

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Southwest Power Pool, Inc.

Docket No. ER16-204-001

INITIAL DECISION

(Issued February 23, 2017)

APPEARANCES

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***JOHN P. DRING, Presiding Administrative Law Judge***

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ATRR	Annual Transmission Revenue Requirement
Basin Electric	Basin Electric Power Cooperative
ComEd	Commonwealth Edison Company or the Commonwealth Edison Company proceeding in <i>PJM Interconnection L.L.C.</i> , 106 FERC ¶ 61,253 (2004).
DC Tie	Tie among high-voltage direct current power transmission lines.
Integrated System	The collective transmission system of Western-Upper Great Plains Region, Basin Electric Power Cooperative, and Heartland Consumers Power District.
kV	Kilovolt
LES	Lincoln Electric System
MW	Megawatt
MVA	Mega-volt ampere
Missouri Basin	Missouri Basin Power Project
NETS Agreement	Western Nebraska Transmission Agreement between Tri-State Generation and Transmission Cooperative, Inc., and Nebraska Public Power District.
NITS	Network Integration Transmission Service
NPPD	Nebraska Public Power District
PJM	PJM Interconnection, LLC, a Regional Transmission Organization in the Northeast region of the United States.
RTO	Regional Transmission Organization
SPP	Southwest Power Pool, a Regional Transmission Organization in the Midwest region of the United States.
TO	Transmission Owner
Tri-State	Tri-State Generation and Transmission Cooperative, Inc.
Western	Western Area Power Administration
Western-UGP	Western – Upper Great Plains
Western-RMR	Western – Rocky Mountain Region
Zone	Pricing Zone

## **I. Factual Background**

1. Tri-State Generation and Transmission Cooperative, Inc. (Tri-State) is a not-for-profit cooperative corporation headquartered in Westminster, Colorado. It was organized in 1952 to provide power for its member rural electric distribution cooperatives. Tri-State's primary functions involve the generation, transmission, transformation, and sale of electricity at wholesale to its 44 member-owner distribution cooperatives and public power districts within the states of Colorado, Nebraska, New Mexico, and Wyoming. Of Tri-State's 44 members, 18 are located in Colorado, six in Nebraska, 12 in New Mexico, and eight in Wyoming, as depicted in Exhibit TS-002. Six of these 44 members serve retail load in the Eastern Interconnection. Tri-State is an exempt public utility not subject to Sections 205 and 206 of the Federal Power Act (FPA) pursuant to Section 201(f) of the FPA.<sup>1</sup> Tri-State transferred functional control to Southwest Power Pool (SPP) of only those assets Tri-State owns in the Eastern Interconnection, located primarily in Nebraska, which are listed in Exhibit No. TS-07.<sup>2</sup>

2. This case began with SPP's October 30, 2015 filing,<sup>3</sup> revising its Open Access Transmission Tariff (Tariff)<sup>4</sup> to incorporate Tri-State's formula rate and formula rate protocols, and to make other modifications to accommodate Tri-State as a Transmission Owner (TO) under the SPP Tariff. As part of that filing, SPP proposed to place the relevant transmission facilities that Tri-State voluntarily put under SPP's functional control and the associated Annual Transmission Revenue Requirement (ATRR) into SPP pricing Zone 17.<sup>5</sup> The dominant TO in Zone 17, a multi-TO zone, is the Nebraska Public

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<sup>1</sup> 16 U.S.C. §§ 824(e)-(f).

<sup>2</sup> Joint Statement of Stipulated Facts and Contested Facts, Docket No. ER16-204-001, at JSF-4-6 (Nov. 4, 2016) (Joint Stipulations).

<sup>3</sup> Submission of Revenue Requirement, Formula Rate Template and Formula Rate Protocols for Tri-State Generation and Transmission Association, Inc., of Southwest Power Pool, Inc., Docket No. ER16-204-000 (Oct. 30, 2015) (October 2015 Filing).

<sup>4</sup> Southwest Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Volume No. 1.

<sup>5</sup> As explained in the October 2015 Filing, Tri-State placed some, but not all, of its transmission facilities in the Eastern Interconnection under SPP's functional control under the Tariff. October 2015 Filing at 4. Accordingly, references in this Initial Decision to Tri-State's transmission facilities refer to those facilities that are included in the SPP Tariff and placed under SPP's functional control.

Power District (NPPD). The October 2015 Filing included testimony of Tri-State witness and consultant Mr. Ronald W. Steinbach, in which Mr. Steinbach testified that: (1) the Tri-State transmission facilities are highly integrated with NPPD's transmission facilities in Zone 17; and, (2) inclusion of Tri-State's transmission facilities in any other pricing zone would conflict with the historical operation of Tri-State's and NPPD's respective facilities and likely would result in an improper allocation of costs between Tri-State and NPPD.<sup>6</sup> The October 2015 Filing also contained testimony by various Tri-State witnesses to demonstrate the justness and reasonableness of Tri-State's formula rate and protocols.<sup>7</sup>

3. On November 20, 2015, NPPD filed a motion protesting the October 2015 Filing and requesting that the Commission either grant summary disposition of certain issues or set such issues for hearing.<sup>8</sup> NPPD opposed SPP's placement of Tri-State's facilities in Zone 17, arguing that Tri-State's facilities should be placed in its own pricing zone or, alternatively, in SPP Pricing Zone 19.<sup>9</sup> NPPD also took issue with Tri-State's proposed ATRR.<sup>10</sup> On December 14, 2015, SPP filed its answer to the NPPD Motion.<sup>11</sup>

4. The Commission issued an order on December 30, 2015, accepting the October 2015 Filing, effective January 1, 2015, subject to refund, and establishing hearing and settlement judge procedures.<sup>12</sup>

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<sup>6</sup> October 2015 Filing at 4.

<sup>7</sup> See October 2015 Filing, Exh. SPP-010 (Testimony of Bernard A. Cevera), Exh. SPP-014 (Testimony of Robert C. Smith).

<sup>8</sup> Motion to Intervene, Protest and Motion for Summary Disposition or, in the Alternative, Hearing of the Nebraska Public Power District, Docket No. ER16-204-000 (Nov. 20, 2015) (NPPD Motion).

<sup>9</sup> *Id.* at 9-22.

<sup>10</sup> *Id.* at 22.

<sup>11</sup> Answer of Southwest Power Pool, Inc., Docket No. ER16-204-000 (Dec. 14, 2015).

<sup>12</sup> *Sw. Power Pool, Inc.*, 153 FERC ¶ 61,366 (2015).

5. Commission Trial Staff (Trial Staff) and Tri-State have since reached a partial settlement that resolves all issues related to Tri-State's Formula Rate and ATRR.<sup>13</sup> Under the partial settlement, the revised Tri-State ATRR for the 2016 Rate Year is \$7,176,365, which consists of two components: (1) a Schedule 9 (Network Integration Transmission Service) ATRR of \$6,767,443; and, (2) a Schedule 1 (Scheduling, System Control, and Dispatch Service) annual revenue requirement of \$408,922.<sup>14</sup> The 2016 Rate Year runs from July 1, 2015 through June 30, 2016.<sup>15</sup>

6. Accordingly, and as the parties have agreed,<sup>16</sup> the remaining issues in this case are:

1. Whether SPP's proposed placement of Tri-State's facilities and ATRR in SPP Pricing Zone 17 is just and reasonable; and,
2. What are the appropriate refunds owed by Tri-State, if any, to be distributed by SPP if the Commission determines that SPP's proposed zonal placement of Tri-State is unjust and unreasonable?

7. The first issue, and the one addressed at hearing in this case, is whether SPP's proposed changes to its Tariff to integrate a new TO, Tri-State, into SPP pricing Zone 17, is just and reasonable. This first issue includes such questions as (1) whether SPP's criteria for zonal placement of prospective TOs are appropriate; (2) whether Tri-State is sufficiently integrated with Zone 17 to warrant such placement; (3) whether placing Tri-State in Zone 17 will unreasonably shift costs to the other TOs and customers in Zone 17; (4) whether placement in another zone other than Zone 17 is appropriate; and, (4) whether the resulting zonal rate is just and reasonable and not unduly discriminatory. The second overarching issue is whether Tri-State's proposed formula rate for recovering its ATRR is just and reasonable. This second issue included questions as to the individual components of Tri-State's formulaic ATRR, the answers to which would impact the level of the cost-shifting. The parties, however, settled the ATRR issues.

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<sup>13</sup> Joint Stipulations at JSF-11.

<sup>14</sup> *Id.* at JSF-12.

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

<sup>16</sup> Final Joint Narrative Statement of Issues, Docket No. ER16-204-001, at 1, 7 (Oct. 24, 2016) (Joint Statement of Issues).

## II. Procedural History

8. On October 30, 2015, SPP submitted revisions to its Tariff to include an ATRR, a Formula Rate Template, and Formula Rate Implementation Protocols (collectively, the Formula Rate) on behalf of Tri-State, pursuant to section 205 of the FPA and Part 35 of the Commission's regulations. SPP's filing placed Tri-State's transmission facilities in SPP Pricing Zone 17.

9. On November 20, 2015, NPPD filed a Motion to Intervene and Protest, arguing that SPP's placement of Tri-State's transmission facilities in Pricing Zone 17 was unjust and unreasonable. Basin Electric Power Cooperative (Basin Electric), Northwest Iowa Power Cooperative, Western Area Power Administration (Western), and Tri-State filed motions to intervene and comments. Kansas City Power & Light Company (KCP&L), KCP&L Greater Missouri Operations Company, South Central MCN, LLC (South Central), City of Independence, Missouri, the Municipal Energy Agency of Nebraska (MEAN), East River Electric Power Cooperative, Inc., Corn Belt Power Cooperative, Inc., Mid-Kansas Electric Company, LLC, Sunflower Electric Power Corporation, Xcel Energy Services Inc., and the City of Grand Island d/b/a Grand Island Utilities filed motions to intervene. On December 3, 2015, Missouri River Energy Services (Missouri River) filed a motion to intervene out-of-time. On December 7, 2015, Tri-State filed an answer to NPPD's Protest. Western and SPP also filed answers to NPPD's Protest on December 8, 2015, and December 14, 2015, respectively. On December 15, 2015, NPPD filed an answer to the answers of Tri-State, Western, and SPP.

