

162 FERC ¶ 61,215  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Neil Chatterjee,  
Robert F. Powelson, and Richard Glick.

Southwest Power Pool, Inc.

Docket No. ER18-99-000

ORDER ACCEPTING AND SUSPENDING PROPOSED TARIFF REVISIONS AND  
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued March 15, 2018)

1. On October 18, 2017, Southwest Power Pool, Inc. (SPP) submitted proposed revisions to its Open Access Transmission Tariff (Tariff) to add an annual transmission revenue requirement (ATRR) and implement a formula rate template and implementation protocols for transmission service using the facilities of South Central MCN LLC (South Central) when South Central transfers functional control of the transmission facilities that it proposes to acquire from the City of Nixa, Missouri (Nixa Assets) to SPP. In this order, we accept and suspend for a nominal period SPP's proposed revisions to its Tariff, to become effective the first day of the month after the date on which South Central acquires the Nixa Assets, as proposed in Docket No. EC17-126-000, subject to refund and subject to the outcome of the ongoing proceedings in Docket Nos. ER15-2594, ER17-953 and EL18-16, and establish hearing and settlement judge procedures.

**I. Background**

**A. SPP's Zonal Construct**

2. SPP's footprint is separated into a number of transmission pricing zones and the Tariff specifies a zonal ATRR for each zone that is based on the sum of the ATRR for each transmission owner in the zone.<sup>1</sup> The rates for Network Integration Transmission Service (network service) in a transmission pricing zone are calculated by multiplying a customer's percentage share of total load in the zone (i.e., its load-ratio share) by the zonal ATRR.<sup>2</sup> When a new transmission owner is added to an existing transmission pricing zone, its ATRR for transmission facilities in the zone and any associated load not

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<sup>1</sup> See SPP Transmittal at 2; SPP, Tariff at Attachment H.

<sup>2</sup> See SPP, Tariff, pt. III, § 34.1 Monthly Demand Charge (3.0.0).

already included in the zonal load are added to the existing zone's zonal ATRR and total load. Therefore, the addition of a new transmission owner to an existing transmission pricing zone will change network service rates for existing customers, unless the average cost of the new transmission owner's transmission system (i.e., its ATRR divided by its load) is exactly the same as the existing zone's average cost. Rates for Point-to-Point transmission service are also based on the zonal ATRR, and are set forth in Attachment T of the Tariff.<sup>3</sup>

### **B. South Central's Formula Rate**

3. On October 29, 2015, the Commission conditionally accepted South Central's proposed formula rate template and formula rate implementation protocols to establish a mechanism to recover costs associated with facilities in SPP that South Central intended to own in the future, to be effective once the template and protocols are filed with the Commission to become part of the SPP Tariff.<sup>4</sup> The Commission also set South Central's proposed return on equity (ROE) for hearing and settlement judge procedures.<sup>5</sup> On January 27, 2017, the Commission approved a settlement establishing the ROE to be used in South Central's formula rate.<sup>6</sup> Revisions implementing the terms of the settlement were accepted for filing on December 29, 2017.<sup>7</sup>

4. In response to directives set forth in the October 2015 Order, South Central submitted a compliance filing on November 30, 2015, in Docket No. ER15-2594-003, containing proposed revisions to its formula rate template and implementation protocols.<sup>8</sup> On February 9, 2017, South Central filed, in Docket No. ER17-953-000, proposed revisions to the affiliate cost allocation provisions in its distribution formula rate

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<sup>3</sup> See SPP Transmittal at 2.

<sup>4</sup> *South Central MCN LLC*, 153 FERC ¶ 61,099, at P 1 (2015) (October 2015 Order), *order on reh'g*, 154 FERC ¶ 61,271 (2016).

<sup>5</sup> October 2015 Order, 153 FERC ¶ 61,099 at P 45.

<sup>6</sup> *South Central MCN LLC*, 158 FERC ¶ 61,073 (2017).

