122 FERC ¶ 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc. Docket No. ER08-242-000

ORDER ON TARIFF FILING

(Issued January 17, 2008)

1. On November 20, 2007, Southwest Power Pool, Inc. (SPP) filed to amend its Open Access Transmission Tariff (Tariff) to revise certain provisions relating to its real-time energy imbalance service market (EIS Market). For the reasons described below, the Commission accepts in part and rejects in part the proposed revisions. The accepted provisions shall become effective January 19, 2008, as requested.

I. Background

2. SPP is a regional transmission organization (RTO) that administers the EIS Market, a real-time centralized energy market based on least cost bid-based security constrained economic dispatch and location marginal pricing.[1] SPP launched the EIS Market on February 1, 2007,[2] and states that the EIS Market has functioned largely as intended since that time. SPP states that it has applied its experience in operating the EIS Market to propose revisions that will improve various aspects of the market.

3. SPP states that its proposed revisions were developed through SPP's stakeholder process, with all entities with an interest able to participate in their development and approval. SPP states that the proposed revisions were approved by the Regional Tariff Working Group (RTWG) on January 4, 2007, recommended to the SPP Board by the Markets Operations Policy Committee on January 16, 2007, and approved by the SPP

---

[1] *See Southwest Power Pool, Inc*, 114 FERC ¶ 61,289 (SPP Market Order), *order on reh'g*, 116 FERC ¶ 61,289 (Market Rehearing Order), *order on compliance*, 116 FERC ¶ 61,053 (Market Compliance Order), *order on reh'g and compliance*, 117 FERC ¶ 61,110 (2006).

[2] *See Southwest Power Pool, Inc.*, 118 FERC ¶ 61,055 (2007) (authorizing SPP to start its imbalance market on February 1, 2007).

Board on January 30, 2007 and April 24, 2007. SPP requests that because the proposed revisions have been vetted through its stakeholder process, the Commission extend "appropriate deference" to the wishes of SPP's stakeholders.

II. Notice and Responsive Filings

4. Notice of the proposed revisions was published in the *Federal Register*, 72 Fed. Reg. 67,929 (2007), with interventions and protests due on or before December 11, 2007. Nine entities filed motions to intervene: Redbud Energy LP; Missouri Joint Municipal Electric Utility Commission; Oklahoma Municipal Power Authority; West Texas Municipal Power Agency; Excel Energy Services, Inc., on behalf of its affiliate, Southwestern Public Service Company; the Electric Power Supply Association (EPSA); Golden Spread Electric Cooperative, Inc. (Golden Spread); Sunflower Electric Power Corporation; and Mid-Kansas Electric Company, LLC. Additionally, EPSA and Golden Spread filed protests to SPP's filing. SPP filed an answer on December 21, 2007. EPSA filed an answer to SPP's answer on January 10, 2008.

III. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept both SPP's and EPSA's answers because they have provided information that assisted us in our decision-making process.

7. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 C.F.R § 385.214(d) (2007), the Commission will grant Sunflower Electric Power Corporation's and Mid-Kansas Electric Company, LLC's late-filed motion to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

IV. Discussion

A. Revisions to Curtailment Priorities for Certain Market Flows

8. SPP proposes to amend its tariff to allow unscheduled market flows in the EIS Market to be designated as non-firm flows for North American Electric Reliability Corporation (NERC) transmission loading relief (TLR) purposes. Specifically, SPP proposes to add language to section 4.3(b) of Attachment AE, providing that any unscheduled output from generation resources offered into the EIS Market and dispatched by SPP will be included in EIS Market flow impacts on coordinated flowgates

(CFs) and reciprocal coordinated flowgates (RCFs).[3] Additionally, SPP states that it proposes to revise section 4.3(d) of Attachment AE to calculate the market flow contribution associated with energy imbalance service using the scheduled market flow associated with the defined energy schedules. SPP states that for CFs, any market flow contribution of imbalance service will be assigned non-firm network priority, and for RCFs, any market flow contribution of imbalance service in excess of amounts assigned non-firm network priority will be assigned non-firm hourly priority. SPP states that these changes preclude unscheduled imbalance energy from being inappropriately accorded a priority equal to firm transmission for network resources or firm point-to-point service.

