

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER04-434-000
ER04-434-002
ER04-434-003

ORDER ACCEPTING COMPLIANCE FILING, DISMISSING EARLIER
COMPLIANCE FILING AS MOOT AND DENYING REQUEST FOR
RECONSIDERATION

(Issued August 10, 2004)

1. In this order, the Commission accepts Southwest Power Pool's (SPP) June 29, 2004 compliance filing (June 29 Filing), submitted in response to an order issued on June 21, 2004.¹ This order also dismisses as moot SPP's January 20, 2004 compliance filing (January 20 Filing), which adopted the Commission's Order No. 2003² *pro forma* Large Generator Interconnection Agreement (LGIA) and Large Generator Interconnection Procedures (LGIP), because it has been superseded by the later June 29 Filing, which reflects the Order No. 2003-A *pro forma* LGIA and LGIP. This order also denies a request for reconsideration. This order benefits customers because it provides just and reasonable terms and conditions of transmission service while ensuring that reliability is protected.

¹ Southwest Power Pool, Inc., 107 FERC ¶ 61,286 (2004) (June 21 Order).

² Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,846 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *reh'g pending*; *see also* Standardization of Generator Interconnection Agreements and Procedures, 106 FERC ¶ 61,009 (2004) (January 8 Notice).

I. Background

2. In Order No. 2003, pursuant to its responsibility under sections 205 and 206 of the Federal Power Act (FPA)³ to remedy undue discrimination, the Commission required all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to append to their open access transmission tariffs (OATT) a *pro forma* LGIP and LGIA. In order to obtain greater standardization of interconnection terms and conditions, Order No. 2003 required such public utilities to file revised OATTs containing the *pro forma* LGIP and LGIA by January 20, 2004. On March 5, 2004, the Commission issued Order No. 2003-A, which revised its initially-ordered *pro forma* LGIP and LGIA.

3. In its January 20 Filing, SPP submitted revisions to its OATT⁴ to adopt a *pro forma* LGIP and LGIA, based on the Commission's Order No. 2003 *pro forma* LGIP and LGIA. However, some of SPP's proposed revisions differed from the *pro forma* provisions set forth in Order No. 2003.⁵ SPP argued that, although at the time of its filing it had an application to become a Regional Transmission Organization (RTO) pending before the Commission and had not yet been found to be an RTO or Independent System Operator under Order No. 2000,⁶ it was an independent transmission provider and should be considered one for purposes of evaluating its filing. SPP further contended that the variations in its January 20 Filing satisfied the standards described in Order No. 2003 for evaluating deviations since they were changes to reflect the participation of SPP, regional variations, or improvements to the *pro forma* language.

³ 16 U.S.C. §§ 824d, 824e (2000).

⁴ Southwest Power Pool, Inc. FERC Electric Tariff, Fourth Revised Volume No.1.

⁵ The Commission left it to transmission providers to justify any variation to the *pro forma* LGIP or LGIA based on regional reliability requirements, or a "consistent with or superior to" standard. Order No. 2003 at P 825-26.

⁶ Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom.* Public Utility District No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001). On October 15, 2003, in Docket Nos. RT04-1-000 and ER04-48-000, SPP submitted a proposal to the Commission for recognition as an RTO in compliance with Order No. 2000.

4. The Commission accepted and suspended SPP's January 20 Filing to become effective, subject to refund, August 21, 2004 or such earlier date as may be specified in a further order by the Commission.⁷ In that order, we noted the unusual procedural posture of this case and cited a February 10, 2004 Order conditionally granting SPP RTO status⁸ and stated our expectation that SPP would become independent in the near future.⁹

5. We further determined that, pursuant to the Commission's January 8 Notice, the Commission's Order No. 2003 *pro forma* LGIP and LGIA have been in effect for SPP as of January 20, 2004. In addition, based on the January 8 Notice, which stated that all non-independent transmission providers were directed to make ministerial filings reflecting the Order No. 2003 *pro forma* LGIP and LGIA in their OATT, we directed SPP to make a ministerial filing to incorporate the Order No. 2003 *pro forma* language in its tariff within 30 days.¹⁰ Moreover, in the March 19 Order, we held that, since the Order No. 2003 *pro forma* LGIP and LGIA do not allocate the responsibilities for the provision of Interconnection Service between the Transmission Owner and the Transmission Provider, SPP may wish to submit a separate addendum which allocates responsibilities between SPP and its Transmission Owners.¹¹

6. On April 19, 2004, SPP submitted revisions to its OATT in compliance with the March 19 Order and with Order No. 2003-A (April 19 Filing). The April 19 Filing adopted the Commission's *pro forma* LGIP and LGIA, as modified by Order No. 2003-A, together with a *pro forma* agreement allocating responsibilities between SPP and the transmission owners (Allocation Agreement). SPP also requested an effective date of April 26, 2004 for its April 19 Filing, since the modifications made to the *pro forma* LGIP and LGIA pursuant to Order No. 2003-A did not become effective until April 26, 2004.

