

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Southwest Power Pool, Inc.

Docket No. ER04-434-001

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued June 21, 2004)

1. In this order, the Commission conditionally accepts Southwest Power Pool, Inc.'s (SPP) compliance filing, adopting the Commission's Order No. 2003¹ pro forma Large Generator Interconnection Agreement (LGIA) and Large Generator Interconnection Procedures (LGIP) to its Open Access Transmission Tariff (OATT),² pursuant to the Commission's directive in its March 19, 2004 Order.³ We also direct SPP to make a compliance filing. This order benefits customers because it provides just and reasonable terms and conditions of transmission service while ensuring that reliability is protected.

I. Background

2. On January 20, 2004, SPP submitted revisions to its OATT to adopt a pro forma LGIP and LGIA, based on the Commission's Order No. 2003 pro forma LGIP and LGIA (January 20 Filing). However, some of SPP's proposed revisions differed from the pro

¹ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003) (Order No. 2003), order on reh'g, Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 5, 2004), FERC Stats. & Regs., Regulations Preambles ¶ 31,160 (2004) (Order No. 2003-A), reh'g pending.

² Southwest Power Pool, Inc. FERC Electric Tariff, Fourth Revised Volume No.1.

³ Southwest Power Pool, Inc., 106 FERC ¶ 61,254 (2004) (March 19 Order).

forma provisions set forth in Order No. 2003.⁴ On March 5, 2004, the Commission issued Order No. 2003-A, which revised its initially ordered pro forma LGIP and LGIA.

3. On March 19, 2004, the Commission accepted and suspended SPP's Order No. 2003 compliance filing, subject to refund, to become effective August 21, 2004 or such earlier date as may be specified in a further order by the Commission in this proceeding.⁵ The Commission held that, pursuant to the Commission's January 8, 2004 notice,⁶ the Commission's Order No. 2003 pro forma LGIP and LGIA have been in effect for SPP as of January 20, 2004. Further, based on the Commission's February 10, 2004 order⁷ granting SPP Regional Transmission Operator (RTO) status, subject to SPP's fulfillment of certain requirements, the Commission expects SPP to become independent in the near future. Thus, based on the Commission's January 8 notice, which stated that all non-independent transmission providers were directed to make ministerial filings reflecting the Commission's Order No. 2003 pro forma LGIP and LGIA in their OATT, the Commission further directed SPP to make a ministerial filing to incorporate the Order No. 2003 pro forma language in its tariff by April 19, 2004. Finally, the Commission held that, since the pro forma LGIP and LGIA do not allocate the responsibilities for the provision of Interconnection Service between the Transmission Owner and the Transmission Provider, SPP may wish to submit a separate addendum which allocates responsibilities between SPP and its Transmission Owners.⁸

4. On April 19, 2004, SPP filed to comply with the March 19 Order, adopting the Commission's pro forma LGIP and LGIA, without change from Order Nos. 2003 and 2003-A, together with a pro forma agreement allocating responsibilities between SPP and the transmission owners (April 19 Compliance Filing). SPP states that, since the modifications made to the pro forma LGIP and LGIA by Order No. 2003-A do not become effective until April 26, 2004, SPP requests that the Commission make its filing

⁴ The Commission left it to Transmission Providers to justify any variation to the pro forma LGIP or LGIA based on regional reliability requirements, or the "consistent with or superior to" standard under Federal Power Act section 205. Order No. 2003 at P 825-826.

⁵ March 19 Order at P 12.

⁶ Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004) (January 8 Notice).

⁷ Southwest Power Pool, Inc., 106 FERC ¶ 61,110 (2004) (SPP RTO Order).

⁸ March 19 Order at P 14.

effective as of April 26, 2004. SPP asserts that the tariff provisions submitted here will remain in place until the provisions reflected in the January 20 Filing become effective.

5. SPP also states that in order to allocate the responsibilities for the provision of Interconnection Service between SPP and the Transmission Owners, SPP has also included a pro forma agreement, as an addendum, allocating responsibilities between SPP and its Transmission Owners with regard to generation interconnections (Allocation Agreement). SPP asserts that this allocation is necessary because the Order 2003 and 2003-A LGIP and LGIA do not allocate responsibilities between the Transmission Owner and the Transmission Provider.

II. Notice of Filing and Pleadings

6. Notice of SPP's filing was published in the Federal Register, 69 Fed. Reg. 24,148 (2004), with comments, protests, or interventions due on or before May 10, 2004. Golden Spread Electric Cooperative, Inc. (Golden Spread) filed a timely motion to intervene and protest. On May 24, 2004, SPP filed an answer to Golden Spread's protest.

