

118 FERC ¶ 61,059  
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. ER06-451-011  
ER06-451-012  
ER06-1047-004  
ER06-1047-005

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued January 26, 2007)

1. In this order, the Commission addresses requests for rehearing and/or clarification of the Commission's October 26, 2006 Order<sup>1</sup> related to Southwest Power Pool, Inc.'s (SPP) energy imbalance service market (imbalance market) filings. Specifically, the rehearing requests concern SPP's proposal for emergency energy charges. In the *October 26 Order*, the Commission denied in part and accepted in part the requests for rehearing and accepted SPP's compliance filing, as modified. Additionally, this order addresses SPP's proposed revisions to its Open Access Transmission Tariff (OATT or tariff) submitted in compliance with the *October 26 Order*. As discussed below, we deny the requests for rehearing, grant some requests for clarification and accept SPP's compliance filing.

**I. Background**

2. SPP has been authorized as a regional transmission organization (RTO) since October 1, 2004.<sup>2</sup> The Commission accepted SPP's commitment to develop an imbalance market, including implementation of a real-time, offer-based energy market

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<sup>1</sup> *Southwest Power Pool, Inc.*, 117 FERC ¶ 61,110 (2006) (*October 26 Order*).

<sup>2</sup> See *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004) (*RTO Order*), order on reh'g, 110 FERC ¶ 61,137 (2005).

that will be used to calculate the price of imbalance energy.<sup>3</sup> The Commission also required SPP to provide market monitoring and market power mitigation plans.<sup>4</sup>

3. On June 15, 2005, SPP submitted an initial proposal for an imbalance market within its footprint and to establish a market monitoring and market power mitigation plan (June 15 Filing). The Commission rejected the June 15 Filing as inadequate and provided guidance concerning: (1) reliable and stable market operations; (2) market-based rates in the new market; and (3) mitigation and monitoring issues.<sup>5</sup>

4. On January 4, 2006, SPP resubmitted a revised proposal intended to implement SPP's imbalance market and establish market monitoring and market power mitigation plans (January 4 Filing). As part of Attachment AE (Energy Imbalance Service Market)<sup>6</sup> of the January 4 Filing, SPP proposed to require that all market participants be part of a reserve sharing group (RSG) or enter into a reserve sharing cost allocation agreement prior to start of the imbalance market. On March 20, 2006, the Commission found that the January 4 Filing was missing important elements and assurances regarding reliable and stable operation, including the proposal for reserve sharing allocation and therefore directed submission of the missing elements and additional readiness and market start-up safeguards.<sup>7</sup> Specifically, the Commission rejected SPP's proposed Attachment AE because it could not evaluate the just and reasonableness of such agreements without a *pro forma* reserve sharing agreement detailing the obligations and responsibilities of parties entering into these agreements.<sup>8</sup>

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<sup>3</sup> *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at P 134, *order on reh'g*, 109 FERC ¶ 61,010 (2004).

<sup>4</sup> *Id.* P 173.

<sup>5</sup> *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303 (*September 19 Order*), *reh'g denied*, 113 FERC ¶ 61,115 (2005).

<sup>6</sup> Attachment AE sets forth the scheduling and dispatching responsibilities of the transmission provider and market participants, and establishes various procedures for the imbalance market, including operation, pricing, and billing.

<sup>7</sup> *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289, at P 1-3 (*SPP Market Order*), *order on reh'g*, 116 FERC ¶ 61,289 (2006).

<sup>8</sup> *Id.* P 96.

