143 FERC ¶ 61,069
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Southwest Power Pool, Inc. Docket No. ER13-469-001

ORDER CONDITIONALLY ACCEPTING GENERATOR INTERCONNECTION AGREEMENT

(Issued April 26, 2013)

1. On November 28, 2012, as amended on February 27, 2013, Southwest Power Pool, Inc. (SPP) filed an unexecuted Generator Interconnection Agreement (GIA) governing interconnection among SPP, Waverly Wind Farm, LLC (Waverly Wind), and Westar Energy, Inc. (Westar). The filing was made pursuant to section 205 of the Federal Power Act (FPA).[1] The GIA includes a provision in Section 2(j) of Appendix A that does not conform to the *pro forma* GIA in SPP's Open Access Transmission Tariff (OATT).[2] SPP requests that the GIA become effective on November 14, 2012. In this order, the Commission conditionally accepts the proposed GIA, subject to SPP refiling the GIA to include a revised Appendix A, Section 2(j), as discussed below.[3]

I. Background

2. According to SPP, Waverly Wind plans to construct a 201.6 MW wind generation facility (Waverly Wind Facility) to be built in two 100.8 MW phases. Each phase will consist of 56 Vestas V90 1.8 MW wind turbine generators. The point of interconnection of the Waverly Wind Facility to Westar's transmission system will be at a new 345 kV ring bus substation to be constructed on the Wolf Creek-LaCygne 345 kV line, located near Waverly, Kansas.

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[1] 16 U.S.C. § 824d (2006).

[2] SPP's *pro forma* GIA is in Appendix 6 (Generator Interconnection Agreement) to Attachment V (Generation Interconnection Procedures) of SPP's OATT.

[3] Southwest Power Pool, Inc., FERC FPA Electric Tariff, Service Agreements Tariff, 2501 Waverly Wind GIA, 2501 Waverly Wind Farm, LLC GIA, 0.1.0.

II. SPP's Filing

3. According to SPP, Waverly Wind declined to execute the GIA because it contains non-conforming language in Appendix A, Section 2(j) requiring Waverly Wind to pay the owners of a generator the net cost of replacement energy incurred as the result of interconnection-related outages or de-rates that are caused by interconnecting the Waverly Wind Facility to the transmission system. The generator is the Wolf Creek Generating Facility (Wolf Creek), a 1,250 MW nuclear generating facility located near Burlington, Kansas.

4. SPP proposes to add the following to Appendix A (Interconnection Facilities, Network Upgrades and Distribution Upgrades), Section 2(j) of SPP's unexecuted GIA:

> The Interconnection Customer [Waverly Wind] shall be responsible for the net cost of replacement energy incurred by the owners of the Wolf Creek Generating Facility ("WCGF") due to an outage or de-rate of WCGF solely for the purpose of interconnecting the IC's [Interconnection Customer's] generating facilities to the transmission system. This cost has been estimated to be $150,000 to $200,000, assuming WCGF is de-rated for a 16-hour, on-peak period in a shoulder month, and that energy market prices at the time of the de-rate are comparable to the energy market prices in 2012. These costs will only be incurred if the interconnection occurs outside of a planned outage. Such costs, if any, shall be determined at the time of construction; the actual cost will be the responsibility of the Interconnection Customer.

5. SPP asserts that the language in Appendix A, Section 2(j), is consistent with the requirements of Order No. 2003-A, which permits the recovery of outage costs on a case-by-case basis, if authorized contractually.[4] SPP also cites two instances in which the Commission permitted recovery of outage costs associated with an interconnection customer's interconnection.[5]

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[4] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

[5] SPP Filing at 3.n.6 (citing *Southwest Power Pool, Inc.*, Docket No. ER12-904-000 (Mar. 22, 2012) (delegated letter order) (accepting an executed GIA among SPP,

(continued…)

6. SPP contends that the Commission should accept the non-conforming provision because: (1) the outage costs to be incurred by the generator, Wolf Creek, are solely due to the outages that will be needed to accommodate the interconnection of the Waverly Wind Facility; (2) the Commission has previously accepted a GIA with similar language; and (3) the proposed language is consistent with Commission precedent.

