

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. ER05-109-000

ORDER ACCEPTING AND SUSPENDING TARIFF FILING

(Issued January 21, 2005)

1. Southwest Power Pool, Inc. (SPP) filed proposed changes to its open access transmission tariff (OATT) to provide an aggregate transmission service study (Transmission Study) process to evaluate long-term transmission service requests. In this order, the Commission accepts the proposed aggregate transmission study procedures to be effective February 1, 2005, as requested, and accepts and suspends SPP's proposed cost allocation and cost recovery provisions to become effective the earlier of five months from the requested effective date (July 1, 2005) or a further order of the Commission in this proceeding, subject to refund. This action benefits customers by ensuring that SPP's transmission expansion and cost allocation procedures are consistent and work for the benefit of all stakeholders.

I. Background

2. On February 10, 2004, the Commission granted SPP regional transmission organization (RTO) status subject to SPP fulfilling certain key requirements such as developing and filing a transmission cost allocation plan and other conditions identified in the order.¹ Specifically, we required SPP to develop and file a transmission cost allocation plan by the end of 2004, and we added that this plan should address pricing treatment for the projects identified in SPP's transmission plan.²

¹ *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 (2004) (February Order); *Southwest Power Pool, Inc.*, 108 FERC ¶ 61,003 (2004) (First Compliance Filing); *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004) (Second Compliance Filing).

² 106 FERC ¶ 61,110 at P 189; 108 FERC ¶ 61,003 at P 100-102. On December 30, 2004, SPP filed a status report stating that it continues development of the transmission cost allocation plan. SPP states that tariff language has not been finalized and not all the issues have been resolved. It expects that the process will be completed by the end of February and that a filing will be made within that time frame. To the extent the Commission believes that SPP needs to seek an extension of time in order to comply with the February Order, SPP is requesting a 90 day extension to file a final plan.

3. On October 29, 2004, SPP filed revisions to its regional open access transmission tariff OATT to provide for a Transmission Study process. SPP states that this process, which is reflected in Attachment Z, will combine all long-term point-to-point and long-term designated network resource transmission service requests received during a sequential four-month open season into a single aggregate transmission service study. SPP states that such an aggregation of transmission service requests will result in an optimal expansion of SPP's transmission system providing the necessary available transmission capacity to accommodate all the requests at the minimum total cost. SPP requests a February 1, 2005 effective date for the proposed tariff revisions.³

4. SPP explains that for purposes of determining cost responsibility for each transmission service request, all upgrades required to provide transmission service for the transmission service reservations in the aggregate study will be included in an aggregate cost allocation assessment. SPP further explains that the cost of each transmission upgraded component will be allocated to each customer in the aggregation group on a pro rata impact basis for the positive incremental power flow impacts of the requested service on such upgraded facility in proportion to the total of all incremental impacts on such upgraded facility.

5. SPP proposes different cost recovery methods for point-to-point service requests and network resource designation requests. For point-to-point customers, the levelized monthly revenue requirement derived from the cost allocation process will be compared to SPP's monthly base point-to-point transmission service rate, and the customer would pay the higher of the total monthly base rate charge or the monthly revenue requirement associated with the facility upgrades. Network customers would pay the applicable network transmission service rate and a direct assignment charge based upon the monthly revenue requirement associated with the facility upgrades. SPP also proposes that any charges paid by the customers in excess of the transmission service base rate will be credited back to the customer from future transmission service revenues until the customer has been fully compensated.⁴ SPP proposes to calculate a credit (with interest in accordance with 18 C.F.R. § 35.19(a)(2)(ii) (2004)) from transmission service revenues that result from new point-point transmission service "that increases loading on the new facility upgrade in the direction of the initial overload."⁵

³ SPP transmittal letter at 1-3.

⁴ *Id.* at 3-4.

⁵ Attachment Z, Original Sheet No. 423.

6. In support of its proposed revisions, SPP asserts that the current Order No. 888⁶ pro forma tariff based approach to process long-term transmission service requests has proven unworkable and is inefficient in a regional setting. SPP explains that under its current procedures it must evaluate competing requests one at a time, and that projects that can and should be considered together from a system impact perspective are evaluated separately, resulting in situations where a single customer bears the entire cost of upgrades even though subsequent customers may use and benefit from the upgrade. SPP asserts that Attachment Z is superior to the current method because of the ability to process multiple requests simultaneously and permit customers to share in the cost allocation of necessary upgrades. SPP claims that this will result in a more streamlined process and price new upgrades in a more rational manner that will facilitate new construction within the SPP footprint.⁷

II. Notice of Filing and Responses

7. Notice of SPP's filing was published in the *Federal Register*, 69 Fed. Reg. 65,421 (2004), with motions to intervene and protests due on or before November 19, 2004.

