

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER06-451-002
ER06-1047-000

ORDER ON PROPOSED IMBALANCE MARKET PROVISIONS
AND COMPLIANCE FILING

(Issued July 20, 2006)

1. On May 19, 2006, the Southwest Power Pool, Inc. (SPP) filed proposed open access transmission tariff (OATT or tariff) revisions pursuant to the *SPP Market Order*¹ that rejected in part, conditionally accepted and suspended in part SPP's proposed OATT revisions which, when implemented, will establish a real-time energy imbalance market (imbalance market) and a market monitoring and market power mitigation plan. SPP also submitted, under section 205 of the Federal Power Act (FPA), a standard market participant agreement and a proposal for allocating the costs of energy from operating reserves. SPP requests that these proposed tariff sheets become effective on October 1, 2006. In this order, the Commission addresses both filings related to SPP's proposed revisions to the imbalance market proposal. As discussed below, the Commission accepts in part, as modified, and rejects in part SPP's compliance filing, market participant agreement and reserve cost allocation proposal to become effective on October 1, 2006.

¹ *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 (2006) (*SPP Market Order*), *reh'g pending*.

I. Background

2. SPP has been authorized as a regional transmission organization (RTO) since October 1, 2004.² The Commission accepted SPP's commitment to develop an imbalance market, including implementation of a real-time, offer-based energy market that will be used to calculate the price of imbalance energy.³ The Commission also required SPP to provide a market monitoring plan, including market power mitigation measures that address market power problems in the spot market and a clear set of rules governing market participation conduct, with the consequences for violations clearly laid out.⁴ The Commission further stated that the market monitoring plan must include the process that the independent market monitor would use if the market monitor determines that the markets are not resulting in just and reasonable prices or providing appropriate incentives for investment in needed infrastructure.⁵

3. On June 15, 2005, SPP submitted proposed tariff revisions intended to implement an imbalance market and establish a market monitoring and market power mitigation plan (June 15 Filing). The Commission rejected SPP's original imbalance market proposal and mitigation and monitoring plan in the June 15 Filing as inadequate and provided guidance concerning: (1) reliable and stable market operations; (2) market-based rates in the new market; and (3) mitigation and monitoring issues.⁶

4. Subsequently, on January 4, 2006, SPP submitted proposed tariff revisions intended to implement SPP's imbalance market and establish a market monitoring and market power mitigation plan (January 4 Filing). The January 4 Filing included: (1) Attachment AE to its tariff, intended to implement least cost bid-based security constrained economic dispatch and locational marginal pricing, including provisions

² See *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004) (*RTO Order*), *order on reh'g*, 110 FERC ¶ 61,137 (2005).

³ *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 at P 134, *order on reh'g*, 109 FERC ¶ 61,010 (2004).

⁴ *Id.* at P 173. Recognizing that SPP planned to implement its imbalance market in three phases, the Commission directed SPP to file its market monitoring plan no later than 60 days prior to implementing Phase 3 of its imbalance market.

⁵ *Id.*

⁶ *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303 (*September 19 Order*), *reh'g denied*, 113 FERC ¶ 61,115 (2005).

allowing the bidding, scheduling and dispatch of generating units; (2) Attachment AF, SPP's market power mitigation plan; and (3) Attachment AG, SPP's market monitoring plan. The Commission accepted parts of SPP's market operations and monitoring proposal and directed SPP to submit a compliance filing. The Commission also found that SPP's proposal in the January 4 Filing was missing important elements and assurances regarding reliable and stable operation and therefore directed submission of the missing elements and additional readiness and market startup safeguards.⁷ The Commission rejected various provisions of SPP's proposal including its reserve sharing proposal, parts of its confidentiality provisions and one part of its offer-cap formula for mitigation. The Commission suspended the January 4 Filing and permitted it to become effective October 1, 2006, subject to further orders as discussed in the *SPP Market Order*.

5. In this filing, SPP states that it submits this compliance filing to incorporate each of the Commission's directives into the SPP tariff. SPP also submits, under section 205 of the FPA, a standard market participant agreement and a proposal for allocating the costs of energy from operating reserves. SPP states that the proposed tariff revisions were developed and approved by its Regional Transmission Working Group and Markets Operations Policy Committee (MOPC) and approved by SPP's Board of Directors.

II. Notice of Filings and Responsive Pleadings

6. Notice of the compliance filing in Docket No. ER06-451-002 was published in the *Federal Register*, 71 Fed. Reg. 32,943, with comments, protests, and interventions due on or before June 9, 2006. Notice of the section 205 filing in Docket No. ER06-1047-000 was published in the *Federal Register*, 71 Fed. Reg. 32,943, with comments, protests, and interventions due on or before June 9, 2006. A timely motion to intervene and comment was filed by American Electric Power Service Corporation (AEP). Timely motions to intervene and protest were filed by: Attorney General of New Mexico (New Mexico Attorney General); Golden Spread Electric Cooperative, Inc. (Golden Spread); Missouri Joint Municipal Electric Utility Commission, Oklahoma Municipal Power Authority, and West Texas Municipal Power Agency (collectively, TDU Intervenors); Redbud Energy, LP (Redbud); Southwest Industrial Customer Coalition (Southwest Industrials); and Xcel Energy Services, Inc. (Xcel).

7. On June 26, 2006, SPP filed an answer to the protests. In its answer, SPP argues that many of the issues and arguments raised by the intervenors are beyond the scope of this proceeding, and should thus be rejected by the Commission.

⁷ *SPP Market Order* at P 1-3.

III. New Market Proposal Provisions

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits answers to protests 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.

B. Market Participant Agreement

10. In the *SPP Market Order*, the Commission stated that it did not have the opportunity to rule on the justness and reasonableness of SPP's market participant agreement because SPP had inadvertently omitted it from the January 4 Filing. The Commission, therefore, instructed SPP to file its proposed market participant agreement under section 205 of the FPA no later than 60 days prior to market implementation.⁸

1. Proposal

11. SPP proposes to add Attachment AH to the tariff to provide a service agreement for market participants selling energy into the imbalance market. SPP's tariff provides that an eligible customer must file the service agreement prior to an initial submission of imbalance energy offers.⁹ SPP provides that when participating in the imbalance market, the market participant must provide information on load, including grandfathered agreements, and resources to SPP as specified in the market protocols.¹⁰ Section 5 and section 14 of Attachment AH provide that, by executing the market participant agreement, the market participant is obligated to pay for the energy imbalance service it receives from SPP and has the right to receive payment for providing the service to the SPP imbalance market.

⁸ *Id.* at P 209.

⁹ *See* Attachment AE, section 1.2.1.

¹⁰ *See id.*, section 1.2.2(b).

12. Section 3 of Attachment AH provides that, to the extent that the customer is not a transmission, network or generation interconnection customer, or a transmission owner under SPP's tariff, the customer must show that it has obtained the necessary transmission service from third parties to enable it to deliver imbalance energy to the transmission system.

2. Protests

13. TDU Intervenors state that section 3 of Attachment AH is inconsistent with the intent of Schedule 4, i.e., to have load, not sellers, bear all transmission obligations in the imbalance market. TDU Intervenors further state that section 3 is unclear as to whether market participants must take transmission service from third parties if they do not take transmission service under the SPP tariff. TDU Intervenors suggest that this is a requirement to take transmission service outside of SPP's footprint.¹¹

14. Southwest Industrials state that it is unclear what authority, if any, SPP has to compel market participants to execute a market participant agreement. Southwest Industrials also state that it is unclear from SPP's filing what potential repercussions exist for not signing the agreement. Therefore, Southwest Industrials assert that imbalance market participation should be voluntary rather than a forced action.¹²

3. SPP's Answer

15. In its answer, SPP clarifies that section 3 of Attachment AH is required to allow resources that are embedded within the distribution system, and thus not directly connected to SPP's transmission system, to participate directly in the imbalance market.¹³

4. Commission Determination

16. We accept as modified SPP's proposed Attachment AH. Market participant agreements are standardized agreements required by RTOs to provide for the rights and obligations of the market participant.¹⁴ In the SPP market, a signed market participant

¹¹ TDU Intervenors at 3.

¹² Southwest Industrials at 10.

¹³ SPP Answer at 17.

¹⁴ See Midwest Independent Transmission System Operator, Inc., Transmission Energy Markets Tariff, Attachment W; PJM Interconnection, L.L.C, Third Revised Rate Schedule No. 24, Schedule 4.

agreement is a prerequisite to submission of bids into the market. The SPP imbalance market is structured so that there is no requirement that resources must bid or offer to sell into the imbalance market. In this sense, sellers' participation in the SPP imbalance market remains voluntary.¹⁵ Participation by buyers in the market, however, is not voluntary because buyers can no longer self-provide imbalances. Market participants who deviate below their resource schedules or above their load schedule and thus incur imbalances must purchase these imbalances through SPP's bid-based imbalance market. Moreover, in the *SPP Market Order*, the Commission accepted tariff provisions that required settlement of all imbalances through the imbalance market.¹⁶ Thus, we reject Southwest Industrials' protest of the voluntary aspect of SPP's imbalance market as an untimely and misplaced rehearing request of the *SPP Market Order*.