10. On December 30, 2015, the Commission issued an Order accepting SPP's proposed Tariff revisions, subject to refund, and establishing hearing and settlement judge procedures concerning whether SPP's proposed Tariff revisions are just and reasonable.<sup>17</sup> The Commission also conditionally granted Tri-State's request for a 50 basis point adder to Tri-State's base return on equity for its participation in SPP.<sup>18</sup>

11. Parties held settlement discussions on February 10, 2016, and March 31, 2016, at which point they reached an impasse. On April 1, 2016, Settlement Judge H. Peter Young issued a report recommending that the Commission and Chief Judge Cintron terminate the settlement judge procedures and set the proceeding for hearing. On April 4, 2016, Chief Judge Cintron issued an order terminating settlement procedures, designating

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<sup>17</sup> *Sw. Power Pool, Inc.*, 153 FERC ¶ 61,366 at PP 1, 43-44, and Ordering Paragraphs (A) and (B).

<sup>18</sup> *Id.* at P 41.

a presiding administrative law judge, and establishing Track II procedural time standards.<sup>19</sup>

12. Tri-State and SPP filed direct testimony on May 18, 2016, and SPP filed an errata to its direct testimony on May 23, 2016. On June 20, 2016, NPPD filed answering testimony. Trial Staff filed direct and answering testimony on August 2, 2016, and filed corrections to its testimony August 4, 2016. On August 29, 2016, Western filed cross-answering testimony and on September 28, 2016, SPP and Tri-State filed rebuttal testimony.

13. Trial Staff, on behalf of all parties, filed a joint narrative statement of issues on October 24, 2016 (as corrected on October 25), and SPP filed a joint witness list on October 31, 2016. Per the settlement reached by the parties on Tri-State's ATRR, formula rate template and implementation protocols, the joint narrative statement of issues was limited to: (1) whether SPP's proposed placement of Tri-State's facilities and ATRR in SPP Pricing Zone 17 is just and reasonable; and, (2) the appropriate refunds owed by Tri-State, if any, to be distributed by SPP if the Commission determines that SPP's proposed zonal placement of Tri-State is unjust and unreasonable. Tri-State, Trial Staff, and NPPD filed revised testimony on November 3, 2016 to reflect the settlement on Tri-State's ATRR, formula rate template and implementation protocols. On November 4, 2016, the parties filed a joint statement of stipulated facts and contested facts. A hearing regarding the issues identified in the joint narrative statement of issues was held before me from November 7, 2016, to November 9, 2016.

14. On December 14, 2016, NPPD, SPP, Tri-State, South Central, Western, and Trial Staff submitted Initial Briefs. On January 9, 2017, NPPD, SPP, Tri-State, South Central, Western, and Trial Staff submitted Reply Briefs. On January 12, 2017, NPPD submitted a Motion to submit Limited Supplemental Reply Brief. On January 27, 2017, SPP and Tri-State submitted answers in opposition to NPPD's Motion. On January 31, 2017, I issued an order denying NPPD's Motion.

15. On February 22, 2017, SPP submitted a Joint Offer of Partial Settlement and Settlement Agreement that resolves all issues related to Tri-State's Formula Rate and ATRR.

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<sup>19</sup> *Sw. Power Pool, Inc.*, Order of Chief Judge Terminating Settlement Judge Procedures, Designating Presiding Administrative Law Judge, and Establishing Track II Procedural Time Standards, Docket No. ER16-204-000 *et al.*, at PP 1-3 (2016).

### **III. Summarized Testimony**

#### **A. Tri-State**

##### **1. Pre-Hearing Testimony of Mr. Ronald Steinbach**

16. Mr. Steinbach supports SPP's filing, on behalf of Tri-State, to revise SPP's Tariff to include an ATRR for Tri-State and to implement the Formula Rate for transmission service using Tri-State's facilities.<sup>20</sup>

17. According to Mr. Steinbach, due to the decision of the Western-Upper Great Plains Region (Western-UGP), Basin Electric, and Heartland Consumers Power District (Heartland), (collectively, the Integrated System) to join SPP, Tri-State's facilities that reside physically within the SPP footprint became virtually surrounded by facilities under the functional control of SPP. Specifically, Mr. Steinbach states, Tri-State is surrounded by the facilities of Zone 19 (the SPP pricing zone in which the Integrated System's facilities are located) and NPPD. Prior to Tri-State becoming an SPP TO, he explains that the only remaining transmission facilities in western Nebraska within the SPP footprint not under SPP's functional control were Tri-State's facilities and two transmission lines owned by the Western-Rocky Mountain Region (Western-RMR). Therefore, Mr. Steinbach asserts that it is no longer possible for Tri-State to access other Eastern Interconnection transmission or generation facilities without acquiring SPP transmission service. As a result, Tri-State evaluated various options and ultimately concluded that becoming a member of SPP would be beneficial to Tri-State and its members.<sup>21</sup>

18. Mr. Steinbach explains that the majority of assets that Tri-State transferred to the functional control of SPP and placed under the SPP Tariff are governed by the western Nebraska Transmission Agreement between Tri-State and NPPD (NETS Agreement). This contract is currently listed in Attachment W, Grandfathered Agreements, of the SPP Tariff and is designated as GFA 494. Mr. Steinbach notes that Tri-State's facilities are integrally operated with NPPD facilities in western Nebraska. He explains that the Tri-State-owned Sydney station connects directly to Zone 19, and this station is connected to the balance of Tri-State's assets only through NPPD facilities.<sup>22</sup> Mr. Steinbach states that all the facilities that Tri-State has transferred to SPP's functional control meet the criteria

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<sup>20</sup> Exh. TS-001 at 3.

<sup>21</sup> *Id.* at 11.

<sup>22</sup> *Id.* at 8.

for transmission facilities specified in Attachment AI of the SPP Tariff. Specifically, Tri-State proposes to transfer to SPP's functional control 300 miles of transmission circuits comprised of Tri-State's 115 kilovolt (kV) transmission system, as well as portions of two 230 kV substations.<sup>23</sup>

19. Mr. Steinbach explains that SPP has the sole authority to determine the structure of its pricing zones, and this authority extends to adding a new TO to an existing pricing zone.<sup>24</sup> Additionally, he asserts that SPP's decision to place Tri-State in pricing Zone 17 is just and reasonable. Mr. Steinbach applied SPP's zonal placement criteria for a prospective TO to Tri-State's facilities and determined that SPP correctly decided to place Tri-State's facilities in Zone 17. First, he asserts that Tri-State's ATRR is less than the ATRR of the existing pricing zone with the smallest ATRR. Second, he asserts that Tri-State's facilities are embedded within the facilities that comprise Zone 17. Third, he asserts that Tri-State's transmission facilities are highly integrated with the other Zone 17 TOs. Fourth and finally, he asserts that Tri-State's transmission facilities do not substantively increase the SPP footprint.<sup>25</sup>

20. As to the integration with other Zone 17 TOs, Mr. Steinbach explains that Tri-State's facilities have been jointly planned and operated with NPPD's facilities in Zone 17 for more than 40 years and continue to be managed as a single, integrated system pursuant to GFA 494. When NPPD joined SPP on April 1, 2009, it placed its GFA 494 facilities, as well as its use rights to Tri-State's facilities, under the functional control of SPP in Zone 17. Mr. Steinbach states that neither NPPD nor Tri-State has a physical path to all of its loads without using the facilities of the other entity, and managing the facilities as a single system under GFA 494 has allowed Tri-State and NPPD to avoid duplicative construction. Mr. Steinbach states that Tri-State shares six points of interconnection with Zone 17 TOs, and zero points of interconnection with other SPP pricing zones. He explains that Tri-State facilities interconnect with NPPD at Ogallala, Grant, Enders, Sidney, Stegall, and, a point that is approximately one mile east of Paxton. He further explains that although Tri-State's Sidney facilities technically interconnect with Zone 19 facilities, Tri-State's facilities at the Sydney Substation are isolated, and

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<sup>23</sup> *Id.* at 14.

<sup>24</sup> *See generally* SPP Membership Agreement (Exh. TS-008).

<sup>25</sup> Exh. TS-001 at 18, 26.

they cannot interconnect with the remainder of Tri-State's system without using NPPD transmission facilities.<sup>26</sup>

21. Mr. Steinbach asserts that including Tri-State's facilities in any pricing zone other than Zone 17 would contradict 40 years of historical practice by changing the way in which the facilities are administered and the costs are recovered. He further asserts that the principles espoused by both parties in GFA 494 highlight the integrated nature of the Tri-State and NPPD transmission systems. For example, he notes that the recitals of GFA 494 state that "portions of Tri-State's electric power transmission facilities in western Nebraska are interconnected with NPPD's electric power transmission system and are *operated in synchronism* with it."<sup>27</sup> Also, he notes that section 3.09 of GFA 494 states that "[t]he Parties shall conduct conferences and studies to develop plans for the addition of necessary high voltage transmission facilities to NETS using the Single-Entity Concept."<sup>28</sup> Mr. Steinbach explains that the Single-Entity Concept is a concept used in planning, designing, constructing, operating, and maintaining a transmission system in which the system is treated as though it were owned by only one party.<sup>29</sup>

22. Additionally, Mr. Steinbach asserts that there are reliability benefits to both NPPD and Tri-State from the joint planning and operation of their systems in western Nebraska. A fundamental objective of the NETS Agreement is to ensure the reliability of transmission service on NPPD's and Tri-State's systems in western Nebraska. For example, he notes that Article 1.01 of the NETS Agreement states that "[t]he objective of this Agreement is to provide for planning, constructing, operating, and maintaining an integrated, interconnected, adequate, and reliable joint electric power transmission system to serve the parties' customers in western Nebraska and to provide for fair and equitable allocation of costs and benefits of such system."<sup>30</sup>

23. Furthermore, Mr. Steinbach explains that NPPD may benefit from the transmission usage rights of Tri-State's facilities under the NETS Agreement more so than Tri-State benefits from the use of NPPD's facilities. He explains that under the NETS Agreement if the ratio of a party's usage of the joint facilities of Tri-State and

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<sup>26</sup> *Id.* at 20.

<sup>27</sup> *Id.* at 21 (citing Exh. TS-003 at 1 (emphasis added)).

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

<sup>29</sup> *Id.* at 19.

<sup>30</sup> *Id.* at 22-23.

