

138 FERC ¶ 61,041
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Southwest Power Pool, Inc.

Docket No. ER11-4105-000

ORDER ON COMPLIANCE FILING

(Issued January 19, 2012)

1. On July 22, 2011, Southwest Power Pool, Inc. (SPP) submitted a compliance filing as directed by Order No. 745,¹ in which SPP stated that its current Open Access Transmission Tariff (Tariff)² and Market Protocols were consistent with or superior to the requirements of Order No. 745. In this order, we reject two aspects of SPP's compliance filing and require SPP to: (1) perform a net benefits test; and (2) articulate a cost allocation proposal that is consistent with Order No. 745. We also require SPP to provide an explanation of how the measurement and verification proposal in its ongoing Order No. 719³ compliance proceeding, as amended and discussed in its December 5, 2011 compliance filing, will continue to ensure that appropriate baselines are set and that demand response will continue to be adequately measured and verified as necessary to ensure demand response resource performance consistent with Order No. 745.

¹ *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, 76 FR 16,658 (Mar. 24, 2011), FERC Stats. & Regs. ¶ 31,322 (2011) (Order No. 745), *order on reh'g*, 137 FERC ¶ 61,215 (2011) (Order No. 745-A).

² Southwest Power Pool, Inc., FERC Electric Tariff, Sixth Revised Vol. No. 1.

³ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008) (Order No. 719), *order on reh'g*, Order No. 719-A, 74 Fed. Reg. 37,776 (Jul. 29, 2009), FERC Stats. & Regs. ¶ 31,292 (2009), *order denying reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

I. Background

A. Introduction

2. On March 15, 2011, the Commission issued Order No. 745, a Final Rule amending the Commission's regulations under the Federal Power Act (FPA), regarding compensation for demand response resources participating in wholesale energy markets, i.e., the day-ahead and real-time markets, administered by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). Specifically, Order No. 745 requires each RTO and ISO to pay a demand response resource the market price for energy, i.e., the locational marginal price (LMP), when two conditions are met. First, the demand response resource must have the capability to balance supply and demand as an alternative to a generation resource. Second, dispatching the demand response resource must be cost-effective as determined by a net benefits test in accordance with Order No. 745. The net benefits test, as described more fully below, is necessary to ensure that the overall benefit of the reduced LMP that results from dispatching demand response resources exceeds the costs of dispatching and paying LMP to those resources.

3. In order to implement the net benefits test, the Commission directed each RTO and ISO to develop a mechanism to approximate the price level at which dispatching demand response resources will be cost-effective. The Commission required each RTO and ISO to make a compliance filing by July 22, 2011, proposing tariff revisions necessary to implement the compensation approach adopted in Order No. 745, including the net benefits test, a cost allocation mechanism, and an assessment of their demand response measurement and verification protocols and any modifications to those protocols that may be necessary to ensure adequate baseline measurement and verification of demand response performance. This order addresses SPP's compliance filing.

B. Order No. 719

4. In Order No. 719, the Commission established reforms to improve the operation of organized wholesale electric power markets and amended its regulations under the FPA in the area of: (1) demand response, including pricing during periods of operating reserve shortage; (2) long-term power contracting; (3) market monitoring policies; and (4) the responsiveness of RTOs and ISOs to their customers and other stakeholders.⁴

5. SPP submitted its initial Order No. 719 compliance filing on April 28, 2009 in Docket No. ER09-1050-000. In a November 20, 2009 order, the Commission accepted in part, and rejected in part, aspects of SPP's compliance filing dealing with demand

⁴ Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 2.

response and market monitoring policies and required further compliance.⁵ The Commission addressed compliance with Order No. 719 responsiveness requirements⁶ and further compliance with Order No. 719 market monitoring policies⁷ in subsequent orders.

