UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Southwest Power Pool, Inc. Docket Nos. ER06-432-003
ER06-432-004
ER06-432-005

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued January 19, 2007)

1. In this order, the Commission addresses the request for rehearing by Southwest Power Pool, Inc. (SPP) of the *SPP Credit Policy Order II*.[1] In that order, the Commission: (1) granted in part and denied in part rehearing sought by the parties pursuant to the *SPP Credit Policy Order I*;[2] (2) accepted SPP's proposed compliance filing, as modified, made effective March 1, 2006; and (3) directed a further compliance filing. Additionally, this order addresses SPP's proposed revisions to its Open Access Transmission Tariff (OATT or tariff) submitted in compliance with the *SPP Credit Policy Order II*. As discussed below, we grant SPP's request for rehearing and accept its compliance filings, as modified, to become effective on March 1, 2006 and November 6, 2006, and direct a further compliance filing.

I. Background

2. On December 30, 2005, SPP submitted revisions to its OATT to include a new credit policy as Attachment X and additional tariff revisions required to accommodate the

---

[1] *Southwest Power Pool, Inc.*, 116 FERC ¶ 61,162 (2006) (*SPP Credit Policy Order II*).

[2] *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,222 (2006) (*SPP Credit Policy Order I*).

inclusion of the credit policy in its OATT (December 30 Filing). SPP's filing was one of several that have been made by independent system operators (ISOs) and regional transmission organizations (RTOs) to revise the credit or collateral requirements for participation in the markets run by these organizations.[3]

3. On February 28, 2006, the Commission conditionally accepted and suspended SPP's filing to become effective on March 1, 2006, subject to refund and outcome of a technical conference and directed a compliance filing no later than 30 days from the date of the order.[4]

4. SPP submitted its compliance filing on March 30, 2006. A technical conference was convened on April 10, 2006, where the Commission staff was directed to examine SPP's proposed total debt to total capitalization and debt service coverage scores, and SPP's proposed $50,000 unsecured credit floor for not-for-profit entities.[5]

5. On August 22, 2006, the Commission issued an order on the technical conference and denied in part, and granted in part, the rehearing requests of the *SPP Credit Policy Order I*. The Commission also directed SPP to: (1) revise sections 4.2.3 and 4.2.3.3 of the credit policy related to the calculation of a not-for-profit credit customer's composite credit score; (2) modify its tariff provisions to increase the $50,000 unsecured credit floor for not-for-profit entities to $250,000 under credit policy section 4.3.1.2; and (3) submit a compliance filing within 30 days from the date of the order reflecting the modifications.[6] The Commission also accepted SPP's compliance filing, as modified, effective March 1, 2006.

---

[3] *SPP Credit Policy Order I*, 114 FERC ¶ 61,222 at P 19, citing *Outback Power Marketing, Inc. v. PJM Interconnection, LLC*, 104 FERC ¶ 61,079 (2003); *New York Independent System Operator, Inc.*, 104 FERC ¶ 61,311 (2003); *New England Power Pool*, 107 FERC ¶ 61,201 (2004); *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (*TEMT II Order*), *order on reh'g*, 111 FERC ¶ 61,043, *order on reh'g and compliance filing*, 111 FERC ¶ 61,250 (2005); and *PJM Interconnection, LLC*, 109 FERC ¶ 61,241 (2004).

[4] *Id.* P 1.

[5] *SPP Credit Policy Order II*, 116 FERC ¶ 61,162 at P 1.

[6] *Id.* P 3.

6. SPP seeks rehearing of the Commission's directive in the *SPP Credit Policy Order II* to require SPP to use the lower of the composite credit scores that result from the 50-50 percent approach or the 60-40 percent approach for a not-for-profit entity in its allocation of unsecured credit to not-for-profit entities. SPP argues that such a requirement is arbitrary and capricious, unsupported by the record, and results in discrimination in favor of one market sector to the detriment of other market sectors.[7]

7. Also, on September 21, 2006 and November 6, 2006, SPP submitted compliance filings to incorporate the Commission's revisions to its OATT as directed in the *SPP Credit Policy Order II*. SPP requests that the proposed tariff sheets become effective on March 1, 2006 and November 6, 2006, which is 250 days (*i.e.*, two 125-day transmission exposure periods) after the March 1, 2006 effective date for Attachment X to the SPP OATT.

