

124 FERC ¶ 61,014  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket Nos. ER07-1311-002  
ER07-1311-003

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued July 2, 2008)

1. In this order, the Commission denies a request by Western Farmers Electric Cooperative (WFEC) for rehearing of an order issued on January 25, 2008, in which the Commission accepted in part, and rejected in part, proposed revisions by Southwest Power Pool, Inc. (SPP) to its: (1) Open Access Transmission Tariff (OATT) (related to the interconnection of large generators to SPP's transmission system); (2) *pro forma* Large Generator Interconnection Agreement (LGIA); and (3) *pro forma* Large Generator Interconnection Procedures (LGIP).<sup>1</sup> Among other things, the January 2008 Order accepted SPP's proposal to replace the Order No. 2003<sup>2</sup> transmission service crediting provisions for Network Upgrades in its OATT with a participant funding cost-allocation mechanism for such upgrades. In addition, we accept for filing SPP's compliance filing that it submitted in response to the January 2008 Order.

**I. Background**

2. On August 30, 2007, as amended on November 28, 2007, SPP filed proposed tariff revisions that the Commission accepted in part, and rejected in part, in the

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<sup>1</sup> *Southwest Power Pool, Inc.*, 122 FERC ¶ 61,060 (2008) (January 2008 Order).

<sup>2</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (August 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), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (January 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,662 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. National Association of Regulatory Utility Commissioners v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

January 2008 Order. The January 2008 Order also directed SPP to make a compliance filing consistent with the findings in the order.

3. On February 25, 2008, WFEC filed a request for rehearing of the January 2008 Order that takes issue with the Commission's finding rejecting SPP's proposal to exclude categorically Attachment Facilities<sup>3</sup> from financial reimbursement under Attachment Z.<sup>4</sup> WFEC supports the direct assignment of Attachment Facilities as originally proposed by SPP.

4. On March 3, 2008, SPP submitted a compliance filing as required by the January 2008 Order. SPP states that its compliance filing meets the requirements of the January 2008 Order and requests acceptance of its filing, with an effective date of November 1, 2007, as consistent with the January 2008 Order.

**A. Notice of Filing**

5. Notice of SPP's compliance filing was published in the *Federal Register*, with comments, motions to intervene and protests due on or before March 24, 2008.<sup>5</sup> A timely motion to intervene was filed by Horizon Wind Energy LLC (Horizon Wind) and timely comments were filed by WFEC. No protest was filed.

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<sup>3</sup> SPP proposed to define Attachment Facilities as: "Network Upgrades required to interconnect the Large Generating Facility to the existing Transmission System or extensions of the existing Transmission System, with the exception of Interconnection Facilities and Stability Upgrades. Attachment Facilities are sole use facilities of the Interconnection Customer that do not receive credits in accordance with Attachment Z of the {OATT}."

<sup>4</sup> January 2008 Order, 122 FERC ¶ 61,060 at P 31-32. As we explained in the January 2008 Order at P 14, under Attachment Z, transmission customers that pay for Network Upgrades receive revenues from new transmission service that makes use of the Network Upgrades. Any revenues received from such new transmission service flow to the funding transmission customer until the funding customer is fully compensated for the costs of the Network Upgrades.

We also note that, in *Southwest Power Pool, Inc.*, 123 FERC ¶ 61,208 at P 19, P31, P35 (2008), the Commission recently approved SPP's proposal to divide Attachment Z into two parts (as Attachments Z1 and Z2), with certain specific modifications directed by the Commission to Attachment Z1, related to whether existing long-term transmission service customers must remain in a Facilities Study (*see* discussion at P 32).

<sup>5</sup> 73 Fed. Reg. 13,877 (2008).

## II. Discussion

### A. Intervention

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>6</sup> Horizon Wind's timely, unopposed motion to intervene serves to make it a party to this proceeding.

### B. WFEC's Request for Rehearing

7. WFEC presents three main arguments in support of its objections to the finding in the January 2008 Order rejecting SPP's proposed direct assignment of the costs of Attachment Facilities without providing financial compensation for new transmission service that makes use of the facilities and directing SPP instead to compensate generators for Attachment Facilities as provided in Attachment Z of SPP's OATT. First, WFEC argues that the costs of the Attachment Facilities are appropriately directly assigned to the interconnecting generator because those facilities are for the sole use and benefit of the generator. In this regard, WFEC argues that the facilities at issue are ring busses and switchyard facilities that are located around the point of interconnection that serve the same function as the facilities on the generator's side of the point of interconnection (i.e., Interconnection Facilities) – to interconnect the generator to the transmission grid. WFEC argues that it is inappropriate to deem such facilities "Network Upgrades" - and therefore subject to reimbursement via crediting - simply because they happen to be located on the other side of the point of interconnection. WFEC argues that the "Network Upgrade" label elevates form over function by ignoring the function that the facilities perform and is not a sound basis for providing credits for these facilities. Thus, WFEC argues that the Commission's determination on this issue is not reasoned decision-making.

8. Second, WFEC argues that, under the cost allocations directed in the January 2008 Order, WFEC and its members will have to provide the funds to reimburse the merchant generator for its Attachment Facilities. Further, WFEC argues that, as the merchant generator has sold its electrical output off-system, there are no incremental revenues available to WFEC to fund the credits. Thus, WFEC argues that native load customers in the balancing authority will end up subsidizing the costs incurred by interconnecting merchant generators. WFEC argues that this is unfair and contrary to the stakeholder-approved approach presented in SPP's direct assignment proposal.