6. On October 4, 2011, the Commission issued an order addressing: two SPP Filings dealing with Order Nos. 719 and 719-A demand response compliance requirements (including a filing submitted on May 19, 2010 addressing compliance with the November 2009 Order), a request for clarification or rehearing of the November 2009 Order, and reports submitted by SPP and the SPP market monitor regarding remaining barriers to demand response.⁸ In regard to demand response measurement and verification requirements, the Commission generally approved the proposed methodologies in SPP's May 19, 2010 Filing but required SPP to define various terms used in the SPP Tariff; provide more specificity on the development of baselines; address several ambiguities involving one of SPP's proposed methodologies; clarify the size of demand reduction eligible for settlement; and further explain the interrelationships, roles, and responsibilities of controllable load, demand response resources, and Aggregators of Retail Customers. The Commission required SPP to address these issues in a compliance filing due 60 days after issuance of the October 2011 Order, which SPP submitted on December 5, 2011 in Docket No. ER12-550-000 (December 2011 Filing).

II. Notice of Filing and Responsive Pleadings

7. Notice of SPP's compliance filing was published in the *Federal Register*, 76 Fed. Reg. 41,774 (2011), with interventions and protests due on or before August 12, 2011. Timely motions to intervene were filed by the Electric Power Supply Association (EPSA); Occidental Chemical Corporation and Occidental Permian Ltd.; Xcel Energy Services Inc., on behalf of its utility operating company affiliate Southwestern Public Service Company; EnerNOC, Inc. (EnerNOC); NRG Companies;⁹ and Constellation

⁵ *Southwest Power Pool, Inc.*, 129 FERC ¶ 61,163 (2009) (November 2009 Order). The Commission also accepted SPP's compliance with Order No. 719 long-term power contracting requirements in the November 2009 Order.

⁶ *See Southwest Power Pool, Inc.*, 133 FERC ¶ 61,069 (2010).

⁷ *See Southwest Power Pool, Inc.*, 132 FERC ¶ 61,240 (2010), *order on reh'g and compliance*, 137 FERC ¶ 61,046 (2011).

⁸ *Southwest Power Pool, Inc.*, 137 FERC ¶ 61,011 (2011) (October 2011 Order).

⁹ NRG Power Marketing LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, Louisiana Generating LLC, NRG Sterlington Power LLC, and

Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. Wal-Mart Stores, Inc. submitted a late-filed intervention. EnerNOC submitted comments and a limited protest. SPP filed an answer. EnerNOC filed an answer to SPP's answer. EPSA submitted a late-filed protest applicable to all Order No. 745 compliance proceedings that did not raise SPP-specific issues.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), the Commission will grant the late-filed motion to intervene given the party's interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

10. Pursuant to Rule 210(b) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.210(b) (2011), EPSA's protest in this proceeding is rejected as untimely.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept SPP and EnerNOC's answers because they aided us in our decision-making.

B. Substantive Matters

12. In its July 22, 2011 Order No. 745 compliance filing, SPP asserts that its current real-time Energy Imbalance Service Market (EIS Market) provisions and the revisions proposed in its May 19, 2010 Order No. 719 compliance filing (May 2010 Order No. 719 Filing) comply with or are superior to the requirements of Order No. 745. Thus, SPP states it is not proposing any Tariff revisions at this time to comply with Order No. 745.¹⁰

13. We reject SPP's compliance filing in regard to Order No. 745's demand response compensation and cost allocation provisions, as discussed below. We also require SPP to provide an explanation of how the measurement and verification proposal in its ongoing Order No. 719 compliance proceeding, as amended and discussed in the December 2011

Cottonwood Energy Company are collectively referred to as NRG Companies.

¹⁰ SPP Filing at 4.

Filing, will continue to ensure that appropriate baselines are set and that demand response will continue to be adequately measured and verified as necessary to ensure demand response resource performance consistent with Order No. 745.

1. Net Benefits Test & Demand Response Compensation

a. Order No. 745

14. In Order No. 745, the Commission recognized that, depending on the change in the LMP relative to the size of the energy market, dispatching demand response resources may result in an increased cost per unit (\$/MWh) to the remaining wholesale load, due to the inherent, overall decreased amount of load paying the bill. This is referred to as the “billing unit effect.”¹¹ In order to address this effect, the Commission required each RTO and ISO to implement a net benefits test to determine whether a demand response resource is a cost-effective alternative to generation for balancing supply and demand in any given hour.¹²

15. Specifically, Order No. 745 directed each RTO and ISO to undertake an analysis on a monthly basis, based on historical data and the prior year’s supply curve, to identify a price threshold to estimate where customer net benefits would occur. The Commission further explained that the RTO or ISO should determine the threshold price corresponding to the point along the supply stack for each month at or beyond which the benefit to load from the reduced LMP resulting from dispatching demand response resources exceeds the increased cost to load associated with the billing unit effect, and update the calculation monthly as new information becomes available.¹³

¹¹ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 3.