A. Protests

8. On November 19, 2004, East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, the Cooperatives) filed a motion to intervene and protest. The Cooperatives do not object to the aggregation of transmission service requests in concept because they state that it is an improvement over the current process of evaluating transmission service requests individually. However, they are concerned that the transmission expansion cost allocation procedures outlined in Attachment Z violate the Commission's transmission pricing policies, and that Attachment Z contains other anticompetitive provisions. The Cooperatives also question the necessity for the timing of SPP's Attachment Z given that

⁶ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991-June 1996 ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group, et al, v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁷ SPP transmittal letter at 4-5.

the February Order required SPP to file a fully developed transmission expansion cost allocation plan by the end of the calendar year 2004. The Cooperatives ask that the Commission reject Attachment Z or, in the alternative, approve the filing conditioned upon SPP modifying the Attachment Z procedures.

9. On November 19, 2004, Golden Spread Electric Cooperative, Inc. and Lyntegar Electric Cooperative, Inc. (collectively, Golden Spread) filed a motion to intervene, protest, and motion for partial summary disposition. Golden Spread generally agrees that SPP's current procedures are inefficient and do not promote economic system enhancements, and believes that SPP should use an aggregate transmission study process. However, Golden Spread objects to several aspects of SPP's filing because Golden Spread argues they would enhance market power of dominant transmission owners/generators or otherwise create terms and conditions of service that would be unjust and unreasonable.

10. On November 19, 2004, the Lafayette Utilities System, the Missouri Joint Municipal Electric Utility Commission, and the Oklahoma Municipal Power Agency (TDU Intervenors) filed a motion to intervene, motion to reject filing, and protest. They argue that when viewed in the context of SPP's planning obligations under the OATT and as an RTO, the aggregate study proposal falls short of what is expected of SPP. Among other things, TDU Intervenors also claim that: (1) the proposal fails to meet the requirements for innovative rate proposals under the Commission's rules; (2) the cost recovery provisions violate the prohibition against "and" pricing; and (3) the proposal is ambiguous and provides gaming opportunities.

11. On November 26, 2004, Kansas Municipal Utilities (Kansas Municipal) filed a motion to intervene out of time.

B. SPP's Answer and Replies

12. On December 6, 2004, SPP filed an answer to protests and requests for rejection or modification. On December 20, 2004, TDU Intervenors filed a reply to SPP's answer. On December 22, 2004, the Cooperatives filed a motion to strike, or in the alternative, reply to SPP's answer. On December 28, 2004, TDU Intervenors filed a supplement to its answer. On January 3, 2005, SPP filed an answer to the Cooperatives motion to strike.

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene of the Cooperatives, Golden Spread, and TDU Intervenors serve to make them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2004), given its interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay, we will grant Kansas Municipal's untimely, unopposed motion to intervene.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004) prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We are not persuaded to accept SPP's answer, the TDU Intervenors' reply, the Cooperatives' reply, and the TDU Intervenors supplemental answer and will, therefore, reject them.

B. SPP's Proposal

15. Intervenors state that SPP's proposed aggregate Transmission Study process would be an improvement over the current process of evaluating transmission service requests individually.⁸ The intervenors also contend, however, that many aspects of Attachment Z are unjust and unreasonable and contain anticompetitive provisions, and they request that the Commission reject Attachment Z or accept it with modifications.⁹ The Cooperatives also question the necessity for the timing of SPP's Attachment Z since the February Order required SPP to file a fully developed transmission expansion cost allocation plan by the end of the calendar year 2004. They ask that the Commission consider Attachment Z only in the context of this overall transmission expansion cost allocation proposal.¹⁰

16. While intervenors raise certain issues with aspects of Attachment Z, we nonetheless find the proposed aggregate study method provisions in Attachment Z reasonable and will accept them, to be effective February 1, 2005, as requested, and permit SPP to implement aggregate transmission studies without suspension. We agree with SPP and the intervenors that grouping transmission service request studies is an improvement over the current process and permits a more efficient method to determine the necessary network upgrades to accommodate service requests at the least cost. In

⁸ Cooperatives Protest at 5; Golden Spread Protest at 4; and TDU Intervenors Protest at 4.

⁹ TDU Intervenors Protest at 40; Cooperatives Protest at 20-21; Golden Spread Protest at 5-11.

¹⁰ Cooperatives Protest at 6 and 20.

addition, our preliminary analysis indicates that the cost allocation and cost recovery parts of Attachment Z have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Further, we have concerns with the interrelationship between Attachment Z and the fully developed transmission expansion cost allocation plan that SPP is required to file. Accordingly, we will accept the proposed aggregate transmission study procedures for filing to be effective February 1, 2005, without suspension, and we will accept and suspend the cost allocation and cost recovery provisions to become effective the earlier of five months from the requested effective date (July 1, 2005) or a further order of the Commission in this proceeding, subject to refund. This will provide the Commission the opportunity to consider both filings at the same time.

The Commission orders:

(A) SPP's proposed aggregate transmission study procedures are hereby accepted for filing, without suspension, to become effective February 1, 2005, as requested.

(B) SPP's proposed cost allocation and cost recovery provisions are hereby accepted for filing and suspended to become effective the earlier of five months from the requested effective date (July 1, 2005) or a further order of the Commission in this proceeding, subject to refund.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.