9. In its protest, EPSA states that relegating EIS Market flows to non-firm, interruptible service will jeopardize the robustness of the EIS Market by impeding the ability and willingness of market participants to use the EIS Market.[4] EPSA notes that the EIS Market is the only full-fledged energy market in SPP, and that as such, it is the only forum in which competitive suppliers can bid generation that is not otherwise committed under bilateral contracts. EPSA states that although the EIS Market is styled an "imbalance" market, market participants are free to use the EIS Market for more than imbalance energy. Thus, EPSA argues that the EIS Market provides load-serving entities (LSEs) with the opportunity to obtain competitive energy instead of having to rely on self-scheduling their own generation to serve their loads.

10. EPSA states that SPP's tariff currently assigns EIS Market flows a firm priority up to a firm limit, before assigning the overflow to non-firm.[5] EPSA argues that this structure allows LSEs using the EIS Market to have a reasonable chance of receiving energy from the EIS Market on an uninterruptible basis. EPSA further argues that assigning EIS Market flows a non-firm network priority would drive LSEs out of the EIS Market and require them to rely on self-scheduling their own generation and to manage congestion by reserving firm point-to-point service. As a result, EPSA argues that competitive suppliers will have no opportunity within SPP to sell their available uncommitted generation.

[3] SPP, November 10, 2007, Transmittal Letter at 4. Coordinated Flowgates are those flowgates affected by flows on SPP's system. Reciprocal Coordinated Flowgates are flowgates affected by flows on both SPP's system and one or more of its neighbors' systems. *See* SPP, FERC Electric Tariff, Fifth Revised Vol. No. 1, Attachment AE, sections 1.1.3a and 1.1.27.

[4] EPSA, December 11, 2007, Protest at 1 and 5.

[5] *Id.* at 3.

11. Finally, EPSA argues that SPP fails to adequately support its determination that use of firm transmission service for imbalance energy is inappropriate.[6] EPSA states that SPP merely asserts that the revisions have been vetted through the stakeholder process, but that it has not offered any evidence that the EIS Market will operate in a just and reasonable manner under its proposed revisions.

12. In its answer, SPP states that EPSA's argument ignores the fact that SPP's proposal only applies to *unscheduled* EIS Market flows.[7] SPP states that it is not reasonable to permit unscheduled imbalance energy to displace scheduled transactions using network transmission service from non-designated resources or to compete with network and point-to-point transactions using firm transmission service. SPP further states that while its proposed revision ensures that network and point-to-point customers' transmission rights are protected from being displaced by what is essentially unscheduled secondary network service, the revision continues to allow properly scheduled EIS Market flows the ability to attain firm service.[8] Thus, SPP argues that the proposed revision will not make participation in the EIS Market any less attractive to potential market participants.

13. Additionally, SPP states that the proposed revision is consistent with the congestion management process of the joint operating agreement between SPP and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), which defines requirements for determining firm, non-firm network, and non-firm hourly market flows that impact CFs and RCFs.

14. EPSA answers that it is not clear from SPP's Tariff or from information available on SPP's website what the distinction is between "scheduled" and "unscheduled" EIS Market flows.[9]

15. The Commission cannot find that SPP's proposed revisions to section 4.3 of Attachment AE are just and reasonable because SPP has failed to provide support for or explanation of the revisions. Accordingly, we reject the proposed modification without prejudice. We agree with EPSA that SPP has not adequately supported its determination that the use of firm transmission service for unscheduled imbalance energy is inappropriate. We note that imbalance energy provided pursuant to Schedule 4 of the *pro forma* Tariff is unscheduled energy that is not assigned a curtailment priority for

[6] *Id.* at 6.

[7] SPP, December 21, 2007, Answer at 2.