17. We disagree with TDU Intervenors that section 3 of Attachment AH is inconsistent with Schedule 4 of SPP's tariff. Schedule 4 provides that if a point-to-point transmission customer, which could include an independent power producer, uses more transmission service through the imbalance market than it has reserved under its point-to-point agreement, the customer must pay the non-firm point-to-point transmission rate for that service.¹⁷ Thus, the intent of Schedule 4 is not to have load-serving entities solely pay for transmission; rather all customers, including customers with load and customers with generation and no designated load, are responsible under Schedule 4 for bearing the costs of their transmission service use in the imbalance market. Additionally, we find that SPP's answer addresses TDU Intervenor's uncertainties regarding the reference to third parties in section 3 of Attachment AH. This language refers to resources that are embedded in the distribution system, sometimes referred to as behind-the-meter resources, and does not require the owners of these resources to take transmission from entities outside of SPP. Rather, Attachment AH appropriately provides that resources that are embedded in the distribution system must show that transmission service has been secured on their behalf from inside SPP's footprint. Finally, we direct SPP to delete the extraneous word "on" from section 10 of Attachment AH in the compliance filing ordered below.

¹⁵ See *September 19 Order* at P 15.

¹⁶ *SPP Market Order* at P 58, 72.

¹⁷ Schedule 4, Original Sheet No. 100A.

C. Reserve Sharing Cost Allocation

18. In the *SPP Market Order*, the Commission rejected SPP's proposal to require that all market participants be part of a reserve sharing group or enter into a reserve sharing cost allocation agreement prior to the start of the imbalance market. The Commission stated that, should SPP seek to allocate the costs of reserve sharing to market participants, it must file a new proposal with the Commission under section 205 of the FPA and allow the Commission sufficient time to evaluate the proposal prior to market implementation.¹⁸

1. Proposal

19. SPP proposes to allocate the costs associated with energy assistance from reserves, as opposed to reserve capacity,¹⁹ directly to the market participant responsible for the resource that caused the need for reserve activation. SPP states that this is a change in the way these costs are allocated since under the current reserve sharing arrangements, these costs are allocated only to parties that are reserve sharing group members. SPP proposes a new section 4.2(a) of Attachment AE to provide for activation of the reserve sharing system on a non-discriminatory basis and a new Attachment AK regarding the allocation and recovery of the costs of emergency energy resulting from an operating reserve contingency.²⁰ Additionally, SPP proposes that SPP's internal market monitor (Market

¹⁸ *SPP Market Order* at P 96.

¹⁹ Reserve capacity is the product provided pursuant to Schedule 5 (Operating Reserve – Spinning) and 6 (Operating Reserve - Supplemental) of SPP's OATT.

²⁰ Operating reserve contingency is defined as the sudden and complete loss of a generating unit, sudden partial loss of generating capacity or loss of capacity purchase which the balancing authority area is unable to replace. SPP Criteria, section 6.2.15. We use the term emergency energy to describe the energy assistance that is provided immediately after an operating reserve contingency and normally not to exceed 60 minutes. *See* SPP Criteria, section 6.2.7. Emergency energy is distinguished from replacement energy in that replacement energy is the energy used to replace the schedule of the offline resource, usually arranged for within an hour of the resource's outage.

Monitor) will conduct audits to verify that control area operators activate the reserve sharing system on a non-discriminatory basis.²¹

20. Section 4.2(a) of Attachment AE provides that, in order to activate the reserve sharing system on a non-discriminatory basis, the balancing authority will notify SPP pursuant to section 6.4.2 of the SPP Criteria. The SPP Criteria provides that when a balancing authority reports an operating reserve contingency, emergency energy requirements are allocated among members of the reserve sharing group pursuant to methods described in the SPP Criteria.²² Following an operating reserve contingency and flows of emergency energy, SPP calculates the energy schedules to be used by members of the reserve sharing group to compensate for the energy assistance.²³

21. Pursuant to Attachment AK, SPP will serve as a conduit for billing and collecting revenues for emergency energy provided to market participants that are not members of the reserve sharing group. SPP proposes that the affected balancing authority, i.e., the balancing authority in which the operating reserve contingency occurred, will forward to SPP invoices for the charges it incurred for energy assistance from reserve sharing group members and its own charges for providing energy assistance.²⁴ The emergency energy charges “will be calculated in accordance with the applicable contracts between members of the [r]eserve [s]haring [g]roup.”²⁵ SPP will invoice the applicable market participant for the entire cost of the energy assistance and distribute the revenues back to the affected balancing authority.²⁶

²¹ SPP Transmittal Letter at 9. Proposed section 8.3(g) of Attachment AG requires market participants to retain all data and information used in the course of business operations in arriving at a decision to call a reserve sharing event and provide this information to the internal market monitor.

²² SPP Criteria, section 6.4.2(a)-(d).

²³ *Id.*, section 6.4.4. Section 6.5.1 of the SPP Criteria provides that compensation for emergency energy is determined pursuant to interchange agreements between the reserve sharing group members.

²⁴ Attachment AK, section II.

²⁵ *Id.*

²⁶ Attachment AK, section II-III.

22. SPP explains that its reserve proposal effectively makes every offer to supply energy to the imbalance market a firm offer of supply and allows for the replacement of energy, rather than curtailment of the corresponding load, when there is a loss of generation that bid into the imbalance market.²⁷ SPP also states that the costs to be recovered are readily identifiable as they are costs that the balancing authority will pay third parties under contracts for the emergency energy.²⁸ Furthermore, SPP states that other RTOs with real-time markets that have markets for ancillary services are not comparable to SPP since SPP has not yet developed its ancillary service markets. SPP states that Midwest Independent Transmission System Operator, Inc. (Midwest ISO) does not have markets for ancillary services and is not involved in compensating for energy assistance from operating reserves.²⁹ SPP concludes that its proposed approach to reserve sharing is reasonable because the procedures for determining costs associated with reserve sharing activation are well established, are not being changed, and best reflect SPP's current imbalance market design.³⁰

2. Protests

23. Redbud, Golden Spread, Southwest Industrials and Xcel state that SPP's proposal is unjust and unreasonable because it violates the filed rate doctrine by not providing a reference to the reserve sharing contracts, is at odds with how reserve obligations and costs are incurred, is inconsistent with how imbalance markets in all other RTOs are structured, and is not supported by SPP's own market monitors.³¹ Redbud requests the Commission to require that emergency energy be supplied from the market at the relevant clearing price as it is in all other RTOs.³²

²⁷ See Exhibit III to SPP's filing, Testimony of Mark Rossi at 13 (Rossi Testimony). SPP Transmittal Letter at 10.

²⁸ *Id.*

²⁹ SPP Transmittal Letter at 11.

³⁰ Rossi Testimony at 14-15.

³¹ Redbud at 1, Golden Spread at 3, Southwest Industrials at 12-13 and Xcel at 9-10.

³² Redbud at 1. We note that Redbud uses the term replacement energy instead of the term emergency energy to denote the energy assistance provided from operating reserves.

24. Redbud argues that assigning emergency energy costs to generators contrasts with reserve obligations that have historically been incurred on behalf of the load.³³

Moreover, Redbud and Xcel assert that SPP's internal and external market monitors recommend that the costs of reserves should be allocated to load and not to generators because such allocation is consistent with the current approach to reserve sharing in SPP and with the criteria used in assigning reserve capacity to reserve sharing group members.³⁴

25. Southwest Industrials, Golden Spread and Redbud add that the proposal will raise the overall costs to consumers of imbalance energy because market participants will increase their bids into the market to account for the costs of purchasing emergency energy.³⁵ Golden Spread, Xcel and Redbud state that the proposal for reserve sharing cost allocation significantly changes the way imbalance energy is supplied because it makes every imbalance energy offer into a firm product.³⁶ Redbud states that SPP's reserve sharing cost allocation proposal would make SPP the only RTO that requires a firm imbalance energy product and the only RTO that allocates the cost of reserves to suppliers of imbalance energy.³⁷

26. Golden Spread, Xcel and Redbud state that SPP's reserve sharing proposal will unduly burden independent power producers and transmission dependent utilities and advantage entities with the largest and most diverse generation portfolios.³⁸ Xcel adds that independent power producers cannot respond to a reserve sharing event because they are not allowed to participate in the reserve sharing pool and do not have a customer base like an integrated utility to which they can allocate the costs of emergency energy.³⁹

³³ *Id.*

³⁴ Xcel at 10-11 and Redbud at 8-9, citing Market Monitoring Unit and External Market Monitor, *Reserve Sharing in SPP EIS Market: Recommendations to MWG and MOPC*, (March 3, 2006) (Market Monitors Report).

³⁵ Southwest Industrials at 13, Golden Spread at 4 and Redbud at 7.

³⁶ Golden Spread at 4, Xcel at 11 and Redbud at 7.

³⁷ Redbud at 8.

³⁸ Golden Spread at 3, Xcel at 9 and Redbud at 7.

³⁹ Xcel at 10.