III. Notices of Filings

7. Notice of SPP's November 28, 2012 filing was published in the *Federal Register*, 77 Fed. Reg. 73,027 (2012), with interventions and protests due on or before December 19, 2012. In response to SPP's filing, Westar submitted a timely motion to intervene and Waverly Wind submitted a timely motion to intervene and comments. On January 7, 2013, Westar filed a motion for leave to answer and an answer.

8. On January 25, 2013, the Commission staff sent a deficiency letter directing SPP to provide additional information about the proposed GIA revisions. On February 27, 2013, SPP filed its response to the deficiency letter. Notice of SPP's February 27, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 14,530 (2013), with interventions and protests due on or before March 20, 2013. Invenergy Wind Development LLC submitted a timely motion to intervene, and Waverly Wind submitted additional comments.

IV. Discussion

A. Procedural Issues

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Westar's answer because it provided information that assisted us in our decision-making process.

Midwest Energy, Inc., and Post Rock Wind Power Project, LLC (Post Rock GIA))); and n.5 (citing *Southern Company Services, Inc.*, 111 FERC ¶ 61,423, at P 28 (2005) (*Southern*)).

B. Waverly Wind's Comments

11. Waverly Wind contends that the Commission should reject the non-conforming provision in SPP's proposed GIA, because it is inconsistent with SPP's OATT and Commission precedent.[6] Waverly Wind argues that Appendix A, Section 2(j) requires Waverly Wind to compensate a third-party generator for interconnection-related costs without demonstrating how the costs will be calculated or showing that the costs are just and reasonable. Waverly Wind also asserts that SPP has failed to satisfy the Commission's standards for deviations from the *pro forma* GIA; i.e., SPP has not demonstrated that the non-conforming provision is necessitated by "reliability concerns, novel legal issues or other unique factors."[7]

12. Waverly Wind states that the non-conforming language deviates from SPP's *pro forma* GIA by: (1) imposing responsibility for costs incurred by a generator not a party to the GIA; (2) failing to explain how the Waverly Wind Facility is unique and warrants non-conforming language; and, (3) failing to provide sufficient details on how the net cost of replacement energy will be calculated and attributed to Waverly Wind.[8]

13. Waverly Wind argues that in *Southern*, the Commission allowed transmission owners to recover specific categories of costs caused by or reasonably related to interconnection-related transmission outages, such as expenses associated with additional line losses, refunds to transmission customers, and redispatch costs. Waverly Wind asserts that, unlike the situation in *Southern*, SPP's proposed non-conforming language has no connection to outage-related costs that might be incurred by Westar in its capacity as the transmission owner. Waverly Wind avers that it understands that Westar is a partial upstream owner of the Wolf Creek Facility, and that Westar's status under the GIA is that of a transmission owner.[9] Waverly Wind states that, "[i]n order to deviate from the *pro forma* GIA and impose an extraordinary cost obligation on Waverly Wind, the interconnection customer here, SPP must demonstrate that the non-conforming obligation is necessitated by "reliability concerns, novel legal issues or other unique

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[6] Waverly Wind December 19, 2012 Comments at 1-2.

[7] *Id*. at 4 (citing *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,163, at P 10 (2005) (*PJM*) and Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 at P 140).

[8] *Id.* (citing Order No. 2003-A regarding the compensation for line outages caused by an interconnection customer).

[9] Waverly Wind December 19, 2012 Comments at 5 & n. 9.

factors." Waverly Wind contends that SPP has failed to satisfy this standard.[10] According to Waverly Wind, the costs in Appendix A, Section 2(j) are not clearly defined and do not fall into any of the categories of costs that the Commission has previously approved. Waverly Wind also argues that SPP fails to explain how the exact outage charges would be calculated and attributed to the interconnection of Waverly Wind.

14. Waverly Wind also argues that SPP has not established that a generator's replacement energy costs are a just and reasonable proxy for a transmissions owner's line outage costs. According to Waverly Wind, unless SPP establishes this relationship and provides a detailed formula for calculating the actual costs incurred due to the outages, these costs are not recoverable.[11] Waverly Wind also maintains that the Commission has consistently denied recovery of line outage costs when there has been insufficient cost support.[12]