<sup>7</sup> *South Central MCN LLC*, Docket No. ER17-1046-000 (Dec. 29, 2017) (delegated letter order).

<sup>8</sup> South Central, Compliance Filing, Docket No. ER15-2594-003 (filed Nov. 30, 2015) (November 30 Filing).

protocols and transmission formula rate protocols.<sup>9</sup> On March 3, 2017, South Central filed a supplement to its February 9 Filing to explain that it submitted the February 9 Filing's proposed revisions in Docket No. ER17-953-000 because it needed to create a new eTariff record to implement the proposed revisions to the distribution formula rate protocols, but that, in doing so, the February 9 Filing's proposed revisions to the transmission formula rate protocols were not reflected in Docket No. ER15-2594-003 due to limitations in the eTariff system.<sup>10</sup> South Central explained that it intended that the proposed revisions to the distribution formula rate protocols and transmission formula rate protocols be considered by the Commission together. Thus, South Central requested that any determination in Docket No. ER17-953-000 be subject to the outcome of Docket No. ER15-2594.

5. On October 19, 2017, the Commission issued an order that, among other things: (1) accepted, subject to condition, South Central's November 30 Filing in Docket No. ER15-2594-003; (2) instituted a paper hearing proceeding pursuant to section 206 of the Federal Power Act (FPA)<sup>11</sup> concerning South Central's proposed transmission formula rate protocols in Docket No. EL18-16-000; (3) accepted, subject to refund, and subject to the outcome of Docket Nos. ER15-2594 and EL18-16, South Central's February 9 Filing in Docket No. ER17-953.<sup>12</sup> On November 20, 2017, South Central filed a request for rehearing or clarification of the October 2017 Order, which remains pending.<sup>13</sup> Also on November 20, 2017, South Central filed proposed revisions to its transmission formula rate template and protocols to comply with the directives in the October 2017 Order.<sup>14</sup> The Commission has not yet acted on the November 20 Compliance Filing.

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<sup>9</sup> South Central, Tariff Filing, Docket No. ER17-953-000, at 1 (filed Feb. 9, 2017) (February 9 Filing).

<sup>10</sup> South Central, Supplemental Filing, Docket No. ER17-953-000, at 1 (filed March 3, 2017).

<sup>11</sup> 16 U.S.C. § 824e (2012).

<sup>12</sup> *South Central MCN LLC*, 161 FERC ¶ 61,053, at PP 2-4; Ordering Paragraphs (A)-(B), (D)-(E) (2017) (October 2017 Order).

<sup>13</sup> South Central, Request for Rehearing or Clarification, Docket Nos. ER15-2594-005 and ER17-953-001 (filed Nov. 20, 2017).

<sup>14</sup> South Central, Compliance Filing, Docket Nos. ER15-2594-006 and ER17-953-002 (filed Nov. 20, 2017) (November 20 Compliance Filing).

## II. SPP's Filing

6. In the instant filing, SPP proposes to revise its Tariff to incorporate South Central's previously-accepted formula rate and implementation protocols. SPP explains that the proposed Tariff revisions incorporate South Central's formula rate as populated with the ATRR for certain transmission facilities that South Central proposes to acquire from the City of Nixa, Missouri (Nixa Assets).<sup>15</sup> According to SPP, the Nixa Assets consist of approximately 10 miles of 69 kV transmission lines and associated transmission facilities.<sup>16</sup> SPP states that the Nixa Assets interconnect to facilities in two SPP transmission pricing zones, the Southwestern Power Administration (Southwestern) zone (Zone 10), and the City Utilities of Springfield zone (Zone 3), but the assets are not currently operated by SPP nor is the cost of service for the assets included in SPP rates. SPP proposes to include the Nixa Assets and their associated ATRR in SPP Pricing Zone 10, which currently consists of transmission facilities owned by Southwestern.<sup>17</sup> SPP states that it used its newly-revised Transmission Owner Zonal Placement Process<sup>18</sup> to review the zonal placement of the Nixa Assets and the rate impacts of such zonal placement. SPP states that the Transmission Owner Zonal Placement Process also sets forth notice and information exchange requirements for potential new transmission owners and establishes a negotiation period to address potential cost shifts.<sup>19</sup> SPP states

