

163 FERC ¶ 61,036  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Kevin J. McIntyre, Chairman;  
Cheryl A. LaFleur, Neil Chatterjee,  
Robert F. Powelson, and Richard Glick.

Southwest Power Pool, Inc.

Docket No. ER17-2229-001

ORDER DENYING REHEARING

(Issued April 19, 2018)

1. On August 2, 2017, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> Southwest Power Pool, Inc. (SPP) submitted proposed revisions to Attachment J, Section III.D.1 of the SPP Open Access Transmission Tariff (Tariff) to change the frequency of SPP's regional cost allocation review (RCAR) analysis from at least once every three years to at least once every six years. On September 29, 2017, the Commission accepted the proposed Tariff revisions, effective October 1, 2017.<sup>3</sup>

2. On October 1, 2017, Sunflower Electric Power Corporation (Sunflower) and Mid-Kansas Electric Company, LLC (Mid-Kansas) filed a request for rehearing. As discussed below, we deny this request for rehearing.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2017).

<sup>3</sup> *Sw. Power Pool, Inc.*, 160 FERC ¶ 61,138 (2017) (September 29 Order).

## I. Background

3. SPP's current regional transmission cost allocation method is known as the Highway/Byway methodology.<sup>4</sup> SPP's Tariff requires it to conduct the RCAR analysis, which reviews the reasonableness of the regional allocation method and factors and the zonal allocation method under the Highway/Byway methodology. Previously, SPP was required to conduct an RCAR analysis at least once every three years.<sup>5</sup>

4. In 2016, following the completion of the second RCAR analysis, SPP and its stakeholders determined that the frequency of the RCAR analysis should be modified from at least once every three years to at least once every six years.<sup>6</sup> SPP proposed this revision to save costs, noting it and its stakeholders had spent over \$1.5 million on outside consulting resources alone.<sup>7</sup> Further, SPP stated that the expansion of transmission in the SPP footprint had slowed and the volume and cost of transmission facilities being reviewed was not as significant as it was initially.<sup>8</sup> Finally, SPP stated that most SPP zones were above a 1-to-1 benefit to cost ratio as measured by the RCAR analysis, and only a single zone was below the prescribed threshold set by SPP

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<sup>4</sup> Under SPP's Highway/Byway cost allocation methodology, the cost of base plan upgrades are allocated as follows: (1) projects operating at or above 300 kV—100 percent on a regional postage stamp basis (Highway facilities); (2) projects operating above 100 kV and below 300 kV—one-third on a regional postage stamp basis and two-thirds to the zone in which the project is located (Byway facilities); and (3) projects operating at or below 100 kV—100 percent to the zone in which the project is located. For base plan upgrades that are associated with designated resources that are wind generation resources where the upgrade is located in a different zone than the point of delivery, the Highway/Byway methodology allocates costs as follows: (1) projects operating at or above 300 kV—100 percent on a regional postage stamp basis; and (2) projects operating at less than 300 kV (including those operating at or below 100 kV)—two-thirds on a regional post-stamp basis and one-third directly to the transmission customer. *See Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252 (2010) (Highway/Byway Order), *order on reh'g*, 137 FERC ¶ 61,075 (2011).

<sup>5</sup> *See* SPP Tariff, Attachment J, Section III.D.

<sup>6</sup> SPP Transmittal at 3.

<sup>7</sup> *Id.* at 3-4.

<sup>8</sup> *Id.* at 4.

stakeholders, which is a 0.8 benefit to cost ratio.<sup>9</sup> Accordingly, SPP proposed revisions to Attachment J, Section III.D.1 of the Tariff, which specifies the frequency of the RCAR analysis.<sup>10</sup>

5. Sunflower and Mid-Kansas filed a protest, arguing that SPP had not shown that the proposed change to the timing of the RCAR analysis is just and reasonable.<sup>11</sup> Sunflower and Mid-Kansas contended that the three year frequency of the RCAR analysis was relied upon to initially justify the Highway/Byway cost allocation, and that SPP failed to explain why that approach was no longer warranted. In addition, Sunflower and Mid-Kansas argued that SPP stakeholders have raised various issues with the RCAR analysis study assumptions, analysis, and results, and that it is unreasonable to decrease the frequency of the RCAR analysis in light of these issues with the RCAR analysis process.<sup>12</sup>

6. In the September 29 Order, the Commission accepted SPP's proposed Tariff revisions as just and reasonable. The Commission noted that the revised Tariff does not prevent SPP from conducting an RCAR analysis more frequently than once every six years and includes avenues for SPP or the Regional State Committee to initiate an RCAR analysis at any time.<sup>13</sup> In addition, the Commission stated that the Tariff provides that any member company that feels that it has an imbalanced cost allocation may request relief through the Markets and Operations Policy Committee.<sup>14</sup> The Commission explained that, in light of these provisions, entities are not necessarily forced to wait for the required once every six years RCAR analysis if they believe they are being allocated costs inequitably.<sup>15</sup>

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<sup>9</sup> *Id.* See also SPP, *Regional Cost Allocation Review Report for RCAR II*, at 27 (July 2016), <https://www.spp.org/documents/46235/rcar%202%20report%20final.pdf>.

