

161 FERC ¶ 61,073  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, and Robert F. Powelson.

Alabama Power Company

Docket No. EL17-11-000

v.

Southwest Power Pool, Inc.,

ORDER ON COMPLAINT

(Issued October 19, 2017)

1. On October 24, 2016, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure,<sup>1</sup> Southern Company Services, Inc. (Southern Company), as agent for Alabama Power Company (Alabama Power), filed a complaint<sup>2</sup> (Complaint) against the Southwest Power Pool, Inc. (SPP) requesting relief under sections 205, 206, 306 and 309 of the Federal Power Act (FPA),<sup>3</sup> concerning an alleged violation of the SPP Open Access Transmission Tariff (Tariff). In this order, we find that SPP has not violated its Tariff, and therefore deny the Complaint.

**I. Background and Related Proceedings**

**A. Previous and Concurrent Proceedings**

2. As part of the design of its Integrated Marketplace, SPP established mechanisms to provide market participants with financial tools to manage congestion costs and to allow them to sell their rights to others (i.e., auction revenue rights (ARRs) and

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<sup>1</sup>18 C.F.R. § 385.206 (2017).

<sup>2</sup> Complaint of Alabama Power Company, Docket No. EL17-11-000 (filed Oct. 24, 2016).

<sup>3</sup> 16 U.S.C. §§ 824d, 824e, 825e, and 825h (2012).

transmission congestion rights (TCRs)<sup>4</sup>).<sup>5</sup> Transmission customers and market participants with firm transmission service are eligible to nominate candidate ARR from a specific source point serving a specific sink point consistent with their firm service, and SPP allocates the portion of the nominated ARRs that are simultaneously feasible given SPP's transmission system.<sup>6</sup> ARRs are allocated annually in April of each year, with additional monthly or seasonal ARR allocations made as needed to address new transmission service.<sup>7</sup>

3. Section 13.5 of the Tariff provides that customers with firm point-to-point transmission service subject to redispatch until transmission upgrades are placed into service<sup>8</sup> are not eligible to obtain ARR allocations associated with that service, except for

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<sup>4</sup> TCRs are financial instruments entitling the holder to a stream of revenues, or obligating it to pay charges, based upon the difference between the hourly day-ahead marginal congestion component of the locational marginal price at the source and sink settlement locations associated with the TCR. TCRs are obtained in TCR auctions, either through purchase or self-conversion of ARRs, or through secondary sales of TCRs. *Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048, at n.330 (2012) (Integrated Marketplace Order), *order on reh'g and clarification*, 142 FERC ¶ 61,205 (2013). ARRs are rights that entitle the holder to a share of the auction revenues generated in the applicable TCR auctions and entitle the holder to self-convert the ARR to a TCR. An ARR can result in a credit or charge to the holder, based upon the TCR auction clearing price on the particular ARR path. Eligible entities may either self-convert awarded ARRs into TCRs or hold the ARR to receive a share of the revenue SPP collects from auction purchasers of TCRs. Integrated Marketplace Order, 141 FERC ¶ 61,048 at n.329.

<sup>5</sup> Integrated Marketplace Order, 141 FERC ¶ 61,048 at P 229.

<sup>6</sup> *Id.* P 246.

<sup>7</sup> *Id.*

<sup>8</sup> Under the SPP Tariff, when a firm transmission service request requires new transmission upgrades, SPP commences service prior to the transmission upgrades being placed in service if SPP is able to address the constraint identified in the system impact studies through redispatch until the transmission upgrades are placed into service. This order uses the phrase "subject to redispatch" to describe such transmission service until transmission upgrades are placed into service, unless otherwise indicated.

the times of the year and for the amounts of service that are not subject to redispatch.<sup>9</sup> The Tariff does not specify whether customers with Network Integration Transmission Service (network service) subject to redispatch are eligible to obtain ARR allocations associated with that service.