15. With respect to SPP's reliance on the Commission's approval of similar language in accepting the Post Rock GIA, Waverly Wind points to differences between the Post Rock GIA and the Waverly Wind GIA that warrant a different outcome in this case. Waverly Wind argues that the Post Rock GIA filing was uncontested and reflected an agreed-upon and voluntary contractual obligation on the part of the interconnection customer. Moreover, according to Waverly Wind, consistent with Commission precedent, the interconnection customer in the Post Rock GIA is liable for certain outage expenses incurred by the transmission owner, not the owners of a third-party generator. By contrast, here, SPP is asking that Waverly Wind, the interconnection customer, bear costs that may be incurred by the owners of a third party generator.[13]

C. Westar's Answer

16. Westar's answer stresses the importance of allowing the owners of Wolf Creek to recover the costs that "they will undoubtedly incur" when Waverly Wind interconnects its generating facility to Westar's transmission system at Wolf Creek. Westar states that the process of interconnecting the Waverly Wind Facility will necessitate an outage on

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[10] *Id*. at 4.

[11] *Id.* at 6.

[12] Waverly Wind cites to *Southern Company Services, Inc.*, 105 FERC ¶ 61,221, at P 18 (2003); *Southern Company Services, Inc.*, 99 FERC ¶ 61,031, *reh'g denied,* 101 FERC ¶ 61,035 (2002).

[13] Waverly Wind December 19, 2012 Comments at 2, 6.

Westar's Wolf Creek-LaCygne transmission. Such outages specifically require Wolf Creek's output to be reduced from 1,225 MW to 800 MW to comply with North America Electric Reliability Corporation (NERC) and Nuclear Regulatory Commission (NRC) reliability requirements.[14] Westar acknowledges that the language related to outage costs in Appendix A, Section 2(j) is "strictly an estimate" of costs that Wolf Creek expects to incur to implement the interconnection, and Waverly Wind will be charged based on the actual values at the time of interconnection.

17. Westar acknowledges that the circumstances in the instant case are slightly different from the circumstances in *Southern*[15] because the outage costs in *Southern* were incurred by the transmission owner, whereas the costs here will be incurred by the owners of Wolf Creek.[16] Westar argues that the same rationale should apply here, i.e., because Waverly Wind's interconnection will result in costs to the owners of Wolf Creek, Waverly Wind should be responsible to pay for them.[17] Additionally, Westar argues that the Commission has held that costs should be allocated based on the principles of cost-causation.[18] Westar contends that the circumstances in the instant case make it appropriate for the Commission to authorize a departure from the *pro forma* GIA.[19]

18. In short, Westar asserts that cost-causation principles require Waverly Wind to pay for interconnection-related costs incurred by Wolf Creek to interconnect with Westar at the Wolf Creek generation facility.[20]

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[14] Westar Answer at 2.

[15] *Southern*, 111 FERC ¶ 61,423 at P 28.

[16] Westar Answer at 3.

[17] *Id.*

[18] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,113, at P 108 (2006). Westar states that: "Cost causation is traditionally the basis for ratemaking, and disregard of cost causation can result in unjust and unreasonable rates." Westar Answer at 3-4.

[19] Westar Answer at 4.

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

D. SPP Deficiency Letter Response

19. On February 27, 2013, SPP submitted its response to the Commission staff's deficiency letter, which included clarifying language revising Appendix A, Section 2(j). In response to the directive to provide support for the proposed nonconforming GIA provision, SPP states that the interconnection of Waverly Wind Facility to Westar's transmission system will necessitate an outage on Westar's Wolf Creek-LaCygne transmission line (one of the three outlet lines from the Wolf Creek nuclear generating facility). This will reduce the output from Wolf Creek from 1,225 to 800 MW to comply with NERC and NRC requirements. SPP avers that when any of the 345 kV lines terminating at Wolf Creek experience an outage or are de-rated, output from the Wolf Creek Facility generation must be reduced to below 800 MW to accommodate the 345 kV line outage. This generation reduction would be required as a result of any such outage or de-rating of any of the 345 kV transmission lines and is a stability limit imposed by NERC's and NRC's license requirements, which are independent of market conditions.