II. Notice of Filing and Responsive Pleading

8. Notice of the September 21, 2006 compliance filing was published in the *Federal Register*, 71 Fed. Reg. 57,499 (2006), with comments, protests, and interventions due on or before October 12, 2006. None was filed. Also, notice of the November 6, 2006 compliance filing was published in the *Federal Register*, 71 Fed. Reg. 66,768 (2006), with comments, protests, and interventions due on or before November 27, 2006. None was filed.

III. Rehearing Request

9. In the December 30 Filing, SPP's proposed credit policy included provisions to evaluate both qualitative and quantitative factors to determine the composite credit score that would be used to determine the amount of unsecured credit available to a credit customer. SPP's evaluation of the qualitative and quantitative factors and the conversion of the evaluation to the amount of unsecured credit available varied for not-for-profit entities and investor-owned utilities (IOUs). Specifically, SPP proposed to use a 50-50 percent qualitative/quantitative allocation in evaluating not-for-profit entities.[8]

10. In the *SPP Credit Policy Order I*, the Commission required that not-for-profit entities' qualitative factors be given greater weight in the creditworthiness analysis than quantitative factors. The Commission noted that ISOs and RTOs are required to consider both qualitative and quantitative measures in assessing the credit risk of a party and post

---

[7] SPP's Rehearing Request at 1.

[8] December 30 Filing, Attachment X, section 4.2.3.

the criteria used to determine these factors to prevent these entities from potentially discriminating against certain market participants.[9] The Commission explained that its precedent used examples of municipalities and cooperatives that may be non-rated companies, but may have strong credit for transmission service due to the nature of their businesses and their ability to charge their customer base for service.[10] The Commission also recognized that, generally, public power utilities have good credit records that may not be reflected through financial statements alone.[11] The Commission stated that weighting qualitative measures heavier as compared to quantitative ones will ensure that public power market participants will not be discriminated against in the credit scoring process.[12] Therefore, the Commission directed SPP to adopt Midwest ISO's methodology of weighting qualitative factors (60 percent) heavier than financial factors (40 percent) to develop total composite credit scores for SPP's not-for-profit entities, which are analogous to Midwest ISO's public power utilities.

11. Subsequently in the *SPP Credit Policy Order II*, the Commission reiterated its intent of allowing greater weight to the qualitative factors than the quantitative factors, to prevent not-for-profit entities from being discriminated against in the credit scoring process. Given this intent, the Commission noted that in some instances the 60-40 percent approach may not result in a favorable composite credit score for the not-for-profit entities.[13] Thus, the Commission required SPP to conduct two evaluations and to use the lower of the composite credit scores that result from the 50-50 percent approach or the 60-40 percent approach for a not-for-profit entity. The Commission noted that, "given that SPP's credit scoring system only approximates a municipal's credit quality and appears to be designed for metrics which make more sense for investor-owned

---

[9] *SPP Credit Policy Order I*, 114 FERC ¶ 61,222 at P 36, citing *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186, at P 13 (2004) (*Credit Policy Statement*).

[10] *Id.* P 36, citing *Credit Policy Statement*, 109 FERC ¶ 61,186 at P 14.

[11] *Id.* P 36, citing *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,285, at P 355 and n.157 (2004).

[12] *Id.*

[13] Kansas Municipals (consisting of Kansas Municipal Utilities (KMEA) and Kansas Power Pool (KPP)) argued that KMEA gets a less desirable credit score of 2 under the 60-40 percent approach but a credit score of 1 under the 50-50 percent approach. *SPP Credit Policy Order II*, 116 FERC ¶ 61,162 at P 23 and n.17.

utilities, it will allow the lower of composite credit scoring."[14] Further, the Commission stated that, because calculating the composite credit score after calculating the quantitative and qualitative scores is straightforward, there should be no undue administrative burden imposed upon SPP to conduct two evaluations. Accordingly, SPP was directed to amend section 4.2.3 of its credit policy to reflect this change.