27. Redbud and Southwest Industrials state that SPP's proposal lacks detail, clarity and support with regard to the rates to be charged for emergency energy. They explain that SPP proposes that generators would pay unspecified reserve sharing costs under unspecified agreements to which the generators are not a party. Further, they assert that SPP failed to justify why emergency energy should be provided on an out-of-market basis under pricing provisions of bilateral contracts between reserve sharing group members which were entered into for the benefit of load and which SPP has neither disclosed nor submitted for Commission review in the context of SPP's imbalance market proposal.⁴⁰ Southwest Industrials state that at a minimum the rates in the contracts must be based on actual costs since the purpose of the reserve sharing proposal is to shift the true costs of operating reserve contingencies onto the responsible market participants.⁴¹

28. Golden Spread adds that the proposal leaves balancing authorities with the discretion to determine when to implement contingency operation procedures. Golden Spread asserts that balancing authorities could use this ability to favor their own generation and shift costs to independent power producers and transmission dependent utilities. Golden Spread states that the proposed tariff provisions prohibiting this type of discrimination are unenforceable and thus do not resolve discrimination concerns.⁴²

3. SPP's Answer

29. SPP states that its reserve sharing proposal is reasonable because it satisfies both comparability by treating all resources similarly and cost causation principles by requiring that resources causing the need for emergency energy provide compensation for the energy.⁴³ SPP further states that its proposal uses currently effective contractual relationships historically used in SPP's long-standing reserve sharing program.⁴⁴

30. SPP states that the Commission should reject Redbud's assertions relating to replacement energy because Redbud is misinformed about the emergency energy product. SPP states that unlike replacement energy, emergency energy is not a product

⁴⁰ Redbud at 6 and Southwest Industrials at 13.

⁴¹ Southwest Industrials at 13.

⁴² Golden Spread at 3-4.

⁴³ SPP Answer at 9-10.

⁴⁴ *Id.* at 9.

provided through the imbalance market and could not be provided from the market at the instant the deficiency occurs.⁴⁵

31. Further, SPP states that all sales of emergency energy will be from Commission-jurisdictional public utilities pursuant to Commission-approved rate schedules. SPP adds that these schedules are already effective for current participants in the reserve sharing program. SPP states that this arrangement is no different than the provision of other ancillary services which, although provided under SPP's tariff, are charged pursuant to the provisions of individual public utility rate schedules, not under rates filed by SPP. Finally, SPP commits to exploring additional changes to the reserve arrangements including shortening the assistance period and simplifying the participation by other entities.⁴⁶

4. Commission Determination

32. We accept as just and reasonable SPP's proposal to allocate the costs of emergency energy to market participants whose resources cause the reserve activation. While we recognize that SPP's proposal marks a change in the way that the costs of reserves have historically been allocated, we find that it is not unjust and unreasonable to require resources that provide imbalance energy to remain responsible for their own reliable operation, especially when buyers in the market cannot choose their imbalance energy provider. Since SPP has not yet adopted a market for ancillary services,⁴⁷ we will not require that emergency energy be supplied from the market at the clearing price as it is in RTOs with ancillary service markets.

33. Further, we note that SPP's proposal does not change the allocation of the capacity costs of maintaining reserves. Rather, SPP's proposal merely changes the entity responsible for the cost of the energy provided from reserves so that these provisions mesh with the imbalance market proposal. Under SPP's current operating reserve provisions, any energy deviations from a load's schedule, including imbalances resulting from a resource outage, are priced at the imbalance energy rates contained in Schedule 4. During a reserve activation event when the imbalance market is operational, load will continue to be responsible for the capacity costs of operating reserves and will pay

⁴⁵ *Id.* at 11.

⁴⁶ *Id.*

⁴⁷ We note that SPP's next planned phase of market development includes ancillary services markets.

market sellers for imbalance energy. A market seller will, in turn, pay for the emergency energy used to replace its imbalance energy when its resource experiences an outage. Thus, load will continue to incur imbalance costs, but the risk of outage will be borne by those most responsible for the reliability of specific resources.⁴⁸

34. Sellers can quantify this risk through incorporation of a risk premium in their imbalance market offers. Even though SPP's market monitors support the allocation of emergency energy costs to load, they find that the addition of this risk premium to resource offers will raise the price of imbalance energy in the market by a *de minimus* amount, if at all.⁴⁹ Analysis in the Market Monitors Report indicates that if the number of operating reserve contingencies remain consistent from last year and the cost of emergency energy was \$100/MWh, that the risk premium would add five cents per MWh to each resource's offer.⁵⁰ Importantly, the Market Monitors Report provides that this risk premium calculation is overstated since it does not account for offset of the payment the resource receives for the imbalance energy it did not supply.⁵¹ We find that SPP's proposed allocation of emergency energy to the imbalance resource responsible for triggering the operating reserve contingency is just and reasonable. Such an allocation will increase the incentives in the imbalance market for reliable operation with a minimal expected impact on prices in the imbalance market.

35. We disagree with commentors' assertions that SPP's reserve sharing proposal will add to the advantages enjoyed by those with a customer base for allocating emergency energy costs and large and diverse resource portfolios. While those with large and diverse portfolios are able to provide reserves for their own generation, independent power producers and transmission dependent utilities are not without the ability to contract for reserves for their generation. We note that entities that are not members of a reserve sharing group may contract for reserve services and avoid charges from balancing authorities by operating pursuant to SPP's section 4.2(c) of Attachment AE which allows for the use of specific default schedules in the event of a reserve sharing activation. Thus, section 4.2(c) allows for those without large and diverse portfolios to gather their

⁴⁸ We note that the cost of emergency energy may not always be greater than the market price that the resource is paid for imbalance energy. We require below that the emergency energy rate reflect actual costs.

⁴⁹ Market Monitors Report at 5-6.

⁵⁰ *Id.*

⁵¹ *Id.*

resources together, in effect to form their own reserve sharing pool, in order to self-provide operating reserves and emergency energy. Additionally, independent power producers are not without recourse to recover the costs of emergency energy just because they are unable to allocate the costs of emergency energy to an integrated utility customer base. As noted above, independent power producers may add a risk premium to their bid to spread these costs among all of their imbalance energy customers.

36. Additionally, we accept SPP's proposal to act as a conduit for assessing and collecting emergency energy charges. However, we reject SPP's proposal to rely on contracts between balancing authorities as the filed rate for emergency energy. Tariff rates must be on file with the Commission and "specific enough for any reasonably knowledgeable party to be able to calculate for itself what charge will be produced by the formula."⁵² We find that the emergency energy costs to be recovered are not readily identifiable and that SPP has failed to include a specific reference to the contracts to be used for calculating the emergency energy rate so that customers could access those contracts and know in advance the applicable rate formula. Further, SPP has neglected to include specific references to the contracts, such as rate schedule numbers, and has not provided the Commission with assurance that all of the contracts are in fact on file with the Commission. We note that some of the balancing authorities that will participate in SPP's imbalance market are not public utilities subject to the Commission's jurisdiction and thus their contracts with their neighboring balancing authorities may not be on file. Further, we are concerned that SPP is not familiar enough with these contracts to state unequivocally that they do not contain duplicate capacity charges to those contained in Schedules 5 and 6.⁵³

37. Moreover, SPP's proposal to apply the emergency energy rates from contracts between balancing authorities presents many problems. First, the contracts at issue are interchange agreements,⁵⁴ many of which have standard provisions for netting of energy

⁵² *Pacific Gas and Electric Co.*, 100 FERC ¶ 61,160 at P 22 (2002), *reh'g denied*, 101 FERC ¶ 61,139 (2002). *See also New York Independent System Operator, Inc.*, 113 FERC ¶ 61,340 at P 17 (2005); *Cargill Power Markets, LLC.*, 112 FERC ¶ 61,025 at P 27, *reh'g denied*, 113 FERC ¶ 61,233 (2005) (under the filed rate doctrine, a regulated entity must charge the rate that is on file with the Commission).

⁵³ SPP states that "it does not *expect* that there is any duplication" in the charges under Schedule AK and Schedules 5 and 6 of SPP's OATT. *See* SPP Transmittal Sheet at 10 (emphasis added).

⁵⁴ *See supra* note 23.

imbalances and payback-in-kind of inadvertent energy flows.⁵⁵ We view these provisions as part of the rates of these contracts and applicable to any reserve activation situation. However, SPP has not made clear how or whether these particular payment provisions would apply to a market participant who is not a party to the contracts and how the netting of energy would be accomplished.

38. Second, SPP's proposal that a balancing authority will charge a market participant located in its area for emergency energy as if the balancing authority were providing the service to a reserve sharing group member is unreasonable and provides an opportunity for undue discrimination. Given the different interchange agreements with different rates for emergency energy between reserve sharing group members, a balancing authority has the opportunity, pursuant to the proposed SPP provisions, to select the most expensive rate in any interchange agreement when charging the market participant that is not a reserve sharing group member for emergency energy from the balancing authority's resources.

