

154 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Southwest Power Pool, Inc.

Docket No. ER16-636-000

ORDER GRANTING TARIFF WAIVER REQUEST

(Issued March 17, 2016)

1. On December 24, 2015, Southwest Power Pool, Inc. (SPP) filed a request for a waiver of the 365-day limitation period for modification to settlement statements in section 10.1(3) of Attachment AE of SPP's Open Access Transmission Tariff (Tariff)¹ to enable SPP to resettle past market settlements. For the reasons discussed below, we grant SPP's request for a Tariff waiver.

I. Background

2. SPP states that as it has administered its Integrated Marketplace² over the last 21 months, it has discovered certain software design flaws, as described below, that have resulted in settlement errors dating back to the start of the Integrated Marketplace on March 1, 2014. SPP notes that section 10.1(3) of Attachment AE permits SPP to make corrections to settlement statements only within 365 days from the operating day

¹ SPP, OATT, Attachment AE (MPL), § 10.1(3) Settlement Statements (1.0.0).

² The Integrated Marketplace is SPP's day-ahead and real-time energy and operating reserve market with locational marginal pricing and market-based congestion management.

associated with the settlement.³ According to SPP, it was unable to make all the necessary resettlements within the permitted 365-day period.

3. First, SPP states that between March 1, 2014 and May of 2015, software and/or input errors occurred that required SPP to recalculate Locational Marginal Prices (LMP) and market clearing prices for the real-time balancing market and to determine compensation payments to market participants. SPP explains that the Integrated Marketplace implementation software system did not apply the out-of-merit energy payment logic in such circumstances, and therefore market participants that were impacted by the recalculated prices were not appropriately compensated. Therefore, SPP requests waiver of section 10.1(3) of Attachment AE to enable it to correct the Settlement Statements for the Operating Days occurring between March and May 2014. SPP states that the total dollar impact for the resettlements for this software issue that would be facilitated by the requested waiver is \$28,744.96.⁴

4. SPP identifies a second software error that failed to recognize and compensate appropriately certain resources that were eligible for start-up costs when those resources were cancelled by SPP. SPP states that from March 1, 2014 through July of 2015, this compensation software flaw affected settlements for 15 operating days, involving only nine resources. Therefore, SPP requests waiver of section 10.1(3) of Attachment AE of the Tariff to make these resettlements for March, May, July, and August of 2014.⁵ SPP notes that the total monetary impact of these resettlements will be \$53,619.81, consisting of underpayments to resources of \$32,063.90 and overpayments of \$21,555.91.⁶

5. SPP also notes that its Integrated Marketplace software erroneously calculated reliability unit commitment make whole payment distribution amount cost responsibility. SPP estimates that the error resulted in SPP under-charging certain market participants

³ Section 10.1(3) of Attachment AE provides:

(3) The Transmission Provider shall make corrections to the preliminary and final Settlement Statements for an Operating Day for data errors and Settlement Statement disputes that have been resolved. Settlement associated with a specific Operating Day shall be considered final at the end of the three hundred sixty-fifth (365) calendar day following the applicable Operating Day.

⁴ SPP Transmittal at 6-7.

⁵ *Id.* at 9, n.18.

⁶ *Id.* at 11-12.

for reliability unit commitment make whole payment distribution charges totaling nearly \$19,091 from the March 1, 2014 launch of the Integrated Marketplace until May 31, 2014, which SPP is barred from resettling because of the 365-day resettlement window. Therefore, SPP requests waiver of section 10.1(3) of Attachment AE in order to resettle past settlement statements from March 1, 2014 until May 31, 2014.⁷

6. Lastly, SPP explains that the Commission's order clarifying the appropriate allocation of costs associated with manual commitments⁸ requires it to resettle past Integrated Marketplace settlements to reflect the correct cost allocation methodology for day-ahead market manual commitments to address local reliability issues. SPP requests, to the extent necessary, a waiver of section 10.1(3) of Attachment AE to ensure that SPP can resettle past settlement statements as necessary back to March 1, 2014 to ensure proper allocation for day-ahead market commitments to address local reliability issues.⁹

II. Waiver Request

7. SPP asserts that its requested waiver satisfies the Commission's standards for granting waiver. SPP states that the underlying errors were made in good faith. SPP explains that each of the errors were due to inadvertent software design flaws that were discovered after SPP and market participants had experience in the Integrated Marketplace and, for some settlement statements, more than 365 days after the associated operating day. SPP asserts that the software developers could not correct the design flaws in time to adjust all the required market settlements within the 365-day window for settlement statement adjustments under section 10.1(3) of Attachment AE. SPP also asserts that the need to resettle to address the local reliability issue cost allocation provisions does not arise from any error; instead, SPP asserts that the need to resettle results from the timing of the Commission's order accepting the relevant language.¹⁰

8. Second, SPP contends that its requested waiver would be of limited scope. SPP states that it is requesting a one-time waiver of section 10.1(3) of Attachment AE and that no additional waivers will be required in the future. SPP asserts that it is seeking the waiver only to address software design flaws that were imbedded in SPP's Integrated Marketplace software from its implementation in March 2014, to ensure that market

⁷ *Id.* at 14-15.

