

146 FERC ¶ 61,110
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Southwest Power Pool, Inc.

Docket No. ER12-2292-004

ORDER ON COMPLIANCE AND GRANTING LIMITED WAIVER

(Issued February 20, 2014)

1. On October 10, 2013, Southwest Power Pool, Inc. (SPP) filed proposed revisions to Attachment AE of its Open Access Transmission Tariff (Tariff) to comply with the Commission's September 20, 2013 order¹ in Docket No. ER12-2292-003.² Additionally, SPP requested a temporary limited waiver for implementing certain of the proposed Tariff revisions. As discussed below, the Commission accepts the revised Tariff provisions and grants SPP's request for limited waiver.

Background

2. On July 23, 2012, SPP proposed tariff revisions to Attachment AE of its Tariff to permit the systematic³ and automated curtailment of Non-Dispatchable Resources,⁴

¹ *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,223 (2013) (September 2013 Order).

² Southwest Power Pool, Inc., FERC FPA Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, [Att AE Section 4.3, Attachment AE Section 4.3, 2.2.0](#).

³ By using the term "systematic," SPP means that its market software tools will send instructions directing Non-Dispatchable Resources to curtail output, rather than sending instructions that merely reflect the resource's actual output and that do not contemplate or instruct that the resources change the amount of the output. SPP July 23, 2012 Filing in Docket No. ER12-2292-000 at 7-8.

⁴ In Attachment AE of the Tariff, Section 1.1 – Definitions, SPP defines a "Non-Dispatchable Resource" as "A Resource meeting any of the following conditions: (a)

(continued...)

including Qualifying Facilities (QF), in SPP's Energy Imbalance Service market. In that filing, SPP proposed to use market rules⁵ incorporated in its Market Operating System and Curtailment Adjustment Tool software tools to calculate and send automated curtailment (dispatch) instructions to reduce the output of new and existing Non-Dispatchable Resources during periods of transmission congestion as a more efficient and equitable process than the existing manual process of issuing curtailment instructions to relieve transmission constraints.

3. In its September 20, 2012 order⁶ in Docket No. ER12-2292-000, the Commission conditionally accepted SPP's Tariff revisions to allow automated curtailment for all *new* Non-Dispatchable Resources that become commercially operable on or after October 15, 2012. The Commission also conditionally accepted automated curtailment for *existing* Non-Dispatchable Resources that were commercially operable prior to October 15, 2012, subject to SPP making a compliance filing with tariff revisions reflecting the results of stakeholder process addressing issues raised by existing Non-Dispatchable Resources in a manner that is consistent with ensuring reliability, with results of the stakeholder process to become effective a year from the date of the September 20 Order, or September 20, 2013.

4. On March 1, 2013, in Docket No. ER12-2292-003, SPP submitted a compliance filing proposing revisions to Attachment AE of its Tariff to comply with the September 2012 Order. In its September 2013 Order, the Commission, in part, conditionally accepted SPP's Tariff revisions effective March 19, 2013, subject to a further compliance filing. Specifically, the Commission directed SPP to file revisions to Section 4.3(i) of Attachment AE of its Tariff to correctly identify the effective date for systematic and automated curtailment of *existing* non-exempt⁷ Non-Dispatchable Resources as September 20, 2013, in accordance with the September 2012 Order.

operating in Shut-down Mode; (b) operating in Start-up Mode; (c) operating in Test Mode; (d) operating under Exigent Conditions; (e) is an Intermittent Resource; or (f) is a Qualifying Facility.”

⁵ The Market Protocols detail how Market Participants will be instructed to dispatch resources during congested intervals; they are included in SPP's business practice manuals.

⁶ *Southwest Power Pool, Inc.*, 140 FERC ¶ 61,225 (2012) (September 2012 Order).

⁷ In the September 2013 Order, the Commission also conditionally accepted SPP's Tariff revision to Section 4.3(i)(ii) of Attachment AE, exempting from its systematic and automated curtailment procedures wind-powered Non-Dispatchable Resources that began commercial operations before October 15, 2012 and executed interconnection agreements *on or before* May 21, 2011. September 2013 Order, 144 FERC ¶ 61,223 at P 45.

SPP Filing

5. On October 10, 2013, in Docket No. ER12-2292-004, SPP filed proposed revisions to Section 4.3(i) of Attachment AE to its Tariff to comply with the September 2013 Order. In doing so, SPP also requests a limited waiver to delay by six days, from the September 20, 2013 until September 26, 2013, the implementation of the systematic and automated curtailment rules pertaining to *existing* Non-Dispatchable Resources.

6. SPP proposes to revise Section 4.3(i) to correctly state that systematic and automated curtailment rules pertaining to *existing* Non-Dispatchable Resources were to be initiated on September 20, 2013, as follows:

- (i) Prior to September 20, 2013, a Non-Dispatchable Resource that has notified or notifies Transmission Provider pursuant to its interconnection agreement that it commenced Commercial Operation on or after October 15, 2012 shall be instructed to curtail via an XML notification; all other Non-Dispatchable Resources shall be instructed to curtail via a telephone call from Transmission Provider.
- (ii) On September 20, 2013 and thereafter, all Non-Dispatchable Resources shall be instructed to curtail via an XML notification, except for Intermittent Resources with interconnection agreements executed on or before May 21, 2011 and that commenced Commercial Operation prior to October 15, 2012. Such Intermittent Resources shall be instructed to curtail via telephone call from Transmission Provider.

7. According to SPP, however, because the September 2013 Order was issued on the same day as the correct effective date for systematic curtailment of existing Non-Dispatchable Resources, i.e., September 20, 2013, SPP was unable to implement the necessary system changes in time to comply with the September 2013 Order. Thus, SPP seeks a waiver to allow a six-day delay in implementation.

Notice of Filing and Responsive Pleadings

8. Notice of SPP's filing was published in the *Federal Register*, 78 Fed. Reg. 62,612 (2013), with interventions and protests due on or before October 31, 2013. None was filed.

Determination

9. The Commission accepts SPP's Tariff revisions as satisfactorily complying with the September 2013 Order.

10. We also grant SPP's request for a temporary limited waiver of certain of the proposed Tariff provisions, effective for the period of September 20, 2013 to September 26, 2013, as requested, for its implementation of systematic and automated curtailment of

existing non-exempt Non-Dispatchable Resources that began Commercial Operations before October 15, 2012. The Commission has granted limited waivers of tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requisite waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.⁸ We find the requested waiver meets these criteria.

The Commission orders:

SPP's Tariff revisions are hereby accepted effective March 19, 2013, consistent with the September 2013 Order and the limited waiver is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ See, e.g., *PJM Interconnection, L.L.C.*, 135 FERC 61,069, at P 8 (2011); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010). *Cal. Indep. Sys. Operator*, 124 FERC ¶ 61,031, at P 19 (2008); see also *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226 at P 24, *order on clarification*, 120 FERC ¶ 61,180 (2007).