5. On May 19, 2006, SPP submitted a compliance filing that contained proposed tariff revisions pursuant to the *SPP Market Order* (May 19 Filing). In the May 19 Filing, SPP did not file a *pro forma* reserve sharing agreement as directed by the Commission, instead it proposed new reserve sharing tariff provisions under Attachment AE and Attachment AK (Treatment of Reserve Sharing Charges and Revenues). Specifically, SPP proposed a new section 4.2(a) to Attachment AE to provide for the activation of reserve sharing and a new Attachment AK to provide for the allocation and recovery of the costs of emergency energy that is activated by SPP in response to an operating reserve contingency. The newly proposed Attachment AK provided that SPP would serve as a conduit for billing and collecting revenues for emergency energy provided to market participants that are not members of the reserve sharing group (non-RSG members). On July 20, 2006, the Commission accepted in part, as modified, and rejected in part, SPP's May 19 Filing,<sup>9</sup> to become effective on October 1, 2006.<sup>10</sup> In the *SPP Compliance Order*, the Commission accepted SPP's proposed Attachment AK and permitted SPP to act as a conduit for assessing and collecting emergency energy charges, but rejected SPP's proposal to rely on contracts between balancing authorities as the filed rate for emergency energy.<sup>11</sup> The Commission determined that SPP's proposal to apply emergency energy charges from contracts between balancing authorities required further refinement and directed SPP to clarify in a compliance filing its Attachment AK proposal.<sup>12</sup>

6. On August 21, 2006, SPP submitted a compliance filing that contained proposed tariff revisions pursuant to the *SPP Compliance Order*. Among other things, SPP proposed to revise Attachment AK to reference individual schedules that are to be developed and filed by SPP transmission owners governing the collection of emergency costs in the event of reserve sharing activation. In the *October 26 Order*, the Commission accepted SPP's revisions to Attachment AK, with modifications, and

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<sup>9</sup> *Southwest Power Pool, Inc.*, 116 FERC ¶ 61,053 (2006) (*SPP Compliance Order*).

<sup>10</sup> SPP delayed its imbalance market implementation several times. At its December 12, 2006 meeting, SPP's Board approved certification of SPP's readiness for a February 1, 2007 market start up. On December 22, 2006, SPP filed a market readiness certification stating that the imbalance market will start on February 1, 2007 (Docket No. ER06-451-017).

<sup>11</sup> *SPP Compliance Order*, 116 FERC ¶ 61,053 at P 36 and n.52 (2006) (noting that tariff rates must be on file with the Commission).

<sup>12</sup> *Id.* P 40.

directed SPP to incorporate several additional revisions to Attachment AK of the SPP OATT.<sup>13</sup>

7. SPP, Missouri Joint Municipal Electric Utility Commission and Oklahoma Municipal Power Authority (together, Missouri/Oklahoma Municipals), Golden Spread Electric Cooperative, Inc. (Golden Spread), and Xcel Energy Services, Inc. (Xcel) have requested rehearing of the *October 26 Order*.

8. On November 27, 2006, in response to the *October 26 Order*, SPP submitted a compliance filing to incorporate the Commission's revisions to its OATT. SPP requests that the proposed tariff sheets become effective on February 1, 2007 to coincide with its planned start of the SPP imbalance market.

## **II. Notice of Filing and Responsive Pleading**

9. Notice of the compliance filing was published in the *Federal Register*, 71 Fed. Reg. 74,508 (2006), with comments, protests, and interventions due on or before December 18, 2006. A limited protest was filed by Missouri/Oklahoma Municipals.

## **III. Requests for Rehearing**

### **A. Reserve Sharing Schedule**

10. In the *SPP Compliance Order*, the Commission accepted SPP's proposal to act as a conduit for assessing and collecting emergency energy charges, but rejected SPP's proposal to rely on bilateral contracts between balancing authorities as the filed rate for emergency energy.<sup>14</sup> The Commission noted that SPP's proposal to apply the emergency energy rates from contracts between balancing authorities raises many concerns and therefore required SPP to clarify its Attachment AK. First, the Commission questioned how or whether the payment provisions of the interchange agreements between balancing authorities would apply to a market participant who is not a party to the RSG contracts and how the netting of energy would be accomplished.<sup>15</sup> Second, the Commission stated that there is a potential for undue discrimination to the extent that a balancing authority charged a market participant located in its control area for emergency energy as if the balancing authority were providing service to a RSG member. The Commission noted that, because different RSG agreements offer different rates for emergency energy

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<sup>13</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 41.

