

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 No. ER05-1118-001

ORDER DISMISSING REQUESTS FOR REHEARING
AND/OR CLARIFICATION

(Issued November 1, 2005)

1. On September 19, 2005, the Commission rejected proposed tariff revisions submitted by Southwest Power Pool, Inc. (SPP) intended to implement a real-time energy imbalance market (imbalance market) and establish a market monitoring and market power mitigation plan.¹ The September 19 Order also provided guidance on several issues the Commission considered critical to the success and monitoring of the SPP's imbalance market. SPP, Lafayette Utilities System (Lafayette), and East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc. and Tex-La Electric Cooperative of Texas, Inc. (collectively East Texas Cooperatives) filed requests for clarification, or in the alternative, rehearing of the September 19 Order. SPP's independent market monitor, Boston Pacific Company, Inc. (Boston Pacific) submitted a limited clarification request, and the Southwest Industrial Customer Coalition (Southwest Industrial) requested rehearing of the September 19 Order. We will dismiss the requests for rehearing and/or clarification.

Background and Requests for Rehearing and/or Clarification

2. On June 15, 2005, SPP filed a proposal under section 205 of the Federal Power Act² to implement an imbalance market and establish a market monitoring and mitigation plan. In the September 19 Order, we found that SPP's filing was inadequate in several respects and that key elements needed to be addressed in order to help ensure successful implementation and monitoring of SPP's imbalance market. We found that until these inadequacies were remedied, we could not find SPP's proposal to be just and reasonable. The Commission's September 19 Order also

¹ *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303 (2005) (September 19 Order).

² 16 U.S.C. § 824d (2000).

provided, on an advisory basis, guidance on issues critical to the success and monitoring of SPP's imbalance market, including: (1) market-based rates; (2) market operations; and (3) mitigation and monitoring provisions.

3. SPP, Boston Pacific³ and Southwest Industrial seek clarification or rehearing of the Commission's guidance on market-based rate authority for entities within the SPP footprint. SPP argues that the Commission erred in providing guidance that the SPP market, as planned, would be insufficient to allow the SPP region to qualify as the relevant geographic market for market-based rate determinations. Specifically, it contends that once the imbalance market is in operation, SPP will have central unit commitment and single centralized dispatch, as well as a level of resource participation that should allow the SPP region to qualify as a single relevant geographic market. Boston Pacific seeks clarification on whether additional mitigation and monitoring is needed in the imbalance market to allow the use of market-based rates in the imbalance market when entities have failed the market power screens. Southwest Industrial, interpreting the Commission's guidance as allowing use of the SPP region as the relevant geographic market in certain cases, argues that the Commission has unreasonably departed from its market-based rate precedent.

4. Additionally, Southwest Industrial asserts that the Commission erred in finding that SPP's proposal to operate single clearing price auctions in order to set imbalance prices is just and reasonable.

5. East Texas Cooperatives and Lafayette seek clarification that the Commission did not make a ruling on certain provisions of SPP's proposal. East Texas Cooperatives seeks confirmation that the Commission did not grant express approval for certain mitigation plan provisions proposed by SPP, *i.e.*, a \$100 per Mwh price floor for Offer Capped Resources and a provision limiting mitigation to resources with a negative five percent generation shift factor. Lafayette requests clarification that the September 19 Order did not rule that generators located outside the SPP footprint can be precluded from participation in the SPP market. Lafayette and East Texas Cooperatives request rehearing on these issues if clarification is not granted.

Discussion

6. The Commission's only action in the September 19 Order was to reject SPP's imbalance market filing and the related market monitoring and market power mitigation plan. Regarding all other matters, the September 19 Order provided

³ We note that because they have not intervened, Boston Pacific is not a party in is proceeding. 18 C.F.R. § 385.214 (2005).

guidance only and the matters discussed were advisory in nature and not subject to rehearing.⁴ Parties may revisit any issue *de novo* after SPP refiles the imbalance market and monitoring provisions of its tariff.

7. SPP and Southwest Industrial seek rehearing of the Commission's guidance on market-based rates in the SPP region. We deny rehearing, as explained above, because these arguments address the advisory portions of the September 19 Order.⁵ Additionally, we will not grant Boston Pacific's clarification request regarding market-based rate authority because the Commission only provided guidance on that issue pursuant to intervenors' requests for clarification and not a pending market-based rate filing.⁶ The entities requesting rehearing and/or clarification here may present their arguments to the Commission when they initiate a future imbalance market filing or in response to any future imbalance market filing by SPP.

8. We see no reason to grant East Texas Cooperatives' and Lafayette's requests for clarification. The September 19 Order rejected SPP's proposal in its entirety, and therefore, did not expressly or otherwise accept any part of the proposal, including the proposed mitigation plan or the proposed market operations. East Texas Cooperatives' and Lafayette's requests for rehearing are dismissed.

The Commission orders:

The requests for rehearing and/or clarification are hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁴ *Midwest Independent Transmission System Operator, Inc.*, 105 FERC ¶ 61,272 at P 6 (2003) (Commission found that party's rehearing arguments addressed the advisory portions of the initial order and therefore, rehearing did not lie).

⁵ September 19 Order at P 32.

⁶ *Id.* at P 31-32.