

161 FERC ¶ 61,071  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, and Robert F. Powelson.

Southwest Power Pool, Inc.

Docket No. EL16-110-000

**ORDER ON PAPER HEARING**

(Issued October 19, 2017)

1. On September 23, 2016, pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> the Commission initiated a proceeding to examine SPP's Open Access Transmission Tariff (Tariff) based on its preliminary finding that section 34.6<sup>2</sup> of the Tariff may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide Auction Revenue Rights (ARRs) and Long-Term Congestion Rights (LTCRs)<sup>3</sup> to Network Integration Transmission Service (network service)

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<sup>1</sup> 16 U.S.C. § 824e (2012).

<sup>2</sup> Section 34.6 of the SPP Tariff describes the Redispatch Charge for Network Integration Transmission Service (network service) customers, and states that "The Network Customer shall pay redispatch costs associated with its transactions through the operation and settlement of the Energy and Operating Reserve Markets as described in Attachment AE." SPP, OATT, Sixth Revised Volume No. 1, § 34.6 (1.0.0).

<sup>3</sup> LTCRs are long-term (i.e., a period of more than one year) Transmission Congestion Rights (TCRs), which are financial instruments entitling the holder to a stream of revenues, or obligating it to pay charges, based upon the difference between the hourly day-ahead marginal congestion component of the locational marginal price at the source and sink settlement locations associated with the TCR. TCRs are obtained in TCR auctions, either through purchase or self-conversion of ARRs, or through secondary sales of TCRs. *Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048, at n.330 (2012) (Integrated Marketplace Order), *order on reh'g and clarification*, 142 FERC ¶ 61,205 (2013). ARRs are rights that entitle the holder to a share of the auction revenues generated in the applicable TCR auctions. An ARR can result in a credit or charge to the holder, based upon the TCR auction clearing price on the particular ARR path. Eligible entities may

customers with service subject to redispatch<sup>4</sup> while necessary transmission upgrades are constructed.<sup>5</sup> In this order, we direct SPP to revise section 34.6 of its Tariff to limit the eligibility for ARR<sup>s</sup> and LTCRs of network customers with service subject to redispatch, as discussed further below.

## I. Background and Related Proceedings

2. As part of the design of its Integrated Marketplace, SPP established mechanisms to provide market participants with financial tools to manage congestion costs and to allow them to sell their rights to others (i.e., ARR<sup>s</sup> and TCRs).<sup>6</sup> Transmission customers and market participants with firm transmission service are eligible to nominate candidate ARR<sup>s</sup> from a specific source point serving a specific sink point consistent with their firm service, and SPP allocates the portion of the nominated ARR<sup>s</sup> that are simultaneously feasible given SPP’s transmission system.<sup>7</sup> ARR<sup>s</sup> are allocated annually in April of each year, with additional monthly or seasonal ARR allocations made as needed to address new transmission service.<sup>8</sup>
3. Section 13.5 of the Tariff currently provides that customers with firm point-to-point transmission service subject to redispatch are not eligible to obtain ARR allocations associated with that service, except for the times of the year and for the amounts of service that are not subject to redispatch, and are not eligible to obtain LTCRs associated

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either self-convert awarded ARR<sup>s</sup> into TCRs or hold the ARR to receive a share of the revenue SPP collects from auction purchasers of TCRs. *Id.* at n.329.

<sup>4</sup> Under the SPP Tariff, when a firm transmission service request requires new transmission upgrades, SPP commences service prior to the transmission upgrades being placed in service if SPP is able to address the constraint identified in the system impact studies through redispatch until the transmission upgrades are placed into service. This order uses the phrase “subject to redispatch” to describe such transmission service until transmission upgrades are placed into service, unless otherwise indicated.

<sup>5</sup> *Sw. Power Pool, Inc.*, 156 FERC ¶ 61,217 (2016) (September 2016 Order).

<sup>6</sup> Integrated Marketplace Order, 141 FERC ¶ 61,048 at P 229.

<sup>7</sup> *Id.* P 246.

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

with that service.<sup>9</sup> Section 34.6 of the Tariff currently does not specify whether customers with network service subject to redispatch are eligible to obtain ARR or LTCR allocations associated with that service.

4. In March 2016, in Docket No. ER16-1286-000, SPP proposed, among other things, to revise section 34.6 of its Tariff to include additional language that stated that customers with network service subject to redispatch are eligible to obtain ARRs and LTCRs associated with that service.<sup>10</sup> In the September 2016 Order, the Commission rejected SPP's proposed revisions to section 34.6, finding that SPP had not shown that the proposed language was just, reasonable, and not unduly discriminatory or preferential for network service subject to redispatch. In addition to rejecting SPP's proposed revisions, the Commission found that the existing language in section 34.6 may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARRs and LTCRs to network service customers with service subject to redispatch. Accordingly, the Commission instituted a paper hearing proceeding pursuant to FPA section 206 to examine SPP's Tariff with initial briefs due no later than 30 days after publication of notice in the *Federal Register* of initiation of the FPA section 206 proceeding and reply briefs due no later than 21 days after the due date for initial briefs.<sup>11</sup> The Commission also required that any interested persons file a notice of intervention or motion to intervene, as appropriate, within 21 days of the date of issuance of the September 2016 Order.

5. On October 24, 2016, in Docket No. ER16-1286-002, Southern Company Services, Inc., as agent for Alabama Power Company (Alabama Power), Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern Companies) sought clarification, or in the alternative rehearing, of the September 2016 Order. Alabama Power requested clarification that the September 2016 Order did not address and did not foreclose firm point-to-point transmission customers who were possibly under-allocated ARRs from pursuing retroactive relief. If the September 2016 Order did foreclose that option, then Alabama Power sought rehearing of the order because it claimed there was an insufficient record on which to base the

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<sup>9</sup> The Commission approved this limited eligibility for ARRs with respect to point-to-point service subject to redispatch in its order accepting SPP's Integrated Marketplace Filing. *Id.* PP 267-268.

<sup>10</sup> SPP, Filing, Docket No. ER16-1286-000, at 9-10 (filed March 30, 2016).