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<sup>15</sup> South Central filed an application pursuant to section 203 of the FPA, 16 U.S.C. § 824b(a)(1), seeking authorization to acquire the Nixa Assets, which South Central will transfer to SPP's functional control immediately upon closing. *See* SPP Transmittal at 3; South Central MCN LLC, Application for Authorization to Acquire Transmission Facilities Pursuant to Section 203 of the Federal Power Act and Request for Certain Waivers, Docket No. EC17-126-000 (filed June 1, 2017). In an order in Docket No. EC17-126-000 being issued concurrently with this order, the Commission authorizes the transaction.

<sup>16</sup> *See* SPP Transmittal, Ex. No. SPP-1 at 5.

<sup>17</sup> SPP Transmittal at 6.

<sup>18</sup> SPP states that the Transmission Owner Zonal Placement Process was developed through the SPP stakeholder process and endorsed by the SPP Board of Directors on July 25, 2017. *Id.* at 8.

<sup>19</sup> SPP Transmittal, Ex. No. SPP-3.

that the Nixa Assets are the first facilities to be subject to the Transmission Owner Zonal Placement Process.<sup>20</sup>

7. SPP explains that, in determining zonal placement for a new transmission owner, SPP first determines whether the transmission facilities and ATRR of a new transmission owner should be placed in a new, separate zone. SPP states that, in order to make this determination, it applies the following criteria: (i) whether the new transmission owner's ATRR is less than the smallest three-year average zonal ATRR; (ii) the extent to which the new transmission owner's facilities substantively increase the SPP regional footprint; and (iii) the nature of the transmission service used to serve load prior to the expected transfer date.<sup>21</sup> If SPP determines that a new zone should not be established, it then determines in which existing zone the transmission facilities of the new transmission owner should be placed. In order to make this determination, SPP applies the following criteria: (i) the extent to which the new transmission owner's facilities are embedded in an existing zone; (ii) the extent to which such facilities are integrated within an existing zone; and (iii) the nature of the transmission service used to serve load prior to the expected transfer date. SPP states that other factors, such as regulatory conditions or Tariff requirements, also may be considered when determining zonal placement of a new transmission owner.<sup>22</sup>

8. SPP states that analysis of its internal criteria indicated that it would not be appropriate to place the Nixa Assets in a separate zone. SPP then explains that application of its remaining criteria identified two potential zones for placement of the Nixa Assets – Zone 3 and Zone 10 – but that the criteria did not indicate clearly in which of the two zones the Nixa Assets should be placed. SPP maintains that, in this case, the Tariff indicates that Zone 10 is the most appropriate zone for the Nixa Assets because the load served by the Nixa Assets (Nixa Load) is served by Zone 10.<sup>23</sup>

9. Specifically, SPP states that transmission service within Zone 10 is governed by Attachment AD of the Tariff, which contains provisions applicable to SPP's administration of transmission service in Zone 10 that is provided under the SPP Tariff, the Southwestern Open Access Transmission Service Tariff (Southwestern Tariff) and

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<sup>20</sup> SPP Transmittal at 8.

