

129 FERC ¶ 61,226
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Southwest Power Pool, Inc.

Docket No. ER09-1254-001

ORDER ON COMPLIANCE FILING

(Issued December 17, 2009)

1. On August 31, 2009, Southwest Power Pool, Inc. (SPP) submitted a filing to comply with the Commission's July 31, 2009 order in this proceeding,¹ which conditionally accepted SPP's filing to revise its Open Access Transmission Tariff (OATT) to reform its Large Generator Interconnection Procedures (interconnection procedures). In this order, the Commission conditionally accepts SPP's compliance filing effective June 2, 2009, as requested, subject to SPP submitting an additional compliance filing within 30 days of the date of issuance of this order.

I. Background

2. In Order No. 2003,² the Commission issued standardized interconnection procedures and agreements for the interconnection of large generating facilities. In the years since the issuance of Order No. 2003, many Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs), including SPP, have experienced backlogs of interconnection requests. On December 11, 2007, the Commission held a

¹ *Southwest Power Pool, Inc.*, 128 FERC ¶ 61,114 (2009) (Queue Reform Order).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

technical conference to address issues relating to interconnection queuing problems.³ As a result of this conference, the Commission recognized an immediate need to expedite the processing of interconnection requests. The Commission declined to require any particular solution but instead called upon RTOs and ISOs to work with their stakeholders to develop consensus proposals based on regional needs.⁴

3. Finding its current interconnection processing to be inefficient, SPP began to develop tariff revisions to its interconnection procedures through its stakeholder process. To address its queue backlog as soon as possible, SPP submitted (in Docket No. ER09-262-000) a request for a limited, one-time waiver of various provisions in its interconnection procedures to allow for the formation of two transitional clusters of approximately 15,000 MW each.⁵ SPP stated that it formed these two clusters to process its backlog more quickly before submitting its reformed interconnection procedures. The Commission conditionally granted the waiver request, ordering SPP to submit a timeline for the completion of the transitional cluster study process.⁶ The Commission accepted SPP's proposed timeline in Docket No. ER09-262-002 on May 18, 2009.⁷

³ *Interconnection Queuing Practices*, Docket No. AD08-2-000, November 2, 2007 Notice of Technical Conference.

⁴ *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 15 (2008).

⁵ SPP included the following interconnection requests in the first transitional cluster: (1) interconnection requests for which a feasibility study had been posted but for which no system impact study had been posted, queued between February 5, 2007 and October 2, 2007; (2) requests for which a system impact study had been posted but for which no facilities study agreement had been executed, although SPP allowed these customers to opt out of the cluster; and (3) unstudied requests that had been in the interconnection queue the longest, queued between October 2, 2007 and March 17, 2008. The second transitional cluster consisted of pending, unstudied requests that were queued between March 18, 2008 and June 17, 2008. *See Southwest Power Pool, Inc.*, 126 FERC ¶ 61,012, at P 6 (Waiver Order), *order on reh'g*, 126 FERC ¶ 61,215, *order on compliance*, 127 FERC ¶ 61,138 (2009), *order on reh'g*, 129 FERC ¶ 61,145 (2009).

⁶ Waiver Order, 126 FERC ¶ 61,012 at P 37.

⁷ *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,138 (2009). According to the proposed timelines, SPP would issue the final facilities study report for the first transitional cluster by March 24, 2010 and issue the final facilities study report for the second transitional cluster by September 16, 2010. *See* SPP's February 9, 2009 filing in Docket No. ER09-262-002 (providing study timelines for the first and second transitional clusters).

4. On June 1, 2009, SPP submitted a filing in the instant proceeding to reform its interconnection procedures. Among other things, SPP proposed to create the following three interconnection study queues with different deposit and milestone requirements: (1) the feasibility study queue (feasibility queue), which would result in a feasibility study completed within 90 days of the close of a cluster window; (2) the preliminary interconnection system impact study queue (preliminary queue), which would result in a system impact study completed within 180 days of the close of a cluster window; and (3) the definitive interconnection system impact study queue (definitive queue), which would be the first required stage within the interconnection process and would result in a system impact study completed within 120 days and a facilities study completed within 90 days. SPP also proposed more stringent suspension requirements and a transition process to the new interconnection procedures.