7. Golden Spread notes that, in section 1.0 of the Allocation Agreement, SPP proposes that, while SPP, as the Transmission Provider, "will be primarily responsible for undertaking Interconnection Studies and similar studies, and for transmission planning, Transmission Owners will be allowed to participate in these studies and activities to the extent consistent with the terms of the SPP Tariff, and with Commission policy." Golden Spread protests the inclusion in the pro forma agreement of the words, "and with Commission policy." Golden Spread states that the Commission has no formal policy governing the extent to which transmission owners should participate separately in planning and interconnection activities, beyond the language of Orders No. 2003 and 2003-A, and those orders, along with the SPP Tariff, should bind and control any right the SPP Transmission Owners have to participate in planning and interconnection. Golden Spread argues that SPP's proposed language will create uncertainty when the objective should be to bring certainty to the interconnection process by setting forth each party's role in writing.

8. Further, Golden Spread argues that current Commission precedent does not support an argument that transmission owners can fail to maintain and expand their transmission systems as necessary to avoid projected overloads, and then seek to impose the cost of correcting those previously forecasted overloads on customers seeking to interconnect generating units to the system. It is Golden Spread's understanding that, in the SPP, the existing "base case" analyses for future years shows many such "base case overloads." Nevertheless, Golden Spread states that to date the SPP has not developed and implemented a reasonable policy or practice to assure that the cost of correcting such conditions are system costs, rather than costs that are specifically allocated to transmission customers, including entities seeking to interconnect generators.

9. Thus, Golden Spread requests that the Commission direct SPP to delete the words “and with Commission policy” from section 1.0 of the proposed Allocation Agreement and that the Commission clarify that the cost of expansions necessary to correct previously forecasted overloads may not be allocated to specific transmission customers or to interconnection customers.

10. In its answer SPP states that it would agree to remove the language referring to Commission policy from section 1.0. However, regarding Golden Spread’s request for clarification, SPP states that it should be denied by the Commission. SPP argues that nothing in the Allocation Agreement addresses how the costs of upgrades are to be allocated, nor did the Commission request that SPP address such matters when it suggested that SPP submit an Allocation Agreement as part of its April 19 Compliance Filing. Further, SPP states that while such issues may be addressed in a later filing, they are outside the boundaries of this proceeding. Thus, SPP states that the Commission should deny Golden Spread’s request for clarification and accept SPP’s April 19 Compliance Filing as satisfaction of its obligations under the March 19 Order.

III. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁹ the timely, unopposed motion to intervene filed by Golden Spread serves to make it a party to this proceeding.

12. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure,¹⁰ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SPP’s answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

13. The Commission will conditionally accept SPP’s April 19 Compliance Filing, subject to SPP submitting a further compliance filing, to be effective April 26, 2004. In its answer, SPP states that it agrees to remove the language referring to Commission policy from section 1.0 of the Allocation Agreement. Thus, we will direct SPP, within 30 days of the date of this order, to submit a compliance filing deleting the words “and with Commission policy” from section 1.0 of the Allocation Agreement.

⁹ 18 C.F.R. § 385.214 (2003).

¹⁰ Id. § 385.213(a)(2).

14. Further, we will reject Golden Spread's clarification request as being both premature and outside the scope of this compliance filing proceeding. While Golden Spread may argue in the future that the cost of expansions necessary to correct previously forecasted overloads may not be allocated to specific transmission customers or to interconnection customers, it cannot do so in this proceeding.¹¹

The Commission orders:

(A) SPP's April 19 Compliance Filing is hereby conditionally accepted, effective April 26, 2004, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing, as discussed in the body of this order, within thirty (30) days of the date of this order.

(C) Golden Spread's request for clarification is hereby denied, as discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹¹ We reiterate what the Commission stated in the SPP RTO Order, in that "with independent governance, we believe SPP can significantly improve its capability to oversee regional transmission expansion to address reliability and economic needs." SPP RTO Order at P 187. Consistent with Order No. 2000, the RTO must independently decide which projects should be included and how they should be prioritized. Additionally, the Transmission Owner's (TOs) may perform studies and evaluate changes to their transmission systems; however, "SPP should provide independent oversight of the individual TO's studies to assure that any proposed changes would not impede SPP's ability to provide efficient, reliable and non-discriminatory transmission service. SPP RTO Order at P 188.