<sup>21</sup> *Id.* at 9.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

grandfathered contracts for the delivery of power to Southwestern's customers. SPP explains that Article II of Attachment AD contains the following provision:

It shall be the intent of this Article II that once point-to-point and network transmission transactions specifically expire or are terminated, they shall be allowed to transition to the SPP Tariff; Provided, [t]hat, any contract service to metered loads or Network Service under Southwestern's Tariff that are converted to transmission service under the SPP Tariff shall be considered in [Zone 10].<sup>24</sup>

10. SPP states that the Nixa Load falls under this provision of Article II of Attachment AD because when the Nixa Load transitioned to network service under the SPP Tariff, it was considered to be in Zone 10. SPP states that the City of Nixa transitioned its load from the Southwestern Tariff to SPP network service in Zone 10 on June 1, 2017. Accordingly, SPP asserts that the transmission facilities should follow the load that they serve to the same pricing zone.<sup>25</sup>

11. SPP asserts that its internal criteria, used in conjunction with the special Tariff requirements applicable to load like the Nixa Load that converts from service under the Southwestern Tariff to service under the SPP Tariff, requires placement of the Nixa Assets in Zone 10.<sup>26</sup> SPP states that it is clear that the size of the Nixa Assets ATRR and their geography dictate that the Nixa Assets should not be placed in a new zone. SPP further contends that the embeddedness, integration, and transmission service criteria indicate that Zone 10 is an appropriate candidate for zonal placement of the Nixa Assets. Finally, SPP argues that the Tariff requirement that the Nixa Load be located in Zone 10 indicates that placement of the Nixa Assets in Zone 10 is just and reasonable.<sup>27</sup>

12. SPP states that after it determined that the Nixa Assets should be placed in existing Zone 10, it conducted a cost shift and rate impact analysis pursuant to its Transmission Owner Zonal Placement Process. According to SPP, the analysis shows that inclusion of the Nixa Assets in Zone 10 will increase the rates in Zone 10 for network service under Schedule 9 of the Tariff by approximately 46 percent and rates for Point-to-Point

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<sup>24</sup> *Id.* at 9-10.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 10.

<sup>27</sup> *Id.*

transmission service under Schedule 7 of the Tariff by approximately 67 percent.<sup>28</sup> These increases result from South Central's ATRR of \$1.363 million being added to the current Southwestern ATRR of \$2.957 million for a total of \$4.320 million for the Zone 10 ATRR.<sup>29</sup>

13. SPP states that while these rate increases appear high, they are a result of Zone 10's small size, and thus even a small number of assets and associated ATRR would result in a large percentage rate increase. SPP notes that much of Southwestern's ATRR is not recovered through transmission service provided under the SPP Tariff because Southwestern delivers federal preference power from hydro-electric resources to cooperative, municipal, and joint action agency customers, and because Southwestern provides non-federal transmission service to many customers served under grandfathered agreements that are not under the SPP Tariff. SPP asserts that these grandfathered agreements will ultimately expire, and when they do, the affected customers will be required to obtain transmission service from SPP. SPP argues that these expirations will increase Zone 10's load in the future and decrease the effect of including the Nixa Assets in Zone 10 over time.<sup>30</sup>

14. Specifically, SPP explains that Southwestern has \$12.573 million of ATRR attributable to load in Zone 10 that is served under grandfathered agreements with Southwestern. SPP states that eventually most of this load served under grandfathered agreements will transition to SPP transmission service, and that several of the grandfathered agreements will expire within a few years. As an example, SPP explains that, if 200 MW of load served under grandfathered agreements were to transition to SPP transmission service, the addition of South Central's ATRR for the Nixa Assets would increase Zone 10's ATRR by approximately 21 percent, rather than 46 percent.<sup>31</sup>

15. SPP also asserts that its proposed inclusion of the Nixa Assets is just and reasonable based on the benefits the facilities will provide to the SPP region and Commission policy to promote participation in regional transmission organizations. In particular, SPP argues that placing the Nixa Assets under SPP's functional control will

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<sup>28</sup> SPP explains that there will be a higher increase to Point-to-Point transmission rates because Zone 10 has an unusually large amount of Point-to-Point load relative to network service load, which results in a higher increase under SPP's Point-to-Point rate calculation. *Id.* at 13.

<sup>29</sup> *Id.* at 12-13.

<sup>30</sup> *Id.* at 11-13.