5. In the Queue Reform Order, the Commission conditionally accepted SPP's filing subject to SPP submitting an additional compliance filing within 30 days of the date of issuance of the Queue Reform Order, as well as submitting annual reports so that the Commission and interested stakeholders may monitor SPP's progress in processing its queue backlog and assess the effectiveness of its new interconnection procedures. The Commission directed SPP to submit revisions to provisions addressing the following: (1) cure periods for interconnection requests; (2) site control and site adequacy; (3) refunds of study deposits due to suspension and withdrawal of interconnection requests; and (4) the transitional process.

II. Notice of Filings and Responsive Pleadings

6. Notice of SPP's filing was published in the *Federal Register*, 74 Fed. Reg. 46192 (2009), with interventions or protests due on or before September 21, 2009. E.ON Climate and Renewables North America Inc. (E.ON) filed a protest.⁸

III. Discussion

A. Cure Period

1. Compliance Requirement

7. In the Queue Reform Order, the Commission directed SPP to revise section 3.3.3 of its interconnection procedures to allow for a reasonable cure period for requests entering the preliminary and definitive queues, as well as a five business day period for SPP to notify an interconnection customer of any deficiencies in its request in these queues.⁹

⁸ E.ON previously filed a motion to intervene in this docket on June 22, 2009.

⁹ Queue Reform Order, 128 FERC ¶ 61,114 at P 44.

2. SPP's Filing

8. SPP proposes to revise sections 3.3.3 and 3.6 of its interconnection procedures to delete language that restricts the opportunity to cure a deficiency to only those interconnection requests entering the feasibility queue. SPP states that removal of this language will allow interconnection customers entering any queue—whether the feasibility, preliminary, or definitive queue—a ten business day period to cure deficiencies in their interconnection requests. SPP also states that under the proposed revision to section 3.3.3, SPP will notify interconnection customers of deficiencies in their interconnection requests, regardless of queue, within five business days of SPP receiving a request. SPP asserts that these changes comply with the Commission's directives regarding cure periods in the Queue Reform Order.¹⁰

3. Commission Determination

9. We will accept SPP's proposed revision to section 3.3.3. By removing the language that limited the opportunity to cure deficiencies to only those interconnection requests entering the feasibility queue, the notice and cure periods specified in section 3.3.3 now apply to any request, regardless of which queue it has entered. In addition, the proposed revision to section 3.6 removes language specifying that an interconnection customer has 15 business days to respond to an SPP-initiated withdrawal of an interconnection request in the feasibility queue. This revision removes inconsistency in SPP's interconnection procedures (i.e., 10 days versus 15 days) as well as permits any interconnection customer a cure period to respond to a withdrawal notice. Accordingly, we will also accept SPP's proposed revision to section 3.6.

B. Site Control

1. Compliance Requirement

10. In the Queue Reform Order, the Commission directed SPP to revise sections 3.3.1 and 3.3.3 to specify that an interconnection customer wishing to enter the feasibility queue need not demonstrate site control to enter the queue.¹¹ The Commission also ordered SPP to revise its interconnection procedures to clarify that an interconnection customer may propose an alternative demonstration of site control.¹² Finally, the Commission directed SPP to clearly identify where in its business practices site control and site adequacy standards are located.¹³

¹⁰ SPP Compliance Filing at 3-4.

¹¹ Queue Reform Order, 128 FERC ¶ 61,114 at P 46.

¹² *Id.* P 48.

¹³ *Id.*

2. SPP's Filing

11. SPP proposes to revise sections 3.3.1 and 3.3.3 of its interconnection procedures to provide that a demonstration of site control is not required for entry into the feasibility queue. SPP also proposes to delete language in section 3.3.1 indicating that SPP will place an interconnection customer in the feasibility queue if it is unable to demonstrate site control. SPP asserts this provision is no longer necessary due to the proposed clarifying language in this section.¹⁴

12. In addition, SPP states that its site control and site adequacy standards are located in section 1(9) of its "Guidelines for Generation Interconnection Requests to SPP's Transmission System" (interconnection business practices).¹⁵ SPP also proposes to add the following language to section 3.3.1: "Specifications for acceptable site size for the purpose of demonstrating Site Control are posted on the Transmission Provider's website; provided however Interconnection Customer may propose an alternative site size for Transmission Provider approval."¹⁶

3. Protest

13. E.ON argues that SPP did not comply with the Commission's directive regarding alternative demonstration of site control. E.ON contends that while the proposed revision to section 3.3.1 gives the interconnection customer a right to propose an alternative demonstration of site control, it fails to provide that SPP will accept such an alternative demonstration, which E.ON asserts the Commission directed SPP to do. E.ON suggests that section 3.3.1 should also provide that "If Interconnection Customer demonstrates that a lower or higher standard (e.g., 10 acres/MW) is sufficient and appropriate in a particular case, based on wind turbine layout, Transmission Provider will accept the

¹⁴ SPP Compliance Filing at 4.