[8] *Id.* at 3.

[9] EPSA, January 10, 2008, Answer at 1-3.

NERC TLR purposes. This treatment of imbalance energy is consistent with SPP's method for managing imbalance energy market flows, as accepted by the Commission.[10] While we recognize that imbalance energy provided through a market mechanism need not be treated exactly the same as required in non-RTO systems, SPP must at a minimum explain how its proposed revisions to the method for curtailment of flows in the EIS Market will allow it to continue to meet its obligation to provide imbalance energy to all transmission customers. We expect that, should SPP in the future propose these same revisions to section 4.3, it will provide numerical information on the current assignment of firm transmission service to imbalance energy, experience with curtailment of market flows and the effect on the availability of transmission service of treating unscheduled EIS Market flows as firm. Further, we expect that SPP will elaborate on the expected impacts on LSE and Independent Power Producer market participation, if any, that might result from its proposed revision.

16. Furthermore, while SPP states that these proposed Tariff revisions are the result of experience gained through the operation of the EIS Market, SPP has failed to show, through narrative or quantitative information, any negative impact of the current Attachment AE provisions or any relative benefit to be gained from its proposed change to section 4.3 of Attachment AE.[11] Moreover, SPP's statement that the working group and committee votes and stakeholder consideration of the proposed tariff change occurred prior to the February 1, 2007 launch of the EIS Market undercuts its assertion that the change is proposed as a result of experience with market operations. Further, we cannot corroborate stakeholder consideration of these proposed Tariff revisions because it appears that the RTWG did not consider these revisions at its meeting on January 4, 2007 as stated by SPP.[12]

17. Finally, in response to SPP's statement that the proposed revisions are consistent with the congestion management processes agreed to between SPP and Midwest ISO, we

---

[10] *See* Market Compliance Order, 116 FERC ¶ 61,053 at P 67-75.

[11] We note that it would be helpful to the Commission's consideration of any proposed change to the EIS Market if SPP submitted numerical examples comparing operations today with expected operation and outcomes under the revised tariff provisions.

[12] *See* SPP, November 10, 2007, Transmittal Letter at 2. A review of RTWG Meeting Minutes for January 4, 2007 (accessed on January 10, 2008 at http://www.spp.org/publications/RTWGMin&Attach-01-04-07.pdf at p 2) shows that revisions of section 4.3 of Attachment AE were not considered during the meeting. Review of the background materials for the meeting (accessed on January 10, 2008 at http://www.spp.org/section.asp?group=159&pageID=27) shows that revisions to section 4.3 of Attachment AE were not proposed for consideration at the meeting.

agree that consistency between SPP's Tariff provisions and all of SPP's congestion management agreements is important. In any future filings on this issue SPP should show how its proposed revisions continue to meet the requirements of all of these agreements or that the changes are needed because its current Attachment AE provisions violate such agreements. Therefore, for the reasons discussed above, we reject, without prejudice, SPP's proposed revisions to section 4.3 of Attachment AE.

B. Revisions to Offer Cap Posting Requirements

18. SPP states that its proposed revision to section 3.2.4(c) of Attachment AF (Mitigation) provides that during the first year of the EIS Market, the annual hours of constraint will be updated daily for inclusion in the daily calculation of the offer cap on each affected resource and posted electronically by SPP for each resource rather than each flowgate.[13] SPP states that this revision will improve the transparency of EIS Market activities and will permit market participants and others to note and track the impact of constraints upon each resource. SPP further notes that the hours of constraint utilized in the calculation of the offer cap will also be disclosed.

19. Golden Spread objects to SPP's proposed revision to section 3.2.4(c) of Attachment AF, arguing that SPP's proposed revision to the method of calculation of the offer cap is insufficient because it does not propose to adjust the cap applied to particular generating units for limitations imposed by environmental permits on the number of hours the unit is permitted to run.[14] Golden Spread argues that the SPP approach to calculation of offer caps does not contemplate a situation where resources are scarce and constraints are severe. Golden Spread maintains that under such circumstances, the offer cap fails to achieve its goal of encouraging efficient new resources to enter the market because entities building such resources are unable to charge prices sufficient to recover their costs.