⁷ Southwest Power Pool, Inc., 106 FERC ¶ 61,254 at P 12 (2004) (March 19 Order).

⁸ Southwest Power Pool, Inc., 106 FERC ¶ 61,110 (2004) (SPP RTO Order). On May 3, 2004 SPP submitted a compliance filing in response to the SPP RTO Order. On July 2, 2004, the Commission accepted in part and rejected in part the compliance filing and directed a further compliance filing. Southwest Power Pool, Inc., 108 FERC ¶ 61,003 (2004).

⁹ March 19 Order, 106 FERC ¶ 61,254 at P 12.

¹⁰ *Id. see* January 8 Notice, 106 FERC ¶ 61,009 at P 2-3.

¹¹ March 19 Order, 106 FERC ¶ 61,254 at P 14.

7. On May 10, 2004, Golden Spread Electric Cooperative, Inc. (Golden Spread) filed a timely motion to intervene and protest. Golden Spread asked the Commission to direct SPP to delete the words “and with Commission policy” from section 1.0 of the proposed Allocation Agreement. Golden Spread also asked the Commission to clarify that the cost of expansions necessary to correct previously forecasted overloads may not be allocated to specific transmission customers or to interconnection customers. On May 24, 2004, SPP filed an answer stating that it would remove the language referring to Commission policy from section 1.0 of the Allocation Agreement.

8. The Commission conditionally accepted the April 19 Filing and directed SPP to submit a further compliance filing to delete the words “and with Commission policy” from section 1.0 of the Allocation Agreement.¹² We also rejected Golden Spread’s request for clarification.

9. On June 29, 2004, SPP submitted the instant filing in response to the June 21 Order. Notice of SPP’s June 29 Filing was published in the *Federal Register*, 69 Fed. Reg. 42,715 (2004), with protests and interventions due on or before July 20, 2004. None were filed.

10. On July 21, 2004, Golden Spread filed a motion for reconsideration of the June 21 Order, stating that SPP has not developed and implemented a reasonable policy or practice to assure that the cost of correcting base case overloads are system costs, rather than costs that are specifically allocated to transmission customers, including those seeking to interconnect generators.

II. Discussion

11. The instant filing complies with the Commission’s directive, and will be accepted, effective April 26, 2004. SPP’s earlier January 20 Filing was submitted in response to Order No. 2003. However, the April 19 Filing and the instant filing reflect Order No. 2003-A’s directives, while the January 20 Filing did not. Therefore, since the April 19 Filing and the instant filing meet the requirements of both Order No. 2003 and Order No. 2003-A, they supersede the January 20 Filing. Further, given that the January 20 Filing was suspended to August 21, 2004 and given that the April 19 Filing and the instant filing are effective as of April 26, 2004, from January 20, 2004 through April 25, 2004, the Commission’s Order No. 2003 *pro forma* LGIP and LGIA will be deemed in effect for SPP customers.

¹² June 21 Order, 107 FERC ¶ 61,286 at P 13.

12. Finally, we will deny Golden Spread's motion for reconsideration, since we continue to hold that its request is outside the scope of this compliance filing proceeding. As we stated in the SPP RTO Order, "with independent governance, we believe SPP can significantly improve its capability to oversee regional transmission expansion and economic needs."¹³ We reiterate that, while Golden Spread may argue in the future that the cost of expansions necessary to correct previously forecasted overloads may not be allocated to specific transmission customers or to interconnection customers, it cannot do so in this proceeding.

The Commission orders:

- (A) SPP's June 29 Filing is hereby accepted, effective April 26, 2004.
- (B) SPP's January 20 Filing is hereby dismissed as moot, as discussed in the body of this order.
- (C) Golden Spread's motion for reconsideration is hereby denied.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

¹³ SPP RTO Order, 106 FERC ¶ 61,110 at P 187.