¹⁵ *See id.* (referencing SPP's Guidelines for Generation Interconnection Requests to SPP's Transmission System, available at http://sppoasis.spp.org/documents/swpp/transmission/studies/Interconnection%20Request%20Guidelines%20for%20Posting%208-12-2009_.pdf).

¹⁶ SPP OATT Attachment V, proposed section 3.3.1.

alternative demonstration of control.”¹⁷ E.ON also requests that the Commission direct SPP to make similar changes in its interconnection business practices.¹⁸

4. Commission Determination

14. We will accept SPP’s revisions to sections 3.3.1 and 3.3.3 establishing that a demonstration of site control is not required for entrance into the feasibility queue. However, we find that SPP did not fully comply with our directive regarding alternative demonstrations of site control. In directing SPP to revise its interconnection procedures to clarify that an interconnection customer may propose an alternative demonstration of site control, the Commission intended to provide flexibility for interconnection customers and to ensure that all customers know this option is available to them on a non-discriminatory basis.¹⁹ We did not direct SPP to accept any and all alternative demonstrations of site control, as E.ON appears to suggest. Further, SPP should have the opportunity to assess whether or not a proposal is reasonable. However, we find that SPP simply stating that it may accept an alternative demonstration is not enough to ensure that such considerations will be made on a non-discriminatory basis. Accordingly, we direct SPP to submit a compliance filing to revise section 3.3.1 to provide criteria it will consider in evaluating alternative demonstrations of site control on a non-discriminatory basis, within 30 days of the date of issuance of this order. We also direct SPP to revise section 3.3.1 to state that, if an alternative demonstration of site control meets SPP’s objective criteria, SPP will accept the alternative demonstration of site control.

15. Additionally, the information SPP provides regarding where in its business practices site control and site adequacy standards are located is insufficient. In the transmittal letter of its filing, SPP provides the internet address (URL) for its interconnection business practices, which SPP states contains its site control and site adequacy standards. However, SPP does not include this URL in its revised section 3.3.1. We find that this does not enable interested customers to easily locate the information they need regarding SPP’s site control and site adequacy standards. We direct SPP to submit a compliance filing to revise section 3.3.1 to include the URL for its interconnection business practices, within 30 days of the date of issuance of this order.

¹⁷ E.ON Protest at 4.

¹⁸ *Id.* at 6. E.ON notes that section 1(9) of SPP’s interconnection business practices states, in part (emphasis added by E.ON):

If the Interconnection Customer provides a reasonable site layout demonstrating it can site the wind generation on less acreage, SPP *may accept* such demonstration as acceptable site control.

¹⁹ *See* Queue Reform Order at P 48.

16. Further, as we stated in the Queue Reform Order, SPP provides no definition for “site adequacy.” According to SPP’s OATT, a demonstration of site control is necessary for entrance into the preliminary queue,²⁰ while a demonstration of site control and site adequacy is necessary for entrance into the definitive queue.²¹ However, section 1(9) of SPP’s interconnection business practices only includes a standard for entrance into both the preliminary and definitive queues, which suggests that this is solely a site control standard. We note that the definition of site control in SPP’s interconnection procedures includes sufficient size of the site as a criterion, a concept that is sometimes associated with site adequacy. However, if SPP means for the standard in section 1(9) of its interconnection business practices to also be a site adequacy standard, it would be inconsistent with the SPP OATT to apply it to both the preliminary and definitive queues. We find it remains unclear what SPP means by “site adequacy,” as this term is not defined in SPP’s interconnection procedures.²² Accordingly, we direct SPP to revise its interconnection business practices to articulate the difference, if any, between the site control and site adequacy standards and to provide separate, general standards for each term. If SPP seeks to articulate a difference between these two terms, then it should also include a definition of site adequacy in its OATT. If there is no difference between these terms, SPP must revise section 8.2(a) of its interconnection procedures to remove mention of site adequacy as a milestone for entrance into the definitive queue. We direct SPP to submit a compliance filing either to include a definition of site adequacy in its OATT and revise its interconnection business practices to articulate the difference between the site control and site adequacy standards, or revise section 8.2(a) of its interconnection procedures to remove mention of site adequacy within 30 days of the date of the issuance of this order.