39. Third, we find that SPP's proposal may present the opportunity for over-recovery of capacity costs by balancing authorities. Balancing authorities have the opportunity to recover reserve capacity charges through OATT Schedules 5 and 6 for entities that are not reserve sharing group members. However, since the typical reserve sharing group member does not pay Schedules 5 and 6, the rates within the interchange agreements referenced in SPP's proposal may allow for recovery of these same capacity costs. Since balancing authorities are recovering Schedules 5 and 6 charges from loads that are not reserve sharing group members, charging market participants pursuant to the rates in interchange agreements could result in payment of more than an energy charge for emergency energy.

40. For these reasons, we reject SPP's proposal to have balancing authorities invoice market participants, through SPP, using contracts that are not applicable to the market participants. We note that SPP argues in its answer that its proposed pass-through of the

⁵⁵ See, e.g., Oklahoma Gas and Electric Co. FERC Electric Tariff, Vol. No. 1, Rate Schedule No. 133, *Interchange Agreement Between Grand River Dam Authority and Oklahoma Gas and Electric Co.*, Service Schedule ES, Article 4.1 at 37 (May 16, 1994) (seller and buyer of emergency energy may agree to return an equivalent amount of energy at a time and under load conditions similar to those under which the emergency energy was supplied); Kansas City Power and Light FERC Electric Tariff, Vol. No. 1, First Revised Rate Schedule No. 88, *Electric Interchange Agreement Between the Empire District Electric Co. and Kansas City Power and Light Co.*, Article 5 at 9-10 (December 17, 1979).

emergency energy rates is no different than the pass-through of other ancillary services. While we disagree with SPP on this point,⁵⁶ we will adopt the underlying approach espoused by SPP. We direct SPP to modify its OATT to provide that rates for emergency energy will reflect a pass-through of costs charged to SPP pursuant to a new emergency energy ancillary service schedule in the affected public utilities' OATTs or utilities' reciprocal tariffs. We direct SPP to submit this further compliance filing within 30 days from the date of this order. We note that prior to SPP passing through the cost of this service, any public utility participating in the SPP imbalance market must have on file a Commission-approved schedule for emergency energy.⁵⁷ The just and reasonable rate for emergency energy should reflect the actual costs of emergency energy and should not include capacity costs.⁵⁸

41. Finally, with regard to Golden Spread's concerns of undue discrimination in the decision by balancing authorities to activate reserves, we note that SPP has a baseline against which to measure the total number of reserve activations and specific provisions for data retention by balancing authorities and auditing of balancing authorities' reserve activations. We find that SPP has included appropriate provisions to guard against such undue discrimination and a mechanism for forwarding audit results indicating undue discrimination to the Commission for enforcement.

⁵⁶ Other ancillary services rates are included as schedules in each public utility's open access transmission tariff and are applicable to any customer taking service under such tariff. The interchange agreements referenced in SPP's proposal are negotiated contracts included as rate schedule attachments and are applicable only to the entities that negotiated the contract.

⁵⁷ We note that Schedule 4 (Energy Imbalance Service) of these OATTs will no longer apply once SPP's imbalance market is implemented. We encourage utilities participating in SPP's imbalance market to withdraw their current Schedule 4 for imbalance service and replace it with a new Schedule 4 for emergency energy.

⁵⁸ We note that it may also be just and reasonable to derive a single emergency energy rate for service in the balancing authority area from the various interchange agreements to which a balancing authority is a party.

IV. Compliance Filing

A. Procedural Matters

42. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

43. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits answers to protests 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.

B. Readiness and Market Startup Safeguards

44. In the *SPP Market Order*, the Commission noted that certain elements of SPP's market proposal were incomplete or still under development. In response to these incomplete elements and issues raised concerning market readiness, the Commission directed SPP to create, file and operate under a set of transitional safeguards including price correction provisions, a reversion plan, and transitional offer caps.⁵⁹ As another safeguard, the Commission required SPP to certify to the Commission its market readiness 30 days prior to its market implementation date.⁶⁰ The Commission directed SPP to file the reversion plan on an informational basis and to amend its tariff to include the price correction provisions and transitional offer caps by no later than 60 days following the issuance of the *SPP Market Order*.⁶¹

1. Market Readiness

45. In the *SPP Market Order*, the Commission expressed concern about the readiness of SPP to operate that market and delayed the implementation date of the market to allow for completion of certain elements and implementation of the safeguards noted above. Additionally, the Commission noted SPP's hiring of a consultant to prepare an independent readiness assessment that included reviews of project plans and key deliverables and creation of a series of market readiness metrics.⁶² The Commission

⁵⁹ *SPP Market Order* at P 24, 26, 29.

⁶⁰ *Id.* at P 23.

⁶¹ *Id.*

⁶² *Id.* at P 21.

directed SPP to file these market readiness metrics, on an informational basis, no later than 60 days prior to market implementation.⁶³ The Commission also directed SPP to certify its market readiness 30 days prior to market implementation.⁶⁴ In certifying market readiness, the Commission directed that SPP must substantially complete the items in its market readiness metrics, take stock of the readiness and capabilities of balancing authorities to meet their balancing functions in the market, and forward to the Commission the on-site evaluation of a North American Electric Reliability Council (NERC) working group.⁶⁵

a. Compliance Filing Protests

46. Southwest Industrials and Xcel request that the Commission delay the start of SPP's market because SPP stakeholder committees have raised substantial implementation issues.⁶⁶ AEP and Xcel note that sufficient testing of market processes is paramount and that SPP's proposed implementation schedule may not provide sufficient time for market participants to develop the business process and design, build and test the systems to support market changes such as the proposed simultaneous feasibility testing.⁶⁷ Xcel and AEP add that it is unclear whether SPP plans to arrange for independent evaluation of its readiness metrics as required by the Commission in the *SPP Market Order*.⁶⁸

47. Xcel further asserts that SPP is not ready to meet its proposed implementation date because: (1) SPP has not removed duplicative reporting requirements for market participants; (2) SPP is not sufficiently responsive to market participant concerns and inquiries; (3) SPP's metrics are inadequate to evaluate readiness; (4) SPP has not provided market participants with tools to create a duplicative shadow settlement of SPP's settlement of the market; and (5) a NERC readiness assessment has identified

⁶³ *Id.* at P 23.

⁶⁴ *Id.*

⁶⁵ *Id.* at P 20, 23.

⁶⁶ Southwest Industrials at 3-4 and Xcel at 14.

⁶⁷ AEP at 3 and Xcel at 14-15.

⁶⁸ Xcel at 20-21 and AEP at 3.

monitoring deficiencies and recommended further streamlining of congestion management processes.⁶⁹

b. Commission Determination

48. We agree with commentors that sufficient testing of market processes is necessary for a successful and reliable implementation of the SPP market. In fact, the Commission recognized and responded to these same concerns in the *SPP Market Order* in directing SPP to file its market metrics and market readiness certification.⁷⁰ However, commentors' requests to delay the start of SPP's imbalance market are premature since deadlines have not passed for SPP to file its market readiness metrics and certification. While we find that concerns relating to SPP's metrics evaluation are premature, we remind SPP of its commitment to use a consultant to prepare a readiness assessment and the Commission's directive for "independently evaluated metrics," *i.e.*, its consultant's assessment of whether SPP has met its readiness benchmarks.⁷¹ Also, we find that SPP's price correction authority and offer-cap revisions comply with the directives in the *SPP Market Order* and hereby accept them.

49. Requests for additional Commission readiness directives, such as removal of duplicative reporting requirements and institution of shadow settlement requirements, are beyond the scope of this compliance filing. The issue in the instant proceeding is whether SPP complied with Commission directives, not whether the Commission directed sufficient readiness requirements. We will not entertain arguments submitted as protests to a compliance filing that are in fact requests for rehearing of the *SPP Market Order*.

2. Reversion Plan

50. In the *SPP Market Order*, the Commission directed SPP to file its reversion plan, including demonstration of successful testing of the plan, for cutover to decentralized power system operations in the event of a serious failure of market operations no later than 60 days after the date of the order.⁷²

⁶⁹ Xcel at 11-20, 24-30.

⁷⁰ *SPP Market Order* at P 23.

⁷¹ *Id.*

⁷² *Id.* at P 24.

a. Compliance Filing Proposal

51. SPP submits, as Exhibit V, its Market Transition and Reversion Overview document. SPP states that section 7 thereof outlines the “steps taken if a situation arises that necessitates reversion to pre-market systems and processes.”⁷³ SPP states that this plan has been under stakeholder review since May 2005 and was approved by the SPP Markets and Operations Policy Committee on March 9, 2006.⁷⁴ SPP explains that the plan defines “the specific roles, functions, and tools utilized in market transition and reversion.”⁷⁵ SPP states that the reversion plan would be implemented if: (1) SPP’s ability to reliably and accurately dispatch and settle the market in accordance with tariff and other applicable business rules (such as the market protocols) is compromised; and (2) there is no viable work-around that can be implemented until the underlying system functionality is resolved.⁷⁶ SPP also states that it intends to execute two practice transitions and reversions prior to final market implementation.

b. Compliance Filing Protests

52. Southwest Industrials protest SPP’s reversion plan asserting that it fails to meet the Commission’s directives in two regards and request that the Commission reject the compliance filing.⁷⁷ First, it points to SPP’s statement that it “intends to execute two practice transitions” rather than demonstrating successful testing of the reversion plan as directed by the Commission. In addition, Southwest Industrials argue that the Commission should reject the filing because SPP’s plan is an “overview” rather than a concrete implementation plan that could be executed in the event of a market failure.⁷⁸

⁷³ See SPP Transmittal Letter at 3.