A. <u>SPP's Rehearing Request</u>

12. SPP requests that the Commission grant rehearing of the Commission's directive in the *SPP Credit Policy Order II* that required SPP to use the lower of the composite credit scores that result from the 50-50 percent approach or the 60-40 percent approach for a not-for-profit entity.[15] It argues that the Commission failed to engage in reasoned decision-making and was arbitrary and capricious in requiring SPP to amend section 4.2.3 of its credit policy set forth in Attachment X to the SPP OATT to require that SPP determine the amount of unsecured credit to grant not-for-profit entities based on the more favorable composite credit score resulting from two evaluations of the qualitative and quantitative factors, instead of the single analysis that the Commission previously ordered in the *SPP Credit Policy Order I*.[16]

13. SPP asserts that the two evaluations are unnecessary. It asserts that conducting two alternative evaluations does not improve the probability of a not-for-profit entity of receiving additional unsecured credit from SPP under the credit policy provisions. Specifically, it contends that, even if, the 60-40 percent approach produces a slightly worse composite credit score than the 50-50 percent approach, the difference in composite credit score does not impact the amount of unsecured credit made available to the public power utility under SPP's credit policy.[17]

---

[14] *Id.* P 26.

[15] SPP's Rehearing Request at 1.

[16] *Id.* at 2.

[17] SPP states that using the information included in Kansas Municipals' request for clarification, KMEA's quantitative score of 1 and qualitative score of 2, would result in a composite credit score of 1.60 under a 60-40 percent approach, whereas it would result in a composite credit score of 1.50 under a 50-50 percent approach. Under both approaches, KMEA would be awarded the same amount of unsecured credit. Because SPP converts ranges of composite credit scores to unsecured credit allowances, the change in score

(continued)

14. Moreover, SPP states that it has simulated dual evaluation analysis for the 23 not-for-profit entities that have submitted complete financial and qualitative information to SPP and found that none of those entities would receive additional unsecured credit as a result of employing the 50-50 percent approach as an alternative to the 60-40 percent approach.[18] SPP also claims that, statistically, there is approximately only a 10.8 percent chance that a not-for-profit credit customer would receive additional unsecured credit from SPP as a result of the additional review option.[19] Moreover, according to SPP, such results would only occur if the not-for-profit credit customer had a qualitative score of 4, 5, or 6, which is unlikely for a solvent entity and would indicate that its qualitative factors were not very favorable to awarding unsecured credit to the entity.[20] In addition, according to SPP, the probability that a not-for-profit entity has a qualitative score of 5 or 6, and the right combination of qualitative and quantitative scores necessary to have the 50-50 percent approach result in the entity receiving additional unsecured credit is less than 1.7 percent.

15. Additionally, SPP asserts that the additional evaluation is not cost free. It argues that there is an administrative cost associated with any incremental analysis that must be performed.[21] Given that the statistical probability that the incremental analysis will result in incremental benefit to its customers is low, SPP contends that even a minimal administrative cost is too high for that incremental activity, resulting in a waste of ratepayer funds.[22]

16. Finally, SPP argues that the two evaluation approach is not required in other RTOs and ISOs, and requiring SPP to conduct such evaluations may result in discriminatory treatment against IOUs. It states that absent evidence that SPP's credit policy is discriminatory in impact or structure against not-for-profit entities, the Commission's

---

under the 50-50 percent approach for KMEA does not change the percentage of KMEA's tangible net worth which it would receive as an unsecured credit allowance. *Id*. at 13.

[18] *Id*. at 14, Attachment A.

[19] *Id*., Attachment B.

[20] SPP further states that it is unlikely that a solvent municipality, government agency, or electric cooperative would receive a qualitative score of 5 or 6. *Id*. at 15.

[21] *Id*.

[22] *Id*. at 16.

directive requiring more favorable treatment of this sector is itself discriminatory in favor of not-for-profit entities.[23]

B. Commission Determination

17. We grant rehearing with respect to the aspect of *SPP Credit Policy Order II* that directed SPP to use the lower (more favorable) of two composite credit scores for not-for-profit entities, as discussed below.

18. We clarify that the Commission's intent in the credit directives in the *SPP Credit Policy Order I* and *SPP Credit Policy Order II* was to ensure that SPP's credit policy accurately gauges the creditworthiness of its market participants and distributes appropriate amounts of unsecured credit accordingly. In light of the support provided by SPP in its request for rehearing, we are satisfied that it does both in a reasonable and non-discriminatory manner using only the 60-40 weighted approach for not-for-profit entities.