<sup>31</sup> *Id.* at 12.

further the Commission's goals of promoting transmission-only company ownership of transmission facilities and increasing the participation of public power in SPP transmission planning. SPP also contends that adding the Nixa Assets will fill in a gap in the SPP footprint, and therefore allow for more efficient and cost-effective transmission planning, including the identification of zonal transmission solutions to increase system reliability and reduce congestion.<sup>32</sup>

16. SPP requests waiver of any provisions of section 35.13 of the Commission's regulations, to the extent necessary, that may be deemed to require cost support in the form of cost-of-service statements for the proposed Tariff revisions. SPP explains that the proposed Tariff revisions do not modify applicable Commission-approved rates, but implement a formula rate template.<sup>33</sup>

### **III. Notice of Filing and Responsive Pleadings**

17. Notice of SPP's October 18, 2017 filing was published in the *Federal Register*, 82 Fed. Reg. 49,606 (2017), with interventions and protests due on November 8, 2017.

18. The following entities filed timely motions to intervene: Westar Energy, Inc. (Westar); Southwestern; American Electric Power Service Corporation, on behalf of its affiliates Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, AEP); Arkansas Electric Cooperative Corporation; NextEra Energy Transmission Southwest, LLC; Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (jointly, KCP&L); People's Electric Cooperative; City Utilities of Springfield, Missouri; Sunflower Electric Power Corporation (Sunflower); Mid-Kansas Electric Company, LLC; Basin Electric Power Cooperative; KAMO Electric Cooperative, Inc.; Associated Electric Cooperative, Inc.; Xcel Energy Services Inc., on behalf of its utility operating company affiliate Southwestern Public Service Company (jointly, Xcel Energy); and the City of Nixa, Missouri. Western Farmers Electric Cooperative filed a motion to intervene out-of-time.

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<sup>32</sup> *Id.* at 15.

<sup>33</sup> *Id.* at 19.



19. Certain SPP Transmission Owners (Specified TOs),<sup>34</sup> ARKMO Cities,<sup>35</sup> and South Central filed timely motions to intervene and comments. Nebraska Public Power District (NPPD) filed a timely motion to intervene, comments and protest.

20. On November 22, 2017, SPP filed a limited answer to comments and protests. On January 10, 2018, South Central filed a letter requesting that the Commission expedite consideration of SPP's proposed Tariff revisions. On January 26, 2018, ARKMO Cities filed a letter in response to South Central's January 10, 2018 letter.<sup>36</sup>

#### **IV. Discussion**

##### **A. Procedural Matters**

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

22. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), we grant Western Farmers Electric Cooperative's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept SPP's answer because it has provided information that assisted us in our decision-making process.

##### **B. Responsive Pleadings**

###### **1. Comments and Protest**

24. Specified TOs take issue with the rate impact analysis that SPP conducted pursuant to its Transmission Owner Zonal Placement Process. Specified TOs argue that SPP's calculation of a 46 percent rate increase appears to be a simple comparison of total

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<sup>34</sup> Specified TOs are the following entities: AEP, KCP&L, Sunflower, Mid-Kansas Electric Company, Inc., Westar, and Xcel Energy.

<sup>35</sup> ARKMO Cities are the following entities: Paragould Light Water & Cable; Paragould Light Commission; Poplar Bluff Municipal Utilities; Kennett Board of Public Works; City of Piggott Municipal Light, Water & Sewer; and the City of Malden.

<sup>36</sup> For purposes of this filing, ARKMO Cities does not include Paragould Light Water & Cable.