<sup>14</sup> *SPP Compliance Order*, 116 FERC ¶ 61,053 at P 36.

<sup>15</sup> *Id.* P 37.

between RSG members, a balancing authority could select the most expensive rate when charging a non-RSG market participant.<sup>16</sup> Finally, the Commission found that SPP's proposal may present opportunities for over-recovery of capacity costs by balancing authorities, due to the balancing authorities' ability to recover reserve capacity charges through OATT Schedules 5 and 6 for non-RSG entities.<sup>17</sup> For these reasons, the Commission rejected SPP's proposal to have balancing authorities invoice market participants, through SPP, using contracts that are not applicable to the market participants.

11. In the *October 26 Order*, the Commission noted that its intent is not to change the RSG member contracts or the way they are administered, rather, its intent is to ensure that non-RSG market participants are charged rates on file with the Commission given the concerns noted in the *SPP Compliance Order*.<sup>18</sup> Accordingly, the Commission accepted, with modifications, SPP's revised Attachment AK that stated that rates will only reflect a pass through of charges. The Commission directed SPP to further revise section II of Attachment AK because it found that section II could be read to apply to market participants who are not part of the existing reserve sharing agreements.<sup>19</sup>

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<sup>16</sup> *Id.* P 38.

<sup>17</sup> *Id.* P 39.

<sup>18</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 40.

<sup>19</sup> *Id.* P 41. The Commission noted that the revised Attachment AK, section II should read as follows:

Charges for energy assistance supplied during a reserve sharing activation to Reserve Sharing Group (RSG) members will be calculated in accordance with the applicable contracts between members of the RSG.

The Transmission Provider shall invoice the non-RSG Market Participant registered for the Resource causing the need to activate the Reserve Sharing System for the total of the charges provided to the Transmission Provider by the affected Balancing Authority. Such an invoice shall reflect the charges for energy assistance supplied to the non-RSG Market Participant as calculated by the Balancing Authority in accordance with the Commission-approved tariff of such Balancing Authority. *Id.* n. 68

## 1. Rehearing Requests

12. SPP requests the Commission to clarify that all generators in a control area will be subject to the emergency energy service schedule of the balancing authority in that control area, including the balancing authority's own generating resources.<sup>20</sup> SPP argues that charging RSG members according to their bilateral contracts while non-RSG market participants are subject to cost-based pricing under an emergency energy schedule (Schedule 4A) is inconsistent with the Commission's comparability policy.<sup>21</sup> Specifically, SPP asserts that the comparability policy requires transmission owners and customers to be charged rates under the same terms and conditions.<sup>22</sup> SPP claims that there are no material differences in the provision of emergency energy service that would justify different rates for generators based solely on their ownership.<sup>23</sup> Accordingly, SPP argues that the Commission should hold that every generator in a particular control area will be subject to the balancing authority's emergency energy schedule.

13. SPP also requests the Commission to clarify that balancing authorities are only required to follow their RSG contracts when servicing resources outside their own control areas. SPP states that this clarification would in effect, provide that where an emergency energy transaction takes place between different control areas, the portion of the transaction between the relevant balancing authorities will be administered according to the RSG contract between the balancing authorities. The balancing authority of the sink control area would then charge the non-RSG market participant responsible for the reserve sharing event under the balancing authority's emergency energy ancillary service schedule.<sup>24</sup> SPP asserts that such a clarification is consistent with the Commission's

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<sup>20</sup> SPP Rehearing Request at 11-13.

<sup>21</sup>*Id.* 11, citing *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, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 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 (1998), *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).

<sup>22</sup> *Id.* at 12.

<sup>23</sup> *Id.* at 3, 11-13.