4. In March 2016, in Docket No. ER16-1286-000, SPP proposed, among other things, to revise section 34.6<sup>10</sup> of its Tariff to include language to state that customers with network service subject to redispatch are eligible to obtain ARRs and long-term transmission congestion rights (LTCRs)<sup>11</sup> associated with that service. SPP stated that while the Tariff currently places limits on ARR allocations for firm point-to-point service subject to redispatch, it does not do so for network service subject to redispatch, and that the proposed language was intended to memorialize this difference between firm point-to-point and network service. In its September 2016 order,<sup>12</sup> the Commission rejected the proposed revisions to section 34.6 because it found that the proposed language was unclear and would extend eligibility for ARRs and LTCRs to network customers in a manner that may be inappropriate. The Commission explained that the revisions could provide undue preference to network service subject to redispatch over firm point-to-point transmission service not subject to redispatch. Additionally, the Commission found that the existing version of section 34.6 may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARRs and LTCRs to network service customers subject to redispatch, and established a proceeding under FPA section 206 in Docket No. EL16-110-000 to examine the SPP Tariff.<sup>13</sup> An order addressing the examination of SPP's Tariff under FPA section 206 is being issued in Docket No. EL16-110-000 concurrently with this order.<sup>14</sup>

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<sup>9</sup> The Commission approved this limited eligibility for ARRs with respect to point-to-point service subject to redispatch in its order accepting SPP's Integrated Marketplace Filing. *Id.* PP 267-268.

<sup>10</sup> Section 34.6 of the SPP Tariff describes the Redispatch Charge, and states that, "The Network Customer shall pay redispatch costs associated with its transactions through the operation and settlement of the Energy and Operating Reserve Markets as described in Attachment AE." SPP, OATT, Sixth Revised Volume No. 1, § 34.6 (1.0.0).

<sup>11</sup> LTCRs are TCRs with entitlements for a period of more than one year.

<sup>12</sup> *Sw. Power Pool, Inc.*, 156 FERC ¶ 61,217 (2016) (September 2016 Order).

<sup>13</sup> *Id.* PP 34-37.

<sup>14</sup> *Southwest Power Pool, Inc.*, 161 FERC ¶ 61, 071 (2017).

5. On October 24, 2016, in Docket No. ER16-1286-002, Southern Company, as agent for Alabama Power, sought clarification, or in the alternative rehearing, of the September 2016 Order. Alabama Power requested clarification that the September 2016 Order did not address and did not foreclose firm point-to-point transmission customers who were possibly under-allocated ARRs from pursuing retroactive relief. If the September 2016 Order did foreclose that option, then Alabama Power sought rehearing of the order because it claimed there was an insufficient record on which to base the decision.<sup>15</sup> An order addressing Alabama Power's request for clarification is being issued in Docket No. ER16-1286-002 concurrently with this order.<sup>16</sup>

6. On May 1, 2017, in Docket No. EL17-69-000, Enel Green Power North America, Inc. (Enel), on behalf its subsidiary Buffalo Dunes Wind Project, LLC, and Southern Company, on behalf of Alabama Power (collectively, Joint Parties) filed a complaint against SPP related to the allocation of ARRs and LTCRs to customers with network service subject to redispatch for the 2017-2018 annual ARR allocation year. An order addressing that complaint is being issued in Docket No. EL17-69-000 concurrently with this order.<sup>17</sup>

7. On May 9, 2017, in Docket No. ER17-1575-000, SPP filed revisions to section 34.6 of its Tariff that would apply the same ARR and LTCR eligibility limitations on network service subject to redispatch that the Tariff currently applies to point-to-point service subject to redispatch.<sup>18</sup> On July 13, 2017, pursuant to the authority delegated by the Commission's February 3, 2017 Order Delegating Further Authority to Staff in Absence of Quorum,<sup>19</sup> SPP's Tariff revisions were accepted for filing, suspended for a nominal period, subject to refund and further Commission order.<sup>20</sup> On August 14, 2017, Joint Parties filed a request for rehearing of the delegated letter order issued in Docket No. ER17-1575-000. An order addressing SPP's Tariff filing and Joint Parties'

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<sup>15</sup> Request for Clarification, or in the Alternative Rehearing, of Southern Companies, Docket No. ER16-1286-002 (filed Oct. 24, 2016).

<sup>16</sup> *Southwest Power Pool, Inc.*, 161 FERC ¶ 61, 071 (2017).

<sup>17</sup> *Buffalo Dunes Wind Project, LLC v. Southwest Power Pool, Inc.*, 161 FERC ¶ 61,074 (2017).

<sup>18</sup> SPP, Filing, Docket No. ER17-1575-000, at 8-9 (filed May 9, 2017).

<sup>19</sup> *Agency Operations in the Absence of a Quorum*, 158 FERC ¶ 61,135 (2017).