¹² Although the Commission noted that integrating the billing unit effect into the RTO/ISO dispatch processes has the potential to more precisely identify when demand response resources are cost effective the Commission acknowledged the position of several RTOs and ISOs that it may be difficult to modify their dispatch algorithms in the near term. Therefore, the Commission required RTOs and ISOs to perform a net benefits test on a monthly basis to determine under which conditions it is cost-effective to pay full LMP to demand response resources. Additionally, the Commission directed RTOs and ISOs to study the feasibility of developing a dynamic net benefits approach to dispatching demand response resources that takes into account the billing unit effect in the economic dispatch in both the day-ahead and real-time energy markets and file the results of their study with the Commission by September 21, 2012.

¹³ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 79.

16. The Commission further explained that the threshold point along the supply stack for each month will fall in the area where the supply curve becomes inelastic, rather than the extreme steep portion at the peak or in the flat portion of the supply curve. In other words, LMP will be paid to demand response resources during periods when the nature of the supply curve is such that small decreases in generation being called to serve load will result in price decreases sufficient to offset the billing unit effect.¹⁴

b. SPP Filing

17. SPP states that in its EIS Market, demand response resources that comply with SPP dispatch instructions always receive their locational imbalance price (LIP). LIP is equivalent to LMP.¹⁵ SPP states it is not proposing any revisions to its Tariff at this time to implement a net benefits test to determine when demand response is cost-effective when it is paid LIP. SPP also acknowledges that it has not conducted any net benefits tests using previous year offer data.¹⁶

18. SPP argues that its demand response compensation provisions exceed the minimum compensation requirements in Order No. 745. SPP asserts that since the stated purpose of the net benefits test is to determine *when* an RTO *must* compensate demand response resources at market price, such a test is unnecessary to determine when a demand response resource is paid full LIP in its EIS Market because demand response resources always receive full LIP.¹⁷ SPP also argues that compensating demand response resources at the same price as generators in all hours ensures comparable treatment amongst all resources. SPP states that the Commission should find its existing Tariff provisions consistent with or superior to the compensation requirements in Order No. 745.¹⁸

¹⁴ *Id.* P 80.

¹⁵ SPP Filing at 5. We use the terms LIP and LMP interchangeably in this discussion, generally using LIP when specifically referencing SPP's EIS Market.

¹⁶ *Id.* at 5, 7.

¹⁷ *Id.* n.35 (citing Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 50 (emphasis added by SPP)).

¹⁸ *Id.* n.31 (citing Order No. 745, FERC Stats. & Regs. ¶ 31,322 at n.7 (“In its compliance filing an RTO or ISO may attempt to show, in whole or in part, how its proposed or existing practices are consistent with or superior to the requirements of this Final Rule.”)).

c. Commission Determination

19. We find that SPP has not satisfied the demand response compensation requirements of Order No. 745. As noted above, SPP acknowledges that it has not conducted a net benefits test. SPP argues that its current demand response provisions—which pay the LIP to demand resources in all hours—exceed the “minimum compensation” requirements of Order No. 745, making the net benefits test unnecessary. However, SPP’s argument does not encompass the entirety of the Commission’s reasons in Order No. 745 for requiring each RTO and ISO to implement a net benefits test. The Commission explained that a net benefits test would determine whether a demand response resource is a cost-effective alternative to generation for balancing supply and demand in any given hour, thus addressing the billing unit effect.¹⁹ The Commission also explained that a net benefits test is important to implementation of the cost allocation requirements of Order No. 745,²⁰ which are discussed further below.²¹ In light of these multiple purposes that a net benefits test serves under Order No. 745, we find that SPP has not demonstrated that its existing Tariff provisions are consistent with or superior to the requirements of Order No. 745. Thus, we will require SPP to remedy this shortcoming of its proposal in a further compliance filing due within 90 days after the issuance of this order.²² In this compliance filing, SPP may propose a net benefits test as detailed in Order No. 745, or it may seek to demonstrate that the net benefits test requirements are satisfied by showing that, given the characteristics of its system and market, its existing practice of compensating demand response resources at the LIP is cost-effective in all hours and supports cost allocation pursuant to Order No. 745 in all hours.