20. SPP asserts that these outage costs can be avoided if the interconnection occurs during a planned outage of the Wolf Creek Facility, which is scheduled for the eight week period from February 1, 2014 through April 4, 2014. According to SPP, it has developed construction milestones to accommodate Waverly Wind's proposed in-service date and a scheduled outage of the Wolf Creek Facility. SPP states that the load serving entity (LSE) owners of Wolf Creek (Westar, Kansas City Power and Light Company (KCP&L), and Kansas Electric Power Cooperative, Inc. (KEPCO)) would be responsible for calculating the net cost of replacement energy, which SPP understands would be the Locational Imbalance Price of the Westar/KCP&L/KEPCO Load minus the operating costs for Wolf Creek had the same energy been produced at Wolf Creek. The result of this calculation would be used as the estimated dollar/hour value for SPP market costs in the calculation set out in the Westar Answer.[21] According to SPP, this calculation will result in a reasonable proxy for redispatch costs attributable to the interconnection related outage.

21. SPP states that as a Regional Transmission Organization, it operates and maintains the Transmission System in such a way as to allow load to be served in an economical

[21] Westar states that "[t]he estimated cost was determined by taking the MW reduction (estimated to be 425 MWs), times the estimated time the plant will be required to be limited (estimated to be 16 hours), times the estimated dollar/hour SPP market costs based upon past experience in 2012 (approximately $22/hour to $29/hour)." Westar Answer at 2.

and reliable manner.[22] According to SPP, it has generally not made allowances for recovery of transmission redispatch costs in GIAs, because SPP endeavors to schedule interconnection construction outages to minimize impacts on customers.[23] However, because Waverly Wind is interconnecting its facility into an area of the transmission system with known reliability and stability limits,[24] SPP believes that to be consistent with this general practice, Waverly Wind would have to schedule construction of its interconnection during the scheduled outage of the Wolf Creek Facility. According to SPP, Westar has agreed that no outage costs would be necessary if Waverly Wind schedules its interconnection to coincide with Wolf Creek Facility's planned outage, and Westar has developed construction milestones in Appendix B of the Waverly Wind GIA to accommodate both Waverly Wind's proposed in-service date and scheduled outage of the Wolf Creek Facility.[25]

22. SPP states that in the event that Waverly Wind chooses to change its construction milestones in Appendix B of the Waverly Wind GIA so that the construction outage is required outside of a scheduled outage of the Wolf Creek Facility, the net generation of the Wolf Creek Facility must be reduced to below 800 MW in preparation for a subsequent 345 kV line outage.[26] SPP states that because Waverly Wind is interconnecting directly into one of the 345 kV lines of the Wolf Creek Facility's transmission outlet, this creates a unique situation, causing a limitation under NERC and NRC requirements.[27]

23. SPP argues that Order No. 2003-A allows recovery of outage costs on a case-by-case basis if contractually authorized. Furthermore, SPP notes that in *Southern*, the Commission accepted an interconnection agreement permitting recovery of outage costs caused by or reasonably related to scheduled transmission line outages associated with the interconnection customer's interconnection.

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[22] SPP Deficiency Letter Response, Exhibit No. 1, Response to Question (2).

[23] *Id*.

[24] SPP emphasizes that the stability limit is present 365 days of the year, and it is independent of all other factors, including load, time of the year, and market conditions. *Id*.

[25] SPP Deficiency Letter Response, Exhibit No. 1, Response to Question (2).

[26] *Id*.

[27] *Id.*

24. To clarify its original proposal, SPP proposes the following revisions (italicized) to Appendix A, Section 2(j):

> The Interconnection Customer shall be responsible for the net cost of replacement energy incurred by the owners of the Wolf Creek Generating Facility ("WCGF") due to an outage or de-rate of the WCGF solely for the purpose of interconnecting the IC's generating facilities to the transmission system *that will occur as a result of redispatch of the Transmission System. The outage that will trigger a de-rating event and subsequent Transmission System redispatch is the outage of the Wolf Creek-LaCygne 345 kV line taken to interconnect the Generating Facility. Outage Costs will be computed as the positive difference, if any, between the replacement energy that was purchased or generated by the Load Serving Entity owners of WCGF during the outage as a result of the de-rating event less the cost of scheduled energy that would have been purchased or generated by the Load Serving Entity owners but for the de-rating event. Such replacement energy may be purchased from third parties or from the SPP Energy Imbalance Market, or may be generated by one or more generating units controlled by the Load Serving Entities.*
>
> This cost has been estimated to be $150,000 to $200,000, assuming WCGF is de-rated for a 16-hour, on-peak period in a shoulder month, and that energy market prices at the time of the de-rate are comparable to the energy market prices *experienced* in 2012. These costs will only be incurred if the interconnection occurs outside of a planned outage of WCGF. *Such costs will only be incurred if Wolf Creek is operating above 800 MW at the time of the outage. Such costs will be based on the difference of the pre-outage level of Wolf Creek's operation and 800 MW, the level to which Wolf Creek is limited.* Such costs, if any, shall be determined at the time of construction; the actual cost will be the responsibility of the Interconnection Customer.