19. After reviewing SPP's request for rehearing, including the data in Attachments A and B, we are persuaded that using the lower of the scores generated by a 50-50 or 60-40 weighting of the creditworthiness metrics does not substantially change the unsecured credit granted to credit customers. According to Attachment A, of the 23 not-for-profit entities that have submitted full financial and qualitative information to SPP for credit evaluation, none would receive additional unsecured credit as a result of re-evaluating them using the 50-50 percent approach as compared to the 60-40 percent approach. In addition, we agree with SPP's contention that it is unlikely that a solvent company that fits the definition of a not-for-profit entity under SPP's credit policy, would have a qualitative score of 4, 5, or 6. Scores in that range would otherwise indicate that those entities would not receive favorable unsecured credit grants.

20. We accept SPP's analysis submitted with its rehearing request indicating that although it is unlikely that dual analyses will have any unsecured credit impact, it is possible that some entities may be eligible to receive additional unsecured credit through dual analyses under 50-50 and 60-40 weightings. Under a 50-50 approach, entities scoring 4, 5, or 6 qualitatively are most likely to be impacted by dual analyses.[24] Entities

---

[23] *Id*.

[24] *See* SPP's Rehearing Request at 14-15. According to SPP's analysis, not-for-profit customers have a 10.8 percent chance of receiving additional credit and only if they scored a 4, 5, or 6 qualitatively. Further, a not-for-profit customer scoring 5 or 6 qualitatively would have a less than 1.7 percent chance of the right combination of qualitative and quantitative scores to receive additional unsecured credit.

with more favorable qualitative scores of 1, 2, or 3, fare better under the 60-40 percent approach by having the qualitative factors over-weighted in the generation of a composite credit score. We believe SPP's analysis is logical. To receive a better composite credit score under the 50-50 percent approach, those entities with a qualitative score of 5 or 6 would have to score better under the financial metrics. However, it is unlikely that an entity would have such a divergence between their qualitative and quantitative metrics. Therefore, while there may be limited situations in which dual analyses may result in additional unsecured credit for some entities, we find that such a possibility is not likely enough to warrant dual analyses for all not-for-profit entities at this time.

21. We clarify that not-for-profit entities that do not believe that the 60-40 weighting approach accurately portrays their creditworthiness have an additional avenue available to them to ensure a fair and non-discriminatory credit evaluation. Because some qualitative factors are necessarily intangible, we interpret section 1.4 of Attachment X as allowing any SPP credit customer to have full opportunity to explain their unique characteristics so that SPP may make an accurate qualitative determination.[25] Also, credit customers who believe that they have been discriminated against or that SPP has not followed its OATT always retain the option to call the FERC enforcement hotline[26] or file a complaint with the Commission.[27] We note that this decision is without prejudice to future filings by SPP to further refine and revise its credit policy.[28]

---

[25] *See* Attachment X, section 1.4, Fairness, Objectivity, and Non-Discrimination ("SPP will seek and receive information and explanation from a Credit Customer as appropriate to help ensure that the Credit Assessment is fair and thorough").

[26] Credit customers that believe an ISO/RTO has discriminated against it may contact the Commission's enforcement hotline by phone at (888) 889-8030.

[27] 16 U.S.C. § 824e (2000).

[28] Since we are granting SPP's request for rehearing due to SPP's initial argument that the two evaluations are unnecessary based upon SPP's statistical analysis, we do not need to address SPP's additional assertions that the administrative cost is too high or that the two evaluations approach may be discriminatory in favor of not-for-profit entities.

IV. Compliance Filing

A. Evaluation of Qualitative and Quantitative Factors

1. SPP's Proposal

22. SPP submitted revisions to section 4.2.3, Not-For-Profit Credit Scoring and section 4.2.3.3, Composite Credit Score of Attachment X of the SPP OATT, to reflect the change that for not-for-profit credit customers, their composite credit scores will be determined by the lower of the composite credit scores resulting from two evaluations: (1) qualitative factors weighted 60 percent and quantitative factors weighted 40 percent or (2) qualitative factors and quantitative factors each weighted at 50 percent.

2. Commission Determination

23. As discussed above, we will accept SPP's compliance filing on this issue, subject to the following modification: removal of the 50-50 percent analysis for not-for-profit entities (alternative 2) and leaving the 60-40 percent analysis (alternative 1) in place. We direct SPP to submit a further compliance filing within 30 days of the date of this order.

24. On compliance to this order, SPP is directed to submit a properly designated overflow tariff sheet No. 411Q pursuant to Order 614[29] as follows: "Original Sheet No. 411Q.01".

