

129 FERC ¶ 61,215  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER10-45-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE SCHEDULE AND  
ORDERING COMPLIANCE FILING

(Issued December 11, 2009)

1. In this order, we accept for filing Southwest Power Pool, Inc.'s (SPP) proposed changes to its Open Access Transmission Tariff (Tariff) to implement the formula rate and formula rate protocols of ITC Great Plains, LLC (ITC Great Plains) in the SPP Tariff.<sup>1</sup> We accept the filing effective August 18, 2009, as requested, subject to refund and subject to the outcome of Docket No. ER09-548-000. Additionally, the Commission orders a compliance filing.

**I. Background**

2. In Docket No. ER09-548-000, ITC Great Plains filed *pro forma* tariff sheets that, upon acceptance by the Commission, would be formally filed by SPP to be included in the SPP Tariff. The *pro forma* tariff sheets would institute a transmission cost-of-service formula rate and formula rate protocols to recover the cost of providing transmission service over transmission facilities ITC Great Plains planned to build and/or own in the SPP region.<sup>2</sup> ITC Great Plains planned to purchase the Elm Creek and Flat Ridge Substations (Substations) from Mid-Kansas Electric Company (Mid-Kansas), a

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<sup>1</sup> ITC Great Plains is a transmission-only limited liability company formed under Michigan law, authorized to do business in Kansas and Oklahoma. ITC Great Plains is a wholly-owned subsidiary of ITC Grid Development, LLC, which is wholly-owned by ITC Holdings Corp.

<sup>2</sup> ITC Great Plains also requested transmission rate incentives to construct two additional transmission projects in SPP.

transmission-owning member and pricing zone of SPP.<sup>3</sup> ITC Great Plains requested an effective date for the *pro forma* tariff sheets of 60 days after filing, or the consummation of the purchase of the Substations from Mid-Kansas, whichever is later.

3. The Commission conditionally accepted the formula rate and formula rate protocols for filing, granted the requested effective date and set these transmission rate issues for hearing and settlement procedures.<sup>4</sup> The Commission also granted in part, and denied in part, the requested transmission rate incentives. On October 28, 2009, ITC Great Plains filed an Offer of Settlement with the Commission resolving all transmission rate issues set for hearing and settlement procedures. The Offer of Settlement did not resolve the issues raised on rehearing that were not set for hearing (i.e., the Commission's granting of certain incentives requested by ITC Great Plains). ITC Great Plains' Offer of Settlement is pending before the Commission.

4. On October 13, 2009, SPP filed Tariff revisions in this proceeding to implement the formula rate and formula rate protocols of ITC Great Plains that ITC Great Plains filed with the Commission in Docket No. ER09-548-000. SPP states that its filing is only ministerial in nature, because it implements the formula rates that were previously conditionally accepted by the Commission when ITC Great Plains filed its *pro forma* Tariff sheets in Docket No. ER09-548-000. SPP requests an effective date of August 18, 2009. SPP states that, when the Commission accepted the *pro forma* tariff sheets, it accepted them to become effective upon the acquisition of the Substations, which was August 18, 2009.<sup>5</sup>

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

5. Notice of SPP's filing was published in the *Federal Register*,<sup>6</sup> with interventions and protests due on or before November 3, 2009. Timely motions to intervene were filed by ITC Great Plains and by Xcel Energy Services, Inc. In addition, a timely motion to intervene and conditional protest was filed jointly by Arkansas Electric Cooperative Corporation and Golden Spread Electric Cooperative, Inc. (collectively, Cooperatives).

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<sup>3</sup> The Substations were placed into service by Mid-Kansas in October 2008 and are under SPP's operational control.

<sup>4</sup> *ITC Great Plains, LLC*, 126 FERC ¶ 61,223 (2009) (ITC Great Plains Hearing Order).

<sup>5</sup> SPP filing at 4.

<sup>6</sup> 74 Fed. Reg. 54985 (2009).

6. The Cooperatives conditionally protest SPP's proposed tariff changes based upon the issues they raised in protesting ITC Great Plains' *pro forma* tariff sheet proceeding in Docket No. ER09-548-000. In that proceeding, the Cooperatives expressed concerns about ITC Great Plains' formula rate and formula rate protocols. Although the Offer of Settlement in Docket No. ER09-548-000 filed by ITC Great Plains resolved the transmission formula rate and formula rate protocol issues that were set for hearing in Docket No. ER09-548-000, this Offer of Settlement was filed after SPP made its October 13 filing in this proceeding. Thus, the Cooperatives argue that the filing in this proceeding presents the same formula rate issues that were present in Docket No. ER09-548-000.

7. The Cooperatives' protest here attaches its protest from Docket No. ER09-548-000. However, it notes that, if the Commission approves the Offer of Settlement in Docket No. ER09-548-000, it agrees to have its protest in this proceeding deemed withdrawn if SPP agrees to make a filing or filings: (1) incorporating the rates and terms and conditions of service included in the Offer of Settlement in the OATT; and (2) incorporating any changes to ITC Great Plains' rates and terms and conditions of service ordered by the Commission as a result of the requests for rehearing and motions for clarification pending in Docket No. ER09-548-000. The Cooperatives also argue that the issues in this proceeding are sufficiently intertwined with those in Docket No. ER09-548-000 to justify consolidation of the dockets (unless the ITC Great Plains' transmission formula rate in the SPP Tariff is revised to be consistent with the outcome of Docket No. ER09-548-000).<sup>7</sup>

### **III. Discussion**

#### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serves to make the entities that filed them parties to this proceeding.

#### **B. Commission Determination**

9. We accept and suspend for a nominal period SPP's Oct. 13, 2009 Tariff changes, to take effect August 18, 2009, subject to refund and subject to the outcome of the proceeding in Docket No. ER09-548-000. Making this proceeding subject to the outcome of the proceeding in Docket No. ER09-548-000 provides the Cooperatives with the relief they seek, but is administratively less cumbersome than consolidation of the two dockets. Thus, we deny the Cooperatives' request to consolidate this proceeding

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<sup>7</sup> Cooperatives Conditional Protest at 6.

with the proceeding in Docket No. ER09-548-000, because we are making this proceeding subject to the outcome of the proceeding in Docket No. ER09-548-000.

The Commission orders:

(A) SPP's Oct. 13, 2009 Tariff changes are hereby accepted for filing, and suspended for a nominal period to take effect August 18, 2009, subject to refund and subject to the outcome of the proceeding in Docket No. ER09-548-000.

(B) SPP is directed to make a compliance filing within 30 days of Commission action on the Offer of Settlement filed in Docket No. ER09-548-000. The compliance filing should adjust the formula rate and formula rate protocols to be consistent with the outcome of Docket No. ER09-548-000. Additionally, the compliance filing should include a refund report detailing the amount of refunds necessary, if any.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.