zonal ATRR before and after South Central's integration. They assert that because network service rates are based on ATRR and load ratio share, to accurately determine the rate impact, it is necessary to evaluate the ATRR and any associated changes in load. Specified TOs also contend that the rate impact on existing Zone 10 customers is further obfuscated by the fact that the City of Nixa load transitioned to SPP network service in June of 2017 but the transfer of the City of Nixa's transmission facilities and recovery of its ATRR through Zone 10 rates is not occurring until now. Further, Specified TOs argue that SPP attempts to downplay the rate impact by focusing on the expiration of grandfathered agreements in Zone 10, but they assert that speculation about future events is not relevant to determining the actual cost shift that will occur based on the request in this proceeding. Specified TOs also argue that, to the extent that SPP attempts to justify the rate increase to existing customers, it does not quantify any alleged benefits, and thus provides no basis on which to weigh costs and benefits. With regard to SPP's Transmission Owner Zonal Placement Process, Specified TOs contend that this proceeding highlights that this process does not actually mitigate or address cost shifts caused by adding new transmission owners to existing zones.<sup>37</sup>

25. NPPD asserts that SPP's zonal placement decisions are based upon SPP's application of a series of internally-developed criteria, which are not included or otherwise referenced in the new SPP Transmission Owner Zonal Placement Process, and which have not been subject to the SPP stakeholder process, or otherwise filed with the Commission for approval. NPPD also contends that the criteria used by SPP in this proceeding differ meaningfully from the criteria it applied previously, because the criteria used in this case now considers "the nature of transmission service to serve load prior to the expected transfer date."<sup>38</sup> NPPD states that it supports the use of such criterion, which SPP did not apply in prior zonal placement cases. NPPD states that it opposes the new criteria because they fail to require SPP to analyze cost shifts prior to zonal placement and to consider the need to avoid or minimize cost shifts as a factor in determining the appropriate zonal placement.<sup>39</sup> NPPD also states that it is concerned that a Commission ruling in this proceeding may affect the outcome of the Commission's review of a pending case involving SPP's application of the previous set of internally-developed criteria governing the placement of a new transmission owner in the NPPD Zone (i.e., Zone 17) in SPP.<sup>40</sup>

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<sup>37</sup> Specified TOs Comments at 1-3.

<sup>38</sup> NPPD Comments and Protest at 5 (citing SPP Transmittal at 9).

<sup>39</sup> *Id.* at 3-6.

<sup>40</sup> *Id.* at 4-5 (citing *Sw. Power Pool, Inc.*, 158 FERC ¶ 63,004 (2017) (Initial Decision currently pending on exceptions before the Commission.)).

26. ARKMO Cities argue that, while South Central's formula rate was previously accepted by the Commission, Zone 10 customers were not parties to that docket or to South Central's joint offer of settlement, and thus the settlement is not binding on ARKMO Cities. Further, ARKMO Cities argue that the instant filing does not provide sufficient evidence of the actual rate impact that adding the Nixa Assets to the Zone 10 rate would have on each city currently in Zone 10. They assert that, without evidence of the rate impact to each of the current Zone 10 cities, regardless of SPP's load growth prediction, it is factually impossible to ascertain whether the rate impact is just, reasonable, and not unduly discriminatory. ARKMO Cities further argue that SPP's projected cost increase to the Zone 10 customers is not commensurate with any potential economic benefit Zone 10 may receive, and that the shifting of legacy transmission asset costs to customers for whom such assets were not intended is contrary to Commission policies.<sup>41</sup>

27. South Central contends that Attachment AD of the Tariff required the City of Nixa to transition its load to SPP service in Zone 10, and thus Zone 10 is the reasonable place in which to place the Nixa Assets, which serve as the delivery points for the load.<sup>42</sup> South Central asserts that placing the Nixa Assets in a zone other than Zone 10 would create a disconnect between the Nixa Load and the associated Nixa Assets and violate the Commission's cost causation principles.<sup>43</sup> Further, South Central states that if the Nixa Assets were placed in a stand-alone zone, there would not be any load from which to recover South Central's ATRR. In addition, South Central notes that such a new stand-alone zone would be by far the smallest zone in SPP, even smaller than the current Zone 10, which is already the smallest zone by both ATRR and load.<sup>44</sup> South Central explains that although Zone 10 has a total ATRR of nearly \$50 million, only \$15 million of that ATRR is associated with non-federal transmission service, and of that \$15 million, only \$2.957 million is currently being recovered through transmission service provided under the SPP Tariff. South Central states that the difference between \$2.957 and \$15 million represents the ATRR attributable to load located in Zone 10 that is served under grandfathered agreements with Southwestern. South Central asserts that, as a result, the addition of even a small amount of assets and associated ATRR, like the \$1.363 million ATRR associated with the Nixa Assets, results in a relatively high zonal rate impact when measured as a percentage rate increase, even when the real dollars at issue are

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<sup>41</sup> ARKMO Cities Comments at 6-7.