NPPD to the sum of both parties' use of the facilities exceeds that party's share of the expenses of the facilities, the party makes an equalization payment to the other party; "On average, Tri-State makes an equalization payment of \$1 million to NPPD" each year.<sup>31</sup>

24. As to the increase of the SPP footprint by the inclusion of Tri-State's facilities, Mr. Steinbach explains that Tri-State's facilities are a *de minimis* addition to SPP's footprint. Mr. Steinbach explains that SPP administers transmission service over 60,944 miles of transmission lines. And although Tri-State has substantial transmission facilities in several states, he asserts that Tri-State only seeks to include its Eastern Interconnection assets in Nebraska and Colorado in SPP. He states that these assets amount to 300 miles of transmission line and portions of two 230 kV substations. Mr. Steinbach avers that the transfer of functional control of 300 miles of transmission facilities to SPP represents an approximately 0.5 percent increase in SPP's footprint, which is not a significant expansion of SPP's footprint. Furthermore, he asserts that considering the facilities that Tri-State is including in SPP are virtually surrounded by other SPP TOs, there is no footprint expansion at all. Instead, Mr. Steinbach explains that Tri-State is filling in space within the existing SPP service territory. He asserts that because Tri-State's facilities are embedded within, and heavily integrated with, NPPD facilities in Zone 17, SPP correctly determined that Tri-State's facilities should be included in Zone 17. He further asserts that SPP correctly recognized that Tri-State's facilities are not significantly integrated with other pricing zones, and are not substantial enough to warrant a Tri-State-only zone.<sup>32</sup>

25. Next, Mr. Steinbach explains that adding a new TO to an existing pricing zone will unavoidably shift costs among the TOs in that zone, due to the addition of new transmission assets and load to the zone. Based on Tri-State's analysis, the inclusion of Tri-State's facilities in Zone 17 will result in a net impact to NPPD of between \$1.2 and \$2 million per year, which is significantly less than the \$5 million cost shift alleged by NPPD in its protest in this proceeding.<sup>33</sup>

26. In performing its analysis, Tri-State started with the \$5 million cost shift asserted by NPPD, but then adjusted that figure based on the following considerations:

- 1) Exclusion of the revenue associated with termination of the NETS Agreement;
- 2) Addition of costs that NPPD would incur if Tri-State were in another zone; and,

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<sup>31</sup> *Id.* at 21-23.

<sup>32</sup> *Id.* at 24.

<sup>33</sup> *Id.* at 25-26.

3) Adjustments based on known and measureable future changes.<sup>34</sup>

27. As to the NETS agreement, Mr. Steinbach explains that the termination of the NETS Agreement reduces the cost shift by about \$1 million. In the resulting ATRR for the 2015 Rate Year, Tri-State included the equalization payments that Tri-State makes to NPPD under the NETS Agreement. Based on 2014 actual data, the equalization payment paid by Tri-State to NPPD was \$1,064,552. On November 4, 2015, Tri-State gave NPPD notice of its intent to terminate the NETS Agreement, which then became effective on November 2, 2020. Therefore, Mr. Steinbach states this payment would cease to be included in Tri-State's ATRR as of November 2, 2020. Accordingly, Mr. Steinbach notes that Tri-State removed the \$1,064,552 equalization payment in its cost shift analysis, which reduces the cost shift impact to about \$3.3 million.<sup>35</sup>

28. Additionally, Mr. Steinbach avers that it is misleading for NPPD to allege a cost shift if Tri-State were to join Zone 17, and not acknowledge the additional costs that NPPD would incur if Tri-State's facilities were placed into another pricing zone. Prior to the date on which SPP filed in the above-captioned proceeding to integrate Tri-State into SPP, Mr. Steinbach explains that Tri-State and NPPD worked together to identify both party's loads that are not directly connected to their own facilities. He explains that Tri-State and NPPD identified 8.2 megawatts (MW) of Tri-State load connected only to NPPD facilities, and 21.5 MW of NPPD and other Zone 17 load connected to Tri-State's facilities. If Tri-State is not included in Zone 17, he asserts that NPPD and MEAN would be required to pay for transmission service in a non-Zone 17 pricing zone estimated to be \$1.2 million. Additionally, he asserts that Zone 17 would receive a benefit of approximately \$200,000, due to the 8.2 MW of Tri-State load remaining in Zone 17, totaling the combined impact to the Zone 17 Transmission Customers to \$1.4 million. Therefore, Mr. Steinbach states that after taking into account adjustment factors (1) and (2), the total cost shift is reduced from \$5 million to about \$1.8 million.<sup>36</sup>

29. Tri-State also performed a forecast of future zonal costs in its review of the cost impact on NPPD. The future zonal costs analyzed by Tri-State are based on SPP's Ten-Year Forecast of Allocated Transmission Revenue Requirement presented at the February 25, 2016 SPP Regional Tariff Working Group meeting. Specifically, Tri-State used data from the year 2023 in SPP's presentation to include in Tri-State's analysis, to provide a sense of the long-term cost impacts on NPPD. Mr. Steinbach explains that

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<sup>34</sup> *Id.* at 27.

<sup>35</sup> *Id.* at 27.

<sup>36</sup> *Id.* at 28.

SPP's data indicates that Schedule 11 regional costs will further reduce the impact on NPPD in the near future. SPP forecasts that the Zone 17 Schedule 11 zonal revenue requirement in 2023 will be \$17,462,541. That is an increase of approximately \$12 million over 2016. Mr. Steinbach states that Tri-State's estimated share of that revenue requirement will be slightly more than \$800,000. If Tri-State does not cover this \$800,000 in Schedule 11 costs in Zone 17, he asserts that the majority of such costs will fall on NPPD.<sup>37</sup>

30. Tri-State's analysis asserts that cost shifts to NPPD will be substantially lower than those projected by NPPD. In fact, Tri-State states that the estimated long-term cost shift to NPPD is a 1.8 percent increase in their transmission rates for service in Zone 17. Tri-State believes that this is well within the zone of reasonableness.<sup>38</sup>

## **2. Cross-Examination Testimony of Mr. Steinbach**

31. During cross examination, Mr. Steinbach stated that Tri-State did not give any thought to joining SPP along with the Integrated System because Tri-State's load is not connected to the Integrated System. Mr. Steinbach clarified that the four interconnections to the Integrated System were points in which NPPD connects to the Integrated System, not Tri-State.<sup>39</sup>

32. Mr. Steinbach stated that initially Tri-State asked SPP to perform cost-benefit analysis with three scenarios in it, including Tri-State's placement in Zone 17, Tri-State's placement in Zone 19, and a Tri-State-only zone. Mr. Steinbach asserted that these three options still existed beyond December 2014; the three options existed into the spring of 2015.<sup>40</sup>

33. Mr. Steinbach asserted that as of January 1, 2016, although \$4.3 million of Tri-State's ATRR was shifted to Zone 17 as a direct result of Tri-State joining SPP, the focus should be on the comparative impact to Zone 17 customers if Tri-State is in Zone 17 vis-à-vis Zone 19 or another zone. For example, he stated that due to a baseline cost shift,

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<sup>37</sup> *Id.* at 29-30.

<sup>38</sup> *Id.* at 30.

<sup>39</sup> Tr. 49:11-21.

<sup>40</sup> Tr. 52:8-14.

NPPD Zone 17 customers incur approximately \$1.4 million in costs if Tri-State is placed in another zone.<sup>41</sup>

34. This baseline cost shift, Mr. Steinbach explained, is attributable to the 21.5 MW of Zone 17 load served directly from Tri-State facilities, and the additional savings to Zone 17 customers from the 8.2 MW of Tri-State load that would reside in Zone 17, reducing the cost to those customers. Mr. Steinbach explained that Tri-State included those costs in its calculation because it is Tri-State's belief that it is not appropriate to take a snapshot on the day a TO is placed in a zone, and assume that cost shifts are static. For example, Tri-State's cancellation of the NETS Agreement with NPPD mitigates the cost shift to Zone 17 customers, because the cancellation will reduce Tri-State's ATRR by approximately \$1 million, beginning in November 2020. Mr. Steinbach asserted that Tri-State is paying NPPD \$1 million under the NETS agreement for a service that Tri-State already receives from SPP. Even though there is a credit in the NPPD ATRR payment that Tri-State makes, he stated that Tri-State is recompensed for only 4.5 percent of the NETS Agreement payment, resulting in a windfall to NPPD. Mr. Steinbach explained that another mitigating adjustment to the alleged cost shift includes Tri-State's future responsibility for approximately \$700,000 of Balanced Portfolio and Regional Schedule 11 costs that would be allocated to Zone 17, and paid by Tri-State load if Tri-State is placed in Zone 17. Although Mr. Steinbach admitted that Tri-State contribution to the Balanced Portfolio costs would not occur until 2023, he explained that it is reasonable for Tri-State to consider the contribution because it is known and measurable.<sup>42</sup>

35. Additionally, Mr. Steinbach observed that the facilities that Tri-State currently brings with it into Zone 17 have a minimal impact on NPPD. In NPPD witness Mr. Todd Swartz's testimony, he noted the fact that Tri-State is acquiring a number of assets from its members, and that this will have a negative impact on the pricing zone. However, Mr. Steinbach stated that although these facilities were initially valued at \$500,000, Tri-State acquired them at net book value at approximately \$50,000. He asserted that factoring that into a revenue requirement, the impact on the ATRR would be about \$6,000, or \$7,000 a year. He stated that this is not a significant impact.<sup>43</sup>

36. Mr. Steinbach stated that because of Tri-State's relationship with Basin Electric, as the transmission customer for Tri-State's load, Tri-State is including its facilities within the SPP tariff, and Basin Electric is paying the transmission bill. Thus, he explained,

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<sup>41</sup> Tr. 62:1-5.

<sup>42</sup> Tr. 142:8-143:7.

<sup>43</sup> Tr. 143:11-24.

from a transmission-only perspective, it appears that Tri-State is saving an amount equivalent to its full ATRR.<sup>44</sup>

37. [REDACTED]<sup>45</sup>

38. [REDACTED]<sup>46</sup>

39. [REDACTED]<sup>47</sup>

40. Mr. D'Alessandro inquired whether Mr. Steinbach is claiming that Tri-State does not have any transmission rights to use the 200 MW-a-day of transmission capacity on the Missouri Basin Power Project (Missouri Basin) line from Stegall to Sidney. Mr. Steinbach responded in the affirmative. He explained that the Missouri Basin participation agreement granted 200 MW of rights to Tri-State from Sidney to Stegall. He further explained that the purpose of the agreement was to meet Tri-State's contractual obligation to NPPD under the 1976 Transmission and Interconnection Agreement, to allow NPPD to use the Missouri Basin line to move power from Sidney to its loads in northwest Nebraska. Mr. Steinbach asserts that these rights exist today under the GFA 496. He explained that the rights are tied to Basin Electric, as the manager of Missouri Basin, which granted Tri-State the rights and then renegotiated a contract with NPPD to transfer those rights. He states that the rights now really reside in the contract between Basin Electric, as manager of Missouri Basin, and NPPD. He explained that because those facilities are now in Zone 19, NPPD has rights to use that line.<sup>48</sup>

41. Trial Staff counsel inquired whether SPP has functional control over a facility that is included in an SPP pricing zone, and if there is "integration" if a facility is included in an SPP pricing zone and SPP has functional control over it. Mr. Steinbach responded in the affirmative to both questions, specifying as to the second question that it would be integrated within the SPP system.<sup>49</sup>

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<sup>44</sup> Tr. 144:7-15.