⁷⁴ See Exhibit IV to SPP’s filing, Testimony of Carl Monroe at 1 (Monroe Testimony).

⁷⁵ *Id.* at 2.

⁷⁶ *Id.* at 2-3.

⁷⁷ Southwest Industrials at 7-8.

⁷⁸ *Id.*

c. Commission Determination

53. We accept SPP's Market Transition and Reversion Overview in so far as SPP has filed the plan in compliance with the Commission's directive. We decline to reject SPP's filing as requested by Southwest Industrials since whether the plan proves to be effective and not merely an "overview" as Southwest Industrials allege, will be determined by successful testing. In that regard, SPP is not in full compliance with the Commission's directive since SPP has not demonstrated successful testing of its reversion plan. Accordingly, we direct SPP to report on these test results as part of its Market Readiness Certification.

C. Day-Ahead and Hour-Ahead Process

54. In the *SPP Market Order*, the Commission directed SPP to modify its tariff to require each market participant to include in its resource plan, resources that must be either self-dispatched or offered in the market at a level to meet energy obligations.⁷⁹ In addition, the Commission directed SPP to modify and clarify that it will perform a simultaneous feasibility analysis to evaluate day-ahead resource and ancillary service plans to ensure that generator-load pairs are mapped to the nodes of the transmission system.⁸⁰ The Commission also required SPP to modify its tariff to allow certain power purchases to be included in the resource plan.⁸¹ Lastly, the Commission required SPP to modify section 2.4.3 of Attachment AE with respect to SPP's ability to order the commitment or de-commitment of resources when a market participant fails to commit appropriate or sufficient resources to meet its energy obligations.⁸²

1. Compliance Filing Proposal

55. In section 2.4 of Attachment AE, SPP proposes to apply two analyses for evaluating ancillary service and resource plans: a supply adequacy analysis and a simultaneous feasibility analysis. Section 2.4.2 provides that SPP will review the operating capacity included in each market participant's resource plan between 1300 and 1500 Central Prevailing Time (CPT) of the day prior to the operating day. The review will include an assessment of the total operating capacity scheduled in each hour of the

⁷⁹ *SPP Market Order* at P 40.

⁸⁰ *Id.* at P 41.

⁸¹ *Id.*

⁸² *Id.* at P 42.

next operating day and a simultaneous feasibility study to ensure that operating capacity is deliverable in each hour of the next operating day. If SPP finds that resource plans fail the review, it will determine each affected market participant's responsibility for resolving the infeasibility in accordance with the market protocols. SPP will require such market participants to revise and resubmit their plans to SPP by 1700 CPT on the day prior to the operating day. SPP has revised section 2.4.3 to provide that SPP will have the authority to direct a market participant to commit or de-commit a resource in order to ensure that there are sufficient resources, but not an excess of resources, to meet the market participant's obligations. Section 2.4.3 further provides that SPP may direct a market participant to change its resource plan to alleviate constraint violations identified through the simultaneous feasibility analysis.

56. In section 2.4.2(a), SPP outlines the provisions of its supply adequacy analysis. SPP proposes that it will determine if each market participant's energy obligation is less or greater than the aggregate of the economic maximum or minimum limits submitted in the resource plan for each hour. SPP proposes to assess supply adequacy for each market participant and for each balancing authority. If SPP determines the existence of an energy deficiency or excess in any hour of the next operating day, it will immediately notify the affected market participants and direct them to resubmit their plans to address the deficiencies.

57. Section 2.4.2(b) provides for a simultaneous feasibility analysis. SPP proposes that the inputs to the simultaneous feasibility analyses shall be the load forecasts, the resource plans, offer curves and the ancillary service plans. To verify that the submitted resource plans and energy schedules can be implemented reliably, SPP proposes that it shall determine if all constraints identified in the simultaneous feasibility analysis can be resolved through: (i) the simulated dispatch of available dispatchable resources; and (ii) simulation of potential impacts that a transmission loading relief (TLR) may have on the constraint as described in the market protocols. If the constraints can be resolved, SPP states that SPP shall post a notification on its website identifying the projected constraint and that a TLR may be necessary to resolve the issues in real-time. However, if SPP determines that the submitted resource plans cannot be implemented reliably, it will notify the affected market participants that their plans are infeasible and will require resubmission of those plans.

58. SPP proposes to modify its tariff to allow power purchases to be included in resource plans. Section 2.2 of Attachment AE provides that a market participant's obligations are equal to its load forecast plus third-party sales minus third-party

purchases. SPP states that a market participant may meet its energy obligations entirely through scheduling energy from third parties.⁸³

2. Compliance Filing Protests

59. Golden Spread states that section 2.4.2 of Attachment AE should be revised to provide that SPP will notify each market participant immediately, but in any event no later than 1500 CPT if a market participant's resource plan fails either supply adequacy or simultaneous feasibility analysis.⁸⁴ Alternatively, Golden Spread states that the section could be revised to provide for the submission of revised plans by the later of 1700 CPT or two hours after the receipt of notification from SPP.

60. Xcel asserts that section 2.4.2(a) fails to address how the provisions of protocols relating to intra-day supply adequacy will be managed.⁸⁵ In addition, Xcel states that it is concerned with SPP's simultaneous feasibility analysis and maintains that the analysis in section 2.4.2(b) fails to describe whether and how SPP will validate changes made to operating plans to address deliverability problems when a resource plan fails a simultaneous feasibility analysis.⁸⁶ Xcel also contends that the tariff fails to provide that market participants will receive credit for changes they make in the day-ahead if an infeasible situation occurs in real-time.⁸⁷ Regarding section 2.4.3, Xcel takes issue with the fact that the shared responsibilities of SPP and the balancing authorities in managing an excess or deficit in supply are not delineated in the balancing authority agreement.⁸⁸ Lastly, Xcel protests SPP's definition of ancillary services.⁸⁹ Xcel states that SPP's proposals will require Xcel to undertake changes to the standard process for submission of ancillary service plans, which are permitted under the SPP market protocols.⁹⁰

⁸³ SPP Transmittal Letter at 5.

⁸⁴ Golden Spread at 4.

⁸⁵ Xcel at 8.

⁸⁶ *Id.* at 9.

⁸⁷ *Id.* at 8.

⁸⁸ *Id.* at 8-9.

⁸⁹ *Id.* at 23.

⁹⁰ *Id.* at 23-24.

3. SPP's Answer

61. Although SPP states that Xcel's comments regarding the intra-day process are not properly at issue in its compliance filing, SPP clarifies that its market protocols provide specifically for a supply adequacy analysis to be conducted on a two-hour-ahead basis during the intra-day process. SPP commits to modify section 3.2 of Attachment AE to provide this clarification of the process.⁹¹ In response to Golden Spread's concerns, SPP also commits to modify its tariff to provide that revised resource plans should be submitted by the later of 1700 CFT or two hours after the receipt of notification from SPP.⁹²

62. With regard to Xcel's comments on the simultaneous feasibility analysis, SPP states that: (1) Xcel's comments are beyond the scope of the Commission's directives in the *SPP Market Order*; (2) SPP's tariff provides for the appropriate validation process to determine whether a particular market participant has met its resource plan requirements; and (3) SPP cannot and should not be required to guarantee through make-whole payments to market participants that infeasible situations will not materialize in real-time.⁹³

4. Commission Determination

63. We find that SPP has complied with the Commissions directives with regard to revision of its day-ahead and hour-ahead processes.⁹⁴ We accept SPP's revisions subject to a further compliance filing to be made no later than 30 days from the date of this order. We accept SPP's commitment to clarify its tariff to provide that revised resource plans should be submitted by the later of 1700 CPT on the day prior to the operating day or two hours after the receipt of notification from SPP. Thus, we direct SPP to submit a compliance filing that modifies sections 2.4.2(a) and 2.4.2(b) accordingly.

64. In the *SPP Market Order*, we did not require SPP to make any additional changes to its ancillary service plan requirements in section 2.3 nor did we require SPP to modify section 3.2 relating to the management of the protocols relating to intraday-supply

⁹¹ SPP Answer at 18.

⁹² *Id.* at 14.

⁹³ *Id.* at 19.

⁹⁴ Specifically, we accept SPP's revision to its tariff to allow for any power purchase to be used to meet a market participant's energy obligations.

adequacy. Accordingly, such issues raised by Xcel are outside the scope of this compliance proceeding. However, we will accept SPP's commitment to modify section 3.2. to provide that a supply adequacy analysis will be conducted on a two-hour-ahead basis during the intra-day process. We find that this amendment to the tariff will provide more clarity with regard to analysis in the intra-day process.