<sup>42</sup> South Central Comments at 2, 4.

<sup>43</sup> *Id.* at 7.

<sup>44</sup> *Id.* at 5-6.

small.<sup>45</sup> South Central notes that South Central's ATRR of just \$1.363 million is substantially less than the smallest three-year average zonal ATRR, and the facilities that comprise the Nixa Assets, while connecting Zone 10 and Zone 3, do not substantively increase SPP's regional footprint.<sup>46</sup>

28. South Central also argues that, when identifying zonal rate impacts, the Commission should consider expected changes in Zone 10 that will influence the rate impact analysis over time. South Central notes that SPP expects approximately 200 MW of load will switch to SPP transmission service due to expiring grandfathered contracts in the next few years. South Central argues that eventually, most of the 872 MW of load taking service under grandfathered agreements with Southwestern will transition to SPP service in Zone 10.<sup>47</sup>

29. South Central contends that in this case, identifying the total rates paid by customers in Zone 10 is necessary to get an accurate view of the zonal rate impacts. South Central states that while SPP limited its calculations to Schedule 9 for network service customers, and Schedule 7 for Point-to-Point customers, all customers in Zone 10 also pay Schedule 1, Schedule 1A and Schedule 12 charges. South Central argues that when these additional charges are included in the calculations, the impacts on SPP customer rates in Zone 10 fall measurably. South Central asserts that, when including all schedules, the rate impacts fall between approximately 10 to 30 percent.<sup>48</sup>

## 2. SPP Answer

30. SPP states that it did not fail to calculate the impact of adding load, as Specified TOs suggest, because South Central is not a load-serving entity, and the Nixa Load has already initiated SPP service in Zone 10. Thus, SPP asserts that there was no change in load associated with the integration of the Nixa Assets into Zone 10 to include in the rate impact calculations. SPP further argues that the percentage of the rate increase for Zone 10 customers would have been lower than what SPP calculated if SPP had excluded the Nixa Load from Zone 10 in the calculation of cost for the base case. Accordingly, SPP contends that the information it supplied did not understate the rate impacts as Specified TOs seem to imply. In response to ARKMO Cities' assertion that the filing is incomplete because SPP did not provide sufficient evidence of the actual rate impact that adding the

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<sup>45</sup> *Id.* at 8-9.

<sup>46</sup> *Id.* at 6.

<sup>47</sup> *Id.* at 9-10.

<sup>48</sup> *Id.* at 10-13.

Nixa Assets to the Zone 10 rate would have on each city currently in Zone 10, SPP notes that it provided such information directly to each SPP transmission customer in Zone 10 during the Transmission Owner Zonal Placement Process, including to each of the ARKMO Cities. SPP also provides this information in its answer.<sup>49</sup>

31. In response to ARKMO Cities' argument that it is contrary to Commission policies to shift legacy transmission costs to customers for whom those assets were not intended, SPP asserts that the Nixa Assets were first connected to the transmission system of Southwestern, which is now in Zone 10, and it was not until several decades later that the Nixa Assets were extended to connect with the transmission system of City Utilities of Springfield. SPP also contends that the general policy arguments advanced by Specified TOs and NPPD regarding cost shifts that may occur when new transmission owners are added to existing zones are outside the scope of this proceeding.<sup>50</sup>

### **C. Commission Determination**

32. We find that SPP's proposed Tariff revisions raise issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures we order below.

