in the SPP markets if SWPA is not an SPP member because it operates within the control area of SWPA and purchases ancillary services from SWPA. City Utilities of Springfield supports a technical conference.

9. SWPA filed a response to OMPA's request for a technical conference. SWPA states that it believes that the negotiation of a successor agreement is the responsibility of SWPA and SPP, subject to FERC's approval of a filing by SPP. SWPA continues that FERC's approval of SPP's filing concerning the interim agreement will allow time for SPP and SWPA to work out a mutually satisfactory successor agreement. SWPA states that it is concerned that a technical conference during SWPA's negotiations with SPP would unnecessarily complicate and delay the negotiation process. SWPA states that it therefore does not plan to attend a technical conference among SPP and third parties to negotiate a successor agreement between SWPA and SPP. Finally, SWPA states that it is amenable to extending the October 29, 2004 interim agreement for a reasonable period of time to facilitate the negotiation process.

10. SPP also filed a response to OMPA's request for a technical conference. SPP states that it agrees with SWPA that a technical conference would interfere with SPP and SWPA's ability to reach an agreement concerning their future relationship.

11. On December 28, 2004, the Commission Staff issued a deficiency letter asking SPP to explain the difference between the services to be provided under the proposed Attachment AD and those provided previously.

12. On February 9, 2005, SPP filed an answer to Staff's deficiency letter as well as a supplement to the proposed Attachment AD (extending the term of the interim agreement to March 31, 2005.) In response to the question from Staff, SPP states that "SPP will continue to administer transmission service over SWPA's facilities as it has historically done under the SPP Tariff, except for renewals of service currently under SWPA contracts, all transactions to radial and looped loads served from the SWPA system and new Point-To-Point Service completely within the SWPA transmission system." SPP asks that the Commission grant waiver of the filing requirements necessary to allow the extension of the interim agreement to become effective January 1, 2005. SPP argues that good cause exists for granting the waiver as extension of the interim agreement does not involve any change in rates and seeks to maintain the status quo and SWPA's participation under SPP's OATT.

13. Notice of the filing was published in the *Federal Register*, 70 Fed. Reg. 9065 (2005) with comments, protests and interventions due on or before March 1, 2005.

14. The City Water and Light Plant of Jonesboro, Arkansas and City Light Water, Paragould, Arkansas each filed motions to intervene each filed timely motions to intervene, raising no issues.

Discussion

15. We will accept SPP's filings to become effective November 1, 2004, and January 1, 2005, as requested. The filings are intended to preserve the status quo while SPP and SWPA negotiate their future relationship. We see no reason to convene a technical conference at this time given SWPA and SPP's statements that they do not believe that a technical conference would be productive, and SWPA's statement that it would not attend such a conference if convened. We are willing, however, to convene such a conference, or to make other Commission resources available, such as our Dispute Resolution Service, if SPP and SWPA indicate to us that any of those procedures would aid in their negotiations.

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The Commission orders:

SPP's filings in these dockets are hereby accepted, as discussed in the body of this order.

By the Commission. Chairman Wood and Commissioner Brownell concurring with a separate statement to be issued later.

(S E A L)

Linda Mitry,
Deputy Secretary.