<sup>20</sup> *Sw. Power Pool, Inc.*, Docket No. ER17-1575-000 (Jul. 13, 2017) (delegated letter order).

request for rehearing is being issued in Docket Nos. ER17-1575-000 and ER17-1575-001 concurrently with this order.<sup>21</sup>

## **B. Complaint**

8. Alabama Power states that it is a long-term, firm point-to-point transmission customer of SPP with two 101 megawatt (MW) long-term firm transmission service agreements. Alabama Power adds that the costs of transmission service under the transmission service agreements are borne by its native load customers through established cost-of-service rate recovery mechanisms, and that congestion costs are a major component of the total transmission service expense.<sup>22</sup> Alabama Power argues that SPP has violated its Tariff by treating network service subject to redispatch as eligible to receive ARR and LTRs for such transmission service, which, Alabama Power contends, resulted in an under-allocation of ARR to Alabama Power. Alabama Power states that only firm transmission service is eligible for ARR under section 7.1 of Attachment AE of the Tariff which provides that “[o]nly Eligible Entities are permitted to nominate candidate LTRs and/or ARR.”<sup>23</sup> Alabama Power notes that “Eligible Entities” is defined in Attachment AE as “[a] Transmission Customer or Market Participant having firm SPP Transmission Service.”<sup>24</sup> Alabama Power contends that because network service subject to redispatch is not firm service and is instead a form of conditional service,<sup>25</sup> customers with network service subject to redispatch are not “Eligible Entities” under the SPP Tariff.<sup>26</sup> Accordingly, Alabama Power requests that the Commission institute proceedings to investigate the extent to which SPP’s practice reduced the allocation of ARR to Alabama Power and require SPP to provide a credit to restore to Alabama Power the value of the reduced TCR credits.<sup>27</sup>

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<sup>21</sup> *Southwest Power Pool, Inc.*, 161 FERC ¶ 61, 075 (2017).

<sup>22</sup> Complaint at 5.

<sup>23</sup> *Id.* at 3 (citing SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, § 7.1. (1.0.0)).

<sup>24</sup> *Id.* at 6 n.17 (citing SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, §1.1. (1.0.0)).

<sup>25</sup> *Id.* at 6 (citing September 2016 Order, 156 FERC ¶ 61,217 at P 31).

<sup>26</sup> *Id.* at 6-7.

<sup>27</sup> *Id.* at 1-3.

9. Alabama Power contends that in its application in the Integrated Marketplace proceeding, SPP itself acknowledged that it only intended for firm network service to be eligible for ARR and LTCRs.<sup>28</sup> Alabama Power also states that SPP stakeholder process documents, attached as Exhibit A to the complaint, show that SPP's practice in 2012 and 2013 was to treat network service subject to redispatch like all other conditional service subject to redispatch and to deny such service eligibility for ARR and LTCRs. According to Alabama Power, tariff language proposed in the SPP stakeholder process would have treated customers with network service subject to redispatch as ineligible for ARR and LTCRs for the periods of time they were subject to redispatch, consistent with the treatment of firm point-to-point transmission service subject to redispatch.<sup>29</sup> Alabama Power claims it is unclear at what point SPP's practice changed and it began to treat customers with network service subject to redispatch as eligible for ARR and LTCRs, and whether this practice was ever vetted in a stakeholder process.<sup>30</sup> Alabama Power concludes that the practice must have changed "early enough for 7,477 MW of ARR and 327 MW of LTCRs to be allocated to [network service subject to redispatch] by July of 2016."<sup>31</sup>

10. Alabama Power claims that its native load customers have been harmed by an under-allocation of ARR and LTCRs. Alabama Power states that the harm results from artificially reduced amounts of TCRs held in relation to its long-term firm point-to-point transmission service agreements and that the TCRs operate as a credit against congestion costs charged under the SPP Tariff. Alabama Power argues that "it must be concluded that the SPP Tariff violation materially contributed to the ARR allocation shortfall."<sup>32</sup>

11. Alabama Power argues that the only appropriate remedy is for it and its native load customers to be made whole under section 309 of the FPA<sup>33</sup> with refunds dating back to the time of the tariff violation. Alabama Power states that only SPP "has the information and tools to determine the extent to which ARR nominated with respect to

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<sup>28</sup> *Id.* at 7 (citing Southwest Power Pool, Inc., Submission of Tariff Revisions to Implement SPP Integrated Marketplace, Docket No. ER12-1179-000, at 14 (filed Feb. 29, 2012) (Integrated Marketplace Filing)).

<sup>29</sup> *Id.* at 8.

<sup>30</sup> *Id.* at 8-9.