<sup>45</sup> [REDACTED]

<sup>46</sup> [REDACTED]

<sup>47</sup> [REDACTED]

<sup>48</sup> Tr. 113:12-114:11.

<sup>49</sup> Tr. 115:23-116:7.

42. When asked about the meaning of "some degree of interconnection is required," Mr. Steinbach explained that he views interconnection as more than a load-serving point, as for example, a network service point of delivery. He further explained that "interconnection" means a spot in which power can flow in either direction between two power systems. When asked whether one interconnection would be sufficient for "some degree of integration," Mr. Steinbach responded that it depends on whether it was a point in which the voltage is 230 kV, 345 kV, or above. If so, and if it is a point in which transfers can take place, that might equate to "integration." He explained that if it is a 69 or 115-kV line, it might not; it is on a case-by-case basis. When asked whether a facility that meets the definition of "transmission facility" under SPP's attachment AI qualifies for "some degree of integration," he responded "not necessarily." He explained that the power still has to be able to flow in both directions, and if it is a load-serving facility, power does not flow in both directions.<sup>50</sup>

43. Mr. Steinbach explained that SPP has sole authority to determine the structure of its pricing zones, and that this authority extends to creating multiple TO pricing zones. He agreed that SPP has authority to establish a stand-alone pricing zone for a single TO as well.<sup>51</sup>

44. Mr. Steinbach asserted that Tri-State believed it could negotiate a lower impact on NPPD. Additionally, Mr. Steinbach asserted that it was SPP's decision to place Tri-State in Zone 17, and that Tri-State had no right to participate in the decision-making process. He stated that Tri-State did not have any control over the zonal placement decision. He explained that Tri-State would object to being placed in its own zone if it appears to violate SPP's zonal placement criteria. Mr. Steinbach asserted that if the decision to place Tri-State in its own zone did not violate Commission precedent or SPP's criteria, Tri-State would have to perform a cost benefit analysis to determine if it is still beneficial to join SPP. Mr. Steinbach stated unlike the uncertainty to any benefit stemming from Tri-State being placed in its own zone, Tri-State is already aware that Zone 17 is beneficial to it as it relates to cost, benefits, and integration.<sup>52</sup>

### **3. Initial Brief**

45. Tri-State asserts that SPP has properly exercised its authority under Commission regulations, the SPP Membership Agreement, and the SPP Tariff in placing Tri-State in

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<sup>50</sup> Tr. 121:10-122:13.

<sup>51</sup> Tr. 123:3-11.

<sup>52</sup> Tr. 133:13-134:5.

Zone 17. Tri-State explains that under the Commission's regulations, a regional transmission organization (RTO) "must have exclusive and independent authority under section 205 of the Federal Power Act (16 U.S.C. § 824d (2012)), to propose rates, terms and conditions of transmission service provided over the facilities it operates."<sup>53</sup> As a result, as an RTO, SPP has the sole authority to determine the structure of its pricing zones, and this authority extends to adding a new TO to an existing pricing zone. Under the SPP Membership Agreement, SPP has "the general authority to take any actions necessary for it to carry out its duties and responsibilities, subject to receiving any necessary regulatory approvals."<sup>54</sup> Further, under the Membership Agreement, SPP has the right to propose any changes in "prices, pricing methods, terms, and conditions" that are necessary to fulfill that responsibility to its members.<sup>55</sup> Tri-State explains that this includes the creation of multi-TO pricing zones.<sup>56</sup>

46. Tri-State asserts that SPP's determination that Tri-State should be placed in Zone 17 is just and reasonable. Tri-State explains that SPP's criteria for determining the zonal placement of a new TO have been used for several years in determining whether it is more appropriate for a TO to be placed in its own zone or in an existing zone.<sup>57</sup> In this case, SPP applied its criteria and determined that Tri-State should be placed in Zone 17.<sup>58</sup>

47. Tri-State avers that NPPD's challenge to SPP's decision to place Tri-State in Zone 17 is not meritorious. In the first place, Tri-State asserts, NPPD does not dispute the importance of SPP's criteria. For example, Tri-State explains that NPPD witness Mr. Paul Malone stated that he "agree[s] that all of the criteria identified by SPP are factors that should be considered in determining whether a new TO should be integrated into SPP as a separate pricing zone or as part of an existing pricing zone."<sup>59</sup> Mr. Malone elaborated that "[n]o one factor should determine whether the new TO must be integrated into an existing zone. All relevant factors must be analyzed from an operational and

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<sup>53</sup> Tri-State Initial Br. at 5 (citing 18 C.F.R. § 35.34(j)(1)(iii) (2016)).

<sup>54</sup> *Id.* (citing Exh. TS-008, SPP Membership Agreement, at § 2.1.1).

<sup>55</sup> *Id.* (citing Exh. TS-008, SPP Membership Agreement, at § 2.2.1).

<sup>56</sup> *Id.*; *see generally* Exh. TS-017 (SPP Tariff Attachment L).

<sup>57</sup> *Id.* (citing Exh. NPP-039).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* (citing Exh. NPP-008 at 13:15-17).

financial impact perspective to determine a reasonable end result.”<sup>60</sup> Second, Tri-State avers that Mr. Malone’s assertion that in situations in which there is interconnection with two existing SPP zones, the TO “should be placed in the zone that results in the smallest cost shift”<sup>61</sup> does not apply to Tri-State. Tri-State explains that it shares six points of interconnection with NPPD while it has only one interconnection with Zone 19, and, that interconnection cannot be used to serve Tri-State’s load in SPP.<sup>62</sup> Therefore, Tri-State asserts that even if Mr. Malone’s assertion that zonal placement should be determined in part based on cost shift were valid as a general proposition, it would not be applicable in Tri-State’s case.<sup>63</sup>

48. Tri-State asserts that the existence of a cost shift should not affect the zone in which Tri-State is placed. Tri-State explains that cost shifts are unavoidable each time a new TO joins a zone, and the Commission has never before overruled an RTO’s zonal placement decision on the basis of cost shifts. Even if cost shifts are considered, Tri-State states that they must be evaluated in light of long-term impacts, rather than first-year impacts, since zonal placement is a long-term matter. Tri-State asserts that NPPD also has substantially overstated the first-year cost shifts resulting from Tri-State’s placement in Zone 17, and incorrectly attempted to dismiss as irrelevant the fact that the minor cost shifts that will occur in the first year will reduce over time. Tri-State further asserts that NPPD has also ignored the fact that Tri-State’s payment to NPPD of \$1 million per year under the NETS Agreement, which Tri-State no longer needs to serve its loads on the NPPD system, accrues primarily to NPPD and artificially increases the cost shift to Zone 17 customers. Consequently, Tri-State avers, cost shifts resulting from SPP’s placement of Tri-State in Zone 17 do not make that placement unjust or unreasonable.<sup>64</sup>

49. Tri-State states that allegations of cost shifts should not affect the decision as to a new TO’s placement in a pricing zone. Tri-State asserts that the Commission should dismiss NPPD’s assertion that SPP is required to consider cost-shifting in deciding the zone into which a new TO should be placed. Tri-State explains that NPPD’s argument fails to acknowledge that costs shifts are unavoidable when a new TO joins an existing

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<sup>60</sup> *Id.* (citing Exh. NPP-008 at 13:17-18).

<sup>61</sup> *Id.* (citing Exh. NPP-008 at 4:2-4).

<sup>62</sup> *Id.* (citing Exhs. TS-027 at 6:9-10; NPP-038; Tr. 112:14-114:4, 279:9-22).

<sup>63</sup> *Id.* at 7.

<sup>64</sup> *Id.* at 10.

zone. As multiple parties to this proceeding have acknowledged, Tri-State explains that intra-zone cost shifts are unavoidable when a new TO joins an existing zone. SPP witness Mr. L. Patrick Bourne explained that:

[a]ny time that you add new TOs or facilities to the tariff, there's a cost shift. Even if a company is added as a new zone and bears, in effect, its own transmission cost, there's elimination of pancaking in their prior service. There's also monetizations or eliminations of grandfathered service. So any time you're adding new transmission companies into the tariff, you're going to have cost shifts.<sup>65</sup>

50. Mr. Bourne further explained that the only circumstances in which a cost shift will not occur is one in which the new TO “has a cost exactly equal to the pro rata cost in the zone into which [the new TO is] moving.”<sup>66</sup> Mr. Steinbach agreed that “[a]dding a new TO to an existing pricing zone will unavoidably shift costs among the TOs in that zone due to the addition of new transmission assets and load to the zone.”<sup>67</sup>

51. SPP currently has nine multi-TO zones, including Zone 17. The Commission has approved each of these zones without rejecting any zonal placement on the basis of unjust and unreasonable cost shifts, and without requiring mitigation of any cost shift caused by a new TO's joining an existing zone. Tri-State explains that the Commission's approval of these zones reflects the reality that when a new TO joins SPP, cost shifts are unavoidable. Tri-State states that NPPD's assertion that SPP should be required to consider intra-zonal costs shifts when a new TO joins an existing zone also fails to recognize the economic and reliability benefits provided by adding new TOs to RTOs. As the Commission explained in Order No. 2000, the benefits of RTOs are numerous and include:

increased efficiency through regional transmission pricing and the elimination of rate pancaking; improved congestion management; more accurate estimates of ATC; more effective management of parallel path flows; more efficient planning for transmission and generation investments; increased coordination among state regulatory agencies; reduced transaction costs; facilitation of the success of state retail access programs; facilitation of the development of environmentally preferred generation in states with

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<sup>65</sup> *Id.* at 11 (citing Tr. 175:8-15).

<sup>66</sup> *Id.* (citing Tr. 178:9-10).