<sup>24</sup> *Id.* at 13-15.

intention, as explained in the *October 26 Order*, not to change RSG-member contracts or the way they are administered.<sup>25</sup>

14. Xcel states that in order for SPP to implement reserve sharing cost allocation pursuant to the Commission's directives, an RSG member responding to an event outside of its footprint would have to know whether the event was caused by an RSG member or a non-RSG member so that the RSG member would know whether to include capacity costs in the bill for emergency energy. However, there is no mechanism in place to provide this information to responding RSG members.<sup>26</sup>

## 2. Commission Determination

15. We deny SPP's request for rehearing of both issues. First, the Commission stated that it did not intend to change the existing RSG contracts or the way in which they are administered and to grant SPP's clarification or rehearing in this regard would do just that.<sup>27</sup> The Commission is aware that permitting RSG members to be billed according to the RSG contracts when its generators cause a reserve sharing event is different from non-RSG members but we disagree that this violates our comparability principle. First, we consider existing RSG contracts to be no different than the grandfathered transmission agreements (GFAs) in other RTOs. Our policy is to allow pre-existing transmission contracts to be grandfathered rather than to modify or abrogate GFAs.<sup>28</sup> In essence, transmission customers with GFAs are permitted to take the same transmission services as other non-GFA customers under rates terms and conditions governed by their GFAs rather than the utility's OATT. Second, granting SPP's second request would subject non-RSG members to rates, terms, and conditions of the RSG contracts, an action that the Commission rejected for the reasons outlined in the *SPP Compliance Order*. Those shortcomings included the fact that the RSG contracts may not be on file, may permit over-recovery of capacity costs, and provided the opportunity for undue discrimination.<sup>29</sup> Finally, as we noted in the *SPP Compliance Order*, non-RSG members are not without

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<sup>25</sup> *Id* at 14.

<sup>26</sup> Xcel Rehearing Request at 5.

<sup>27</sup> *October 26 Order* 117 FERC ¶ 61,110 at P 40.

<sup>28</sup> Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,662-66 (1996). *See, e.g., Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004), *order on reh'g*, 111 FERC ¶ 61,042, *order on reh'g*, 112 FERC ¶ 61,311 (2005).

<sup>29</sup> *SPP Compliance Order*, 116 FERC ¶ 61,053 at P 37-40.

alternative options,<sup>30</sup> they may contract among themselves or with others for reserve services, in effect, forming their own reserve sharing pool under section 4.2(c).<sup>31</sup>

16. Additionally, while the Commission does not intend to change the RSG contracts or their administration, we find that SPP must revise the reserve sharing program procedures in the SPP Criteria in order to administer responses to non-RSG members. Xcel's Request for Rehearing indicates that when the host balancing authority calls a reserve sharing event, the responding balancing authority is unaware of whether an RSG or non-RSG member is the cause of that event.<sup>32</sup> In order for the responding balancing authority to bill properly, i.e., either through its RSG contract or its Commission approved Reserve Sharing (Emergency) Energy Service (Schedule 4A), it must know who caused the reserve sharing event. Accordingly, when a balancing authority activates the reserve sharing system, it must identify to SPP and the responding balancing authority the entity responsible for the activation. The responding balancing authority can then bill accordingly. Accordingly, we direct SPP to make the appropriate modifications to section 6.4.2 of the SPP Criteria.<sup>33</sup>

#### **B. Capacity Cost/Incremental Cost**

17. In the *SPP Compliance Order*, the Commission stated that the just and reasonable rate for emergency energy should reflect the actual costs of emergency energy and should

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<sup>30</sup> In addition, we expect that SPP will consider whether or not demand response resources can provide emergency energy in conducting its broader evaluation of demand response resources, and, if so, what qualifications would be necessary for such resources, which we required in the order on rehearing of the *SPP Market Order*. See 116 FERC ¶ 61,289 at P 62.

<sup>31</sup> *Id.* P 35. Indeed, Golden Spread indicates that it has a Replacement Energy Agreement with SPS that allows either party when faced with a resource failure to call upon the resources of the other party. Golden Spread Protest at 7.

<sup>32</sup> Xcel Rehearing Request at 4.