<sup>10</sup> SPP Transmittal at 3-5.

<sup>11</sup> Sunflower and Mid-Kansas Protest at 1.

<sup>12</sup> *Id.* at 1-5.

<sup>13</sup> September 29 Order, 160 FERC ¶ 61,138 at P 19 (citing SPP Tariff, Attachment J, Section III.D.1).

<sup>14</sup> *Id.* (citing SPP Tariff, Attachment J, Section III.D.4(ii)).

<sup>15</sup> *Id.* P 23.

7. The Commission disagreed with Sunflower and Mid-Kansas' assertion that the change in the frequency of RCAR analysis (from once every five years to once every three years) was critical to the approval of the Highway/Byway methodology. The Commission found that, in proposing the Highway/Byway methodology, SPP did not indicate how frequently cost-benefit analyses would occur or that a change in the frequency of the review was a basis for approval of the Highway/Byway methodology.<sup>16</sup> Further, the Commission disagreed with Sunflower and Mid-Kansas' assertion that the Commission specifically relied on the increased frequency of review in approving SPP's Highway/Byway methodology.<sup>17</sup>

8. In addition, the Commission found that Sunflower and Mid-Kansas' concerns relating to the study assumptions, analysis, and results of the RCAR analysis were beyond the scope of the proceeding, as SPP was only proposing to change the frequency of the RCAR analysis and was not proposing any changes to the RCAR analysis study assumptions, analysis, or results.<sup>18</sup>

## **II. Request for Rehearing**

9. On rehearing, Sunflower and Mid-Kansas argue that the additional avenues that the Commission found to be available to initiate an RCAR analysis are insufficient to provide assurance that imbalances in cost allocation will be detected in a just and reasonable timeframe. They suggest that, because only SPP or the Regional State Committee can request a more frequent review, Sunflower and Mid-Kansas have no assurance that cost allocation will be sufficiently monitored. Sunflower and Mid-Kansas assert that the ability of a stakeholder to raise concerns with the Market and Operations Policy Committee is an unreasonable basis for extending the RCAR analysis. As they argued in their protest, Sunflower and Mid-Kansas again argue that stakeholders will need to fund a study to justify requests to initiate a more frequent RCAR. Sunflower and Mid-Kansas assert that funding a study would be necessary to present analysis or data in order for the requester's concerns to be addressed by the Market and Operations Policy Committee. Sunflower and Mid-Kansas allege that there is no assurance that the Market and Operations Policy Committee will take any action or initiate an RCAR study. Sunflower and Mid-Kansas also allege that SPP's change in the frequency of the RCAR analysis will have a disproportionate impact on small entities like Sunflower and Mid-Kansas. Sunflower and Mid-Kansas argue that the extension of the RCAR analysis frequency creates the possibility that an unreasonable cost allocation under the

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<sup>16</sup> *Id.* P 24.

<sup>17</sup> *Id.* P 25.

<sup>18</sup> *Id.* P 20.

Highway/Byway methodology will go undetected or remedied for six years. Further, Sunflower and Mid-Kansas argue that the ability to bring a complaint under section 206 of the FPA is inadequate as this will also require Sunflower and Mid-Kansas to set forth evidence to demonstrate the unjust cost allocation, shifting the burden of proof to customers.<sup>19</sup>

10. Sunflower and Mid-Kansas next argue that the Commission ignored the magnitude of base plan upgrades analyzed in the second RCAR study, totaling approximately \$7.8 billion, and the additional transmission investment that is expected to be needed in the future in order to facilitate the delivery of renewable resources within SPP.<sup>20</sup> Sunflower and Mid-Kansas reiterate that it is therefore not the time to reduce the frequency of the RCAR when there is an expected, necessary increase in transmission investment.

11. Additionally, Sunflower and Mid-Kansas disagree with the Commission's interpretation of the statements SPP made to support the Highway/Byway methodology, and argue that the Commission misunderstood the historical context in that proceeding. Sunflower and Mid-Kansas argue that the Commission noted the increased frequency of cost and benefit reviews (from once every five years to once every three years) in approving SPP's Highway/Byway methodology.<sup>21</sup> Sunflower and Mid-Kansas contend that the Commission did not adequately explain why decreasing the RCAR analysis frequency to once every six years will allow for a sufficiently rigorous review or is otherwise just and reasonable.<sup>22</sup>

12. Finally, Sunflower and Mid-Kansas claim that problems with the current RCAR analysis process are not beyond the scope of the current proceeding. Sunflower and Mid-Kansas allege that if the comments regarding problems with the current RCAR analysis expose an unjust and unreasonable allocation of costs, then it is unreasonable that those concerns may go unaddressed for six years rather than within three years.<sup>23</sup>

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<sup>19</sup> Request for Rehearing at 3-4.