<sup>11</sup> September 2016 Order, 156 FERC ¶ 61,217 at P 39. In the September 2016 Order, the Commission established a refund effective as the date of publication of notice of the initiation of the proceeding in Docket No. EL16-110-000 in the *Federal Register*.

decision.<sup>12</sup> An order addressing Alabama Power's request for clarification is being issued in Docket No. ER16-1286-002 concurrently with this order.<sup>13</sup>

6. Also on October 24, 2016, in Docket No. EL17-11-000, Alabama Power filed a complaint against SPP requesting relief under sections 205, 206, 306, and 309 of the FPA concerning an alleged violation of the SPP Tariff.<sup>14</sup> Alabama Power argued that SPP violated its Tariff by treating network service subject to redispatch as eligible to receive ARR<sup>s</sup> and LTCR<sup>s</sup> for such transmission service, which, Alabama Power contended, resulted in an under-allocation of ARR<sup>s</sup> to Alabama Power. An order addressing Alabama Power's complaint is being issued in Docket No. EL17-11-000 concurrently with this order.<sup>15</sup>

7. On May 1, 2017, in Docket No. EL17-69-000, Enel Green Power North America, Inc., (Enel) on behalf its subsidiary Buffalo Dunes Wind Project, LLC, and Southern Company Services, Inc., on behalf of Alabama Power (Joint Parties) filed a complaint against SPP related to the allocation of ARR<sup>s</sup> and LTCR<sup>s</sup> to customers with network service subject to redispatch for the 2017-2018 annual ARR allocation year. An order addressing that complaint is being issued in Docket No. EL17-69-000 concurrently with this order.<sup>16</sup>

8. On May 9, 2017, in Docket No. ER17-1575-000, SPP filed revisions to section 34.6 of its Tariff that would apply the same ARR and LTCR eligibility limitations on network service subject to redispatch that the Tariff currently applies to point-to-point service subject to redispatch.<sup>17</sup> On July 13, 2017, pursuant to the authority delegated by the Commission's February 3, 2017 Order Delegating Further Authority to Staff in

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<sup>12</sup> Request for Clarification, or in the Alternative Rehearing, of Southern Companies, Docket No. ER16-1286-002 (filed Oct. 24, 2016).

<sup>13</sup> *Southwest Power Pool, Inc.*, 161 FERC ¶ 61,072 (2017).

<sup>14</sup> Complaint of Alabama Power Company, Docket No. EL17-11-000 (filed Oct. 24, 2016).

<sup>15</sup> *Alabama Power Company v. Southwest Power Pool, Inc.*, 161 FERC ¶ 61,073 (2017) (Complaint Order).

<sup>16</sup> *Buffalo Dunes Wind Project, LLC v. Southwest Power Pool, Inc.*, 161 FERC ¶ 61,074 (2017).

<sup>17</sup> SPP, Filing, Docket No. ER17-1575-000, at 8-9 (filed May 9, 2017).

Absence of Quorum,<sup>18</sup> SPP's Tariff revisions were accepted for filing, suspended for a nominal period, subject to refund and further Commission order.<sup>19</sup> On August 14, 2017, Joint Parties filed a request for rehearing of the delegated letter order issued in Docket No. ER17-1575-000. An order addressing SPP's Tariff filing and Joint Parties' request for rehearing is being issued in Docket Nos. ER17-1575-000 and ER17-1575-001 concurrently with this order.<sup>20</sup>

## **II. Notice of Filing and Briefs**

9. Notice of the initiation of the proceeding in Docket No. EL16-110-000 was published in the *Federal Register*, 81 Fed. Reg. 66,951 (2016), on September 29, 2016. Timely motions to intervene were filed by Alabama Power, Enel, Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company, Southern Companies, and Xcel Energy Services Inc. (Xcel). American Electric Power Service Corporation, American Wind Energy Association, Golden Spread Electric Cooperative, Inc., Kansas Power Pool, Lincoln Electric System, Tenaska Power Services Co., and Westar Energy, Inc. filed out-of-time motions to intervene.

10. On October 20, 2016, SPP filed a motion for a 30-day extension of time to file initial and reply briefs, which was granted. Enel, SPP, and Xcel<sup>21</sup> filed timely initial briefs, and Alabama Power,<sup>22</sup> Enel, and SPP filed timely reply briefs.

## **III. Discussion**

### **A. Procedural Issues**

11. 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. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), the

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<sup>18</sup> *Agency Operations in the Absence of a Quorum*, 158 FERC ¶ 61,135 (2017).

<sup>19</sup> *Sw. Power Pool, Inc.*, Docket No. ER17-1575-000 (Jul. 13, 2017) (delegated letter order).

<sup>20</sup> *Southwest Power Pool, Inc.*, 161 FERC ¶ 61,075 (2017).

<sup>21</sup> Xcel filed its initial brief on behalf of Southwestern Public Service Company (Southwestern), its utility operating company affiliate.

<sup>22</sup> Alabama Power submitted its reply brief by and through its agent Southern Company Services, Inc.

Commission will grant the late-filed motions to intervene given the entities' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

**1. Motion to Reject Alabama Power Reply Brief**

**a. Motion and Answers**

12. On January 11, 2017, SPP filed a motion to reject Alabama Power's reply brief in this proceeding as procedurally improper because, SPP argues, Alabama Power failed to respond to the initial briefs and raised arguments regarding alleged retrospective violations of the SPP Tariff that are not before the Commission in this proceeding. SPP asserts that the instant proceeding should be confined to consideration of potential prospective Tariff revisions governing the treatment of network and point-to-point transmission services subject to redispatch, and that Alabama Power's initiation of a separate complaint proceeding in Docket No. EL17-11-000 indicates that arguments regarding Tariff violations are not appropriately at issue in the instant proceeding. Additionally, SPP states that Alabama Power provided no reason why it did not raise its arguments in an initial brief in this proceeding, which would have provided other parties an opportunity to respond to the arguments. SPP maintains that Alabama Power is attempting to bootstrap its arguments regarding Tariff violations into this proceeding, which SPP says Alabama Power has acknowledged is limited to prospective issues.

13. On January 24, 2017, Alabama Power filed an answer to SPP's motion, asserting that its reply brief addresses what changes must be made to the SPP Tariff as of the refund effective date, the design of the Integrated Marketplace, and previous SPP practices, and responds to assumptions in the SPP and Xcel initial briefs that the SPP Tariff authorized SPP's practices and that fairness justifies a delayed effective date of remedial measures or amendments to the SPP Tariff. Alabama Power states that its reply brief speaks to the issues in this proceeding of what changes, if any, are needed to SPP's Tariff to ensure just and reasonable rates and whether conditional service customers' reliance on the allocation of ARR and LTCRs was reasonable. Additionally, Alabama Power states that it chose not to speculate about what parties would argue in their initial briefs and that it was within its rights to wait for arguments to be made before submitting reply arguments.