<sup>33</sup> We note that requiring this notification is not a change to the existing RSG contracts or the manner in which they are administered; this change only reflects a change to accommodate non-RSG member billing.

not include capacity costs.<sup>34</sup> However, upon further review, in the *October 26 Order*, the Commission found that if the rate for emergency energy were limited to incremental cost, the rate could be lower than the market clearing price and that denying a market participant the ability to recover its opportunity costs would be inappropriate. Therefore, the Commission allowed reserve sharing charges to be based on the higher of the incremental costs plus an adder consistent with Commission precedent or the locational imbalance pricing (LIP) for the unit responding to the reserve sharing unit.<sup>35</sup>

### 1. Rehearing Requests

18. Golden Spread asserts that permitting reserve sharing charges to be based on the higher of incremental costs plus an adder or the LIP for the unit responding to the reserve sharing event presents the possibility that the responding utility may recover capacity costs without making the requisite showing that it would not double recover the costs of capacity.<sup>36</sup> It also argues that this pricing allows a “rate significantly higher than the costs of correcting the reserve sharing event” in contravention of the Commission’s intent to limit the costs of emergency energy to actual costs. Golden Spread requests that the Commission reinstate the requirement that the rate for emergency energy be limited to incremental costs only or set a cap on the amount by which the costs can exceed the actual costs of correcting the reserve sharing event. Likewise, Golden Spread argues that by leaving in place RSG contracts for RSG members and requiring the higher of pricing for non-RSG members, non-RSG members will pay higher prices for emergency energy.<sup>37</sup>

19. Redbud requests clarification in two respects. First, it asks the Commission to clarify that RSG members cannot pass through capacity costs to non-RSG market participants. Second, Redbud requests that the Commission clarify that non-RSG members may not be assessed an uncapped percentage adder where purchased power costs are a component of incremental costs.

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<sup>34</sup> The Commission previously stated that pass-through rates for emergency energy could result in the over-recovery of capacity costs given that balancing authorities have the opportunity to recover costs through OATT Schedules 5 and 6. *SPP Compliance Order*, 116 FERC ¶ 61,053 at P 39.

<sup>35</sup> *October 26 Order* 117 FERC ¶ 61,110 at P 28.

<sup>36</sup> Golden Spread Rehearing Request at 3.

<sup>37</sup> *Id.* at 6.

20. Xcel requests the Commission to clarify that a balancing authority that is an RSG member can pass through to a non-RSG member all emergency energy charges that are assessed to such a balancing authority by other entities, including other RSG members outside the balancing authority's footprint, even if such charges include a capacity component.<sup>38</sup> Xcel explains that when a balancing authority that is an RSG member activates the reserve sharing system, emergency energy may be provided by its own generating resources as well as by RSG members in other balancing authorities. Under the RSG contracts, the responding RSG members will bill the balancing authority that activated the reserve sharing system based on the rates in the RSG contracts which may include a capacity component. Xcel states that it interprets the *October 26 Order* as requiring the exclusion of capacity costs for non-RSG members but explains that it may result in under recovery of permissible and legitimate costs. Therefore, Xcel asks that the Commission clarify that an RSG member may pass through the total emergency energy charges assessed to it, irrespective of whether those charges include a capacity component.<sup>39</sup>

21. Missouri/Oklahoma Municipals argue that the *October 26 Order* will result in discriminatory, unjust and unreasonable emergency energy costs. It states that by permitting a balancing authority to charge the higher of incremental costs plus an adder or the LIP of the unit responding to the reserve sharing event, the Commission is allowing opportunities for gaming and discrimination.<sup>40</sup> Missouri/Oklahoma Municipals claim that the concern regarding missed opportunity costs is misplaced because the LIP cannot be said to be true opportunity costs. Missouri/Oklahoma Municipals argue that emergency energy from the capacity of a unit supplying emergency energy is not bid into the imbalance market, therefore, there is no lost opportunity. In addition, they assert that by permitting a balancing authority to price all emergency energy based on the incremental cost of its highest cost generator that produces only a fraction of the energy supplied, the Commission is permitting the very abuses it sought to prohibit. This is because under the "higher of" pricing method, a host balancing authority would be allowed to calculate its incremental cost based on the highest price paid to another RSG member for energy supplied in response to that reserve sharing event; essentially charging a higher price for emergency energy than would be applied to its own generation.<sup>41</sup> They further contend that allowing an adder to these costs aggravates the

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<sup>38</sup> Xcel Rehearing Request at 3.