2. Measurement and Verification

a. Order No. 745

20. In Order No. 745, the Commission noted concerns that compensating demand response resources at LMP during all hours could make it difficult to determine baselines for demand response providers. However, because Order No. 745 required payment of

¹⁹ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 78-81.

²⁰ *Id.* P 99. *See also* Order No. 745-A, 137 FERC ¶ 61,215 at P 111. The net benefits test delineates those hours in which the cost allocation requirements of Order No. 745 are applicable.

²¹ *See infra* section III.B.3.f, discussion at P 29-30.

²² We note that demand response compensation below the cost-effectiveness threshold is beyond the scope of this Order No. 745 compliance proceeding.

LMP for demand response subject to a net benefits test—and not during all hours—the Commission found that implementation of Order No. 745 would not appear to prevent the determination of appropriate baselines.²³ Nonetheless, noting that measurement and verification protocols are critical to the integrity and success of demand response programs, the Commission directed each RTO and ISO to include in its compliance filing an explanation of how its current measurement and verification procedures will continue to ensure that appropriate baselines are set and that demand response will continue to be adequately measured and verified as necessary to ensure the performance of each demand response resource. The Commission directed each RTO and ISO to propose, if necessary, any changes needed to ensure that measurement and verification of demand response will adequately capture the performance (or non-performance) of each participating demand response market participant to be consistent with the requirements of Order No. 745.²⁴

b. SPP Filing

21. SPP states it submitted Tariff revisions to adopt demand response measurement, verification, and baseline calculation provisions in its May 2010 Order No. 719 Filing. SPP proposed two alternative methodologies (the Calculated Methodology²⁵ and the Submitted Methodology²⁶) for calculating and measuring demand response and requested

²³ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 94.

²⁴ *Id.*

²⁵ The Calculated Methodology, outlined in proposed section 1.2.9.1(a) of Attachment AE in SPP's Tariff, provides that the response provided by a demand response resource will be calculated as the difference between: (1) the lesser of (a) the real-time consumption of the controllable load associated with the demand response resource in the dispatch interval immediately preceding the initial deployment of the demand response resource, or (b) the hourly baseline for the hour; and (2) the real-time value of the associated controllable load received via the Inter-Control Center Communications Protocol (ICCP), whenever the demand response resource's dispatch is greater than zero.

²⁶ The Submitted Methodology, outlined in proposed section 1.2.9.2 of Attachment AE of SPP's Tariff, provides that the controllable load response provided by the demand response resource is sent directly to SPP via ICCP. The Submitted Methodology may be used only by demand response resources (1) that use strictly behind-the-meter generation to provide their response or (2) where the market participant offers the demand response resource under a retail tariff provision that includes near real-time measurement and verification terms.

that the Commission defer implementation of these methodologies until 18 months after Commission action on the proposal to give SPP and its stakeholders sufficient time to implement necessary system and process changes.²⁷ SPP is not proposing Tariff changes at this time regarding measurement and verification methodologies.²⁸

c. Commission Determination

22. We acknowledge that SPP's Order No. 719 compliance proceeding is ongoing and that SPP has recently filed clarifications to its demand response measurement and verification procedures, as required by the October 2011 Order. However, we find that SPP has not properly explained how its measurement and verification proposal in the ongoing Order No. 719 compliance proceeding continues to ensure that appropriate baselines are set and that demand response continues to be adequately measured and verified as necessary to ensure demand response resource performance consistent with Order No. 745. Accordingly, we will require SPP to provide an explanation of how its measurement and verification proposal in the ongoing Order No. 719 proceeding, as amended and discussed in the December 2011 Filing, complies with Order No. 745's measurement and verification provisions in a compliance filing due within 90 days after the issuance of this order.

3. Cost Allocation

a. Order No. 745

23. The Commission explained in Order No. 745 that while dispatching demand response resources results in lower LMPs, transmission constraints may affect which customers benefit from that lower LMP. In hours without transmission constraints, RTOs establish a single LMP for their entire system, in which case demand response would result in a benefit to all customers on the system. In hours when transmission constraints exist, LMPs may vary by zone or other geographic area and dispatching a demand response resource in a particular geographic region may not reduce LMPs system-wide and, consequently, not all system customers would benefit.²⁹

²⁷ On November 18, 2011, SPP filed a motion to delay implementation of its demand response measurement and verification protocols until March of 2014, to coincide with the planned start date of its day-ahead and operating reserve markets. The Commission granted this motion on November 30, 2011.

