

167 FERC ¶ 61,272
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

June 28, 2019

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER18-194-001
ER18-195-001

Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Attention: Steven J. Ross

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223

Attention: Luke B. Hill

Dear Messrs. Ross and Hill:

1. On February 8, 2019, Southwest Power Pool, Inc. (SPP), on behalf of American Electric Power Service Corporation and its affiliates, Public Service Company of Oklahoma, Southwestern Electric Power Company, AEP Oklahoma Transmission Company, Inc. and AEP Southwestern Transmission Company, Inc. (collectively, the AEP West Companies), filed a Settlement Agreement (Settlement) resolving all matters at issue in these proceedings, involving proposed revisions to the transmission formula rate templates and protocols contained in Addendums 4 and 12 of Attachment H to SPP's Open Access Transmission Tariff. Concurrently with the Settlement, SPP filed revised tariff records,¹ reflecting the Settlement. The Settling Parties include the AEP West

¹ Southwest Power Pool, Inc.; FERC FPA Electric Tariff, Open Access Transmission Tariff; Sixth Revised Volume No. 1; [Att. H Addendum 4 Part 3, Attachment H Addendum 4 \(AEP\) Part 3, 1.0.0](#); [Attachment H Add. 4 Pt 1, Attachment H Addendum 4 \(AEP\) Part 1, 4.0.0](#); [Attachment H Add. 4 Pt 1, Attachment H Addendum 4 \(AEP\) Part 1, 5.0.0](#); [Attachment H Add. 4 Pt. 2, Attachment H Addendum 4 \(AEP\) Part 2, 4.0.0](#); [Attachment H Add. 12 Pt 1, Attachment H Addendum 12 Part 1 \(AEP Transco\), 4.0.0](#); [Attachment H Add. 12 Pt 1, Attachment H Addendum 12 Part 1 \(AEP Transco\), 5.0.0](#); [Attachment H Add. 12 Pt 2,](#)

Companies, East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., Oklahoma Municipal Power Authority, Golden Spread Electric Cooperative, Inc., Western Farmers Electric Cooperative, and DC Transco LLC.²

2. Concurrently with the Settlement, SPP also filed an interim rate motion, seeking authorization to reduce the rates charged to transmission customers from January 1, 2018 through December 31, 2018, to reflect the lower Settlement rate on an interim basis, pending Commission approval of the Settlement. The Chief Administrative Law Judge granted the interim rate motion on February 21, 2019.³

3. On February 28, 2019, the Commission's Trial Staff filed initial comments supporting the Settlement. No other comments were filed. On May 2, 2019, the Settlement Judge certified the Settlement as uncontested.⁴

4. Article 3.3 of the Settlement provides that the revised transmission formula rates reflect the 21 percent Federal Income Tax rate and implement adjustments regarding excess accumulated deferred income taxes (ADIT), including their flow-back in rates, arising from the Tax Cuts and Jobs Act of 2017 (TCJA).⁵

5. Article 3.4 of the Settlement provides that the return on equity (ROE) component of the revised transmission formula rates will be subject to the outcome of the proceedings pending in Docket Nos. EL17-76-000 and EL18-199-000.⁶

[Attachment H Addendum 12 Part 2 \(AEP Transco\), 2.0.0](#); [Attachment H Add. 12 Pt 3, Attachment H Addendum 12 Part 3 \(AEP Transco\), 2.0.0](#).

² The Arkansas Electric Cooperative Corporation intervened in the proceeding but neither joins as a Settling Party nor opposes the Settlement Agreement.

³ *Southwest Power Pool, Inc.*, 166 FERC ¶ 63,018 (2019).

⁴ *Southwest Power Pool, Inc.*, 167 FERC ¶ 63,018 (2019).

⁵ Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

⁶ The Commission is concurrently issuing an order in *Southwest Power Pool, Inc.*, Docket No. ER19-1396-000, which approves an uncontested settlement agreement that resolves all issues in the ROE proceedings in Docket Nos. EL17-76-000 and EL18-199-000. As a result, East Texas Electric Cooperative, Inc.'s Motion to Clarify the Status of Return on Equity Issues, filed September 7, 2018 in Docket Nos. ER18-194-000 and ER18-195-000, is now moot.

6. Article 4.1 of the Settlement provides that in calculating the revised transmission formula rates, the AEP West Companies will amortize (i) any protected excess ADIT (relating to the tax expense associated with the accelerated depreciation of utility plant assets) required under the TCJA, using the Average Rate Assumption Method; and (ii) any unprotected excess ADIT over a five year period (calendar years 2018 through 2022). Further, the AEP West Companies will not seek to include in the revised transmission formula rates any other additional unprotected excess or deficient ADIT amortization without first obtaining Commission authorization pursuant to section 205 of the Federal Power Act (FPA).⁷

7. Article 4.2 permits any Settling Party to make a filing under FPA section 205 or section 206⁸ to propose any revisions to the transmission formula rates as such party believes necessary to reflect future changes to the tax and ADIT requirements under applicable laws.

8. Article 8.1 establishes the following standard of review:

The public interest standard of review set forth in *United Gas Pipe Line v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), shall govern the Commission's consideration of any modification of this Settlement Agreement that is proposed by a Settling Party unilaterally or with the concurrence of less than all Settling Parties. The "ordinary" just and reasonable standard of review, as discussed in *Morgan Stanley*, 554 U.S. 527, 535 (2008), shall govern the Commission's consideration of any modification to this Settlement Agreement that is proposed by a non-Settling Party or the Commission itself acting *sua sponte*.

9. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

⁷ 16 U.S.C. § 824d (2012).

⁸ 16 U.S.C. § 824e (2012).

10. This letter order terminates Docket Nos. ER18-194-000, ER18-195-000, ER18-194-001 and ER18-195-001.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.