

167 FERC ¶ 61,039
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

City Utilities of Springfield, Missouri

Docket No. EL19-42-000

ORDER GRANTING REQUEST FOR WAIVER

(Issued April 18, 2019)

1. On February 8, 2019, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ City Utilities of Springfield, Missouri (Springfield) submitted a request for a limited, one-time waiver of section 4.0 of the *pro forma* Sponsored Upgrade Agreement (Sponsored Upgrade Agreement) of Schedule 1 to Attachment J of the Southwest Power Pool, Inc. (SPP) Open Access Transmission Tariff (OATT).² For the reasons discussed below, we grant Springfield's request for waiver.

I. Waiver Request

2. Springfield states that it is requesting waiver of section 4.0 of the Sponsored Upgrade Agreement in relation to the addition of a second transformer at Springfield's James River Power Station and related bus work. Springfield explains that section 4.0 of the Sponsored Upgrade Agreement requires that a project sponsor furnish a letter of credit or other form of security acceptable to a transmission provider until such time as the project sponsor has fulfilled its obligation to fund a sponsored upgrade. Springfield states that without this waiver it would have to furnish financial assurance for its own transmission revenue requirements, which it asserts is redundant. Springfield explains that as the project sponsor of the upgrade, it is responsible on a direct assignment basis for the annual revenue requirement of the project. Springfield states that as both the project sponsor and the transmission owner responsible for constructing the project, it has undertaken to pay itself the revenue requirement for the project over the project's twenty-

¹ 18 C.F.R. § 385.207(a)(5) (2018).

² SPP, OATT, Attachment J Schedule 1, § 4.0 (2.0.0).

year life. Accordingly, Springfield states it seeks waiver to remove the obligation to move money among intra-utility accounts to secure its own revenue requirement for the project, which it asserts serves no useful purpose and is unnecessary.³

3. Springfield asserts that its request for waiver meets the Commission's criteria for granting a waiver request: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.⁴

4. Springfield argues that it acted in good faith in pursuing the project as a sponsored upgrade to install the needed network upgrade in the most expeditious manner available. Springfield also states that it has SPP's confirmation that SPP has no objection to the waiver authorization requested in this petition.⁵ Springfield also argues that the requested waiver is of limited scope because it only applies to a single project. In addition, Springfield states that the requested waiver addresses a concrete problem because without waiver Springfield would be required to post financial security in similar circumstances to which the Commission has previously concluded such a requirement "serves no purpose and is unnecessary."⁶ Finally, Springfield argues that granting the waiver will not have adverse consequences, such as harming third parties. Springfield explains that the Sponsored Upgrade Agreement confirms that Springfield is responsible for its own costs. Springfield states that there is no potential for default on its obligation and that leaving section 4.0 of the Sponsored Upgrade Agreement in place would simply require Springfield to move money among intra-utility accounts.⁷

II. Notice and Responsive Pleadings

5. Notice of Springfield's February 8 filing was published in the *Federal Register*, 84 Fed. Reg. 5071 (2019), with interventions and protests due on or before March 1, 2019. SPP filed a motion to intervene.

³ Transmittal Letter at 5-6.

⁴ *Id.* at 6.

⁵ *Id.* at 6-7.

⁶ *Id.* at 7 (quoting *Pac. Gas & Elec. Co.*, 166 FERC ¶ 61,018, at P 10 (2019)).

⁷ *Id.*

III. Commission Determination

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motion to intervene serves to make SPP a party to this proceeding.

7. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.⁸ We find that Springfield's unopposed waiver request satisfies these criteria.

8. First, we find that Springfield acted in good faith in requesting waiver of section 4.0 of the Sponsored Upgrade Agreement, which requires a project sponsor to post financial security to the transmission provider. Although Springfield, as the project sponsor, would otherwise need to comply with this provision, we find that the posting of financial security would not serve any practical purpose under these circumstances where it is also the transmission owner. Second, we find that the waiver request is of limited scope because it is a one-time waiver that applies only to this project, for which Springfield is both the project sponsor and transmission provider.

9. Third, we find that the waiver addresses a concrete problem by waiving the financial security requirements of section 4.0 of the Sponsored Upgrade Agreement that obligate Springfield to move money among intra-utility accounts. The requirement to post financial security is to protect the transmission provider until the project sponsor has fulfilled its financial obligations. In this instance, we agree with Springfield that the requirement serves no useful purpose and is unnecessary as Springfield is both the project sponsor and transmission provider.

10. Finally, we find that that granting the waiver will have no undesirable consequences, such as harming third parties. Springfield is the only entity involved in this project, and granting the waiver of section 4.0 of the Sponsored Upgrade Agreement would allow Springfield to avoid posting security to itself, a transaction that would ultimately have no practical effect. For these reasons, we grant Springfield's request for waiver.

⁸ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

The Commission orders:

Springfield's request for a one-time waiver of section 4.0 of the Sponsored Upgrade Agreement is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.