9. Third, WFEC argues that SPP's proposed direct assignment pricing proposal is consistent with the Commission's longstanding deference to RTO-adopted interconnection pricing policies, and that the Commission erred in rejecting this proposal.

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<sup>6</sup> 18 C.F.R. § 385.214 (2007).

In this regard, WFEC argues that, in the January 2008 Order, the Commission departed from its policy in Order No. 2003 to grant RTOs “independent entity variations” from the Commission's *pro forma* LGIP and LGIA.

### **Commission Determination**

10. After consideration of WFEC’s arguments, we affirm the findings in the January 2008 Order rejecting SPP’s proposal to exclude categorically Attachment Facilities from financial reimbursement under Attachment Z, and we deny WFEC’s request for rehearing. We reach this conclusion because, as explained below, we find WFEC’s arguments on this point without merit.

11. First, the Commission rejects WFEC’s contention that the costs of the Attachment Facilities are for the sole use and benefit of the generator, under the terms of Attachment Z of SPP’s OATT. If the Attachment Facilities are used for the sole use and benefit of the generators, then the generators will not be reimbursed for the costs of the Attachment Facilities. Such reimbursements will only occur, over the years, if there are subsequent uses of the facilities. In fact, as stated in the January 2008 Order, there is no guarantee of reimbursements, if there are no subsequent uses of the Attachment Facilities.<sup>7</sup>

12. Second, the Commission disagrees with WFEC’s related argument that local load customers in the license plate transmission pricing zone where the upgrades are located will end up subsidizing the costs incurred by interconnecting merchant generators. WFEC’s argument is based on an Order No. 2003 transmission service crediting mechanism<sup>8</sup> and a license plate rate design for network upgrades<sup>9</sup> that SPP has since replaced with participant funding and regional cost allocation for Network Upgrades under Attachments J and Z. Under Attachments J and Z, only customers subsequently using and/or benefiting from the additional capacity created by a Network Upgrade will pay for the Network Upgrade funded by the generator. WFEC has failed to explain how any assignment of costs to local load customers in the license plate transmission pricing zone where the Network Upgrades are located, based on use of or benefits from Network Upgrades under Attachments J and Z, would constitute an improper subsidy. Moreover, as we also stated in the January 2008 Order (at P 34), a claim of a loss of point-to-point revenues does not drive the Commission’s interconnection policy for independent entities.

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<sup>7</sup> January 2008 Order, 122 FERC ¶ 61,060 at P 33.

<sup>8</sup> WFEC Rehearing Request at 13.

<sup>9</sup> *Id.* n.36.

13. Third, we disagree with WFEC's contention that rejecting SPP's proposal to revise Attachment Z to exclude Attachment Facilities from financial reimbursement under Attachment Z is inconsistent with Commission policy to grant "independent entity variations" from the Commission's *pro forma* LGIP and LGIA. As we noted in the January 2008 Order, the Commission allows "interconnection pricing policies implemented by independent Transmission Providers 'in which the Interconnection Customer bears the costs of all facilities and upgrades that would not be needed but for the interconnection of the new Generating Facility and receives valuable transmission rights in return. . . .'"<sup>10</sup> SPP's proposed direct assignment approach would have abandoned the Order No. 2003 crediting approach but would not have provided an Interconnection Customer with any corresponding transmission rights for its Network Upgrade investment, contrary to the Commission's policy on "independent entity variations." In addition, SPP failed to show that its proposal was needed to address a specific regional need, as is required in instances where the "independent entity variation" is granted.<sup>11</sup>

### C. SPP's Compliance Filing

14. The January 2008 Order upheld SPP's proposal under which Interconnection Customers will pay the "but for" costs of the interconnection and in return receive a valuable right to future revenues when the Network Upgrades funded by the customer are used by others. The Commission agreed with SPP that the right to receive these revenues on a more accelerated basis than outlined in Order No. 2003 benefits Interconnection Customers that fund upgrades.<sup>12</sup> However, the Commission concluded that this result was not spelled out explicitly in Attachment Z. Thus, we directed SPP to modify Attachment Z to clarify that Network Upgrades associated with generator interconnection requests are eligible for crediting under Attachment Z in a manner similar to the financial compensation process used for subsequent incremental use of Economic Upgrades.<sup>13</sup>

15. On March 3, 2008, SPP submitted its compliance filing modifying Attachment Z in response to the January 2008 Order. SPP requests an effective date of November 1, 2007, consistent with the January 2008 Order. In its comments, WFEC states that, subject to its pending rehearing request, it supports SPP's compliance filing as it relates to the crediting of the costs of network upgrades associated with generator interconnections.

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<sup>10</sup> *Id.* P 30, quoting Order No. 2003 at P 695.

<sup>11</sup> *See* Order No. 2003 at P 822-824.

<sup>12</sup> January 2008 Order, 122 FERC ¶ 61,060 at P 30.

<sup>13</sup> *Id.* P 31.

16. Based on our review, SPP's compliance filing satisfies the directives of the January 2008 Order, and thus we will accept SPP's proposed compliance filing, to become effective November 1, 2007.

The Commission orders:

(A) WFEF's request for rehearing is hereby denied, as discussed in the body of this order.

(B) SPP's compliance filing is hereby accepted for filing, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.