C. Refund of Study Deposits Due to Suspension and Withdrawal

1. Compliance Requirement

17. In the Queue Reform Order, the Commission directed SPP to revise section 13.3 to provide for refund of the unused portion of a study deposit upon a project’s suspension or withdrawal during or after the facilities study, once SPP has accounted for study costs associated with the suspending or withdrawing project and restudy costs associated with any affected lower-queued customers.²³

²⁰ SPP OATT Attachment V, section 7.2(a).

²¹ SPP OATT Attachment V, section 8.2(a).

²² See SPP OATT Attachment V, Definitions. SPP provides a definition for site control in this section.

²³ Queue Reform Order, 128 FERC ¶ 61,114 at P 67.

2. SPP's Filing

18. SPP proposes to revise section 13.3 of its interconnection procedures to specify that in the event an interconnection customer withdraws an interconnection request during or after the facilities study stage, suspends construction, or terminates an interconnection agreement, SPP will refund any unused study deposits, less any study or restudy costs associated with the withdrawal, suspension, or termination.²⁴

3. Commission Determination

19. We will accept SPP's revisions to section 13.3 because these changes meet the compliance requirement specified in the Queue Reform Order.

D. Transitional Process

1. Compliance Requirement

20. In the Queue Reform Order, the Commission directed SPP to revise its transition proposal to provide that any transmission customer that has executed a facilities study agreement by August 1, 2009 (i.e., the close of the proposed window for customers to transition to the new procedures) be made subject only to the new suspension provisions.²⁵ The Commission also directed SPP to extend the transition window by 60 days to allow interconnection customers sufficient time to evaluate the reformed interconnection procedures, as modified and accepted by the Commission, so that they can determine whether to withdraw or move forward with their requests.²⁶

2. SPP's Filing

21. SPP proposes to revise section 5.1.1.1 of its interconnection procedures to specify that all interconnection requests for which a facilities study agreement has been executed by August 1, 2009 or such later date resulting from the cure period pursuant to section 3.6 of the SPP interconnection procedures shall not be subject to the reformed procedures except for the new suspension provisions. SPP states that this revision complies with the Commission's directive that any customer that has executed a facilities study agreement by August 1, 2009 would only be subject to the new suspension provision. In addition, SPP states that this revision also accounts for the revised language in section 3.6 reinstating cure periods for the preliminary and definitive queues. SPP also states that this provision affords interconnection customers whose facilities study agreements were due on or before August 1, 2009 who assumed that they would be subject to the new

²⁴ SPP Compliance Filing at 5.

²⁵ Queue Reform Order, 128 FERC ¶ 61,114 at P 100.

²⁶ *Id.* P 101.

interconnection procedures the opportunity to execute a facilities study agreement, with an appropriate cure period if necessary, and be subject only to the new suspension provisions.²⁷

22. SPP also proposes to revise section 5.1.1.1 to clarify that any interconnection request for which a facilities study agreement has been executed in accordance with that section and is included in the first transitional cluster established in Docket No. ER09-262-000²⁸ will continue to be studied in that cluster. SPP states that this revision is necessary because SPP proposes to delete the current section 5.1.2, which addresses the treatment of interconnection requests in the first and second transitional clusters approved in the Waiver Order.

23. To comply with the Commission's directive to extend the transition period by an additional 60 days, SPP proposes to revise section 5.1.1.2 to state that interconnection customers will have until September 30, 2009 (as opposed to August 1, 2009, as initially proposed) to take actions necessary to conform to the new interconnection procedures. SPP further proposes to revise section 5.1.1.1 to indicate that all interconnection requests for which a facilities study agreement has not been executed as of August 1, 2009, or such later date resulting from the cure period pursuant to section 3.6, must conform to all of the new interconnection procedures.²⁹

24. SPP also states that, as a result of the Commission's directive for SPP to extend the transition period by an additional 60 days, it will not be able to begin studies for the third transitional cluster³⁰ until September 30, 2009. SPP explains it will not know until this date which interconnection requests will remain in the queue. SPP proposes to extend the closing date of the cluster window for the third transitional cluster until September 30, 2009, to coincide with the end of the transition period for compliance. SPP maintains that closing the cluster window for the third transitional cluster simultaneously with the end of the transition period will permit SPP to begin the study process for all interconnection requests soon after the close of the transitional cluster window, which is consistent with study procedures set forth in its reformed procedures. Accordingly, SPP proposes to revise section 5.1.2 (which is currently section 5.1.3) to specify that all pending interconnection requests in the queue as of June 2, 2009, which

²⁷ SPP Compliance Filing at 6-7.