<sup>31</sup> *Id.* at 9 (citing September 2016 Order, 156 FERC ¶ 61,217 at P 36).

<sup>32</sup> *Id.* at 10.

<sup>33</sup> 16 U.S.C. § 825h (2012).

[network service subject to redispatch] resulted in a decrease in ARR allocations for firm transmission customers not subject to redispatch.”<sup>34</sup> Alabama Power approximates a refund amount of up to \$8 million based on information contained in an affidavit accompanying the Complaint,<sup>35</sup> and states that relief should not require a “substantial” re-running of the market clearing systems or require other parties to relinquish inappropriately granted ARRs.<sup>36</sup>

12. Aside from laying out its arguments and potential remedies in the Complaint, Alabama Power also attempts to distinguish the Complaint from the related proceedings. Alabama Power argues that the Complaint proceeding is separate and distinct from the FPA section 206 proceeding ordered in the September 2016 Order because that proceeding concerns whether section 34.6 of SPP’s Tariff may be unjust and unreasonable and unduly discriminatory or preferential, and prospective relief, while the complaint proceeding concerns whether SPP was violating its Tariff and any retroactive relief.<sup>37</sup>

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

13. Notice of the Complaint was published in the *Federal Register*, 81 Fed. Reg. 75,392, with interventions and protests due on or before November 14, 2016. Timely motions to intervene were filed by Enel, Golden Spread Electric Cooperative Inc., Western Farmers Electric Cooperative, Inc., Sunflower Electric Power Corporation (Sunflower Electric), Mid-Kansas Electric Company, LLC, and TDU Intervenors.<sup>38</sup> Motions to intervene out-of-time were filed by the Missouri Public Service Commission

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<sup>34</sup> Complaint at 10.

<sup>35</sup> *Id.* at 11.

<sup>36</sup> *Id.* at 4, 14. Alabama Power offers additional methods to compute the refunds, such as requiring SPP to re-run its simultaneous feasibility analysis, requiring SPP to recalculate net congestion costs owed by eligible entities that were under-allocated ARRs and to deem the ARRs as being self-converted to TCRs, and requiring SPP to issue a credit, plus interest, for amounts overcharged as a result of the alleged Tariff violation. *Id.* at 14.

<sup>37</sup> *Id.* at 16-17.

<sup>38</sup> TDU Intervenors includes: Independence Power & Light, Kansas Power Pool, Municipal Energy Agency of Nebraska, Missouri River Energy Services, and Missouri Joint Municipal Electric Utility Commission.

and American Electric Power Service Corporation. Comments were filed by Sunflower Electric and TDU Intervenors.

14. SPP filed an answer to the Complaint on November 14, 2016 (SPP Answer). Alabama Power and SPP then each filed motions for leave to answer and answers on November 30, 2016 and December 15, 2016, respectively.

**A. SPP Answer**

15. SPP argues that the Commission should dismiss the Complaint because: (1) basic rules of tariff interpretation prove SPP followed its Tariff; (2) in the September 2016 Order the Commission did not find or imply that SPP violated its Tariff; (3) Alabama Power misconstrued documents from SPP's stakeholder process; and (4) the proposed remedy is unworkable and unsupported.<sup>39</sup>

16. SPP claims that when the Commission directed it to modify section 13.5 of its Tariff to specify that customers with firm point-to-point transmission service subject to redispatch would be ineligible for ARR or LTRs for the times of year and for the amounts subject to redispatch, the Commission did not direct SPP to make the same changes regarding network service subject to redispatch. As a result, SPP argues, there is no language in the Tariff stating that customers with network service subject to redispatch are ineligible for ARR or LTRs, and, therefore, SPP's practice does not violate the Tariff.<sup>40</sup> Additionally, SPP states that the basic rules of contract interpretation dictate that the presence of the provision expressly limiting eligibility for firm point-to-point service means that anything not included under that limitation must necessarily be allowed, i.e. eligible.<sup>41</sup> In response to Alabama Power's argument that Attachment AE specifies that only customers with firm service are eligible for ARR and LTRs, SPP states that if that provision already covered firm point-to-point service subject to redispatch and network service subject to redispatch, it would have been unnecessary for

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<sup>39</sup> SPP Answer at 8-14.

<sup>40</sup> *Id.* at 8-9. SPP adds that in the section of the Integrated Marketplace Order that addresses the section 13.5 modifications, the Commission was presented with a protester's comment that the Tariff did not contain similar modifications for network service, but the Commission did not require language limiting the eligibility of customers with network service subject to dispatch for ARR and LTRs. *Id.* at 9 (citing Integrated Marketplace Order, 141 FERC ¶ 61,048 at P 253).