14. On February 13, 2017, SPP filed an answer to Alabama Power's answer to SPP's motion.

**b. Determination**

15. 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 an answer unless otherwise ordered by the

decisional authority. We are not persuaded to accept SPP's answer and will, therefore, reject it.

16. We also deny SPP's motion to reject Alabama Power's reply brief because Alabama Power's reply brief is responsive to issues and proposals raised in the initial briefs in this proceeding. Specifically, Alabama Power's reply brief responds to SPP's request to suspend further action in this proceeding, Enel's proposal regarding a two-stage allocation process, and Xcel's proposal regarding grandfathering ARR and LTCRs.<sup>23</sup> Additionally, we find that the portions of Alabama Power's reply brief regarding the SPP Tariff are relevant to the issues in this proceeding of what Tariff revisions may be necessary and whether SPP's interpretation of its Tariff was reasonable.<sup>24</sup> Therefore, we deny SPP's motion.

## **2. Motion to Require Status Report**

### **a. Motion**

17. On February 3, 2017, Alabama Power filed a motion requesting that the Commission require SPP to file a status report describing what SPP's contingency plan would be in the event the Commission requires some ARR and LTCR allocations to be unwound and reallocated. Alabama Power states that SPP appears to be planning to allocate new ARR and LTCR for 2017-2018 under its existing practices. Alabama Power argues that a status report is necessary in order to determine if SPP is appropriately allocating resources and to ensure that any need to unwind allocations of ARR or LTCR can be efficiently and fairly administered. Alabama Power also argues a status report is necessary to identify the extent to which SPP's practice of treating network service subject to redispatch as firm transmission service for purposes of ARR/LTCR allocation has a causal relationship with under-allocations of ARRs and/or LTCRs on firm transmission service not subject to redispatch.

### **b. Determination**

18. We deny Alabama Power's motion to require SPP to file a status report describing what SPP's contingency plan would be in the event the Commission requires some ARR and LTCR allocations to be unwound and reallocated. According to SPP's 2017 process schedule, annual LTCR allocations began on March 3, 2017 and ended on March 21, 2017, while annual ARR allocations began on April 5, 2017 and ended on April 28,

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<sup>23</sup> See Alabama Power Reply Brief at 12-26.

<sup>24</sup> See *id.* at 6-12.

2017.<sup>25</sup> Furthermore, as discussed further below, the Commission is not requiring SPP to unwind or reallocate any ARRs or LTCRs that have already been granted.<sup>26</sup> Therefore, we find that there is no need for a status report.

## B. Substantive Issues

### 1. Eligibility of Network Service Subject to Redispatch for ARRs and LTCRs

#### a. September 2016 Order

19. As discussed above, in the September 2016 Order the Commission rejected SPP's proposed revisions to section 34.6 of its Tariff, which stated that customers with network service subject to redispatch would be eligible to obtain ARRs and LTCRs associated with that service. The Commission found that SPP had not shown that the proposed language was just and reasonable and not unduly discriminatory or preferential for network service subject to redispatch.<sup>27</sup>

20. The Commission stated that it was concerned that network service subject to redispatch, as a form of conditional service, is not similarly situated to network service subject only to a reliability-based redispatch, and that therefore network service subject to redispatch should not be eligible for ARRs except for those times of the year and for those amounts not subject to redispatch. Moreover, the Commission expressed concern that allowing network service subject to redispatch to nominate candidate ARRs during the times of the year and for the amounts of service subject to redispatch could increase the amount of nominated candidate ARRs subject to the simultaneous feasibility test<sup>28</sup> and thereby decrease the amount of allocated ARRs for firm transmission service customers not subject to redispatch. Similarly, the Commission expressed concern that allowing customers with network service subject to redispatch to nominate candidate

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<sup>25</sup> See Alabama Power Motion to Require Status Report, Exhibit A (Market Participant Guide: SPP 2017 Congestion Hedging) at 5.

<sup>26</sup> See *infra* PP 49-53.

<sup>27</sup> September 2016 Order, 156 FERC ¶ 61,217 at PP 30, 35.

<sup>28</sup> A simultaneous feasibility test is a test for a state in which each set of injections and withdrawals associated with LTCRs, ARRs, and TCRs would not exceed any thermal, voltage, or stability limits within the transmission system under normal operating conditions or for monitored contingencies. SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, § 1.1 S (1.0.0).

LTCRs could increase the amount of nominated candidate LTCRs and thereby reduce the amount of allocated LTCRs for firm transmission service customers not subject to redispatch. The Commission also stated that it was concerned that the proposed revisions could provide undue preference to network service subject to redispatch over firm point-to-point transmission service not subject to redispatch.<sup>29</sup>

21. The Commission rejected arguments raised by SPP about why network service subject to redispatch should be treated differently from point-to-point service subject to redispatch. The Commission noted that ARR<sup>s</sup> and LTCRs are allocated for both point-to-point and network service from a particular source point on the system serving a particular sink point on the system, that both point-to-point transmission service customers and network service customers use alternate parts of the network for service when SPP redisc dispatches the system as a result of constrained facilities, and that all nominated ARR<sup>s</sup> and LTCRs are subject to a simultaneous feasibility test, which could result in both network service customers and point-to-point service customers receiving a pro-rated portion of their nominated ARR<sup>s</sup> and LTCRs.<sup>30</sup>

22. In addition to rejecting SPP's proposed revisions to section 34.6 of its Tariff, the Commission found that the existing language in section 34.6 may be unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARR<sup>s</sup> and LTCRs to network service customers subject to redispatch while necessary transmission upgrades are constructed. The Commission stated that, upon initial review, the concerns identified by the Commission might be addressed by revising section 34.6 to limit the eligibility for ARR<sup>s</sup> and LTCRs for network customers with network service subject to redispatch.<sup>31</sup>

**b. Initial Briefs**

23. SPP states that, in light of the Commission's concerns in the September 2016 Order regarding ARR and LTCR eligibility for network service customers subject to redispatch, SPP is developing Tariff revisions that would allow network service subject to redispatch to be eligible for ARR<sup>s</sup> only for those times and for the amount of service that is not subject to redispatch and would make such service ineligible for LTCRs. SPP states that the proposed revisions would treat network service subject to redispatch the same as point-to-point service subject to redispatch for purposes of ARR and LTCR eligibility. SPP notes that it has initiated its stakeholder process for the proposed Tariff

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<sup>29</sup> September 2016 Order, 156 FERC ¶ 61,217 at PP 31-33, 35.