<sup>39</sup> *Id.* at 3-5.

<sup>40</sup> Missouri/Oklahoma Municipals Rehearing Request at 11-12.

<sup>41</sup> *Id.* at 9-10.

results, especially if the adder is in addition to charges assessed by other RSG members whose charges may already contain an adder.<sup>42</sup>

22. Therefore, Missouri/Oklahoma Municipals suggest that the Commission return to the prior mandate in the *SPP Compliance Order* that non-RSG members be charged just the actual cost of the emergency energy supplied by having the balancing authority recover, through SPP, the actual cost of the energy for the energy it generated. For energy received from other RSG members and invoiced to the balancing authority, the balancing authority could recover, through SPP, the invoiced charges with no markup.<sup>43</sup> Alternatively, Missouri/Oklahoma Municipals ask the Commission to limit the application of the “higher of” pricing to the energy actually generated by the host balancing area.<sup>44</sup>

## 2. Commission Determination

23. We deny Golden Spread’s request regarding incremental costs. The purpose of permitting the higher of pricing was to encourage efficient generation operation by limiting a generator’s potential to profit by declaring a forced outage in situations where emergency energy cost is lower than the LIP it is paid for supplying energy. In addition, the Commission, in the *October 26 Order*, held that this pricing permits an entity that responds to a reserve sharing event to recover its opportunity costs if the LIP at its unit is higher than its cost.<sup>45</sup> The Commission determined that in the latter circumstance, it would be inappropriate to limit emergency energy to incremental costs.<sup>46</sup> In terms of Golden Spread’s concern regarding higher costs to non-RSG members versus RSG members for emergency energy, we reject this argument as speculative. RSG members are signatories to contracts which have varying rates, some of which may be higher than those that non-RSG members may pay. Regardless, as stated above, non-RSG members are free to enter into bilateral arrangements covering their potential reserve sharing needs

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<sup>42</sup> *Id.* at 14-16.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 16-19.

<sup>45</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 28.

<sup>46</sup> *Id.*

similar to the Replacement Energy Agreement Golden Spread has with SPS, as described below.<sup>47</sup>

24. We grant Redbud's request. First, Redbud expresses its concern that in the event of a reserve sharing event, a host balancing authority may secure emergency energy from another balancing authority on behalf of a non-RSG market participant under an RSG contract and the non-RSG market participant may be subject to capacity costs under the RSG contract that are passed through to it. We grant clarification that if a non-RSG market participant causes a reserve sharing event, the emergency energy supplied from reserve resources will reflect only a pass through of costs pursuant to the Schedule 4A rate schedule filed by the entity responding to the non-RSG market participant. Second, we clarify that entities are prohibited by Commission regulation from including an uncapped adder where a rate component includes purchased power unless the adder is not more than 1 mill per kwhr.<sup>48</sup>

25. Furthermore, we deny Xcel's request for rehearing for the same reasons as we denied SPP's rehearing request. Xcel may charge as a responding balancing authority either rates under any RSG agreements it has with other RSG members when responding to RSG member reserve needs or the rate it files with the Commission under a Schedule 4A when responding to non-RSG members, as appropriate.