<sup>41</sup> *Id.* at 10. SPP cites the contract interpretation doctrine of *expression unius es exclusion alterius*, the expression of one thing is the exclusion of others.



the revisions to section 13.5 specifically limiting eligibility for customers with firm point-to-point service subject to redispatch.<sup>42</sup>

17. Next, SPP argues that in the September 2016 Order, the Commission did not find that there had been a tariff violation, but instead found that an existing provision may be unjust and unreasonable or unduly discriminatory or preferential. SPP also notes that the Commission did not require it to show cause how its existing practice regarding ARRs and LTCRs complied with the tariff. SPP states that in instituting the FPA section 206 proceeding, the aim was to examine the Tariff, and, if necessary, determine prospective relief.<sup>43</sup>

18. SPP contends that the Market Working Group documents cited by Alabama Power are not persuasive. SPP argues that the documents merely detail proposed tariff revisions that were voted down and therefore never incorporated into the existing Tariff. SPP maintains that the fact that different tariff language was once proposed has no bearing in the instant case.<sup>44</sup>

19. SPP's final argument is that even if the Commission were to find a tariff violation, the proposed remedy and refund are "unworkable and unsupported." SPP states that the \$8 million quoted in Alabama Power's affidavit contains no calculations and no supporting documents. Moreover, SPP argues that Alabama Power's suggested methodology is infeasible because SPP, as a not-for-profit entity, has no way to repay Alabama Power without taking money from SPP's other members.<sup>45</sup>

## **B. Comments**

20. TDU Intervenors state, regarding Alabama Power's suggested remedy, that it is not possible for Alabama Power to receive reimbursement without other market participants being negatively affected. Additionally, TDU Intervenors state this is not so much a case of refunds related to a tariff violation as it is a case of a potential misallocation of costs (as a result of receiving a smaller allocation of ARRs), and therefore Alabama Power should be subject to the Commission's general policy of not providing refunds where the only issue relates to the allocation of costs collected.<sup>46</sup>

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<sup>42</sup> *Id.* at 11.

<sup>43</sup> *Id.* at 12.

<sup>44</sup> *Id.* at 13.

<sup>45</sup> *Id.* at 15.

<sup>46</sup> TDU Intervenors Comments at 6-7.

21. Sunflower Electric does not argue for or against the merits of the Complaint, but states in its comments that it is similarly situated to Alabama Power, in that it too is a long-term firm transmission customer of SPP whose allocation of ARRs might have been negatively affected by SPP's alleged tariff violation. Sunflower Electric suggests that if the Commission institutes a hearing in this proceeding into whether SPP's allocation of ARRs to customers taking network service subject to redispatch customers violated the SPP Tariff and/or was otherwise unjust, unreasonable, unduly discriminatory or preferential, the proceeding should not only determine the effect of the violation on Alabama Power, but also on other similarly situated SPP transmission customers. If nothing else, Sunflower Electric requests that in directing a remedy, the Commission direct SPP to determine which entities were unjustly enriched by its practice and seek refunds from them instead of all SPP market participants as a whole, especially those who might also be victims of the practice.<sup>47</sup>

### **III. Procedural Matters**

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), the Commission will grant American Electric Power Service Corporation's and the Missouri Public Service Commission's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the November 30, 2016 and December 15, 2016 answers filed by Alabama Power and SPP, and will, therefore, reject them.

### **IV. Substantive Matters**

24. We find that SPP's practice of treating customers with network service subject to redispatch as eligible for ARRs and LTCRs is not a violation of its Tariff. First, we find that, because network service subject to redispatch is firm and not conditional, those customers with network service are covered by the "Eligible Entity" definition in Attachment AE of the Tariff. Second, we note that, unlike point-to-point transmission customers, there is no limit on the network service customer's eligibility for ARRs or LTCRs in the Tariff. Lastly, we are not persuaded by Alabama Power's additional

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<sup>47</sup> Sunflower Electric Comments at 3-4.

arguments regarding SPP's intent in the Integrated Marketplace Filing or the Market Working Group documents. Therefore, we deny the Complaint.

