

161 FERC ¶ 61,266
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 21, 2017

In Reply Refer To:
Southwest Power Pool, Inc.
Docket Nos. ER17-1741-000
ER17-1741-001

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223

Attn: Matthew Harward, Esq.
Attorney for Southwest Power Pool, Inc.

Dear Mr. Harward:

1. On September 15, 2017, you filed a Stipulation and Offer of Settlement (Settlement Agreement) in the above referenced proceeding on behalf of Southwest Power Pool, Inc. (SPP) and The Central Nebraska Public Power and Irrigation District (Central Nebraska). The Settlement Agreement resolves all issues set for hearing and settlement judge procedures.¹
2. On October 5, 2017, Commission Trial Staff, Central Nebraska, and Nebraska Public Power District filed comments supporting the Settlement Agreement. On October 24, 2017, the Settlement Judge certified the uncontested Settlement Agreement to the Commission.²
3. The Settlement Agreement establishes a black-box Annual Transmission Revenue Requirement (ATRR) of \$410,000 for Central Nebraska as compared with the filed amount of \$462,294. Exhibit A to the Settlement Agreement establishes revisions to the SPP open access transmission tariff (OATT), to Attachment H to revise the ATRR and to Attachment T to revise the corresponding point-to-point transmission service rates. The Settlement Agreement provides for a four-year moratorium on filings under sections 205 and 206 of the Federal Power Act (FPA) to change the ATRR and point-to-point transmission service rates established by the Settlement Agreement. The Settlement Agreement further provides that, at the request of Central Nebraska and consistent with

¹ *Sw. Power Pool, Inc.*, 160 FERC ¶ 62,087 (2017).

² *Sw. Power Pool, Inc.*, 161 FERC ¶ 63,007 (2017).

the SPP Membership Agreement, SPP will make an FPA section 205 filing no later than June 1, 2021, to restate Central Nebraska's ATRR to be effective January 1, 2022. Additionally, the Settlement Agreement states that Central Nebraska agrees to consider filing a formula rate in that subsequent FPA section 205 filing, but it may alternatively elect to file a stated ATRR.

4. Article IV establishes the standard of review for any changes to the Settlement Agreement as follows:

The standard of review for any change to this Settlement Agreement proposed by a participant to this proceeding shall be the "public interest" application of the just and reasonable standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish County, Washington*, 128 S. Ct. 2733, 171 L. Ed. 2d 607 (2008) and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm'n*, 130 S. Ct. 693, 700 (2010). The ordinary just and reasonable standard of review (rather than the "public interest" standard), as clarified in *Morgan Stanley Capital Group Inc. v. Public Util. Dist. No. 1 of Snohomish County, Washington*, 128 S. Ct. 2733, 171 L. Ed. 2d 607 (2008), applies to changes to the Settlement Agreement sought by the Commission acting *sua sponte* or any non-participant to this proceeding.

5. The Settlement Agreement appears to be fair and reasonable and in the public interest and it is hereby approved. The Commission's approval of this Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

6. Insofar as the Settlement Agreement and the related tariff revisions were not filed in the eTariff format required by Order No. 714,³ SPP is hereby directed to make the required filings within 30 days in eTariff format, in order to implement the Settlement Agreement and reflect the Commission's action in this order.

7. This letter order terminates Docket Nos. ER17-1741-000 and ER17-1741-001.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).