According to SPP, these modifications make the language consistent with *Southern* and the Post Rock GIA.

E. <u>Waverly Wind's Response to SPP's Deficiency Letter Response</u>

25. Waverly Wind requests that the Commission reject SPP's revised language, arguing that SPP has no basis for assessing the costs to interconnection customers, and that it is unclear how SPP would calculate the costs to limit Waverly Wind's liability to actual costs. Waverly Wind contends that SPP's revised language does not account for important variables, including potential fluctuations in the output of Wolf Creek and

market conditions such as load demand and congestion costs (e.g., SPP could charge full costs before shedding any load). In addition, Waverly Wind points out that SPP relies on a cost estimate using Energy Imbalance Service (EIS) market prices from 2012, but that the SPP Integrated Marketplace will be implemented before the April 2014 interconnection. For this reason, Waverly Wind contends that the cost estimates will not reflect the actual costs that would be incurred in 2014.

26. Waverly Wind asserts that SPP's proposal is unjust and unreasonable and unduly discriminatory. Waverly Wind argues that SPP has not provided a non-discriminatory basis for identifying customers affected by interconnection-related outages and providing cost recovery to such customers. Waverly Wind claims that the majority of interconnection construction outages trigger some costs and there is no basis for distinguishing Waverly Wind's interconnection from other generator interconnections. Waverly Wind confirms that, like other SPP interconnection customers, it has an obligation under the *pro forma* GIA to coordinate outages (Attachment V, Appendix 6, section 9.7.1.1). However, Waverly Wind states that it has no control over the scheduling of outages on the transmission system or other generators or over the construction schedule for the system upgrades. Accordingly, Waverly Wind concludes that it should not be treated differently from any other interconnection customer.

27. Alternatively, Waverly Wind proposes revisions to SPP's clarifying language to Appendix A, Section 2(j) to limit the scope of recovery to actual costs incurred solely as a result of the interconnection, and to preclude cost recovery where the outage of Wolf Creek is not directly caused by Waverly Wind. Waverly Wind contends that it should not be obligated to reimburse Wolf Creek if the interconnection outage occurs outside of a planned outage that is not the fault of Waverly Wind; e.g., if the outage is moved by the owners of Wolf Creek or SPP. Waverly Wind's revisions (italicized) are as follows:

> The Interconnection Customer shall be responsible for the net cost of replacement energy incurred by the owners of the Wolf Creek Generating Facility ("WCGF") due to an outage or de-rate of the WCGF solely for the purpose of interconnecting the IC's generating facilities to the transmission system that will occur as a result of redispatch of the Transmission System. The outage that will trigger a de-rating event and subsequent Transmission System redispatch is the outage of the Wolf Creek-LaCygne 345 kV line taken to interconnect the Generating Facility. Outage Costs will be computed as the positive difference, if any, between the replacement energy that was purchased or generated by the Load Serving Entity owners of WCGF during the outage *solely* as a result of the de-rating event less the cost of scheduled energy *(adjusted for real-time load demand)* that would have been purchased or generated by the Load Serving Entity owners but for the de-rating event. Such replacement

> energy may be purchased from third parties or from the SPP Energy Imbalance Market, or may be generated by one or more generating units controlled by the Load Serving Entities*; provided, however, that the IC's reimbursement obligation shall not exceed the lowest cost option for securing replacement energy.*
>
> This cost has been estimated to be $150,000 to $200,000, assuming WCGF is de-rated for a 16-hour, on-peak period in a shoulder month, and *in no event shall exceed* the energy market prices experienced in 2012 *during the same period*. These costs will only be incurred if the IC *reschedules the* interconnection *outage* outside of *the milestones set forth in the GIA and such rescheduled outage does not coincide with a planned outage of WCGF*. Such costs will only be incurred if Wolf Creek is operating above 800 MW at the time of the outage. Such costs will be based on the difference of the pre-outage level of Wolf Creek's operation *(as adjusted for changes in load demand during the outage period)* and 800 MW, the level to which Wolf Creek is limited. Such costs, if any, shall be determined at the time of construction; the actual cost will be the responsibility of the Interconnection Customer.