25. We find that Alabama Power misinterprets the Commission's statement that network service subject to redispatch is a form of conditional service<sup>48</sup> to mean that such service is not firm transmission service under the SPP Tariff, and therefore a customer with redispatch obligations is not an "Eligible Entity" under section 7.1 of Attachment AE to the SPP Tariff. While such service, for the amounts and for the times that redispatch is required, may be described as conditional, that does not mean that the transmission customer has non-firm transmission service, and is therefore not an "Eligible Entity." The Commission pointed out in the Integrated Marketplace Order, as it did in Order No. 890, that it considers redispatch service to be complementary to conditional *firm* service.<sup>49</sup> We reiterate that both network service subject to redispatch and firm point-to-point transmission service subject to redispatch are forms of *firm* transmission service, albeit firm service conditioned upon redispatch. Further, the fact that the service is subject to redispatch does not mean that the transmission customer has a lower priority transmission service. Since we believe that network service customers have firm service, we find that they are "Eligible Entities," under the SPP Tariff, and find, therefore, that it was not a tariff violation for those customers to be allocated ARRs or LTCRs.

26. Additionally, while SPP's Tariff limits the eligibility for ARRs and LTCRs for point-to-point service subject to redispatch in section 13.5 of the Tariff, we find that currently there is not, nor has Alabama Power pointed to, a similar limitation in the Tariff

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<sup>48</sup> September 2016 Order, 156 FERC ¶ 61,217 at P 31 ("Network service granted subject only to a reliability-based redispatch is granted without an attendant redispatch obligation pending the completion of transmission upgrades whereas network service that is subject to redispatch is a form of conditional service.").

<sup>49</sup> Integrated Marketplace Order, 141 FERC ¶ 61,048 at P 267 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 912, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)) (emphasis added).

for network service subject to redispatch.<sup>50</sup> Alabama Power implies that, because SPP did not consider network service subject to redispatch to be firm, that is the reason that service was not mentioned by SPP in the Integrated Marketplace Filing (and the reason that network service subject to redispatch was not addressed and there is, therefore, no explicit limitation on eligibility in the Tariff).<sup>51</sup> When the Commission directed SPP to modify section 13.5 of its Tariff to specify that customers with firm point-to-point transmission service subject to redispatch would be ineligible for ARRs or LTCRs for the times of year and for the amounts subject to redispatch, the Commission was addressing SPP's proposal to deny eligibility for ARRs to point-to-point service subject to redispatch at all times, even for the times of the year and for the amounts of service that are not subject to redispatch.<sup>52</sup> SPP did not propose in the Integrated Marketplace Filing a similar limit on eligibility for network service subject to redispatch, nor did it give a reason for not making such a proposal. Regardless, the Commission did not require the same limitation on eligibility for customers with network service subject to redispatch, and, accordingly, no similar provision exists in the SPP Tariff. Therefore, we find that SPP's practice of treating customers with network service subject to redispatch as eligible for ARRs and LTCRs was not a violation of the Tariff.

27. Alabama Power cites both SPP's Integrated Marketplace Filing and the Market Working Group documents as evidence that SPP had always intended that only firm transmission service customers would be eligible for ARRs and LTCRs, but we do not find these arguments compelling. As stated above, because we find that network service subject to redispatch is firm service, we find that SPP's statements from the Integrated Marketplace Filing that only firm transmission service customers would be eligible for ARRs and LTCRs<sup>53</sup> are consistent with the definition of the term "Eligible Entities" in section 7.1 of Attachment AE. Finally, with regard to the Market Working Group documents, we note that, while SPP stakeholders debated Tariff revisions to impose the same ARR/LTCR restrictions on network service subject to redispatch as those imposed

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<sup>50</sup> As noted above, in the September 2016 Order, the Commission found that the existing version of section 34.6 may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARRs and LTCRs to network service customers subject to redispatch and established proceedings under FPA section 206 to examine the SPP Tariff in Docket No. EL16-110-000. An order addressing the examination of SPP's Tariff under FPA section 206 is being issued in Docket No. EL16-110-000 concurrently with this order. *Southwest Power Pool, Inc.*, 161 FERC ¶ 61, 075 (2017).

<sup>51</sup> Complaint at 7-8.

<sup>52</sup> See *supra* note 10.

<sup>53</sup> See *supra* note 28.

on point-to-point service subject to redispach, those changes were not approved, and thus no similar limit on ARR/LTCR eligibility exists in the SPP Tariff.

28. Accordingly, we deny Alabama Power's complaint. Because we deny the complaint, we find it unnecessary to address Alabama Power's proposed remedy or the comments on said remedy.

The Commission orders:

Alabama Power Company's complaint is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.