<sup>30</sup> *Id.* P 34.

<sup>31</sup> *Id.* PP 36-37.

revisions and that it anticipates submitting the proposed revisions to the Commission on or before May 1, 2017. SPP asserts that because it believes the proposed Tariff revisions will address the Commission's concerns identified in the September 2016 Order, in the interest of administrative efficiency the Commission should suspend further action in this proceeding pending SPP's filing of the proposed revisions.<sup>32</sup>

24. Enel recommends adopting a two-stage allocation process, under which ARR<sub>s</sub> and LTCR<sub>s</sub> would first be allocated to customers with unconditional firm transmission service, and after completing that allocation any remaining available ARR<sub>s</sub> or LTCR<sub>s</sub> would be allocated to customers with conditional or partial service. Enel contends that this approach would strike a balance among transmission customers, allowing customers that previously received transmission rights not authorized by the SPP Tariff to retain some benefit of their windfall while ensuring that firm transmission customers are not denied rights to which they are entitled.<sup>33</sup>

25. Enel states that there is a distinction between unconditional firm transmission service customers and conditional firm transmission service customers, namely that unconditional firm service customers have a priority of service over conditional service, which is a secondary type of service granted to the extent that transmission capacity or redispatch is available. Enel asserts that it is appropriate to allocate ARR<sub>s</sub> and LTCR<sub>s</sub> first to customers with unconditional firm service, consistent with the SPP Tariff and open access policy that has recognized different priority of service. Enel maintains that unconditional firm service customers may have paid for network upgrades that are operational and support the service they requested, and deserve the full benefits that come with that cost for service, while partial or conditional service requires transmission upgrades before the service can be granted as firm. Enel states that, by definition, such conditional service cannot be simultaneously feasible without leaning on capacity that other firm transmission service customers are otherwise paying for, and to allow otherwise would result in free ridership and subsidization.<sup>34</sup>

26. Enel states that independent power producers such as itself will be harmed by inflating the pool of customers eligible for ARR<sub>s</sub> and LTCR<sub>s</sub>, as they will have paid for network upgrades, entered into a long-term power purchase agreement based on the cost of the upgrades, and the seller and/or buyer will expect to be allocated ARR<sub>s</sub> or LTCR<sub>s</sub>

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<sup>32</sup> SPP Initial Br. at 4-6; *see also* SPP Reply Br. at 5-6. As noted above, SPP filed these proposed Tariff revisions in Docket No. ER17-1575-000 on May 9, 2017. *See supra* P 8.

<sup>33</sup> Enel Initial Br. at 1-2.

<sup>34</sup> *Id.* at 3-5.

to offset the impact of congestion. Enel argues that conditional firm service customers are already on notice that their service is not comparable to confirmed, firm service. Additionally, Enel notes that its proposed two-stage allocation process is similar to allocation processes adopted by the New York Independent System Operator, Inc. and PJM Interconnection, L.L.C., although it further notes that not all regional transmission organizations (RTOs) and independent system operators (ISOs) use a two-stage allocation process. Enel states that, in the alternative, an appropriate result in the instant proceeding could also be achieved with a one-stage process limiting ARR and LTCR eligibility to firm customers.<sup>35</sup>

27. Xcel requests that, if the Commission determines that the SPP Tariff must be modified, the Commission clarify that network service subject to redispatch is eligible for ARRs and LTCRs for the duration and portion of the network service reservations that can be provided without redispatch. For example, Xcel states that its affiliate Southwestern's network service for one of its resources would only require redispatch for a nine-month period, and asserts that it would be unreasonable to disallow an LTCR for the entire term of the fifteen-year term arrangement.<sup>36</sup>

c. **Reply Briefs**

28. Alabama Power alleges that SPP's Tariff already specifies that network service subject to redispatch is not firm transmission service and that only firm transmission service is eligible for ARRs and LTCRs, and therefore Tariff revisions are not required. Pointing to sections 29.1 and 29.3 of SPP's Tariff, Alabama Power asserts that neither firm network service nor firm point-to-point service may be provided when transmission upgrades are necessary. Additionally, Alabama Power states that the terms of section 32.8 of SPP's Tariff make network service subject to redispatch available as an interim solution when there is insufficient transmission capacity to satisfy all of a firm network service request, and therefore such service is by definition not firm.<sup>37</sup>

29. Alabama Power also argues that SPP's market protocols from the start of the Integrated Marketplace through March 2014 defined eligibility of network customers for ARRs as limited to firm network service.<sup>38</sup> Moreover, Alabama Power states that

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<sup>35</sup> Enel Initial Br. at 6-7, 10.

<sup>36</sup> Xcel Initial Br. at 21-23.

<sup>37</sup> Alabama Power Reply Br. at 1, 5-9.

<sup>38</sup> *Id.* at 9-10. Alabama Power states that SPP's market protocols defined “[network service] Candidate ARR” as “[t]he MW quantity associated with firm

Attachment AE of SPP's Tariff expressly ties eligibility for ARRs to firm transmission service.<sup>39</sup> Alabama Power also asserts that SPP's filing to establish the Integrated Marketplace stated only that firm service was eligible for ARRs and did not mention network service subject to redispatch being eligible for ARRs.<sup>40</sup> Alabama Power further states that the Integrated Marketplace Order found that redispatch transmission service is conditional and a complementary service.<sup>41</sup>

30. In response to SPP's proposal to suspend the proceeding and submit Tariff revisions, Alabama Power argues that SPP incorrectly assumes that revisions are necessary. Alabama Power states that the SPP Tariff already does not authorize network service subject to redispatch to be eligible for ARRs or LTCRs because network service subject to redispatch is not the same as firm service. Alabama Power asserts that a distinction between point-to-point service subject to redispatch and network service subject to redispatch is not supported by SPP's Tariff or the Commission's orders. Additionally, Alabama Power states that SPP's proposal does not address the ongoing unduly discriminatory and preferential effects of its past practices and tariff violation to the extent it delays implementation after the refund effective date. Alabama Power maintains that during this time firm transmission customers will be forced to pay congestion costs for which they should have financial transmission rights and will be forced to subsidize the funding of hedges awarded to the wrong customers.<sup>42</sup>

31. In response to Enel's two-stage allocation process proposal, Alabama Power states that it generally agrees with the proposal in concept, but it states that rerunning the simultaneous feasibility study in the second stage of the proposal could result in some previously-granted ARRs and LTCRs becoming unfeasible. Alabama Power states it would not oppose a supplemental solution allowing SPP to recover the costs of funding improvidently granted ARRs and LTCRs through an uplift payment that would allocate the costs to the network loads served by the relevant transmission customers. Alabama Power suggests that another approach could be to refund to firm transmission customers the positive difference between actual financial transmission right congestion cost offset

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[network service] . . . that the holder of the [network service] can nominate for conversion into an ARR, subject to the [network service] ARR Nomination Cap . . . ”

<sup>39</sup> *Id.* at 10.