²⁸ SPP Filing at 8-9.

²⁹ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 100.

24. For these reasons, the Commission determined that it is just and reasonable to allocate the costs associated with demand response compensation proportionally to all entities that purchase from the relevant energy market in the area(s) where the demand response reduces the market prices for energy at the time the demand response resource is committed or dispatched.³⁰ Thus, the Commission required each RTO and ISO to make a compliance filing that either demonstrates that its current demand response cost allocation methodology appropriately allocates costs to those that benefit from the demand reduction or proposes revised tariff provisions that conform to this requirement.³¹

b. SPP Filing

25. SPP explains that it calculates the total load at the settlement location where the demand response occurs as if the demand response did not occur. SPP then bills the market participant at the settlement location for the adjusted load value. SPP asserts that through this gross-up mechanism, the costs associated with demand response compensation are paid by the market participants that benefit from the reduction of LIPs at settlement locations where demand response resources are dispatched. SPP states it will continue this approach and proposes no Tariff revisions.³²

c. EnerNOC Protest

26. In its limited protest, EnerNOC takes issue with SPP's statement that it would employ a load gross up "at the settlement location where the demand response occurs as if the demand response did not occur. SPP then bills the *market participant* at that settlement location according to the adjusted load value."³³ EnerNOC asserts that the use of the singular "participant" is either a mistake on SPP's part or at odds with the directive in Order No. 745 requiring that costs associated with demand response be allocated to all entities that purchase from the relevant energy market in the area(s) where the demand response reduces the market price for energy at the same time when the demand response resource is committed or dispatched. Furthermore, EnerNOC argues that use of the plural "participants" in parts of SPP's Filing conflicts with its use of the singular "participant" elsewhere, making it difficult to determine how many and which market participant(s) would be allocated the costs of demand response.³⁴ EnerNOC also raises

³⁰ *Id.* P 102.

³¹ *Id.*

³² SPP Filing at 9-10.

³³ EnerNOC Protest at 4 (citing SPP Filing at 9 (emphasis added by EnerNOC)).

³⁴ *Id.* at 5 (citing SPP Filing at 9. For example, on page 9 of its compliance filing,

concerns that allowing a single load-serving entity (LSE) to bear all the costs may result in compensation of LMP less the retail rate to demand responders during times when LMP is cost-effective, as the LSE may seek to “claw-back” the costs assigned to it through retail rate design.³⁵

d. SPP Answer

27. In its answer, SPP argues that, by billing the market participant based on the grossed-up load value at the settlement location where the demand response took place, the primary demand response beneficiary pays a large portion of the cost of demand response compensation, but not the whole cost. Instead, SPP contends that its cost allocation methodology also results in a partial allocation of costs to any market participant that receives a portion of its imbalance energy from the EIS Market at the time when a demand response resource is dispatched. SPP argues that this partial allocation exists because, at any given settlement location in its EIS Market, no single load is served by any single resource and the cost of each resource is reflected in the LIP paid by all loads. Therefore, SPP asserts, all market participants at a settlement location that benefit from the price impacts of demand response contribute to the compensation of the demand response resource, a result that SPP maintains is compliant with the cost allocation requirements of Order No. 745.³⁶

e. EnerNOC Answer

28. In its answer, EnerNOC argues that the load gross-up cost allocation approach proposed by SPP does not proportionally share the costs of demand response among all of the loads that benefit from the lower prices that result from the dispatch of demand response. EnerNOC claims that SPP’s approach places excessive cost responsibility on the LSE in whose territory the demand response occurred and allows other beneficiaries of demand response to avoid their cost responsibility. EnerNOC contends that SPP’s proposed methodology is contrary to the Commission’s cost allocation directive in Order

SPP states that it employs a load “gross-up” during EIS Market settlement and that it bills the market **participant** at that settlement location according to the adjusted load value. However, on page 10, SPP states that through the gross-up mechanism, the costs associated with demand response compensation are paid by the market **participants** that benefit from the reduction of LIPs at the settlement locations where demand response resources are dispatched).