65. In addition, we find Xcel's comments regarding the responsibilities of SPP and the balancing authorities in the event there is an excess or deficit in supply to be premature. Xcel's comments on this provision are misplaced in this compliance filing and should be directed to the SPP-balancing authority settlement proceeding that we established in the *SPP Market Order*.⁹⁵ Further, we find unconvincing Xcel's concern about differences in real-time outcomes as compared with the day-ahead plan. SPP's market, like other organized markets, is not established to guarantee that there will be no differences between the day-ahead and real-time operations or that market participants complying with day-ahead processes would be compensated for those differences. The day-ahead analyses are needed to ensure that SPP adequately prepares for real-time and does not proceed with known infeasible solutions that would require emergency action. We recognize that SPP's day-ahead analyses are based on the best available information at the time and are only predictions of the conditions that will occur in real-time.

66. Lastly, we determine that SPP's tariff, in section 2.4.3, provides a backstop mechanism that allows SPP to direct market participants to commit or de-commit resources to alleviate constraints. This provision adequately describes the steps SPP will take if changes to operating plans do not avoid simultaneous feasibility problems. Thus, we deny Xcel's request for additional language regarding SPP's validation of market participant changes to resource plans. We direct SPP to submit the above modifications in a compliance filing no later than 30 days after the date of this order.

D. Real-Time Process

67. In the *SPP Market Order*, the Commission directed SPP to incorporate more details on the function of SPP's curtailment adjustment tool including specification of the adjustments and curtailments that SPP will make in the real-time market using the tool.⁹⁶

⁹⁵ See *SPP Market Order* at P 91.

⁹⁶ *Id.* at P 75.

The Commission also directed SPP to modify its tariff to detail the steps SPP will take to recalculate locational imbalance prices (LIP) in a contingency situation.⁹⁷

1. Compliance Filing Proposal

68. SPP states that it revised section 4.3 of Attachment AE to provide a detailed explanation of the congestion management process in real time and the use of the curtailment adjustment tool. Section 4.3 provides that when congestion occurs on a flowgate that requires a TLR event, the NERC Interchange Distribution Calculator (IDC) will prescribe curtailments for physical schedules and market flows.⁹⁸ To achieve the required reduction in market flows, SPP states that it will first redispatch resources that have been offered into the imbalance market to resolve the problem. At the same time that SPP is redispatching resources, it will use its curtailment adjustment tool to assess whether there is a sufficient dispatch range in the market to achieve the required reduction. Should the curtailment adjustment tool determine that there is an insufficient dispatch range, the tool will determine the energy schedules to be curtailed based on the firmness priorities assigned to the different components of the market flow. Section 4.3(f)(ii) provides that, if necessary, the curtailment adjustment tool may also require reduction of output from self-dispatched resources, *i.e.*, physical schedules.

69. Additionally, SPP states that it revised section 4.3 of Attachment AE to specify the provisions relating to recalculation of imbalance prices when SPP takes action to reduce market flows. Specifically, section 4.3(f)(i) provides that LIPs will be calculated per section 4.4 (Calculation of Locational Imbalance Prices) of Attachment AE when SPP uses redispatch to achieve required reductions in market flows. Section 4.3(f)(ii) provides that when SPP uses the curtailment adjustment tool to reduce market flow, it will also calculate LIPs per section 4.4, but will delay recalculation of the prices until generators respond to dispatch instructions.⁹⁹ Finally, SPP clarifies that a self-dispatched

⁹⁷ *Id.*

⁹⁸ A physical schedule is an energy schedule that has a source that is a self-dispatched resource or that is scheduled through, out of or into the SPP Market. Attachment AE, section 1.1.25. Market flows include schedules from dispatchable resources and native load. Attachment AE, section 1.1.17b.

⁹⁹ *See also* Rossi Testimony at 11.

resource that is directed by the curtailment adjustment tool to move its output below its scheduled amount will not incur a penalty through the purchase of imbalance energy.¹⁰⁰

2. Compliance Filing Protests

70. Southwest Industrials state that SPP did not comply with the Commission's requirement to fully explain the potential impact of the curtailment adjustment tool on imbalance prices. Southwest Industrials explain that SPP's inclusion of a single statement that LIP's would be directly impacted by the dispatch instructions issued pursuant to the curtailment adjustment tool is insufficient to meet the compliance requirement.¹⁰¹

71. Golden Spread requests that the Commission reject revised provisions in section 4.3 of Attachment AE that allow for curtailment of firm flows from designated network resources prior to interruptions of market flows. Golden Spread believes that SPP should give the highest curtailment priority to designated network resources because the transmission system was planned and built for these uses rather than the non-firm energy from the imbalance market.¹⁰²

72. Xcel states that it interprets the SPP tariff provisions as a proposal to dispatch resources offered into the imbalance market only up to the point that a constraint occurs. Xcel asserts that SPP will continue to use the TLR process as the means of managing congestion and will not employ security constrained economic dispatch in real time. Although Xcel agrees that SPP's proposal for managing congestion in real time is "probably appropriate" and follows appropriate cost causation principles, Xcel argues that the market structure taken as a whole will not provide the most economic system dispatch.¹⁰³ Therefore, Xcel requests that the Commission direct SPP to implement a market-based congestion management process as mandated by Order No. 2000.¹⁰⁴

¹⁰⁰ Attachment AE, section 4.3(f)(ii) Rossi Testimony at 10.

¹⁰¹ Southwest Industrials at 6-7.

¹⁰² Golden Spread at 5.

¹⁰³ Xcel at 3-5.

¹⁰⁴ *Id.* at 2, 7. *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd*

3. Commission Determination

73. We find that SPP has complied with the Commission's directive to detail its processes for managing congestion and recalculating LIPs in the real-time market. Specifically, we find that SPP fully explained the impact of the curtailment adjustment tool on imbalance prices in the testimony submitted with its filing and in section 4.3(f) of Attachment AE. As summarized above, SPP has submitted several pages of testimony on the impact on imbalance prices as well as specific tariff provisions detailing any differences in price calculations caused by the use of the curtailment adjustment tool.

74. With regard to Golden Spread's concerns about curtailment of firm network resources prior to market flow, we note that SPP's compliance filing does not change the application of NERC curtailment procedures for flows into, through or out of SPP nor does the congestion management process vary from the process that we accepted in the *SPP Market Order*. We believe that Golden Spread's concerns are based on a misunderstanding of the process described in SPP's tariff. The SPP tariff describes a process by which the NERC IDC will prescribe the reductions necessary in both physical schedules and market flows. Just as the mechanism works today, the NERC IDC will first send signals for curtailment of non-firm schedules when a constraint arises. Once the imbalance market is operational, NERC IDC will send curtailment signals for non-firm schedules that also include non-firm market flows. Thus, SPP's tariff provides that non-firm market flow will be reduced through the use of redispatch and curtailment adjustment tool processes prior to reduction of schedules from firm network resources. While SPP's proposed revisions would allow for simultaneous prorating by the NERC IDC of firm physical schedules and the portion of market flows designated as firm schedules, it would not curtail schedules from firm network resources *before* market flows. Thus, we find that Golden Spread misconstrues SPP's proposal and accordingly, we will not direct the requested change to SPP's congestion management provisions.

75. We disagree with Xcel's assessment of SPP's congestion management process as one that will rely on TLRs as the means of managing constraints. SPP has proposed, and the Commission has accepted, a market-based congestion management process that will employ security constrained economic dispatch of resources in the real-time imbalance market, as well as the use of TLRs, to resolve congestion within the SPP footprint. In operating its system, SPP, like all Commission-approved RTOs, will use TLRs in certain circumstances to manage congestion. Xcel's claim that SPP will solely employ TLRs to resolve congestion once a constraint is identified is contrary to SPP's tariff provisions,

sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001).

especially the revised section 4.3 of Attachment AE. The claim that SPP may use TLRs more than other RTOs, while unsubstantiated, also does not disqualify SPP's imbalance market as a "market-based congestion management process" per Order No. 2000. We deny Xcel's request to direct SPP to implement a congestion management process that relies solely on redispatch of resources in the imbalance market as a collateral attack on the *SPP Market Order* that accepted SPP's proposal to "manage congestion through a combination of TLR procedures and imbalance market solutions."¹⁰⁵

E. Transmission Charges for Imbalance Service

76. In the *SPP Market Order*, the Commission required SPP to clarify that market participants that use the imbalance market to serve load would be allowed to deviate from their point-to-point transmission reservation amount by up to four percent (but not less than two MW) without incurring additional transmission charges.¹⁰⁶ The Commission also noted that under Schedule 4, SPP proposed to charge transmission owners serving grandfathered and/or bundled retail load, and not taking transmission service under SPP's tariff, a non-firm point-to-point transmission service rate "multiplied by the actual amount of *Imbalance Energy* transmitted *in excess of 4%* of the sum of such Transmission Owner's bundled retail *load* and *load* under Grandfathered Agreements in each hour."¹⁰⁷ The Commission stated that it believed that the intent of this provision is to allow SPP to charge these transmission owners for transmission service taken in excess of 4 percent of their scheduled load. Thus, the Commission directed SPP to add "scheduled" before "load" in the above clause.