<sup>40</sup> *Id.* (citing SPP, Submission of Tariff Revisions to Implement SPP Integrated Marketplace, Docket No. ER12-1179-000, at 14 (filed Feb. 29, 2012)).

<sup>41</sup> *Id.* at 11 (citing *Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048, at P 267 (2012)).

<sup>42</sup> *Id.* at 12-14, 17.

accrued by individual firm transmission customers and the financial transmission right congestion cost offset that would have been accrued if SPP had not allocated ARRs and LTCRs to network service subject to redispatch and then uplift and assign that shortfall to network loads serviced by network service subject to redispatch.<sup>43</sup>

32. Enel argues that the Commission should not suspend its review in this docket as requested by SPP because it is important for the Commission to render a substantive finding and there is no benefit to or good reason for waiting. Moreover, Enel states that SPP's intended filing date of May 2017 will be after the April 2017 ARR and LTCR auction, and thus will not timely address the concerns and will allow the current unjust and unreasonable allocation of ARRs and LTCRs to continue for at least another year.<sup>44</sup>

**d. Determination**

33. Consistent with the preliminary findings in the September 2016 Order, we find that section 34.6 of SPP's Tariff is unjust and unreasonable and unduly discriminatory or preferential to the extent that it allows SPP to provide ARRs and LTCRs to network service customers subject to redispatch while necessary transmission upgrades are constructed on the same basis it provides ARRs and LTCRs to firm transmission customers not subject to redispatch.<sup>45</sup> As the Commission stated in the September 2016 Order, network service subject to redispatch is a form of conditional service. In this circumstance, SPP determines that it cannot provide the requested service without redispatch because doing so would cause transmission constraints, and therefore grants service conditionally subject to transmission upgrades being placed into service. Therefore, we find that network service subject to redispatch is similarly situated to network service not subject to redispatch *only* for those times of the year and in those amounts of service that can be provided without redispatch. Consistent with the preliminary findings in the September 2016 Order, we find that, going forward from the effective date of revisions to section 34.6 required in this order, it will not be reasonable for SPP to allocate any additional ARRs to customers with network service subject to redispatch on the same basis as firm transmission customers not subject to redispatch,

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<sup>43</sup> *Id.* at 24-26.

<sup>44</sup> Enel Reply Br. at 4-5.

<sup>45</sup> SPP has acknowledged that it has been its practice to provide ARRs and LTCRs to network service customers subject to redispatch, stating that while its Tariff currently places limits on ARR allocations for firm point-to-point service subject to redispatch, it does not do so for network service subject to redispatch. SPP, Filing, Docket No. ER16-1286-000, at 9-10 (filed March 30, 2016).

except for those times and amounts not subject to redispatch.<sup>46</sup> We also find that, going forward from the effective date of revisions to section 34.6 required in this order, it will not be reasonable for SPP to allocate any additional LTCRs to customers with network service subject to redispatch.

34. As Enel indicates, network service subject to redispatch, as a form of conditional service, cannot be simultaneously feasible without leaning on the capacity of other firm transmission customers not subject to redispatch.<sup>47</sup> If the amount of nominated ARRs or LTCRs are not all simultaneously feasible, then parties nominating candidate ARRs or LTCRs could receive a reduced portion of allocated ARRs or LTCRs. As such, transmission customers with confirmed firm network service or point-to-point transmission service not subject to redispatch could be allocated fewer ARRs or LTCRs due to ARRs or LTCRs being allocated to network service customers with service subject to redispatch. We find this result would not be just and reasonable given that network service subject to redispatch is not similarly situated to service that is not subject to redispatch. Consequently, we conclude that SPP should not provide network service customers with service subject to redispatch with ARRs or LTCRs on the same basis it provides ARRs or LTCRs to firm transmission service customers with service not subject to redispatch.

35. As the Commission noted in the September 2016 Order, this approach is consistent with the Commission's order establishing the Integrated Marketplace, in which the Commission required the provision of ARRs for firm point-to-point transmission service subject to redispatch only during parts of the year or levels of service that was not subject to a redispatch obligation.<sup>48</sup> This is also consistent with SPP's rationale for not providing point-to-point customers with service subject to redispatch with LTCRs. Specifically, network service customers with network service subject to redispatch should not receive LTCRs because LTCRs are annual hedging instruments that renew automatically each year and the service might be subject to redispatch during part of the congestion right year. We do not believe this approach would unduly harm network service customers with service subject to redispatch because they can continue to obtain ARRs during those periods and for those amounts of service not subject to redispatch until the transmission upgrades are placed into service, and then obtain LTCRs thereafter.

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<sup>46</sup> The implementation of this finding for ARR eligibility for network service subject to redispatch must be implemented in a manner comparable to the implementation of the ARR eligibility for point-to-point transmission service subject to redispatch in section 13.5 of the Tariff.

<sup>47</sup> See Enel Initial Br. at 4.

<sup>48</sup> Integrated Marketplace Order, 141 FERC ¶ 61,048 at PP 267-268.

Furthermore, on brief, no party disputed the Commission's preliminary findings regarding the eligibility of network service customers subject to redispatch for ARRs and LTCRs.

36. We disagree with Alabama Power's argument that Tariff revisions are not required. In the Complaint Order that is being issued concurrently with this order, the Commission finds that SPP's practice of treating customers with network service subject to redispatch as eligible for ARRs and LTCRs was not a violation of the SPP Tariff.<sup>49</sup> As discussed in that order, while SPP's Tariff limits the eligibility for ARRs and LTCRs for point-to-point service subject to redispatch, there is not a similar limitation in the Tariff for network service subject to redispatch. Therefore, Tariff revisions are required to establish such a limitation.