26. Finally, we deny Missouri/Oklahoma Municipals' rehearing request. We understand their concerns to be that in addition to the costs assessed by a host balancing authority under a Schedule 4A, the balancing authority may also include in their costs, the invoiced amounts from responding balancing authorities under the RSG contracts with an additional percentage adder. As clarified above, Missouri/Oklahoma Municipals will only be assessed charges from the host balancing authority under its Schedule 4A and for emergency energy supplied by others, the applicable Schedule 4A of that entity. Therefore, the concern that higher of pricing may lead to discrimination and/or abuses by the host balancing authority is misplaced. In addition, while reserve units may not be bid into the imbalance market, we nevertheless find that payment of the higher of rate is appropriate where imbalance prices are determined through a bid-based market. This is consistent with the pricing of reserves in other bid-based markets.<sup>49</sup> More important, as

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<sup>47</sup> Golden Spread appears to consider such an agreement to be beneficial. Golden Spread Rehearing Request at 7.

<sup>48</sup> See 18 C.F.R. § 35.22 (c) and (e) (2006); see also *October 26 Order*, 117 FERC ¶ 61,110 at 28 (noting that the adder must be "consistent with Commission precedent").

<sup>49</sup> See *Midwest Independent Transmission System Operator, Inc.*, 112 FERC ¶ 61,172, at P 22 (2005).

noted above, this prevents the opportunity for a generator to profit by declaring a forced outage when emergency energy costs are lower than the LIP it would be paid for supplying energy.

### **C. Other Issues**

27. Golden Spread also requests that the Commission clarify: (1) that SPP's imbalance market should accommodate imbalance arrangements such as the existing bilateral Replacement Energy Agreement it has with SPS; (2) that it may designate specific generating units to respond to a forced outage of its own generation units (pursuant to section 4.2(c) of Attachment AE); and (3) how Golden Spread would be reimbursed if its units are dispatched to supply emergency energy in response to reserve sharing event under Attachment AK. Golden Spread states that it understands that in the event of a forced outage of a Golden Spread unit, SPS, Golden Spread's balancing authority, would respond instantaneously by dispatching units under its control. If those resources are insufficient, SPS will notify SPP and reserves from other balancing authorities will be dispatched according to the RSG program. In this scenario, according to Golden Spread, it is not able to designate the resources to be dispatched in response to a reserve sharing event in a manner that avoids charges from other balancing authorities.<sup>50</sup>

#### **1. Commission Determination**

28. We grant Golden Spread's request for clarification on this issue. First, the Commission does not see a conflict with the tariff rules and Golden Spread's ability to benefit from its existing Replacement Energy Agreement because as it explains, if SPS has sufficient resources, presumably resources that will supply the replacement energy under the Replacement Energy Agreement, no reserve sharing event will be called by SPS. If those resources are insufficient and SPS calls a reserve sharing event, we understand section 4.2(c) to permit Golden Spread to designate specific resources to be dispatched. If Golden Spread wishes to designate specific resources under section 4.2(c), it would need to have agreements with those resources similar to the Replacement Energy Agreement it has with SPS.<sup>51</sup> If it does not have such agreements in place, then it would

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<sup>50</sup> Golden Spread Rehearing Request at 7-8.

<sup>51</sup> Section 4.2(c)(ii) states in pertinent part:

Prior to real-time, Market Participants may supply a default distribution that will be used by the Transmission Provider to automatically generate Energy Schedules for the Market Participant's Resources such that they will be dispatched

(continued)

be subject to the charges, as a pass through from the resources that provided the emergency energy to SPP under Attachment AK, *i.e.*, the supplying entity's Schedule 4A rates. Likewise, if Golden Spread's units are dispatched by SPP during a reserve sharing event, it must invoice SPP pursuant to Attachment AK, who in turn will invoice the party responsible for the reserve sharing activation and pass on the revenues to Golden Spread. In this way, it may be reimbursed for its costs. Lastly, in response to its concern that Golden Spread may have to sell emergency energy to SPS and then buy it back if one of its units trips, we view such a transaction as a unilateral transaction and no actual charges would result.