³⁵ *Id.* at 4-5.

³⁶ SPP Answer at 3-4.

No. 745 and does not allocate any of the billing unit cost impacts to participants that benefit from the clearing of demand response, as required by the Final Rule.³⁷

f. Commission Determination

29. We find that SPP has not demonstrated that its cost allocation methodology is compliant with the requirements of Order No. 745, and therefore we reject it. In Order No. 745, the Commission required the allocation of demand response costs to those entities that benefit from the price impacts of demand reduction at times when demand response resources are cost effective when committed or dispatched. It required RTOs and ISOs to develop demand response cost allocation methodologies that allocated the revenue shortfall—which results from the difference between the amount owed by the RTO or ISO to resources and the revenue it derives from the load—proportionally to all entities that purchase from the relevant energy market in the areas where the demand response reduces the market price.³⁸ The Commission directed RTOs and ISOs to either propose revised tariff provisions that conform to this requirement or demonstrate that their current cost allocation methodologies appropriately allocate costs to those that benefit from the demand reduction.³⁹ The Commission rejected cost allocation methodologies that assigned all costs to the LSE associated with the demand response provider.⁴⁰

30. We find that SPP's proposed cost allocation methodology for demand response inappropriately allocates to the host LSE the entire cost of the revenue shortfall caused by the demand response purchase. While we recognize that there is no one-to-one financial relationship between loads and resources in SPP's EIS Market, SPP's proposal would have the host LSE be the only party allocated costs of demand resources. Indeed, under SPP's proposed methodology, no other market participant that benefits from the lower prices produced by dispatching demand response is allocated the cost associated with the revenue shortfall. The Commission directed RTOs and ISOs to allocate the cost of the revenue shortfall caused by the demand response purchase proportionally to the entities that benefit. SPP has not demonstrated that the benefits of demand response are limited to the host LSE and thus has not demonstrated that its proposed methodology is in compliance with the requirements of Order No. 745. Accordingly, we reject SPP's

³⁷ EnerNOC Answer at 2-4 (citing Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 100).

³⁸ Order No. 745, FERC Stats. & Regs. ¶ 31,322 at P 102.

³⁹ *Id.*

⁴⁰ *Id.* P 99-101.

proposed cost allocation methodology for demand response that is committed and dispatched in cost-effective hours, as determined by a net benefits test. We will require SPP to file a compliant cost allocation methodology within 90 days after the issuance of this order. This directive only applies to the allocation of demand response costs for those times when demand response resources are cost-effective, as determined by the net benefits test that we direct SPP to implement in this order. If SPP wishes to revise its demand response cost allocation methodology for non-net benefits hours, it must make a separate filing under section 205 of the FPA.

The Commission orders:

(A) SPP's compliance filing is hereby rejected, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Moeller is dissenting in part with a separate attached.

(S E A L)

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southwest Power Pool, Inc.

Docket No. ER11-4105-000

(Issued January 19, 2012)

MOELLER, Commissioner, *dissenting in part*:

Demand response plays a very important role in markets by providing significant economic, reliability, and other market-related benefits when properly deployed.

For the reasons set forth in my dissents on Orders No. 745 and 745-A, I respectfully dissent.¹ While consumers may pay lower rates if some consumers voluntarily agree to use less electricity, the Federal Power Act requires this Commission to establish just and reasonable rates that are not discriminatory.² If the Commission requires the RTOs and ISOs to overcompensate for providing demand response, the resulting rates are both discriminatory and not just and reasonable.

In addition, rather than impose a nationwide approach to demand response compensation, the Commission's objective of promoting demand response would have been better served if the regions were free to propose compensation methods that recognize the very real differences in the structures of the regional markets.

Philip D. Moeller
Commissioner

¹ *Demand Response Compensation in Organized Wholesale Energy Markets*, 134 FERC ¶ 61,187 (2011) (*Moeller Dissenting*) (“Order No. 745”) and *Demand Response Compensation in Organized Wholesale Energy Markets*, 137 FERC ¶ 61,215 (2011) (*Moeller Dissenting*) (“Order No. 745-A”), respectively.

² 16 U.S.C. § 824d (2006).