²⁸ See Waiver Order, 126 FERC ¶ 61,012 (2009).

²⁹ SPP Compliance Filing at 7.

³⁰ For the purposes of this order, the "third transitional cluster" includes all interconnection requests queued between June 18, 2008 and September 30, 2009 (the close of the transitional cluster window established in this docket).

are subject to the new interconnection procedures, will be included in a cluster window that will close on September 30, 2009.³¹

25. SPP also proposes to delete the current section 5.1.2, which clarifies that interconnection requests included in the first and second transitional clusters established in the Waiver Order would continue to be studied in their respective clusters. SPP argues that this section is no longer needed for two reasons. First, as described above, SPP is proposing new language in section 5.1.1.1 that addresses interconnection requests in the first transitional cluster. Second, SPP proposes to study interconnection requests in the second transitional cluster with studies in the third transitional cluster.³²

26. SPP provides several reasons for combining requests in the second and third transitional clusters into one cluster. First, because the second transitional cluster has not yet reached the facilities study stage, interconnection customers with requests in the second transitional cluster have until September 30, 2009 to comply with the reformed procedures. Therefore, these requests cannot be studied until after this date. Second, SPP states it has received study agreements from customers in both the second and third transitional clusters. SPP states that some customers in the second cluster have withdrawn their requests, asked to be placed in the preliminary queue, or asked to be placed in the definitive queue. SPP also states that customers in the third cluster have largely opted to enter the feasibility queue, although some customers have requested placement in the preliminary and definitive queues. SPP state that rather than conducting separate sequential studies for the second and third transitional clusters (with associated studies for each of the three queue phases), combining these two clusters would be more efficient and cause less delay. SPP estimates that, if combined, it could complete the studies for these interconnection requests using the study time frames approved in the Queue Reform Order.³³

27. SPP also proposes to revise the new section 5.1.2 to provide that if SPP divides the transitional cluster into smaller clusters, it will base the order in which it conducts the studies of the smaller clusters on the queue position priority of the interconnection requests contained in the clusters.³⁴

3. Commission Determination

28. We will accept SPP's revisions to sections 5.1.1.1 and 5.1.1.2 that extend the transition window by 60 days and that subject interconnection requests that have an

³¹ SPP Compliance Filing at 8.

³² *Id.* at 8-9.

³³ *Id.* at 9.

³⁴ *See* SPP OATT Attachment V, proposed section 5.1.2.

executed facilities study agreement by August 1, 2009, or a later date due to a cure period, to the reformed procedures, except for the new suspension procedures. We find that these changes meet the compliance requirements specified in the Queue Reform Order.

29. We will also accept SPP's proposal to combine the second and third transitional clusters into one transitional cluster, given the new information SPP presents. Interconnection customers in the second cluster have, so far, withdrawn their requests or have entered their requests in the preliminary and definitive queues, while the majority of third cluster requests have been entered in the feasibility queue, with some in the preliminary and definitive queues. We conclude that combining requests in the second and third transitional clusters for study is a reasonable approach for processing the queue more efficiently. We will, however, hold SPP to its commitment to study requests based on the time frames accepted by the Commission in the Queue Reform Order. Accordingly, we will accept SPP's revisions to sections 5.1.1.1, 5.1.2, and 5.1.3.

30. Finally, we will accept SPP's revision to new section 5.1.2 indicating that if it divides the transitional cluster (i.e., third transitional cluster) into smaller clusters, it will base the order in which it conducts the smaller cluster studies on the queue position priority of the interconnection requests contained in the clusters. This language provides further clarity to language the Commission accepted in the Queue Reform Order allowing SPP to break transitional clusters into smaller units if the cluster size exceeds 15,000 MW.³⁵

The Commission orders:

(A) SPP's compliance filing is hereby conditionally accepted, effective June 2, 2009, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³⁵ See Queue Reform Order at 102.