1. Compliance Filing Proposal

77. In its compliance filing, instead of adding the word "scheduled" before "load" as described above, SPP deleted "bundled retail load and load under Grandfathered Agreements" and instead inserted "Reported Load."

78. SPP explained that transmission-owning control area operators do not schedule energy for their native load or grandfathered load in their own control areas, and as such SPP submits the Commission's order to use scheduled load was incorrect. Instead, SPP argues that using Reported Load to establish the base amount of transmission service in

¹⁰⁵ *SPP Market Order* at 61.

¹⁰⁶ *Id.* at P 102.

¹⁰⁷ *Id.* at P 103.

such situations will accurately reflect the actual value of the energy withdrawn from SPP's system.¹⁰⁸

2. Compliance Filing Protests

79. TDU Intervenors note that SPP's compliance filing deletes the definition of Reported Load from section 1.1.27 of Attachment AE. TDU Intervenors explain that they assume that SPP intended to move it to the definitions at the beginning of the tariff itself, since the term Reported Load is used in parts of the tariff other than Attachment AE. TDU Intervenors state that the compliance filing does not include any clean or redlined pages reflecting the insertion of this term in the common definitions and argue that the Commission should direct SPP to submit such pages.

3. Commission Determination

80. We find that SPP is not in compliance with the *SPP Market Order* in this respect. Specifically, SPP has not made clear how it will compute the amount of non-firm point-to-point transmission service a transmission owner that is providing transmission service under a grandfathered agreement and/or that is providing transmission service to bundled retail load should be charged to support its use of imbalance energy. Additionally, given that such transmission owners do not submit schedules, as SPP states, we find that it is unclear how SPP will calculate imbalance energy for such entities.

81. SPP argues that it cannot add the word "scheduled" before "load" as directed by the Commission, but should instead delete "bundled retail load and load under Grandfathered Agreements" and add "Reported Load" because transmission-owning control area operators do not schedule energy for their native load or grandfathered load in their control areas. SPP defines Imbalance Energy as "[t]he amount of Energy Imbalance Service in megawatts per hour that is provided or consumed by a [m]arket [p]articipant at a [s]ettlement [l]ocation in an hour."¹⁰⁹ SPP also states that "Energy Imbalance Service is provided when a difference occurs between the *scheduled* and actual delivery of energy to/from the Transmission System over a single hour."¹¹⁰ Given these provisions, it is not clear how SPP will calculate Imbalance Energy (let alone any related transmission service fees) given SPP's statement that transmission-owning control

¹⁰⁸ SPP Transmittal Letter at 12, n.12.

¹⁰⁹ Attachment AE, section 1.1.15.

¹¹⁰ Schedule 4, Sheet No. 100 (emphasis added).

area operators do not schedule energy for their native load or grandfathered load in their own control areas.¹¹¹ Thus, the Commission directs SPP to clarify in a further compliance filing within 30 days of this order how imbalance energy (and potential transmission charges associated with imbalance service) will be calculated for transmission owners that SPP states will not submit schedules to SPP. SPP should provide specific numerical examples using at least two hypothetical load and generation levels describing how energy imbalances will be calculated for transmission owners that do not submit schedules to SPP and how transmission service charges for energy imbalance service would be calculated for transmission owners serving load under grandfathered agreements or bundled retail load not taking network or point-to-point service. Additionally, SPP should include specific numerical examples of how it intends to calculate Schedule 4 transmission service fees for point-to-point transmission customers to provide a comparison with the examples ordered above.

82. The Commission also directs SPP to include the deleted definition of Reported Load from Attachment AE in the definitions section at the beginning of its tariff in the compliance filing ordered herein. We anticipate that the definition of Reported Load will be consistent with the definition that the Commission accepted in the *SPP Market Order*.

F. Market Mitigation and Monitoring

83. In the *SPP Market Order*, the Commission accepted SPP's mitigation proposal in Attachment AF, subject to certain modifications to the proposal. The Commission directed SPP to "modify Attachment AF to provide that any exception to the generator-to-load distribution factor analysis will be set forth in the tariff."¹¹² The Commission further directed SPP to apply the same generator-to-load distribution factor analysis to each flowgate until such an exception is filed and accepted by the Commission. Additionally, the Commission directed SPP to clarify the role that ownership plays in the offer-capping of resources. Specifically, the Commission stated that it interpreted SPP's

¹¹¹ We remind SPP that the Commission has directed that transmission owners within SPP must take service on behalf of grandfathered and bundled retail load under the non-rate terms and conditions of the SPP tariff. *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 at P 108 (2004), *order on compliance*, 108 FERC ¶ 61,003 at P 75-77, *order on reh'g*, 109 FERC 61,010 at P 47-49 (declining to designate the entire imbalance market as a non-rate term and condition) (2004); *RTO Order* at P 49; *See also* SPP OATT, section 39. This requirement applies to all SPP non-rate tariff provisions, including the non-rate terms and conditions of Attachment AE.

¹¹² *SPP Market Order* at P 170.

Attachment AF to “require that resources that impact a particular constraint and that are also owned or controlled by the same supplier will be subject to an offer cap, regardless of whether an individual resource has a generator-to-load distribution factor of less than [the threshold for offer-capping the resource].”¹¹³

84. In the *SPP Market Order*, the Commission also accepted SPP’s monitoring plan in Attachment AG, subject to certain modifications to the proposal and subject to further orders on the split of functions between the internal and external monitors.¹¹⁴ In particular, the Commission directed SPP to monitor for strategic bidding and to modify Attachment AG to detail “the steps that the Market Monitor will take for monitoring uneconomic overproduction and strategic withholding through portfolio bidding as consistent with the steps outlined in Dr. Roach’s testimony.”¹¹⁵

1. Compliance Filing Proposal

85. SPP revised its proposal to require that all resources are subject to the same threshold for offer-capping.¹¹⁶ In other words, SPP provides that there are no exceptions in the tariff to the generator-to-load distribution analysis that would allow for lesser or greater cost-capping of resources. SPP also revised section 3.2.3 of Attachment AF to provide that “although ownership does not affect which [r]esources are subject to the [o]ffer [c]ap, the Market Monitor will periodically assess the potential for market power abuse due to common ownership or control of [r]esources that are not [o]ffer [c]apped.”¹¹⁷ SPP provides no further explanation for the role that ownership plays in the day-to-day designation of offer-capped resources.

86. SPP states that it revised Attachment AG to explicitly provide for monitoring of uneconomic overproduction and strategic withholding. Proposed section 4.6 of Attachment AG also outlines the specific steps the Market Monitor will take to look for cases where self-dispatched resources cause congestion on transmission facilities in an uneconomic manner that are not justified by reliability concerns.

¹¹³ *Id.*

¹¹⁴ *Id.* at P 134.

¹¹⁵ *Id.* at P 174.

¹¹⁶ Attachment AF, section 3.2.2.

¹¹⁷ *Id.*, section 3.2.3.

2. Compliance Filing Protests

87. TDU Intervenors state that SPP failed to comply with the Commission's directive to include exceptions to the generator-to-load distribution analysis in the OATT. TDU Intervenors argue that SPP must provide an exception in the analysis for the two flowgates that bound the Southwestern Public Service control area, otherwise the generators in the control area may be unconstrained by offer caps due to shortcomings in the generator-to-load distribution methodology.¹¹⁸

88. TDU Intervenors also assert that SPP failed to comply with the *SPP Market Order* in that the compliance filing does not provide offer-capping of resources with common ownership or control. In particular, TDU Intervenors request that the Commission direct SPP to modify its tariff to provide that resources that impact a particular constraint and that are also owned or controlled by the same supplier are subject to an offer cap, regardless of whether an individual resource has a generator-to-load distribution factor of less than five percent.

89. Further, TDU Intervenors state that SPP failed to provide tariff provisions that outline the steps that the market monitor will take to monitor for strategic withholding. TDU Intervenors also argue that, consistent with the directives in the *SPP Market Order*, the market monitor should monitor all resources for strategic withholding and uneconomic overproduction rather than only monitoring self-dispatched resources.

3. SPP's Answer

90. In response to TDU Intervenors comments, SPP asserts that it complied with the Commission's directives to specify exceptions to its generator-to-load distribution factor analysis and to clarify the criteria used for the imposition of offer caps. Specifically, SPP states that it did not specify exceptions to the generator-to-load distribution factor analysis because currently no exceptions apply.¹¹⁹ Further, SPP argues that the *SPP Market Order* did not require it to modify Attachment AF consistent with the Commission's interpretation of the ownership role in offer-capping. Rather, SPP states that the *SPP Market Order* specified that SPP should clarify the criteria used for the imposition of offer caps relating to resources owned by the same supplier. SPP states that

¹¹⁸ TDU Intervenors at 4-5.