F. **Commission Determination**

28. For the reasons set forth below, we conditionally accept SPP's proposed unexecuted GIA, subject to SPP refiling the GIA to include the revised Appendix A, Section 2(j) that SPP proposed in its February 27, 2013 deficiency response. Moreover, we reject the proposed language suggested by Waverly Wind in its comments on SPP's deficiency response.

29. In Order No. 2003,[28] the Commission rejected calls to require interconnection customers to reimburse affected generation owners for outage-related costs that they incur.[29] The Commission explained that it has generally rejected, without prejudice, proposals to allocate these costs to interconnection customers, finding that the proposals

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[28] Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 714.

[29] As discussed in Order No. 2003, outage-related costs include generator shut-down and restart costs, redispatch and purchase power costs, lost opportunity costs on sales not made, costs of power to compensate for additional line losses, and other costs related to the outage in question.

are vague, leave too much discretion to the transmission provider, and do not provide for adequate regulatory oversight by the Commission. The Commission expressed concern that estimating the outage-related costs of unaffiliated generation owners could pose a significant problem.[30] However, the Commission revisited this issue in Order No. 2003-A, where, based on a then-recent court decision,[31] the Commission determined to allow the recovery of outage costs on a case-by-case basis where the interconnection agreement specifically authorizes such cost recovery.[32]

30. We find that SPP, with the additional clarifications provided in its response to the deficiency letter, has adequately supported the proposed method of calculating charges for replacement energy and therefore justified its proposed non-conforming provisions.[33] There is no dispute that an outage of the Wolf Creek-LaCygne transmission line is required to accommodate the interconnection of the Waverly Wind Facility to Westar's transmission system, and that the Waverly Wind interconnection is in an area of Westar's transmission system with known and unavoidable stability limits. Moreover, none of the intervenors has disputed SPP's assertion that the owners of the Wolf Creek nuclear generating facility will incur one-time costs directly associated with the Wolf Creek-LaCygne transmission line outage caused by the Waverly Wind interconnection. SPP has shown that: (1) these costs will be incurred because Wolf Creek is required by NERC and NRC requirements to reduce its output from 1,225 to 800 MW with the line outage; (2) Wolf Creek serves as a base load generator for the three owners of Wolf Creek, who serve their load with output from Wolf Creek and as a result meet their demand with output from the facility, and (3) due to the design and nature of the transmission system servicing Wolf Creek, Wolf Creek faces unique NERC and NRC operational guidelines.

31. Our determinations here are based on SPP's assurances that there will be sufficient protection for Waverly Wind against overcharges and that Waverly Wind is only responsible for the cost of replacement energy due to redispatch resulting from the outage of the Wolf Creek-LaCygne transmission line to interconnect Waverly Wind. SPP avers that Westar has agreed that it would not attempt to recover any redispatch costs in association with the Waverly Wind interconnection if Waverly Wind schedules

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[30] Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 714.

[31] *Southern Company Services, Inc. v. FERC*, 353 F.3d 29 (D.C. Cir. 2003).

[32] Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 647.

[33] Because Order No. 2003-A provided that recovery of outage costs would be considered on a case-by-case basis, mechanisms for recovery of outage costs are acceptable as non-conforming GIA provisions.

its outage during the scheduled outage of the Wolf Creek Facility and within the construction milestones set forth in Appendix B of the GIA. If the interconnection occurs outside the planned outage of Wolf Creek, the costs will be incurred only if Wolf Creek is operating above 800 MW at the time of outage. According to SPP, Waverly Wind will not be charged for any outage costs if the output of the Wolf Creek Facility is below 800 MW or is offline, because the unit will not be required to lower its output. SPP states that the costs will be the difference of the pre-outage level of Wolf Creek's operation and the 800 MW level to which Wolf Creek is limited. SPP further states the costs will be determined at the time of construction, and only the actual costs will be the responsibility of the interconnection customer. Thus, the Commission finds that, subject to the modifications proposed in its response to the Commission staff's deficiency letter, the GIA is just and reasonable.