37. Alabama Power points to several provisions of SPP's Tariff, that, according to Alabama Power, indicate network service subject to redispatch is not firm transmission service and is ineligible for ARRs and LTCRs under the current Tariff,<sup>50</sup> but none of these Tariff provisions establish an express limitation on ARR or LTCR eligibility for network service subject to redispatch.<sup>51</sup> Moreover, none of the referenced provisions state that network service subject to redispatch is not firm service. In fact, as discussed in the Complaint Order, network service subject to redispatch is a form of firm transmission

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<sup>49</sup> Complaint Order, 161 FERC ¶ 61,073 at PP 24-26 (2017).

<sup>50</sup> See Alabama Power Reply Br. at 6-10 (citing sections 29.1, 29.3, 32.4, 32.8, and Attachment AE of the SPP Tariff).

<sup>51</sup> Section 29.1 of SPP's Tariff provides that a condition precedent for Network Integration Transmission Service is the completion of the technical arrangements set forth in section 29.3, while section 29.3 provides that Network Integration Transmission Service shall not commence until the completed installation of all equipment specified under the network operating agreement. Section 32.4 provides that study procedures for network service requests of one year or longer shall be performed using the aggregate transmission service study process. Section 32.8 provides that if there is not adequate transfer capability to satisfy the full amount of requested firm network service, SPP will provide the portion of the request firm network service that can be accommodated without addition of any facilities and through redispatch, and that it will not be required to provide the incremental amount of requested firm network service that requires the addition of facilities or upgrades until such facilities or upgrades have been placed into service. Section 7.1 of Attachment AE provides that only "Eligible Entities" are permitted to nominate candidate ARRs and LTCRs, while section 1.1 of Attachment AE defines an Eligible Entity as a customer having firm transmission service.

service.<sup>52</sup> Therefore, even though Attachment AE of the Tariff does limit ARR and LTCR eligibility to firm transmission customers, that limitation does not make customers with network service subject to redispatch ineligible for ARRs or LTCRs. As for Alabama Power's arguments regarding previous versions of SPP's market protocols which may indicate that ARRs are limited to firm service and SPP statements in prior filings which may indicate that ARRs are limited to firm service, we find them unconvincing. As we explained here and in the Complaint Order, network service subject to redispatch is a conditional form of firm service. Thus, the prior market protocols and statements are not inconsistent with the Commission's findings in this order.

38. We direct SPP to submit a compliance filing within 30 days of the date of issuance of this order. In its compliance filing, SPP must revise section 34.6 of its Tariff to limit the eligibility for ARRs and LTCRs of network customers with service subject to redispatch so that network service subject to redispatch is treated comparably with point-to-point service subject to redispatch. Specifically, we direct SPP to add to section 34.6 the same limitation on ARR and LTCR eligibility currently in section 13.5 of the Tariff for point-to-point service subject to redispatch.<sup>53</sup> Additionally, we require that SPP's compliance filing make the Tariff changes effective as of the issuance date of this order.

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<sup>52</sup> Complaint Order, 161 FERC ¶ 61,073 at P 25 (2017).

<sup>53</sup> Section 13.5 of the Tariff currently states that:

Transmission Customers having Firm Point-To-Point Transmission Service subject to redispatch will be eligible to nominate Candidate Auction Revenue Rights associated with that service only for those times of the year and for only the amounts of service that are not subject to redispatch. Long-Term Firm Point-to-Point Transmission Service with a redispatch requirement will not be eligible for any Candidate Long-Term Congestion Rights because it does not have continuous service covering the entirety of the associated Transmission Congestion Right year.

SPP, OATT, Sixth Revised Volume No. 1, § 13.5 (2.1.0). We note that, in Docket No. ER17-1575-000, SPP filed Tariff revisions that added to section 34.6 the same limitation on ARR and LTCR eligibility currently in section 13.5 of the Tariff. However, in an order that is being issued concurrently with this order, the Commission rejects SPP's filing given concerns about the grandfathering proposal reflected in that filing.

*Southwest Power Pool, Inc.*, 161 FERC ¶ 61,075 (2017).

39. As for Enel's proposal for a two-stage allocation process that would allow for secondary allocations of ARR<sub>s</sub> and LTCR<sub>s</sub> to customers with service subject to redispatch, we will not require SPP to adopt that particular process. As Enel acknowledges, while some RTOs/ISOs have adopted an allocation process similar to the one Enel proposes, not all RTOs/ISOs have adopted such a process and the Commission has not previously required RTOs/ISOs to do so. While we do not require SPP to adopt a two-stage allocation process, we do not foreclose SPP from proposing such a process in a separate section 205 filing, which the Commission would assess at that time. However, we note that any proposal allowing for secondary allocations of ARR<sub>s</sub> and LTCR<sub>s</sub> to service subject to redispatch must not provide undue preference to network service subject to redispatch over firm point-to-point transmission service not subject to redispatch.

## **2. Treatment of Already-Granted ARR<sub>s</sub> and LTCR<sub>s</sub>**

### **a. September 2016 Order**

40. In the September 2016 Order, the Commission preliminarily found that it would be reasonable to allow network service customers granted ARR<sub>s</sub> associated with network service subject to redispatch to continue to hold those ARR<sub>s</sub> until the end of the allocation year following the effective date of any revisions to section 34.6 adopted in a final Commission order in the FPA section 206 proceeding. The Commission also preliminarily found that it would not be reasonable to allocate new ARR<sub>s</sub> to such customers after such effective date, except for those times and amounts not subject to redispatch.

41. For LTCR<sub>s</sub>, the Commission preliminarily found it would be reasonable to allow network service customers granted LTCR<sub>s</sub> associated with network service subject to redispatch to continue to hold the LTCR<sub>s</sub> until the transmission upgrades are placed into service. Additionally, the Commission preliminarily found that it would not be reasonable to allocate new LTCR<sub>s</sub> to such customers following the effective date of any revisions to section 34.6 adopted in a final Commission order in the FPA section 206 proceeding.

### **b. Initial Briefs**

42. Enel disagrees with the Commission's preliminary conclusion that it would be reasonable to allow network service customers granted LTCR<sub>s</sub> associated with network service subject to redispatch under the current Tariff section 34.6 to continue to hold the LTCR<sub>s</sub> until the transmission upgrades are placed into service.<sup>54</sup> Enel states that conditional customers were put on notice by the September 2016 Order and have no

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<sup>54</sup> Enel Initial Br. at 8.

reasonable expectation of retaining their windfalls going forward. Enel asserts that it is unjust and unreasonable for network service customers to have rights to LTCRs for any portion of service that is subject to redispatch, and argues that the Commission should not perpetuate the improper and unjust practice that SPP allowed.<sup>55</sup> Enel states that although it does not agree that it was appropriate to allocate ARR<sub>s</sub> to customers with conditional service, previously allocated ARR<sub>s</sub> are not at issue within its proposed two-step allocation process. Enel recommends that SPP apply Enel's proposed two-step allocation process beginning with the next successive round of allocations after the September 29, 2016 refund effective date.