#### IV. Compliance Filing

29. We find that SPP has complied with the Commission's directives in the *October 26 Order*. In the order, the Commission required SPP to submit the following tariff modifications in a compliance filing:

- Clarify the application of offer caps by inserting specific language that identifies exact location of Market Participant's Resources with respect to the constrained flowgate to Section 3.2.2 of Attachment AF, Determination of Offer Capped Resources.<sup>52</sup>
- Modify Section II of Attachment AK, Charges for Reserve Sharing Services, clarifying specific responsibilities of RSG members, non-RSG members, the balancing authority and the transmission provider.<sup>53</sup>
- Remove the six month time limit from Attachment AG, Market Monitoring Plan, section 4.6.2(c), Strategic Withholding for documenting the Locational Imbalance Prices for pivotal resources following startup of the imbalance Market.<sup>54</sup>
- Submit revised tariff sheet for Schedule 4, Energy Imbalance Service, which reinstates the phrase "bundled retail load and load under Grandfathered

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according to these schedules in the event of reserve activation.

<sup>52</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 36.

<sup>53</sup> *Id.* P 41.

<sup>54</sup> *Id.* P 46.

Agreements.” In addition, SPP was required to add the word “scheduled” before “load” in the phrase to be reinstated above.<sup>55</sup>

- Provide corrected tariff sheets which were not initially submitted and properly designate other tariff sheets.<sup>56</sup>

30. Pursuant to the directives above, SPP submitted proposed tariff revisions which are intended to: (1) incorporate specific language into section 3.2.2 of Attachment AF, providing that if any market participant’s resources are subject to the offer cap based on the generator-to-load distribution factors, all resources owned by that market participant that are located on the importing side of the same constrained flowgate shall also be subject to an offer cap; (2) provide further clarification in Attachment AK regarding market participants that are not part of existing reserve sharing agreements; (3) remove six month time limit from section 4.6.2.(c) of Attachment AG, requiring SPP’s Market Monitor to document the locational imbalance pricing for pivotal resources; and (4) submit corrected tariff sheets and properly designated tariff sheets.

### **1. Compliance Filing Protests**

31. In its limited protest, Missouri/Oklahoma Municipals state that they agree that SPP has correctly implemented the Commission’s directives in the *October 26 Order*, however, they state that in order to preserve the position expressed in their pending request for rehearing, as discussed above, they are submitting this limited protest.<sup>57</sup> Missouri/Oklahoma Municipals argue that the Commission should require SPP to revise Attachment AK to provide that Schedule 4A charges for emergency energy generated by the host balancing authority will apply to all generators within the host balancing area, including the balancing authority’s own generation.<sup>58</sup>

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<sup>55</sup> *Id.* P 51. SPP states in its transmittal letter that the Commission directive in the *October 26 Order* requiring SPP to reinstate certain language in Schedule 4 to clarify SPP’s intent to charge transmission owners serving grandfathered and/or bundled retail load for transmission service in excess of their “scheduled” load, was rendered moot by a subsequent order, *Southwest Power Pool, Inc.*, 117 FERC ¶ 61,139, at P 29, n. 34 (2006). SPP Transmittal Letter at 3.

<sup>56</sup> *October 26 Order*, 117 FERC ¶ 61,110 at P 53.

<sup>57</sup> Missouri/Oklahoma Municipals Limited Protest at 1.

<sup>58</sup> *Id.* 2-3.

32. Additionally, Missouri/Oklahoma Municipals assert that the Commission should require SPP to revise Section II of Attachment AK to the extent the Commission authorized a host balancing authority to charge non-RSG members for emergency energy provided by other RSG members at rates higher than a pass-through of the charges for such energy.<sup>59</sup>

## **2. Commission Determination**

33. We find that SPP has complied with the directives in the *October 26 Order*. We will not address the protest by Missouri/Oklahoma Municipals here since their arguments have been discussed above in the rehearing section. We will accept SPP's compliance filing, to be effective February 1, 2007 or such later time as the imbalance market commences.

The Commission orders:

(A) The requests for rehearing are hereby denied and some requests for clarification are granted as discussed in the body of this order.

(B) SPP's revised tariff sheets are hereby accepted, to be effective February 1, 2007, or such later time as SPP's imbalance market becomes effective as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>59</sup> *Id.* 3.