33. Our preliminary analysis indicates that SPP's proposed Tariff revisions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept and suspend for a nominal period the proposed Tariff revisions, to become effective the first day of the month after the date on which South Central acquires the Nixa Assets as proposed in Docket No. EC17-126-000, subject to refund and, as discussed further below, subject to the outcome of the ongoing proceedings in Docket Nos. ER15-2594, ER17-953 and EL18-16, and set them for hearing and settlement judge procedures.

34. To the extent that ARKMO Cities dispute provisions of South Central's unpopulated formula rate template and implementation protocols that were approved in Docket Nos. ER15-2594 and ER17-953, we dismiss those arguments as outside the scope of this proceeding. In this proceeding, SPP does not propose any changes to the previously-approved provisions of the formula rate template and protocols. Instead, SPP proposes Tariff revisions that will populate the previously-approved formula rate template with specific costs, and incorporate the template and protocols into the SPP Tariff. Accordingly, the merits of the previously-approved provisions of the unpopulated formula rate template and protocols are not before the Commission in this proceeding,

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<sup>49</sup> SPP Answer at 3-5.

<sup>50</sup> *Id.* at 6-7.

and we dismiss arguments regarding those provisions as outside the scope of this proceeding.

35. As noted above, South Central's formula rate implementation protocols are the subject of an ongoing proceeding pursuant to section 206 of the FPA in Docket No. EL18-16-000. In addition, certain proposed revisions to South Central's formula rate template and implementation protocols are pending in compliance filings before the Commission in Docket Nos. ER15-2594-006 and ER17-953-002. South Central also filed a request for rehearing or clarification of the October 2017 Order that included those compliance directives, and this request remains pending before the Commission. Accordingly, certain provisions of South Central's previously-approved formula rate template and implementation protocols could change based on the outcome of those proceedings. Therefore, because SPP's proposed Tariff revisions in this proceeding would incorporate South Central's previously-approved formula rate template and implementation protocols into the SPP Tariff, and certain provisions of South Central's formula rate template and implementation protocols could change based on the outcome of those proceedings, our acceptance of SPP's proposed Tariff revisions in this proceeding is also subject to the outcome of the ongoing proceedings in Docket Nos. ER15-2594, ER17-953, and EL18-16. Therefore, we remind SPP that it must submit a future compliance filing in the instant proceeding to amend its proposed Tariff revisions if such amendment is necessary to make the revisions consistent with the Commission's directives in Docket Nos. ER15-2594, ER17-953, and EL18-16, as applicable.

36. While we are setting SPP's proposed Tariff revisions for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures commence. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>51</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.<sup>52</sup> The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of

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<sup>51</sup> 18 C.F.R. § 385.603 (2017).

<sup>52</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

37. We grant SPP's requested waiver of section 35.13 of the Commission's regulations regarding the provision of cost-of-service statements, consistent with our prior approval of formula rates.<sup>53</sup> However, to the extent that parties at the hearing can show the relevance of additional information needed to evaluate the proposal, the Administrative Law Judge can provide for appropriate discovery of such information.

The Commission orders:

(A) SPP's proposed Tariff revisions are hereby accepted and suspended for a nominal period, to become effective the first day of the month after the date on which South Central acquires the Nixa Assets as proposed in Docket No. EC17-126-000, subject to refund and subject to the outcome of the ongoing proceedings in Docket Nos. ER15-2594, ER17-953 and EL18-16, as discussed in the body of the order.

(B) SPP's request for waiver of section 35.13 of the Commission's regulations is hereby granted, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of SPP's proposed Tariff revisions, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2017), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

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<sup>53</sup> See, e.g., *South Central MCN LLC*, 153 FERC ¶ 61,099 at P 141, *order on reh'g*, 154 FERC ¶ 61,271; *Xcel Energy Transmission Development Co., LLC*, 149 FERC ¶ 61,181, P 54 (2014).

(E) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission. Chairman McIntyre is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.