¹¹⁹ SPP Answer at 14.

by specifying that ownership plays no role in which resources are offer capped, it has clarified its tariff consistent with the Commission's directive.¹²⁰

91. Also, SPP states that it complied with the Commission's directives regarding explicitly addressing strategic withholding in Attachment AG. SPP states that it followed the Commission's direction to incorporate the testimony of Dr. Roach which only addressed the ability of self-dispatched resources to engage in uneconomic overproduction.¹²¹

4. Commission Determination

92. We find that SPP has complied with the Commission's directive to modify Attachment AF to list the exceptions, if any, to the generator-to-load distribution factor analysis. SPP has clearly indicated that there are no exceptions to the analysis and that all generators will be subject to the same generator-to-load distribution analysis. We find that TDU Intervenors have misread our directive as requiring an explicit exception for the Southwestern Public Service flowgates. However, the *SPP Market Order* language clearly allows for SPP to decide whether or not there should be exceptions to the analysis.

93. In the *SPP Market Order*, the Commission interpreted the ambiguous language in sections 3.2.3 and 3.2.2 of Attachment AF to provide that since a change in resource ownership could change the offer-capped status of a resource,¹²² that SPP's tariff applies an offer cap to all resources that impact a particular constraint that are owned or controlled by the same supplier if one of the resources owned by the supplier meets the generator to load distribution factor threshold.¹²³ We find that SPP has not complied with the Commission's directive to clarify the role of ownership in determining offer caps consistent with this interpretation. Instead, SPP has made unilateral modifications to its tariff that are contrary to the Commission's interpretation. Furthermore, we find that SPP's revisions to section 3.2.3 of Attachment AF are an untimely and improper request for rehearing of the Commission's directives and interpretation in the *SPP Market Order*. Thus, we reject SPP's proposed modifications to section 3.2.3 of Attachment AF as not in

¹²⁰ *Id.* at 15.

¹²¹ *Id.* at 15-16.

¹²² Section 3.2.3 of Attachment AF, as accepted by the Commission, provides that the Market Monitor will reassess the status of resources subject to an offer cap when ownership changes occur.

¹²³ *SPP Market Order* at P 170.

compliance with the directive in the *SPP Market Order*. We direct SPP, within 30 days of the date of this order, to submit a compliance filing that modifies section 3.2.2 of Attachment AF to provide for offer-capping of resources owned by the same supplier and impacting the same constraint when the supplier has one or more offer-capped resources impacting the particular constraint.

94. Further, while SPP has complied with the Commission's directive to modify Attachment AG to provide the steps the Market Monitor will use to monitor for uneconomic overproduction, SPP has failed to provide the steps that will be used for monitoring of strategic withholding. Contrary to SPP's assertion in its answer, Dr. Roach's testimony detailed two situations of strategic bidding concern: uneconomic overproduction and portfolio bidding "when a [m]arket [p]articipant controls a significant share of the generation."¹²⁴ Thus, we find that SPP has failed to fully comply with the directive in the *SPP Market Order* to detail the steps that the Market Monitor will take for monitoring uneconomic overproduction and strategic withholding through portfolio bidding. We direct SPP to submit a compliance filing no later than 30 days from the date of this order that specifies strategic withholding monitoring steps. We find that SPP's proposal to limit monitoring of uneconomic overproduction to those resources that are self-dispatched is reasonable and consistent with the *SPP Market Order* directives. In the *SPP Market Order*, the Commission summarized the proposed steps that the Market Monitor would take in monitoring for uneconomic overproduction as focused on self-dispatched resources. Thus, SPP has complied with the Commission's directive in incorporating these steps that focus on monitoring self-dispatched resources. Additionally, we find that SPP's proposed revisions to section 4.6 of Attachment AG are broadly written to also require monitoring of uneconomic overproduction that does not involve self-dispatched resources. Thus, no additional modifications are required to this section to provide for monitoring dispatchable resources.

G. Confidentiality Provisions

95. In the *SPP Market Order*, the Commission directed SPP to delete the phrase "or to a state regulator or its staff" pertaining to disclosure of confidential information in sections 7.1.5 and 7.2 (c) of Attachment AE.¹²⁵

¹²⁴ January 4 Filing, Exhibit III at 16.

¹²⁵ *SPP Market Order* at P 221.

1. Compliance Filing Proposal

96. Section 7.1.5, as amended, provides that other than required by applicable law, or in the course of an administrative, judicial, Commission or state regulatory proceedings, a receiving party will not disclose confidential information to third parties, other than the Commission or its staff. This section also provides that the receiving party may disclose such information provided that the affected disclosing parties provide written consent or if the legal avenues to prevent disclosure are exhausted. In addition, the revised section 7.2 (c) states that the market monitor will not disclose confidential information to any person or entity except to the Commission or its staff without prior written consent.

2. Compliance Filing Protests

97. New Mexico Attorney General protests SPP's revisions to section 7.1.5 and 7.2 (c) of Attachment AE stating that any restricted access by state regulators to confidential information would limit the capability of state regulators to ensure that costs are prudently incurred.¹²⁶

3. Commission Determination

98. In the *SPP Market Order*, we required SPP to omit language allowing access to confidential information by state regulators absent certain confidentiality protections. We find that SPP's tariff changes have complied with that directive. New Mexico Attorney General's request for the Commission to reevaluate state regulators' access to confidential information is an untimely request for rehearing of the *SPP Market Order* and outside the scope of this compliance filing.

H. Other Issues

1. Compliance Filing Protests

99. New Mexico Attorney General protests the formation of the imbalance market because it asserts that the market will impose "potentially unbounded [prices] – at least up to the level of very high cost caps" on bundled retail customers. New Mexico Attorney General also states that the imbalance market will potentially affect the ability of the state to regulate prudently incurred costs of supplying bundled retail load and

¹²⁶ New Mexico Attorney General at 3.

requests a firewall between “market speculation by the utility and cost of service imposed on bundled retail load.”¹²⁷

100. Southwest Industrials argue that the market may not commence until SPP submits an updated cost benefit study that evaluates the many changes in the imbalance market proposal submitted in the compliance filing.¹²⁸ Southwest Industrials further state that it would be premature for the Commission to allow SPP to go forward with market implementation because: (1) SPP has not shown the necessary depth of generation participation to assure competitive markets; (2) a state proceeding is pending on whether to grant SPP functional control over transmission facilities; and (3) market participants in the SPP footprint have not transferred control over their generation facilities to SPP.¹²⁹

101. TDU Intervenors request that the Commission direct SPP to file a complete and corrected version of section 4.5(a) of Attachment AE pertaining to price correction authority.

2. Commission Determination

102. We find that the comments of the New Mexico Attorney General and Southwest Industrials, including comments regarding the issue of functional control by SPP, are untimely requests for rehearing of the *SPP Market Order* and outside the scope of the instant filing. In the *SPP Market Order*, the Commission accepted SPP’s mitigation proposal for cost capping resources in the imbalance market.¹³⁰ We also noted that recovery of costs associated with the imbalance market and energy imbalance service was not at issue in SPP’s January 4 Filing and that the Commission would not intrude upon state jurisdictional matters.¹³¹

103. We note that Southwest Industrials requested a new cost-benefit study in response to the January 4 Filing and the Commission declined to require SPP to undertake a new cost-benefit study.¹³² Southwest Industrials’ repeat of its request in this compliance filing

¹²⁷ *Id.* at 3.

¹²⁸ Southwest Industrials at 4-6.

¹²⁹ *Id.* at 10-11.

¹³⁰ *SPP Market Order* at P 169, 188.

¹³¹ *Id.* at P 231.

¹³² *Id.* at P 232, 234.

is a collateral attack on that decision in the *SPP Market Order* and we will not entertain the request. Further, we also find that Southwest Industrials' contention related to competitive markets is a collateral attack on the finding in the *SPP Market Order* on market-based rates.¹³³

104. The Commission has identified additional inadvertent errors in SPP's filing that require attention. First of all, as TDU Intervenors point out, SPP must file a complete and corrected version of its price correction provisions in section 4.5(a) of Attachment AE. Further, SPP is directed to: (1) update the table of contents for Attachment AE to delete and add references to definitions where appropriate; (2) replace the obsolete reference to section 7.2 of Attachment AF on First Revised Sheet No. 627; (3) define the term "Market System" or replace it with a defined term in the definition of "Resources" on Superseding First Revised Sheet No. 623; (4) renumber the subsections in section 4.2 of Attachment AE; and (5) correct misspellings on Sheet Nos. 616, 644F and 664E. We direct SPP to submit a compliance filing no later than 30 days from the date of this order with these changes.

105. We have reviewed SPP's revisions to its tariff sheets to incorporate the Commission's directives in the *SPP Market Order*. With the exceptions described above, we find that SPP has complied with the *SPP Market Order* and we accept, as modified, the revised sheets.

The Commission orders:

(A) SPP's newly proposed market provisions are accepted in part, as modified, and rejected in part, to become effective on October 1, 2006.

(B) SPP's compliance filing is hereby accepted in part, as modified, rejected in part and permitted to become effective on October 1, 2006.

¹³³ See *id.* at P 202-203.

(C) SPP is hereby directed to make a compliance filing as described in the body of this order no later than 30 days from the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.