32. We disagree with Waverly Wind that SPP's proposal is unduly discriminatory. As SPP explains, it has generally not made allowances for recovery of transmission redispatch costs in GIAs because SPP endeavors to schedule interconnection construction outages to avoid such costs. However, Wolf Creek is uniquely situated in that Waverly Wind is interconnecting into one of its outlet lines causing a limitation that is required for the Wolf Creek Facility to meet NERC and NRC requirements. In these circumstances, it is reasonable to permit the owners of Wolf Creek to recover their costs incurred due to interconnection-related outages should Waverly Wind choose to change the construction milestones so that the construction outage is required outside of a scheduled outage of Wolf Creek. While in previous cases the Commission has been presented with, and accepted, proposals to recover outage costs incurred by the transmission owner, given the facts in this case, we find that third-party generation owners should similarly be compensated for an interconnection-related outage costs that they incur. Thus, we find that the proposed language is not unduly discriminatory and does not provide undue preference to the generation owners, regardless of any affiliate relationship.

33. We will not direct SPP to include Waverly Wind's proposed revisions to SPP's clarifying language to Appendix A, Section 2(j), because this language is unnecessary. Moreover, Waverly Wind fails to demonstrate how the proposed language addresses any concerns that are not addressed by SPP's proposed language. We find that Waverly Wind's proposal to limit the interconnection customer's reimbursement obligation to the lowest cost option for securing replacement energy is vague and unsupported. Waverly Wind offered no specific support for its proposal to limit cost recovery to "the lowest cost option for securing replacement energy." Instead, Waverly Wind generally explains only that its revisions limit the scope of cost recovery to the actual costs incurred solely as a result of the interconnection and precludes cost recovery where the outage of Wolf Creek is not directly caused by Waverly Wind. Moreover, Waverly Wind's proposal to adjust the cost of scheduled energy for real-time load demand (i.e., shedding any load in response to a decrease in load demand) is unnecessary because this is already a normal function of redispatch. We also reject Waverly Wind's proposed limitation that the cost

estimate shall not exceed the energy prices experienced in 2012 during the same period. Rather, we find that SPP’s proposal to allow recovery of only actual costs ensures that the owners of Wolf Creek neither over-recover or under-recover their redispatch costs.

34. Finally, we find that Waverly Wind is sufficiently protected from outage costs if SPP or Westar cause the construction schedule to change so that the line outage occurs at a time other than the Wolf Creek outage. Appendix B of the GIA provides that Westar shall notify the interconnection customer within two business days of knowledge of any change in the scheduled dates of the Wolf Creek Facility outage. If the outage dates change, Appendix B of the GIA further provides that the milestones shall be reviewed and adjusted as necessary to accommodate the scheduled outage dates. In addition, Article 5.1.1 of the GIA (Interconnection Facilities Engineering, Procurement, and Construction) provides that Westar, as transmission owner, should use reasonable efforts to complete construction of interconnection facilities and network upgrades by the milestones set forth in Appendix B. If Westar is not able to complete the interconnection facilities and network upgrades by the specified dates, it must provide written notice to Waverly Wind and shall undertake reasonable efforts to meet the earliest dates thereafter. If Waverly Wind believes that Westar is unreasonably withholding agreement to adjust milestones as needed to accommodate any changes to the scheduled outage dates for the Wolf Creek Facility, or if it believes that Westar is not using reasonable efforts to complete construction of interconnection facilities and network upgrades by the milestones set forth in Appendix B, Waverly Wind has recourse; it may raise the issue of whether it should continue to be responsible for interconnection-related outage costs, in an appropriate proceeding (e.g., the filing of an unexecuted GIA to amend the milestones in Appendix B, or a complaint pursuant to section 206 of the FPA).[34]

35. Accordingly, for reasons discussed above, the Commission conditionally accepts SPP’s proposed non-conforming GIA, subject to SPP modifying Appendix A, Section 2(j) to include the clarifying revisions proposed by SPP in its deficiency letter response, effective as requested on November 14, 2012.

The Commission orders:

(A) SPP’s proposed unexecuted GIA is hereby conditionally accepted effective November 14, 2012, as discussed in the body of this order.

[34] 16 U.S.C. § 824e (2006).

(B) SPP is hereby directed to submit a compliance fling within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.