43. Xcel states that it supports the Commission's proposal that, if the Commission determines that modifications to SPP's Tariff are necessary, it would be reasonable to allow network service customers granted LTCRs associated with network service subject to redispatch to continue to hold the LTCRs that they have already received until the transmission upgrades are placed into service. However, Xcel requests that the Commission allow all network service subject to redispatch confirmed by SPP prior to the September 2016 Order to continue to be eligible for ARR<sub>s</sub> and LTCRs.<sup>56</sup>

44. Xcel states that, prior to the September 2016 Order, its affiliate Southwestern agreed to take network transmission service subject to redispatch from SPP for two network resources, with redispatch service start dates in January 2018 and November 2018 and with the required upgrades expected to be completed in March 2021 and June 2020, respectively. Xcel states that SPP has not allocated any ARR<sub>s</sub> or LTCRs associated with these service requests. Xcel asserts that Southwestern chose to take network transmission service subject to redispatch for both resources with the expectation that the service would be eligible for ARR<sub>s</sub> and LTCRs prior to the completion of the required upgrades. Xcel states that Southwestern relied on the SPP Tariff, which places no limitations on LTCRs for network service subject to redispatch, and the fact that SPP has consistently conveyed to stakeholders that network service subject to redispatch is eligible for ARR<sub>s</sub> and LTCRs. Moreover, Xcel states that Southwestern's service requests constitute binding transmission reservations from which it cannot withdraw and that Southwestern has entered into long-term power purchase contracts with non-affiliated generators.<sup>57</sup>

45. Xcel asserts that under the Commission's proposed remedy in the September 2016 Order, Southwestern's ability to hedge congestion costs would be severely curtailed,

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<sup>55</sup> *Id.* at 7-9; Enel Reply Br. at 2-4.

<sup>56</sup> Xcel Initial Br. at 9-10.

<sup>57</sup> *Id.* at 6-7, 13-14.

exposing Southwestern to costs it could not have anticipated and that would be passed through to wholesale and retail customers. In addition to congestion costs, Xcel states that Southwestern will be subject to charges under Attachment Z2 of the SPP Tariff as if it were a firm transmission service customer. Moreover, Xcel maintains that granting its request to provide ARR<sub>s</sub> and LTCR<sub>s</sub> to all network service subject to redispatch entered into before the September 2016 Order will comply with the policies of FPA section 217<sup>58</sup> and Order No. 681.<sup>59</sup> Xcel also asserts that granting its request will not result in over-allocations because SPP can only offer network service subject to redispatch if redispatch can sustain the requested firm service until the transmission upgrade is in service. Additionally, Xcel states that network service candidate ARR<sub>s</sub> and LTCR<sub>s</sub> are limited to a nomination cap of 103 percent of the prior three-year peak network transmission load, which effectively curbs the ability to obtain a greater amount of rights as additional network service rights are granted.<sup>60</sup>

c. **Reply Briefs**

46. Alabama Power objects to grandfathering ARR and LTCR allocations that have already been made for network service subject to redispatch. Alabama Power states that that grandfathering would ignore the logic of the SPP Tariff and would conflict with Attachment AE and sections 29.1, 29.3, 32.4, and 32.8 of the Tariff. According to Alabama Power, grandfathering ARR<sub>s</sub> and LTCR<sub>s</sub> for redispatch service that was not firm transmission service, potentially for years after the fact would effectively convert non-firm service into firm service for a transition period. Alabama Power states that this is barred by the filed rate doctrine and the prohibition on retroactive ratemaking.<sup>61</sup>

47. Alabama Power also objects to Xcel's request to allow all network service subject to redispatch confirmed by SPP prior to the September 2016 Order to continue to be eligible for ARR<sub>s</sub> and LTCR<sub>s</sub>. Alabama Power states that granting Xcel's request would extend and exacerbate the adverse effects of SPP's practices and would further dilute the

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<sup>58</sup> 16 U.S.C. § 824q (2012).

<sup>59</sup> *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, FERC Stats. & Regs. ¶ 31,226, *reh'g denied*, Order No. 681-A, 117 FERC ¶ 61,201 (2006), Order No. 681-B, 126 FERC ¶ 61,254 (2009). Xcel states that FPA section 217 requires the Commission to facilitate the acquisition of firm transmission rights for load-serving entities like Southwestern, and that a key focus of Order No. 681 was to ensure the ability to hedge long-term power supply. Xcel Initial Br. at 17-19.

<sup>60</sup> *Id.* at 20-21.

<sup>61</sup> Alabama Power Reply Br. at 15-16.

rights for firm transmission customers. Additionally, Alabama Power argues that LTCRs may not be issued to any market participant for service over facilities that are not in service, and that to the extent Xcel believed it could obtain LTCRs for the portion of its new service that was non-firm, that belief was not reasonable. On the issue of whether Xcel justifiably relied on the Tariff in its belief that its network service subject to redispatch would be eligible for ARRs and LTCRs prior to the completion of the required upgrades, Alabama Power asserts that Xcel had warning that redispatch service involves limits to ARRs and notice that SPP had planned to file the Tariff revisions rejected in the September 2016 Order and therefore had notice that SPP's practices were not authorized. Alabama Power also states that the Commission has rejected arguments that it should grandfather beneficiaries of an unauthorized policy to avoid upsetting settled expectations and has found that reliance on benefits not provided for in the governing tariff is unjustified. Further, Alabama Power contends that the policies of FPA section 217 are not promoted by granting financial transmission rights to service subject to redispatch.<sup>62</sup>

**d. Determination**

48. First, we clarify that customers who took network service subject to redispatch under the SPP Tariff should be eligible for ARRs during those times of the year and in those amounts of service that was provided without redispatch, consistent with our finding above and the provisions of section 13.5 of the Tariff for point-to-point service subject to redispatch. Accordingly, network service customers with service subject to redispatch will be able to continue to hold the ARRs they received when their service was not subject to redispatch.

