

161 FERC ¶ 61,072
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER16-1286-002
EL16-110-001

ORDER GRANTING CLARIFICATION

(Issued October 19, 2017)

1. On October 24, 2016, Southern Company Services, Inc. (Southern Companies),¹ filed a request for clarification, or in the alternative rehearing, of the Commission's September 23, 2016 order.² In the September 2016 Order the Commission, among other things, rejected portions of Southwest Power Pool, Inc.'s (SPP) proposed revisions to its Open Access Transmission Tariff (Tariff) concerning eligibility of Network Integration Transmission Service (network service) customers for Auction Revenue Rights (ARRs) and Long-Term Transmission Congestion Rights (LTCRs).³ The Commission also

¹ For purposes of the clarification and rehearing request, Southern Company Services, Inc. is agent for Alabama Power Company (Alabama Power), Georgia Power Company, Gulf Power Company, and Mississippi Power Company.

² *Sw. Power Pool, Inc.*, 156 FERC ¶ 61,217 (2016) (September 2016 Order).

³ LTCRs are long-term (i.e., a period of more than one year) Transmission Congestion Rights (TCRs), which 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. 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

instituted proceedings under section 206 of the Federal Power Act (FPA)⁴ to examine the SPP Tariff. In this order, we grant Southern Companies' request for clarification, as discussed below.

I. Background

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., ARR and TCRs).⁵ Transmission customers and market participants with firm transmission service are eligible to nominate candidate ARRs 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.⁶ ARRs are allocated annually in April of each year, with additional monthly or seasonal ARR allocations made as needed to address new transmission service.⁷

3. Section 13.5 of the Tariff provides that customers with firm point-to-point transmission service subject to redispatch⁸ are not eligible to obtain ARR allocations associated with that service, except for the times of the year and for the amounts of service that are not subject to redispatch.⁹ The Tariff does not specify whether customers

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. *Id.* at n.329.

⁴ 16 U.S.C. § 824e (2012).

⁵ Integrated Marketplace Order, 141 FERC ¶ 61,048 at P 229.

⁶ *Id.* P 246.

⁷ *Id.*

⁸ 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.

⁹ 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.

with network service subject to redispatch are eligible to obtain ARR allocations associated with that service.

4. On March 30, 2016, in Docket No. ER16-1286-000, SPP proposed revisions to certain provisions in its Tariff related to transmission service subject to redispatch. Among other things, SPP proposed to add language to section 13.5 of the Tariff stating that long-term firm point-to-point transmission service subject to redispatch would not be eligible to obtain LTRCs because that service is not continuous over the entirety of the associated TCR year. Additionally, SPP proposed to add language to section 34.6¹⁰ of the Tariff stating that customers with network service subject to redispatch are eligible to obtain ARRs and LTRCs 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. SPP asserted that the proposed language would merely memorialize this difference between firm point-to-point transmission service and network service.

II. September 2016 Order

5. In the September 2016 Order, the Commission rejected the proposed revisions to section 34.6 of SPP's Tariff, finding that the proposed language was unclear and would extend eligibility for ARRs and LTRCs to network customers in a manner that may be inappropriate. The Commission expressed concern that the proposed revisions could provide undue preference to network service subject to redispatch over firm point-to-point transmission service not subject to redispatch.¹¹ The Commission also noted that in response to a deficiency letter issued in Docket No. ER16-1286-000, SPP stated that 7,477 MW of ARRs and 327 MW of LTRCs have been awarded in relation to network service subject to redispatch. Additionally, the Commission found that the section 34.6 of the existing Tariff may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARRs and LTRCs to network service customers subject to redispatch. Accordingly, the Commission instituted a proceeding under FPA section 206 in Docket No. EL16-110-000 to examine the SPP Tariff.¹²

¹⁰ Section 34.6 of the SPP Tariff describes the Redispatch Charge, and provides 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, Tariff, Sixth Revised Volume No. 1, § 34.6 (1.0.0).

¹¹ September 2016 Order, 156 FERC ¶ 61,217 at P 35.

¹² *Id.* P 36.

III. Request for Clarification

6. Southern Companies request that the Commission clarify that the September 2016 Order did not address and did not foreclose firm transmission customers who were possibly under-allocated ARRAs due to SPP's practices from pursuing all available relief, including retroactive relief, under sections 205, 206, 306, and 309 of the FPA.¹³ Southern Companies also request that the Commission confirm that the scope of the section 206 proceeding initiated in Docket No. EL16-110-000 is limited to potential prospective changes to SPP's practices and the SPP Tariff and does not prevent, impair, or foreclose such firm transmission customers from pursuing remedies to address their under-allocation of ARRAs.

7. To the extent the Commission does not grant the requested clarification, Southern Companies request rehearing and submit that the Commission's decision in the September 2016 Order is arbitrary, capricious, and an abuse of discretion.

IV. Discussion

A. Procedural Matters

8. On November 14, 2016, SPP filed an answer to Southern Companies' request for clarification or, in the alternative rehearing. Rule 713(d) of the Commission's Rules of Practice and Procedure prohibits answers to requests for rehearing.¹⁴ Accordingly, we will reject SPP's answer.

B. Substantive Matters

9. We grant Southern Companies' request for clarification. As discussed above, in the September 2016 Order, the Commission found that section 34.6 of the existing Tariff may be unjust and unreasonable and unduly discriminatory or preferential and instituted a proceeding under FPA section 206 to examine the SPP Tariff. Furthermore, by instituting an FPA section 206 proceeding the Commission's intent was to determine if prospective changes to the SPP Tariff were necessary if our examination determined that the SPP Tariff was unjust and unreasonable and unduly discriminatory or preferential.¹⁵

¹³ Southern Companies Request for Clarification at 3.

¹⁴ 18 C.F.R. § 385.713(d)(1) (2017).

¹⁵ The Commission is concurrently issuing an order in Docket No. EL16-110-000 that addresses the issues raised in the FPA section 206 proceeding. *Southwest Power Pool, Inc.*, 161 FERC ¶ 61,071 (2017).

The Commission did not reach any conclusions as to whether the existing Tariff was unjust and unreasonable and unduly discriminatory or preferential. Rather, the Commission instituted a proceeding to examine the SPP Tariff. Accordingly, we clarify that in the September 2016 Order the Commission did not address or foreclose firm transmission customers from seeking available relief nor did the Commission address in the September 2016 Order any kind of retroactive relief, or the foreclosure of retroactive relief. However, we note that in an order issued concurrently in Docket No. EL17-11-000, the Commission denies a complaint filed by Alabama Power against SPP, concerning the eligibility of network service customers subject to redispatch for ARRs and LTCRs under the SPP Tariff.¹⁶

The Commission orders:

Southern Companies' request for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ *Alabama Power Company v. Southwest Power Pool, Inc.*, 161 FERC ¶ 61,073 (2017).