B. Total Potential Exposure

25. In the *SPP Credit Policy Order II*, the Commission clarified its intent to direct SPP to shorten the transmission exposure period, not the settlement period, from 125 days to 50 days. Specifically, the Commission affirmed its original conclusion that the benefits of a shortened transmission exposure period outweigh the risk of customer defaults and clarified that the Commission intended to state that SPP should shorten its "transmission exposure period" rather than "settlement period."[30] Second, the Commission required that the 50 day transmission exposure period take effect after two "125-day settlement cycles." Third, the Commission also clarified that its acceptance of SPP's proposed exposure periods "under section 5.2 of Attachment X" referred only to the market exposure period and not the transmission exposure period. Finally, the

[29] *See Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats & Regs. ¶ 31,096 (2000).

[30] *SPP Credit Policy Order II*, 116 FERC ¶ 61,162 at P 30.

Commission directed SPP to count from the March 1, 2006 effective date of Attachment X rather than the start of its energy market, the two 125-day transmission exposure periods to arrive at the date that the reduced transmission exposure period should commence.[31]

1. SPP Proposal

26. SPP's proposal revises SPP OATT to shorten the transmission exposure window from 125 days to 50 days, effective 250 days after March 1, 2006.

2. Commission Determination

27. We find that SPP has complied with the Commission's directive regarding the transmission exposure period and will accept First Revised Sheet Nos. 411Y, 411Z, 411AA, 411BB, and Original Sheet No. 411Y.01 for filing, with an effective date of November 6, 2006 (two 125-day transmission exposure periods from the March 1, 2006 Attachment X effective date).

C. Unsecured Credit Floor

28. In the *SPP Credit Policy Order I*, the Commission accepted and suspended SPP's proposed $50,000 unsecured credit floor for not-for-profit entities, subject to the outcome of a technical conference. The Commission explained that the proposed unsecured credit floor warranted further examination and discussion, and that a technical conference would provide the appropriate forum to probe the issue.[32]

29. Following the technical conference, in the *SPP Credit Policy Order II*, the Commission found that SPP's proposed $50,000 unsecured credit floor for not-for-profit entities was not just and reasonable.[33] The Commission noted that, in balancing the goals of allowing SPP to reduce credit exposure in the event of default while at the same time ensuring that the credit or collateral requirements are not so stringent that they unnecessarily inhibit access to the marketplace, it found that a credit floor of $250,000 was a reasonable amount given the low risk of default for not-for-profit entities. Accordingly, the Commission directed SPP to increase its unsecured credit floor for not-

[31] *Id*.

[32] *SPP Credit Policy Order I*, 114 FERC ¶ 61,222 at P 62.

[33] *SPP Credit Policy Order II*, 116 FERC ¶ 61,162 at P 38.

for-profit-entities to $250,000.[34] The Commission further noted that its decision is consistent with precedent,[35] and would eliminate the costs to certain not-for-profit market participants of providing additional credit security.

1. SPP's Proposal

30. SPP's proposal revises section 4.3.2.2, under section 4.3.2 Maximum and Minimum Unsecured Credit Allowances, of Attachment X to reflect that not-for profit credit customers shall have a minimum unsecured credit allowance in the amount of $250,000.

2. Commission Determination

31. We find that SPP has complied with the Commission's directive in the *SPP Credit Policy Order II* to revise section 4.3.2.2 of Attachment X and increase the unsecured credit floor for not-for-profit entities to $250,000. Accordingly, we accept Second Substitute Original Sheet No. 411U for filing.

D. Additional Revision

32. SPP was directed to include the tariff sheet that contains revised section 19.4 of the tariff which refers to "Appendix C" of the Credit Policy rather than "Attachment C" of the Credit Policy.[36] SPP submitted Substitute First Revised Sheet No. 58, which contains the corrected reference to Appendix C. Accordingly, we accept for filing Substitute First Revised Sheet No. 58.

The Commission orders:

(A) The request for rehearing is hereby granted as discussed in the body of this order.

(B) SPP's revised tariff sheets are accepted, as modified, and made effective March 1, 2006 and November 6, 2006 as discussed in the body of this order.

---

[34] *Id*.

[35] *Id.* P 38 and n.42.

[36] *Id*. P 42.

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

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.