<sup>20</sup> *Id.* at 4-5.

<sup>21</sup> *Id.* at 6 (citing Highway/Byway Order, 131 FERC ¶ 61,252 at P 83).

<sup>22</sup> *Id.* at 5-6.

<sup>23</sup> *Id.* at 6-7.

### III. Commission Determination

13. We deny Sunflower and Mid-Kansas' request for rehearing, which reiterates arguments that they previously made in their protest and that the Commission rejected in the September 29 Order. As discussed in the September 29 Order, SPP's proposal to perform an RCAR analysis at least once every six years instead of at least once every three years is just and reasonable given the availability of alternative avenues of relief for disproportionately impacted members, and the fact that to date members have not found it necessary to use these avenues.<sup>24</sup> The reasonableness of SPP's decision is further supported by SPP's desire to avoid the expense of the RCAR analysis and by the fact that a vast majority of SPP zones have been at or above a 1-to-1 benefit to cost ratio.

14. We disagree with Sunflower and Mid-Kansas' claim that the additional avenues that the Commission found to be available to initiate an RCAR analysis (i.e., for SPP or the Regional State Committee to trigger an early RCAR analysis and for a stakeholder to raise concerns with the Market and Operations Policy Committee) are unreasonable. Sunflower and Mid-Kansas have failed to put forth any support for their allegation that the Regional State Committee would be nonresponsive to member companies facing an imbalance in cost allocation. Similarly unsupported is Sunflower and Mid-Kansas' concern that they would need to conduct a study to request relief through the revised Tariff. While we agree that some analysis or data would be necessary to prompt SPP or the Regional State Committee to initiate an off-cycle RCAR, parties could use existing data and studies to support a request. Further, as noted in the Highway/Byway Order, SPP has in the past taken action to address stakeholder concerns related to cost allocation<sup>25</sup> and we expect it will respond in a like manner if presented with evidence the allocation has become inequitable. Sunflower and Mid-Kansas point to nothing in the Tariff imposing such a requirement and, as SPP stated in its answer, no individual transmission owners would be required to conduct a study prior to requesting that SPP perform an RCAR analysis.

15. We also find no merit to Sunflower and Mid-Kansas' claim that \$7.8 billion in current base plan projects and expected future increases in transmission investment to facilitate delivery of renewable resources suggests that the frequency of the RCAR analysis should remain at three years. As noted by SPP in its Transmittal, compared to prior periods the overall pace of increase of transmission costs within the SPP footprint has slowed.<sup>26</sup> Sunflower and Mid-Kansas have not shown that the change in the frequency of the RCAR analysis will make it more likely that Sunflower and Mid-Kansas

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<sup>24</sup> September 29 Order, 160 FERC ¶ 61,138 at PP 3-7, 19.

<sup>25</sup> Highway/Byway Order, 131 FERC ¶ 61,252 at P 83.

<sup>26</sup> SPP Transmittal at 4.

will bear an unreasonable cost allocation due to the increases in transmission investment that they argue will be required to facilitate delivery of renewable resources. Therefore, the scope of what is reviewed in the RCAR analysis does not indicate that the frequency of the RCAR analysis should remain at three years.

16. For the reasons stated in the September 29 Order, we continue to disagree with Sunflower and Mid-Kansas' contention that the increased frequency of cost allocation review played a role in the approval of SPP's Highway/Byway methodology.<sup>27</sup> Moreover, as SPP explained, the expansion of transmission in the SPP footprint has slowed and the volume and cost of transmission facilities are less significant, which indicates that it is reasonable to conduct the RCAR analysis on a less frequent basis.

17. Finally, while Sunflower and Mid-Kansas again point to stakeholder concerns regarding aspects of the RCAR analysis itself, as opposed to its frequency, they still fail to explain how the proposed change in frequency of the RCAR analysis would affect those issues. We thus reaffirm the Commission's prior finding that Sunflower and Mid-Kansas' concerns related to the study assumptions, analysis, and results of the RCAR analysis are beyond the scope of this proceeding.<sup>28</sup>

The Commission orders:

Sunflower and Mid-Kansas' request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>27</sup> September 29 Order, 160 FERC ¶ 61,138 at PP 24-25 (finding that SPP and the Commission did not rely on the change in the frequency of unintended consequences review from once every five years to once every three years as a rationale for the Commission to approve the Highway/Byway methodology, and that Sunflower and Mid-Kansas mischaracterized language in the Highway/Byway Order to reach this conclusion.).

<sup>28</sup> *Id.* P 20.