<sup>67</sup> *Id.* (citing Exh. TS-001 at 26:8-10).

retail access programs; improved grid reliability; and fewer opportunities for discriminatory transmission practices.<sup>68</sup>

52. Tri-State explains that adding new TOs, such as Tri-State, to RTOs will necessarily expand these benefits to more transmission customers. Tri-State asserts that NPPD's focus on the cost shift resulting from SPP's placement of Tri-State's facilities in Zone 17 fails to recognize that any cost increases will be offset by the other benefits of including additional transmission facilities in SPP and Zone 17, as articulated in Order No. 2000. Tri-State explains that the Commission has never before taken cost shifts into account in deciding the zonal placement of a new TO in an RTO. Consequently, Tri-State asserts, NPPD is arguing that the Commission should implement a new policy concerning zonal placement of TOs – essentially, changing the rules – many years after RTOs were formed, and after large numbers of TOs have joined RTOs. Tri-State states that the Commission should reject NPPD's arguments concerning cost shift. Even if the Commission were to entertain NPPD's arguments concerning cost shift, however, Tri-State asserts that precedent indicates that the operation and integration of facilities take precedence over cost shifts associated with the facilities in zonal placement decisions.<sup>69</sup>

53. For example, Tri-State states that in *PJM Interconnection, L.L.C.*, 94 FERC ¶ 61,295 (2001) (*Allegheny*), PJM filed revisions to its Tariff to enable Allegheny Electric Cooperative, Inc. (Allegheny) to recover its revenue requirement associated with a 42-mile section of 500 kV transmission line located within the PPL Zone of PJM.<sup>70</sup> The Commission explained that 98 percent of Allegheny's load is located in the GPU Zone and less than two percent of Allegheny's load is located in the PPL Zone.<sup>71</sup> PPL opposed the allocation of the revenue requirement for the facilities to the PPL Zone on the basis of cost shifts to PPL Zone customers. Specifically, PPL argued that “under the proposed allocation, Allegheny would receive 2.1% of the revenues derived from sales to load in the PPL Group Zone even though its load is only 0.09% of the zonal load,” and therefore PJM's proposed zonal placement “results in cost shifting which is inconsistent with the purpose of PJM zonal rates ... [and] allocates costs in a manner inconsistent with the

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<sup>68</sup> *Id.* at 12 (citing *Regional Transmission Organizations*, 89 FERC ¶ 61,285, at 37 (1999) (Order No. 2000)).

<sup>69</sup> *Id.* at 12-13.

<sup>70</sup> *Id.* at 13 (citing *PJM Interconnection, L.L.C.*, 94 FERC ¶ 61,295, at ¶ 62,074 (2001) (*Allegheny*)).

<sup>71</sup> *Id.*

Commission's cost-causation principals[sic]."<sup>72</sup> As a remedy, PPL argued that Allegheny's revenue requirement in the PPL Zone should be limited to its load ratio share of that zone, or 1.6 percent of the cost of the facilities.<sup>73</sup> Tri-State explains that the Commission dismissed PPL's cost shift concerns and determined that the facilities were properly included in the PPL Zone. Specifically, Tri-State explains that the Commission determined that because PPL has operational control over the facilities "as if the facilities were PPL's own facilities," the facilities are interconnected with PPL, and the facilities primarily support load within the PPL Zone, "it is reasonable for customers in the PPL Group Zone to support these facilities by assigning the revenue requirement associated with those facilities to the PPL Group Zone."<sup>74</sup>

54. Tri-State argues that the Commission should reach a similar result in this proceeding. Tri-State explains that its facilities serve load in Zone 17; the facilities have numerous points of interconnection with Zone 17 and only a single point of interconnection with any other pricing zone; and, the facilities have been jointly operated with Zone 17 facilities for decades. SPP has operational control over the facilities of both NPPD and Tri-State. As with the Commission's holding in *Allegheny*, Tri-State asserts that the Commission should find that the cost shift associated with SPP's placement of Tri-State's facilities and ATRR in Zone 17 does not outweigh the importance of the integrated operation of such facilities with Zone 17 and that Tri-State's facilities should be included in that zone.<sup>75</sup>

55. Moreover, Tri-State argues that NPPD's assertion that Tri-State facilities and ATRR should be removed from Zone 17 and placed in a separate zone is contrary to Commission precedent, because effectively it is a request to hold harmless remaining Zone 17 transmission customers, including NPPD, from cost shifts that result from SPP's placement of Tri-State in Zone 17. Tri-State notes that in proceedings involving transmission providers joining or withdrawing from RTOs, the Commission routinely rejects attempts by customer utilities to require the transmission provider to hold them harmless from cost shifts. For example, Tri-State explains that in *PJM Interconnection, L.L.C., et al.*, 109 FERC ¶ 61,012 (2004), Virginia Electric and Power Company (Dominion) joined PJM under an expansion arrangement known as "PJM South." Old Dominion Electric Cooperative (ODEC) observed that Dominion's startup rate structure

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<sup>72</sup> *Id.* (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,076).

<sup>73</sup> *Id.* (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,076).

<sup>74</sup> *Id.* at 13-14 (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,078).

<sup>75</sup> *Id.* at 14.

did not include a revenue impact analysis for Dominion's conversion to a one coincident peak rate design in place of its existing 12 coincident peak rate design, and asserted that "a hold harmless mechanism may be appropriate if the rate impact associated with this conversion is significant."<sup>76</sup> The Commission rejected ODEC's request. Tri-State urges that the Commission should not deviate from this well-established precedent, and should reject NPPD's self-serving request to protect it from the cost impacts of Tri-State's inclusion in Zone 17.<sup>77</sup>

56. Tri-State explains that the Commission has taken intra-RTO cost shifts into consideration only in RTO-wide rate design proceedings in limited circumstances in which the cost shifts are much larger, in terms of dollars and percentage increases, than the cost shifts that will result from placement of Tri-State in Zone 17. NPPD asserts that Tri-State's placement in Zone 17 will result in a cost shift of \$4.3 million, or eight percent, to other Zone 17 customers. Tri-State asserts that even if NPPD's claim were correct, that is not sufficient to justify overruling SPP's decision to place Tri-State in Zone 17. For example, Tri-State explains that in *PJM Interconnection, LLC*, Opinion No. 494, 119 FERC ¶ 61,063 (2007), the Commission rejected challenges to PJM's license-plate rate design in part because the alternative rate design proposals by Trial Staff and other parties to the proceeding resulted in unacceptable cost shifts among PJM TOs.<sup>78</sup> The Commission stated that "significant cost shifts would occur under any of the proposals, with some zones experiencing increases to their transmission cost responsibility in excess of 70%."<sup>79</sup> Tri-State explains that some TOs would have experienced cost shifts ranging from 30.9 percent (\$10.2 million per year) to 73.2 percent (\$113 million per year) under Trial Staff's proposal. Tri-State further explains that other rejected proposals would have resulted in smaller cost shifts, but some utilities would still have experienced shifts of 26.1 percent (\$15 million per year) to 31.4 percent (\$48.7 million per year). In rejecting such proposals, the Commission explained that it would not tolerate "cost shifts of this magnitude."<sup>80</sup> Tri-State asserts that since the cost shift resulting from SPP's placement of Tri-State in Zone 17 does not approach the level of

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<sup>76</sup> *Id.* at 15 (citing *PJM Interconnection, L.L.C., et al.*, 109 FERC ¶ 61,012, at P 44 (2004)).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 15-16 (citing *PJM Interconnection, LLC*, 119 FERC ¶ 61,063, at P 59 (2007) (Opinion No. 494)).

<sup>79</sup> *Id.* at 16 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 59).

<sup>80</sup> *Id.*

cost shift that the Commission previously has found to be unacceptable, the Commission should reject NPPD's argument.<sup>81</sup>

57. Tri-State asserts that NPPD's analysis incorrectly considers only first-year cost shifts. Tri-State states that Mr. Swartz incorrectly claimed that the cost shift analysis of a new TO such as Tri-State's joining an existing pricing zone should be limited to the new TO's ATRR "as of the effective date of becoming a member of SPP."<sup>82</sup> Mr. Swartz further claims that "[i]t is not appropriate to adjust such costs for changes to certain elements of the ATRR scheduled or projected to occur in the distant future" because such analysis "constitutes cherry-picking."<sup>83</sup> Tri-State asserts that there is no merit to Mr. Swartz's assertion because he failed to take into consideration that cost shifts are not fixed on day one when a new TO joins SPP. Indeed, Tri-State explains, Trial Staff witness Mr. Craig Deters correctly observed that "[e]ach year Tri-State's and NPPD's transmission formula rates will generate new ATRRs and each year loading on the SPP transmission system will be somewhat different – all of which will alter the amount of the actual cost shift."<sup>84</sup> Tri-State states that the placement of a TO has long-term impacts and is extremely unlikely to be modified once made. According to Tri-State, NPPD's request to make a long-term zonal placement decision based primarily on short-term cost information disregards the long-term and continuing nature of RTO membership. Consequently, Tri-State explains that consideration of the cost shift impacts of that placement – if cost shift should be considered at all – should take into consideration the known and measurable changes in those cost shifts over time.<sup>85</sup>

58. Next, Tri-State states that SPP's ten-year forecast identifies substantial known and measurable future increases in NPPD's ATRR that will reduce the cost shift resulting from Tri-State's placement in Zone 17. Tri-State explains that changes in the ATRRs of Tri-State and the other Zone 17 TOs from year to year will affect the amount of the cost shift resulting from Tri-State's inclusion in Zone 17. Consequently, Tri-State asserts that

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<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 18 (citing Exh. NPP-001 at 5:13-15).

<sup>83</sup> *Id.* (citing Exh. NPP-001 at 5:16-19).

<sup>84</sup> *Id.* (citing Exh. S-015 at 7:9-12).

<sup>85</sup> *Id.* at 19.

any evaluation of the cost shift resulting from Tri-State's inclusion in Zone 17 should take into consideration known and measurable changes in the Zone 17 TOs' ATRRs.<sup>86</sup>

59. Mr. Steinbach testified that SPP's ten-Year Forecast of Allocated Transmission Revenue Requirement (Forecast), which was presented at the February 25, 2016 SPP Regional Tariff Working Group meeting, indicates that the cost impact of SPP's placing Tri-State's facilities in Zone 17 will be reduced further, due to substantial near-term future increases in NPPD's Zone 17 costs.<sup>87</sup> First, Mr. Steinbach explained that SPP's Forecast includes future "costs associated with approved upgrades with notices to construct that have been completed, are under construction and that are planned."<sup>88</sup> Mr. Steinbach further explained that "an evaluation of facilities for which NPPD has received a notice to construct from SPP indicates that NPPD will incur approximately \$15 million in new construction costs by 2023 ... \$5 million of such costs will be included in NPPD's Zone 17 ATRR."<sup>89</sup> Tri-State asserts that these costs are not speculative because they will result from SPP-mandated construction. Tri-State estimates that its loads will incur approximately \$221,400 of this increase if Tri-State is placed in Zone 17.<sup>90</sup>

60. Second, Mr. Steinbach testified that SPP's Forecast states that "a significant portion of NPPD's Schedule 11 regional costs will be shifted to Schedule 11 zonal costs in the near future."<sup>91</sup> In October 2015 SPP transferred \$10,080,303 from NPPD's Schedule 11 zonal ATRR to the Schedule 11 SPP-wide regional ATRR.<sup>92</sup> That amount, Tri-State explains, increased to \$12,600,379 in October 2016.<sup>93</sup> These costs are currently included in NPPD's Schedule 11 regional costs under SPP's Balanced Portfolio initiative, which was an initiative intended to "develop a group of economic transmission upgrades

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<sup>86</sup> *Id.*

<sup>87</sup> *Id.* (citing Exh. TS-001 at 29:17-30:1).