20. In its answer, SPP states that Golden Spread impermissibly raises issues that are not at issue in the context of its filing.[15] SPP argues that Golden Spread's request is an impermissible attempt to present a Federal Power Act section 206[16] complaint in the form of a protest. SPP acknowledges that it inadvertently mischaracterized its proposed revision in its transmittal letter. SPP explains that its proposed revision to section 3.2.4(c) merely modifies how the annual hours of constraint will be electronically posted,

---

[13] SPP, November 10, 2007, Transmittal Letter at 6.

[14] Golden Spread, December 11, 2007, Protest at 2-3.

[15] SPP, December 21, 2007, Answer at 4-5.

[16] 16 U.S.C. § 824e (2000 & Supp. V 2005).

i.e., electronic posting of annual hours of constraint will be for each resource, instead of each flowgate. SPP further states that the proposed revision in no way alters the currently effective method in which the EIS Market offer cap is calculated.

21. The Commission finds that because SPP's proposed revision merely modifies the way in which annual hours of constraint will be electronically posted and in no way changes the formula used to calculate the offer cap, Golden Spread may not raise its objections to SPP's offer cap formula in this proceeding.[17] The Commission accepts SPP's proposal to post annual hours of constraint by resource as just and reasonable.[18]

C. <u>Additional Revisions</u>

22. SPP proposes to redefine the terms "Shut-down Mode" and "Start-up Mode" in Attachment AE. SPP states that the purpose of these revisions is to provide additional clarity to the defined terms and provide further safeguards to prevent overuse of these modes.[19]

23. SPP proposes revising section 6.1(a) of Attachment AE to provide SPP seven calendar days to issue a preliminary settlement statement for an operating day, as opposed to immediately after the due date for meter data submissions.[20] SPP also proposes revising section 6.1(b) of Attachment AE to allow SPP forty-seven calendar days to issue a final settlement statement for an operating day. SPP states that these extended timelines will allow it sufficient time to investigate missing and incomplete meter data and to pursue corrective actions with meter agents prior to posting initial or final statements. SPP proposes adding language to section 6.1(d) of Attachment AE providing that to the extent a meter agent does not submit data representing the net actual

[17] We note, however, that section 3.3.1 of Attachment AF allows for exceptions to offer caps in certain cases, and that market participants are permitted to submit a filing with the Commission seeking an exception. We find that this section provides an avenue for Golden Spread (or any other owner of offer-capped resources) to seek an exception to the offer caps should environmental permits limit the hours of operation of one of its resources to less than the annual hours of constraint.

[18] However, we advise SPP to be more exact in the future in the language it uses to describe proposed revisions. In its transmittal letter, SPP describes proposed revisions to section 3.2.4(c) of Attachment AF as "refin[ing] the method by which offer caps are calculated." SPP, November 10, 2007, Transmittal Letter at 6. This language led to confusion here because the offer cap calculation method is not, in fact, being changed.

[19] *Id.* at 3-4.

[20] *Id.* at 4-5.

interchange, SPP will substitute hourly integrated adjusted net scheduled interchange. SPP states that this revision provides additional clarity regarding how SPP will proceed in the absence of information necessary to compile a settlement statement.

24. SPP proposes revising section 6.3(a) of Attachment AE to accommodate resettlement statements issued when a final settlement statement has been corrected by SPP due to a dispute from a market participant.[21] SPP states that the revised provision establishes a thirty-day timeframe from the resettlement statement issue date for a market participant to dispute portions thereof.

25. We accept these additional proposed revisions as reasonable, to become effective January 19, 2008, as requested.

The Commission orders:

SPP's filing is hereby rejected in part and accepted in part, with the accepted provisions to become effective January 19, 2008, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

[21] *Id.* at 5-6.