⁸ *Id.* at 16 (citing *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,253 (2014)).

⁹ *Id.* at 17-18.

¹⁰ *Id.* at 20.

settlements from the commencement of the Integrated Marketplace are correct and, in the case of local reliability issue resource commitments, to implement the Commission-accepted cost allocation method for past market settlements. SPP further asserts that the requested waiver is needed for a limited period of time for each of the identified issues.¹¹

9. Third, SPP asserts that the requested waiver would alleviate a concrete problem. SPP asserts that in all of the instances discussed above, it was unable to correct the settlement statements within the permitted 365-day period due to when the errors were discovered and the time it took to develop software to correct the problem, and, with regard to local reliability issue cost allocation, the timing of the Commission's order accepting the provisions. SPP contends that it always intended and stakeholders have expected that the settlements relating to the software design errors identified herein would be corrected back to the start date of the Integrated Marketplace. SPP asserts that without a waiver of section 10.1(3) of Attachment AE, SPP cannot meet the stakeholders' expectations. SPP further states that correcting the market settlements will ensure that market participants are properly compensated in accordance with the Commission-accepted Integrated Marketplace rules.¹²

10. Fourth, SPP contends that the requested waiver would not result in any undesirable consequences, such as harm to third parties. SPP notes that it apprised its stakeholders of the computer issues that resulted in incorrect market settlements and its plans for adjusting affected settlement statements to reflect the correct rate and compensation. SPP asserts that stakeholders are on notice, had opportunity to express any concerns about the planned billing adjustments, and now expect that their past settlement statements will be adjusted beginning with the first issued settlement statements that were incorrect due to the computer errors. According to SPP, the waiver will benefit SPP customers by ensuring that market participants are properly compensated and charged pursuant to the filed rate and no third party will be harmed. SPP further asserts that granting the requested waiver will allow SPP to resettle based on the correct cost allocation methodology for day-ahead market commitments to address local reliability issues. SPP states that parties will benefit from being correctly compensated and charged, and SPP asserts that third parties will not be harmed.¹³

¹¹ *Id.* at 21.

¹² *Id.* at 22.

¹³ *Id.* at 23.

III. Notice of Filing and Responsive Pleadings

11. Notice of SPP's filing was published in the *Federal Register*, 81 Fed. Reg. 86 (2016), with interventions and protests due on or before January 14, 2016. American Electric Power Service Corporation and Missouri Joint Municipal Electric Utility Commission filed timely motions to intervene.

IV. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

13. The Commission has previously granted requests for waiver from tariff requirements in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences, such as harming third parties.¹⁴

14. We find that SPP has demonstrated good cause to grant the request for a tariff waiver because SPP's requested waiver satisfies the aforementioned waiver criteria. First, we find that SPP has acted in good faith. SPP explains that it has made and desires to make billing adjustments to past settlement statements, necessitated by software issues and the timing of Commission acceptance of certain Tariff language, to ensure that SPP customers are properly billed. We also agree with SPP that customers should be billed the correct amounts.

15. Second, the requested waiver is of limited scope. The waiver applies only to finite periods of time and is a one-time request related to discrete software issues, which SPP has resolved, and to the timing of Commission acceptance of certain Tariff language.

16. Third, the waiver will remedy a concrete problem. SPP is unable to make all of the necessary billing adjustments within the 365-day period prescribed by section 10.1(3) of Attachment AE of its Tariff. The waiver would permit SPP to correct the settlement statements for the period that it has not yet resettled. This will ensure that its customers are charged the proper amount.

¹⁴ See, e.g., *Aragonne Wind, LLC*, 145 FERC ¶ 61,106, at P 18 (2013).

17. Fourth, we find that granting the waiver will not lead to undesirable consequences such as harming third parties. As SPP explains, the requested waiver would benefit SPP customers by allowing SPP to adjust the outstanding incorrect settlement statements. Additionally, by permitting the adjustments, SPP customers will be charged the proper amounts based on the rate on file and no third party will be harmed.

18. For these reasons, we find good cause to grant SPP's request for a waiver of section 10.1(3) of Attachment AE of the SPP Tariff to adjust the settlement statements as discussed above.

The Commission orders:

SPP's request for waiver is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.