<sup>88</sup> *Id.* (citing Exh. TS-027 at 28:21-23).

<sup>89</sup> *Id.* (citing Exh. TS-027 at 29:12-15).

<sup>90</sup> *Id.* at 20 (citing Exh. TS-048 at 4:4).

<sup>91</sup> *Id.* (citing Exh. TS-048 at 2:16-17).

<sup>92</sup> *Id.* (citing Exh. TS-048 at 2:17-21).

<sup>93</sup> *Id.*

that benefit the entire SPP region and to allocate those project costs regionally.”<sup>94</sup> SPP’s Tariff requires that these transfers cease in 2022.<sup>95</sup> At that time, Tri-State explains that all of those costs will be paid solely by Zone 17 customers instead of by all SPP customers, as currently is the case.<sup>96</sup> Mr. Steinbach estimated that Tri-State load would bear \$478,300 of these zonal costs if it is included in Zone 17, and those costs would be borne by other loads in the zone if Tri-State is not included in the zone.<sup>97</sup> Tri-State argues that its payment of these costs reduces the near-term cost shift impact of Tri-State’s placement in Zone 17. Tri-State explains that the cumulative impact of these two known and measurable changes is approximately \$700,000, further reducing the cost shift to \$2.2 million.<sup>98</sup>

61. Tri-State states that the cancellation of the NETS agreement will further reduce the cost shift because the cancellation will reduce Tri-State’s ATRR by approximately \$1 million beginning in November 2020.<sup>99</sup> Tri-State explains that it currently pays NPPD about \$1 million per year under the NETS Agreement. However, the NETS Agreement no longer provides any benefit to Tri-State, because when it became an SPP TO it gained the right to use NPPD’s transmission facilities to serve its load, without relying on the NETS Agreement. Consequently, Tri-State explains that its payments to NPPD of \$1 million per year are payments for duplicative service; those payments increase Tri-State’s ATRR and also reduce NPPD’s ATRR because NPPD credits Tri-State’s payments against its cost of service. Tri-State argues that the duplicative payments increase the disparity between the yearly costs of transmission service of Tri-State and the other Zone 17 TOs, increasing the magnitude of the cost shift.<sup>100</sup>

62. Tri-State asserts that NPPD’s allegations concerning future increases in Tri-State’s ATRR are not supported by the record evidence. Tri-State argues that there is no merit to

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<sup>94</sup> *Id.* (citing Southwest Power Pool, Balanced Portfolio, accessible at <https://www.spp.org/engineering/transmission-planning/balanced-portfolio>).

<sup>95</sup> *Id.* (citing SPP Tariff at Attachment J, Section IV).

<sup>96</sup> *Id.* (citing Exh. TS-048 at 2:22-24).

<sup>97</sup> *Id.* (citing Exhs. TS-027 at 30:1-2; TS-048 at 44).

<sup>98</sup> *Id.* at 20-21.

<sup>99</sup> *Id.* at 21 (citing Exh. TS-001 at 27:9-15).

<sup>100</sup> *Id.* at 21-22.

NPPD's assertion that Tri-State's acquisition of facilities from one of its member distribution cooperatives will increase its ATRR. Tri-State avers that contrary to the testimony of Mr. Swartz and Mr. Malone, the acquisition of member facilities will only result in a *de minimis* impact on Tri-State's Zone 17 ATRR. Mr. Steinbach explained in his Rebuttal Testimony that Tri-State acquired a member's transmission facilities with an original, installed cost of \$500,000, but "Tri-State purchased this equipment at the current net book value which is roughly ten percent of the installed cost."<sup>101</sup> At the hearing, Mr. Steinbach explained that the purchased facilities will not materially impact Tri-State's Zone 17 ATRR because they were purchased for about \$50,000, which will have a yearly ATRR impact of only \$6,000 or \$7,000.<sup>102</sup> Consequently, Tri-State asserts that the purchase will have an insignificant impact on Tri-State's ATRR and certainly does not offset the millions of dollars in increased ATRR that NPPD will incur in the near future.<sup>103</sup>

63. Tri-State states that the known and measurable changes in NPPD's and Tri-State's ATRRs discussed above will result in a substantially smaller cost shift resulting from SPP's placement of Tri-State's facilities in Zone 17 than the cost shift NPPD has alleged will occur. Taking into account baseline cost shifts, the cancellation of the NETS Agreement, and known and measurable increases in NPPD's zonal ATRR, Mr. Steinbach calculates that there will be a near-term \$1,136,337 total net impact on Zone 17 customers resulting from Tri-State facilities being placed in Zone 17, an amount which increases Zone 17 rates by 1.8 percent.<sup>104</sup>

64. Tri-State asserts that NPPD's allegations that Western-RMR will join Zone 17 in the future are both irrelevant and unsupported by the record evidence. Tri-State argues that the Commission should dismiss NPPD's "domino theory" argument, that placing Tri-State in Zone 17 could lead to placing Western-RMR in the zone as well, further increasing the zonal ATRR. Tri-State avers that the issues of whether Western-RMR will join SPP as a TO, and if so, whether its facilities should be placed in Zone 17 are outside the scope of this proceeding. Tri-State states that NPPD will have an adequate

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<sup>101</sup> *Id.* at 23. (citing Exh. TS-027 at 30:3-9).

<sup>102</sup> *Id.* (citing Tr. 143:8-24).

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* at 23-24 (citing Exh. TS-048 at 4:3-4).

opportunity to address its concerns with respect to Western-RMR if that issue ever actually arises.<sup>105</sup>

#### 4. Reply Brief

65. According to Tri-State, NPPD and Trial Staff are relying on Commission precedent that is inapplicable to this proceeding. Tri-State asserts that neither NPPD nor Trial Staff have cited any Commission order that addresses the issue of *intra-zonal* cost-shifting, that is, cost-shifting within a zone of an RTO. To the contrary, NPPD and Trial Staff have instead relied only on orders that address *inter-zonal* cost-shifting. Tri-State states that while Trial Staff has acknowledged that the issue of *intra-zonal* cost-shifting is a matter of first impression in SPP, it has failed to mention that there is no Commission order requiring TOs to provide protection from *intra-zonal* cost-shifting in any RTO.<sup>106</sup>

66. Tri-State argues that NPPD's and Trial Staff reliance on Order No. 2000 is not persuasive because that order addressed whether to approve RTO-wide "postage stamp" pricing instead of zonal, or "license plate" pricing in RTOs. The Commission was concerned that the adoption of postage stamp pricing could result in cost-shifting on an RTO-wide basis, which could impede the development of RTOs.<sup>107</sup> Tri-State states that this concern is not present in this proceeding, because no party has proposed RTO-wide postage stamp pricing; and, there is no evidence in the record indicating that including Tri-State in Zone 17 would impede further development of SPP or any RTO. On the contrary, Tri-State explains, establishment in this proceeding of the principle that cost shift is a significant element in determining zonal placement of new TOs in an RTO could impede further expansion of RTOs. Moreover, Tri-State states that NPPD's and Trial Staff's reliance on Opinion No. 494 is misplaced, as the portions of Opinion No. 494 that NPPD and Trial Staff quoted in support of their cost-shifting arguments actually support including Tri-State in Zone 17. NPPD quoted the Commission's statement that when transmission facilities are developed by individual companies to benefit their own systems and their own customers, it is consistent with cost causation principles to continue to allocate the costs of these facilities to the customers for whom they are constructed, and whom they continue to serve.<sup>108</sup> Tri-State states that the flaw in NPPD's

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<sup>105</sup> *Id.* at 24.

<sup>106</sup> Tri-State Reply Br. at 18.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 19 (citing NPPD Initial Br. at 16 (quoting Opinion No. 494, 119 FERC ¶

argument is that for more than 40 years, Tri-State and NPPD have been parties to the NETS Agreement, pursuant to which they engaged in joint planning and coordination; they constructed their facilities as if they were owned by a single entity; and, they each used the jointly-planned facilities to serve their loads. Therefore, Tri-State asserts that the logic of Opinion No. 494 compels the conclusion that Tri-State should be placed in Zone 17, rather than in a different zone. Similarly, Tri-State asserts that Trial Staff's reliance on the Commission's statement in Opinion No. 494 that customers are charged license plate prices based on the facilities they have traditionally used supports the inclusion of Tri-State's facilities in Zone 17, since Tri-State and NPPD have traditionally used each other's facilities to serve their loads.<sup>109</sup>

67. According to Tri-State, Trial Staff's reliance on *Illinois Commerce Comm'n v. FERC*, 576 F.3d 470 (7th Cir. 2009) to support its argument also is misplaced because that decision supports placing Tri-State's facilities in Zone 17.<sup>110</sup> Tri-State explains that Trial Staff summarized the court's decision on this point as holding that costs of transmission facilities could not be shifted "because the utility planned and constructed the facilities for their customers only and without the expectation that anyone but its customers would pay for them."<sup>111</sup> That order and the court's subsequent order emphasized that costs must be "roughly commensurate" with benefits.<sup>112</sup> Tri-State states that since Tri-State planned and constructed its NETS facilities for both itself and NPPD with the expectation that both its customers and NPPD's customers would pay for them pursuant to the NETS Agreement, and since NPPD uses those facilities to serve its load, the "cost causation" principle indicates that NPPD should pay for Tri-State's facilities as part of the Zone 17 costs.<sup>113</sup>

68. Tri-State asserts that NPPD has mischaracterized the testimony of Mr. Bourne on cost-shifting. Tri-State states that NPPD's assertion that Mr. Bourne has acknowledged that it is appropriate for SPP to consider cost-shifting in evaluating transmission service

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61,063 at P 42)).

<sup>109</sup> *Id.* at 20 (citing Trial Staff Initial Br. at 25-27).