49. With regard to those times and amounts of service for which network service customers are subject to a redispatch obligation, we find that it is reasonable to grandfather ARRs that have already been granted to network customers with such service pursuant to section 34.6 of the Tariff. Similarly, we find it reasonable to grandfather LTCRs that have already been granted for service associated with network service subject to redispatch under the current Tariff section 34.6. As discussed in the Complaint Order, SPP's current Tariff limits the eligibility for ARRs and LTCRs for point-to-point service subject to redispatch, but there is not a similar limitation in the Tariff for network service subject to redispatch, and therefore SPP's interpretation of its Tariff was reasonable and its practice of treating customers with network service subject to redispatch as eligible for ARRs and LTCRs was not a violation of the SPP Tariff.<sup>63</sup> Given the lack of an express limitation on eligibility for ARRs and LTCRs for network service subject to redispatch,

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<sup>62</sup> *Id.* at 19-24 (citing *Shetek Wind, Inc. et al., v. Midwest Indep. Transmission Operator, Inc.*, 138 FERC ¶ 61,250 (2013)).

<sup>63</sup> Complaint Order, 161 FERC ¶ 61,073 at PP 24-26.

we find that it would not be appropriate to attempt to undo allocations of ARRs or LTCRs that have already been granted pursuant to SPP's interpretation of its Tariff. Therefore, we find it reasonable to grandfather ARRs or LTCRs that have already been granted by SPP for service associated with network service subject to redispatch under the current Tariff section 34.6 as discussed in this order.

50. Consistent with the preliminary findings in the September 2016 Order, we find that it is reasonable to allow network service customers granted ARRs associated with network service subject to redispatch under the current Tariff section 34.6 to continue to hold those ARRs until the end of the allocation year following the effective date of revisions to section 34.6 adopted in a final Commission order in this proceeding. With regard to LTCRs, we note that unlike ARRs, LTCRs are granted on a multi-year basis and automatically renew each year.<sup>64</sup> Because LTCRs are a multi-year right, network service customers granted LTCRs associated with network service subject to redispatch under the current Tariff section 34.6 reasonably may have expected that those already-granted LTCRs would automatically renew. Therefore, we believe that it is reasonable to allow network service customers granted LTCRs associated with network service subject to redispatch under the current Tariff section 34.6 to continue to hold the LTCRs until the transmission upgrades are placed into service.

51. However, as discussed above, we have found that SPP's practice of treating customers with network service subject to redispatch as eligible for ARRs and LTCRs on the same basis as firm transmission customers not subject to redispatch is unjust and unreasonable and unduly discriminatory or preferential and we have directed SPP to revise section 34.6 of its Tariff to limit the eligibility for ARRs and LTCRs of network customers with service subject to redispatch so that network service subject to redispatch

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<sup>64</sup> Under Guideline 4 of Order No. 681, the Commission required that long-term firm transmission rights must be made available with term lengths (and/or rights to renewal) that are sufficient to meet the needs of load-serving entities to hedge long-term power supply arrangements made or planned to satisfy a service obligation. Transmission organizations may propose rules specifying the length of terms and use of renewal rights to provide long-term coverage, but must be able to offer firm coverage for at least a 10-year period. *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, FERC Stats. & Regs. ¶ 31,226, at P 256, *reh'g denied*, Order No. 681-A, 117 FERC ¶ 61,201 (2006), Order No. 681-B, 126 FERC ¶ 61,254 (2009). On compliance with Order No. 681, SPP proposed for all previously-awarded LTCRs to be automatically renewed each year as long as the underlying transmission service continues to be in effect for the entire allocation year covered by the LTCR and the LTCR has not been previously surrendered. The Commission found SPP's compliance filing to satisfy Guideline 4 of Order No. 681. *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,076, at PP 37-38 (2014), *reh'g denied*, 152 FERC ¶ 61,034 (2015).

is treated comparably with point-to-point service subject to redispatch. Additionally, we have found that, going forward from the effective date of revisions to section 34.6 required in this order, it will not be reasonable for SPP to allocate any additional ARR or LTCR to customers with network service subject to redispatch on the same basis as firm transmission customers not subject to redispatch (except, with respect to ARR, for those times and amounts not subject to redispatch). We believe that this approach of allowing customers with network service subject to redispatch to retain, for a limited period of time, their already-granted ARR for the periods of time and the amounts of service subject to redispatch obligation and LTCRs, while preventing the future allocation of ARR and LTCR to such service on the same basis as firm transmission customers not subject to redispatch, appropriately balances the interests of network customers with service subject to redispatch who were granted ARR or LTCR based on SPP's interpretation of its Tariff with the need to prevent ARR and LTCR from continuing to be awarded in an unjust and unreasonable and unduly discriminatory or preferential manner.

52. We reject Xcel's request to allow all network service subject to redispatch confirmed by SPP prior to the September 2016 Order to continue to be eligible for ARR, during the periods of time and amounts of service subject to a redispatch obligation, and LTCR. We find that allowing network service subject to redispatch to continue to be granted ARR, during the periods of time and amounts of service subject to a redispatch obligation, and LTCR on the same basis as firm transmission customers not subject to redispatch after the effective date of revisions to section 34.6 required in this order would inappropriately extend practices that the Commission has found to be unjust and unreasonable and unduly discriminatory or preferential.

53. With regard to Xcel's argument concerning the 103 percent nomination cap, we disagree because any allocation of candidate ARR or LTCR for network service subject to redispatch while the service is conditional (i.e., periods when the service is subject to redispatch) could deny other parties the ARR and LTCR that the other parties would otherwise receive. Thus, we find Xcel's argument unpersuasive. Further, with regard to Xcel's concern that it will be assessed charges pursuant to Attachment Z2 as if it were a firm transmission customer whose service is made possible by the Creditable Upgrade, network service subject to redispatch is firm transmission service, that is conditional in nature (i.e., subject to redispatch). If Xcel's firm transmission service uses Creditable Upgrades, then Xcel is obligated to pay Attachment Z2 credits, consistent with the terms

of the Tariff regardless of whether the service is subject to redispatch. Accordingly, we do not need to consider whether Attachment Z2 crediting provisions should be revised.

The Commission orders:

(A) The Commission finds that section 34.6 of SPP's Tariff is unjust and unreasonable and unduly discriminatory or preferential, as discussed in the body of this order.

(B) SPP is hereby directed to make a compliance filing within 30 days of the date of this order, as discussed in the body of this order, to be effective the date of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.