<sup>110</sup> *Id.* (citing Trial Staff Initial Br. at 28).

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* (citing *Illinois Commerce Comm'n v. FERC*, 576 F.3d 470, at 477 (7th Cir. 2009)).

<sup>113</sup> *Id.* at 20-21.

requests, demonstrating that SPP should have considered cost-shifting in determining the zonal placement of Tri-State's facilities mischaracterizes his testimony. Tri-State argues that the portions of Mr. Bourne's testimony that NPPD cited address cost causation, and not cost-shifting. For instance, Tri-State explains that in this proceeding NPPD is complaining about cost-shifting, even though a significant portion of the costs that are being shifted to NPPD are those that should be attributed to NPPD on a cost causation basis. Moreover, Tri-State explains that contrary to NPPD's allegations, Mr. Bourne stated that consideration of the costs related to a transmission upgrade that may cause reliability problems in another zone does not involve consideration of cost causation.<sup>114</sup> Tri-State states that while Mr. Bourne testified that SPP considers cost causation to a certain extent in evaluating new transmission requests, he also stated that those circumstances do not apply to the current case.<sup>115</sup> Therefore, Tri-State asserts that there is no inconsistency between Mr. Bourne's testimony and SPP's position that it does not have the authority to establish rates for TOs to avoid cost shifts.<sup>116</sup>

69. According to Tri-State, important policy considerations compel the conclusion that cost shifts should not be a significant factor in determining zonal placement of new members of RTOs. Tri-State explains that cost shifts are inevitable when a new TO joins an RTO zone; either the cost per MW/year of the new TO in a zone will be higher than that of the existing TOs, and the new TO will shift costs to the existing TOs, or the cost per MW-year of the new TO will be lower than that of the existing TOs, and the existing TOs will shift costs to the new TO. Tri-State states that if cost shift is a determinative or substantial factor in zonal placement, it will lead to greater balkanization of RTOs through the proliferation of single-TO zones, because of the reluctance of the new TO to join as a single-TO zone, and the reluctance of existing TOs to accept a new TO into their zone. Tri-State argues that if a prospective TO decides that the additional costs of joining the RTO as a separate zone do not offset the benefits, it will remain independent rather than joining the RTO.<sup>117</sup>

70. Tri-State asserts that an increase in single-TO zones would be inconsistent with the Commission's policy of encouraging the expansion of RTOs. In Order No. 2000, the Commission stated, "[o]ur objective is for all transmission-owning entities in the Nation,

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<sup>114</sup> *Id.* at 21-22 (citing Tr. 190:3-191:4).

<sup>115</sup> *Id.* at 22 (citing Tr. 192:21-25).

<sup>116</sup> *Id.* (citing Joint Statement of Issues at 4).

<sup>117</sup> *Id.* at 25.

including nonpublic utility entities, to place their transmission facilities under the control of appropriate RTOs in a timely manner.”<sup>118</sup> Tri-State explains that more than ten years later, a significant number of non-public utilities have not joined RTOs. Typically, Tri-State argues, such entities have higher transmission costs per MW-year than public utilities because they have lower population densities. According to Tri-State, such entities would be less likely to join RTOs if cost-shifting is a significant factor in their zonal placement, because the additional costs of RTO membership would not be offset by lower transmission costs.<sup>119</sup>

71. Tri-State further asserts that the creation of small single-TO zones is inconsistent with the Commission’s policy of encouraging greater coordination of transmission planning and greater investment in transmission infrastructure. The Commission has clearly demonstrated its interest in moving toward greater socialization of transmission costs, as shown by its statements on postage stamp pricing vis-à-vis license plate pricing.<sup>120</sup> Tri-State argues that the creation of additional pricing zones is contrary to that objective. Also, Tri-State states that small zones would be required to bear the cost of constructing new transmission facilities even though those facilities may benefit transmission customers outside their zones. Tri-State explains that in SPP, the costs of higher-voltage facilities are allocated in part on a postage stamp basis; some of those costs are allocated on a zonal basis; and, all the costs of lower-voltage facilities in a zone are allocated to that zone basis regardless of which loads benefit from them. Tri-State asserts that the prospect of bearing such costs despite the obvious benefits to loads outside the zone may be a substantial disincentive to a prospective member of an RTO.<sup>121</sup>

72. Tri-State states that NPPD’s assertion that the inclusion of Western-RMR’s two Eastern interconnection lines in SPP will increase the Zone 17 ATRR by \$2 million is unsupported by the record evidence. Tri-State explains that while Tri-State currently pays Western-RMR \$2 million for transmission service, Mr. Steinbach explained that the price for that service is based on the overall cost of Western-RMR’s entire transmission system.<sup>122</sup> Tri-State states that if Western RMR places the two Eastern Interconnection lines in SPP, its ATRR in SPP will be based on the net book value of those two lines, and

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<sup>118</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 3).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at 25-26 (referencing Order No. 2000, 89 FERC ¶ 61,285).

<sup>121</sup> *Id.* at 26.

<sup>122</sup> *Id.* at 34. (citing Tr. 78:13-79:7).

not its entire integrated transmission system, most of which is in the Western Interconnection. As Mr. Steinbach explained, the two lines are very old, and the actual value of those lines is not known at this time.<sup>123</sup> Therefore, Tri-State claims that NPPD's assertion that (1) Western-RMR might place its two Eastern Interconnection lines in SPP and (2) if it does so that might result in the transfer of \$2 million in transmission costs to other customers in Zone 17 is speculation built upon speculation.<sup>124</sup>

73. Next, Tri-State argues that NPPD's assertion that the benefits attributable to inclusion of Tri-State in Zone 17 are not commensurate with the costs is incorrect. In the first place, Tri-State states that NPPD's claim that there is no evidence of commensurate benefits must be discounted, based on the fact that its claims of cost shift are incorrectly based on first-year costs. Second, Tri-State argues that there is ample evidence of benefits that NPPD receives from Tri-State's facilities, including that NPPD and Tri-State have jointly planned, constructed and operated their transmission facilities for 40 years and that NPPD serves a portion of its load from Tri-State's facilities. Tri-State explains that given the small near-term 1.8 percent cost shift associated with placing Tri-State in Zone 17, and the benefits that NPPD has received and will continue to receive from the use of those facilities, the costs of placing Tri-State in Zone 17 are "roughly commensurate" with the benefits, as the Court of Appeals requires.<sup>125</sup>

## **B. SPP**

### **1. Pre-Hearing Testimony of Mr. L. Patrick Bourne**

74. Mr. Bourne's testimony supports the inclusion of SPP member Tri-State's transmission facilities and ATRR in SPP pricing Zone 17, also known as the NPPD Pricing Zone. Mr. Bourne explains that SPP applies a set of criteria to determine zonal placement of new TOs that join SPP. These criteria include: (1) whether the new TO's ATRR is less than the ATRR of an existing pricing zone with the smallest ATRR; (2) the extent to which a new TO's facilities are embedded within a pre-existing zone; (3) the extent to which a new TO's facilities are integrated with (including number of interconnections) an existing TO's facilities; and, (4) the extent to which the new TO's facilities substantively increase the SPP footprint. Mr. Bourne states that these criteria

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<sup>123</sup> *Id.* (citing Tr. 78:3-4).

<sup>124</sup> *Id.*

<sup>125</sup> *Id.* at 35 (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 477; *Ill. Commerce Comm'n v. FERC*, 756 F.3d 556, at 558-559, 562-565 (7th Cir. 2014)).

provide reasonable thresholds to conclude whether creating a separate new pricing zone is warranted, or inclusion of a new TO in an existing TO zone is more appropriate.<sup>126</sup>

75. Mr. Bourne states that, based on SPP's criteria, it is just and reasonable to include the Tri-State facilities and ATRR in existing SPP pricing Zone 17 for the following reasons: (1) Tri-State's ATRR is less than the smallest ATRR of an existing SPP TO in a single owner zone; (2) Tri-State has more direct interconnections with the NPPD system than with any other SPP TO, and thus is more integrated with NPPD than any other SPP TO; (3) NPPD and Tri-State have over a 40-year history of coordination regarding the planning and operation of their two systems, due to long-standing contractual relationships; and, (4) the inclusion of the Tri-State facilities only minimally increases the size and scope of the SPP footprint.<sup>127</sup>

76. Mr. Bourne asserts that SPP considers all the criteria in concert when determining a new TO's zonal placement. He explains that while evaluation of one criterion may favor one conclusion over another (e.g., inclusion in a pre-existing zone rather than creation of separate zone), SPP assesses the new TO's situation and facilities as a whole, and evaluates the criteria together, when determining zonal placement of a new TO's facilities and ATRR. Based on the application of the criteria, SPP determined to include Tri-State's transmission facilities and ATRR in Zone 17.<sup>128</sup>

77. The first criterion evaluates whether the new TO's ATRR is lower than the ATRR of the existing single-TO pricing zone with the smallest ATRR. Mr. Bourne states that this criterion is a persuasive indicator that the facilities of the new TO do not merit creation of a whole new pricing zone, and instead should be incorporated into an existing zone. He explains that a low ATRR can be an indicator of the limited scope of the facilities and to some extent dependency on or integration with facilities of other TOs, as is the case with Tri-State.<sup>129</sup>

78. Mr. Bourne explains that the integration of a new TO involves different considerations; chief among them is how the new TO fits into the existing regional transmission organization design and operation as reflected in SPP's criteria for evaluating the treatment of new TO ATRRs. He explains that ATRR size is one of the

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<sup>126</sup> Exh. SPP-001 at 6-7.

<sup>127</sup> *Id.* at 9-16.

<sup>128</sup> *Id.* at 7-8.

<sup>129</sup> *Id.* at 8.

thresholds that SPP uses to determine whether to create a separate zone or include the new TO in an existing pricing zone. Here, Mr. Bourne explains that because Tri-State's ATRR is lower than any other single-owner zone, it did not cross the threshold of having a large enough ATRR to warrant its own pricing zone.<sup>130</sup>

79. Two other criteria that SPP considers in determining zonal placement are the extent to which the new TO's facilities are embedded within a pre-existing zone, and the extent to which the new TO's transmission facilities are integrated with an existing SPP TO's facilities, including the number of interconnections. Mr. Bourne states that if a new TO's facilities are embedded in an existing zone, or highly integrated with an existing SPP TO's facilities, this is persuasive evidence that the new facilities should be included in a pre-existing zone. In this case, Mr. Bourne asserts that the facts indicate that the Tri-State facilities and those of existing SPP TO NPPD in Zone 17 are highly integrated, and thus support the inclusion of Tri-State in Zone 17.<sup>131</sup>

80. Another factor SPP considers in determining whether to include a new TO in an existing pricing zone, and if so which zone, is the number of interconnections the new TO has with the facilities of existing SPP TOs. Mr. Bourne asserts that Tri-State's facilities are directly interconnected with the NPPD facilities at the following locations: (1) Ogallala 115 kV Substation; (2) Paxton/1 Sutherland 115 kV Line; (3) Grant 115 kV Substation; (4) Enders 115 kV Substation; and, (5) Sidney 230-kV Substation. He avers that Tri-State has more direct interconnections to the NPPD system than to any other SPP TO, and thus is the more integrated with NPPD than any other SPP TO. Mr. Bourne notes that two of Tri-State's substations are directly interconnected to the Zone 19 TO facilities. However, he also notes that Tri-State's load is not directly connected to any of the Zone 19 transmission facilities, and that existing NPPD facilities are required in order to connect them to Tri-State load-serving facilities.<sup>132</sup>

81. Mr. Bourne explains that Tri-State and NPPD have a long history of coordination regarding the planning and operation of their two systems, which began in 1975 when they entered into a Memorandum of Understanding (MOU) that established principles for the joint operation and planning of their facilities in western Nebraska. The MOU was followed by the execution of the NETS Agreement in 1984. Mr. Bourne explains that the NETS Agreement governs certain facilities of NPPD and Tri-State, and provides rights for NPPD and Tri-State to use each other's facilities pursuant to the agreement. All of

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<sup>130</sup> *Id.* at 10-11.

<sup>131</sup> *Id.* at 11-12.

<sup>132</sup> *Id.* at 12-13.

NPPD's facilities governed by the NETS Agreement were turned over to SPP's functional control when NPPD joined SPP. Similarly, most of the Tri-State facilities turned over to SPP's functional control also are governed by the NETS Agreement. Mr. Bourne avers that the long-standing relationship between Tri-State and NPPD created by the MOU and NETS Agreement is clear evidence as to the extensive coordination between NPPD's and Tri-State's facilities.<sup>133</sup>

82. As to the extent to which the new TO's facilities substantively increase the SPP footprint, Mr. Bourne states that the inclusion of the Tri-State facilities only minimally increases the size of the SPP footprint. He explains that the Tri-State facilities will add only 300 miles of transmission lines out of the more than 56,000 miles of transmission lines the SPP transmission system has, meaning that the addition of Tri-State's facilities will increase the SPP footprint only by one-half of one percent. Likewise, he states that Tri-State's service territory covers a geographic area of approximately 22,000 square miles, which represents only three percent of SPP's 575,000 square mile region. Mr. Bourne avers that such a minimal increase to the SPP footprint does not meet the threshold for creating a separate single-TO zone.<sup>134</sup>

83. Mr. Bourne states that an evaluation of all of the criteria SPP uses to determine zonal placement for new TOs clearly leads to placing Tri-State's facilities and ATRR in pre-existing Zone 17. He asserts that none of the thresholds for creating a separate zone is met by the addition of the Tri-State facilities to the SPP footprint, and the degree to which the Tri-State and NPPD facilities are integrated and dependent upon each other merits inclusion of Tri-State in the Zone 17 Pricing Zone.<sup>135</sup>

## **2. Cross-Examination Testimony of Mr. Bourne**

84. During cross examination, Mr. Bourne explained that the Commission, in its orders approving SPP's RTO formation, has required SPP to accommodate additional new TOs in existing pricing zones where appropriate, and has also required SPP to develop and adopt cost allocation proposals for new transmission facilities, which would significantly modify the preexisting license plate rate structure.<sup>136</sup>

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<sup>133</sup> *Id.* at 13-14.

<sup>134</sup> *Id.* at 16.

<sup>135</sup> *Id.* at 17.

<sup>136</sup> Tr. 160:11-17.

85. Mr. Bourne explained that the zonal placement criteria were adopted by SPP's management, and they were used in the consideration of the City of Lincoln's entrance into SPP in 2009. Mr. Bourne states that from the viewpoint of planning and development of the SPP system, SPP is interested in the scope and configuration of the pricing zones, coupled with the characteristics of prospective TOs as they seek to join SPP. He explains that, as a threshold matter, because the SPP transmission system has license plate pricing, accompanied by companies bearing the cost of their own facilities, the cost of entry for a prospective TO should be "sufficiently high" to be fair to the other existing zones. Mr. Bourne states in order to meet this "sufficiency high" threshold, SPP adopted an economic policy of not adding a new zone into SPP that has an ATRR lower than any existing zone, because that is perceived as the minimum fair cost of entry. Mr. Bourne asserts that following this policy is important because there are SPP processes and tariff provisions for which this has downstream ramifications, as SPP is responsible for planning and expanding the system. He explains that systems are so interconnected, that a problem on one system can affect another system, and drive the need for additional facilities in an adjacent area.<sup>137</sup>

86. Mr. Bourne explained that cost shift is not part of SPP's zonal placement criteria because cost shift issues will always be present. For example, Mr. Bourne explains that in a zonal placement scenario in which a TO is being placed into an existing zone, there will be cost shifts between the companies involved unless the new TO has a cost exactly equal to the pro rata cost in the zone into which the TO is being moved.<sup>138</sup>

87. During cross examination, Mr. Bourne stated that the zonal placement criteria have not been included in SPP's Tariff or SPP's Business Practice Manual; however, he noted that the present zonal placement scenario at issue here is a relatively rare. He explained that SPP has had three situations in the last six or eight years in which a TO has been added. And Mr. Bourne explains that each instance is unique.<sup>139</sup>

88. When asked about the "significant benefit" identified by Mr. Alfred W. Busbee,<sup>140</sup> which would be at the expense of a significant cost shift to NPPD, Mr. Bourne stated that

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<sup>137</sup> Tr. 164:11-165:16.

<sup>138</sup> Tr. 178:8-11.

<sup>139</sup> Tr. 180:25-181:5.

<sup>140</sup> Mr. Busbee is a former SPP employee who worked in SPP's Federal Regulatory Policy Group at the time that SPP and Tri-State were evaluating zone placement options for Tri-State. *See* Exh. NPP-8 at 7-8 (citing Exh. NPP-012 at 4).

the analyses performed by SPP were not cost benefit analyses. He explained that SPP was examining the comparative costs of SPP network service under the scenarios that Mr. Steinbach had asked SPP to analyze. He explains that Mr. Busbee was noting the obvious differences in cost. Mr. Bourne asserts that although placing Tri-State in Zone 17 was characterized as beneficial to Tri-State, SPP does not know all the potential benefits of Tri-State's three options. Additionally, SPP had not concluded, at that time, the appropriate zonal placement for Tri-State.<sup>141</sup>

89. Mr. Bourne explained that SPP plans its system on the basis of an analysis of the system and its characteristics. He stated there may be a problem inherent in one zone, or with a set of facilities that impacts others in terms of the way those facilities are able to reliably serve its customers' demand. Thus, he explains, in SPP's planning processes, the best place to resolve a problem might not be within the system of the company whose facilities are problematic.<sup>142</sup>

90. When asked whether Mr. Bourne believes that interconnections between Tri-State and Western-RMR are irrelevant, because the Western-RMR facilities are not within SPP's functional control, Mr. Bourne responded in the affirmative. He explained that because SPP has no functional control over the Western-RMR facilities, it has no ability to use those facilities for transmission service to other customers. Thus, he states that the interconnection of Tri-State with Western-RMR, from the viewpoint of SPP's Tariff and its application, is irrelevant.<sup>143</sup>

91. When asked whether SPP has some control over the Western-RMR facilities through a reliability agreement, Mr. Bourne responded that SPP has a Reliability Coordinator Agreement (RC Agreement). He explained that the RC Agreement is not within the purview of SPP's Tariff, and it does not constitute transfer of the functional control of the Western-RMR facilities. He further explained that the RC Agreement does not give SPP any use of the Western-RMR facilities. He stated that the RC Agreement gives SPP some control over the operation of the facility, but Mr. Bourne explains that this would be in a fairly extreme circumstance, to prevent dire reliability consequences. So he asserts that it is not a matter of normal intervention.<sup>144</sup>

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<sup>141</sup> Tr. 184:19-185:4.

<sup>142</sup> Tr. 190:18-191:1.

<sup>143</sup> Tr. 198:4-8.

<sup>144</sup> Tr. 198:11-14; 198:17-19.

92. Mr. Bourne also explained that SPP, through a service agreement, is able to make deliveries under the network service it provides to Basin Electric because of Tri-State's contract rights on the Western-RMR facilities. He explained that this service agreement is a statement of the scope of SPP's service to Tri-State. He stated that SPP's service to Tri-State does not extend outside of SPP's footprint.<sup>145</sup>

93. [REDACTED]<sup>146</sup>

94. [REDACTED]<sup>147</sup>

95. [REDACTED]<sup>148</sup>

96. [REDACTED]<sup>149</sup>

97. Next, Mr. Bourne explained that the first two of SPP's zonal placement criteria are concerned with whether to consider a new zone for a prospective TO, and the third and the fourth are to consider whether or not to place a prospective TO in an existing zone, having not met the first two. The first two criteria concern the prospective TO's minimum ATRR, and the prospective TO's expansion impact in SPP's geographic area. Mr. Bourne explained that the size criteria are designed to address the economic equity of investing in the system, contributing investments in the system in return for receiving service across the full footprint, and "internalizing." Mr. Bourne explained that "internalization" means the creation of a big enough pricing zone so that reliability problems are internalized and, in the solution to such problems, SPP does not unintentionally transfer cost to other zones.<sup>150</sup>

98. Mr. Bourne explained that prior to the integration of the three Nebraska companies into SPP, SPP was dealing essentially with additions of facilities owned by transmission-dependent utilities. He explained that the resolution of those situations was obvious i.e.,

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<sup>145</sup> Tr. 200:8-12.

<sup>146</sup> [REDACTED]

<sup>147</sup> [REDACTED]

<sup>148</sup> [REDACTED]

<sup>149</sup> [REDACTED]

<sup>150</sup> Tr. 300:9-16.

that they should be added into the zone in which the facilities were attached, because of their dependencies. With regard to the addition of the three Nebraska companies, Mr. Bourne explained that it provoked the question of how big should a new zone be, and that is when SPP adopted the minimum ATRR and the geographic area criteria. Mr. Bourne stated that if a new TO meets the criteria for an independent zone, SPP probably would place it in an independent zone, as long as the TO is coherent enough to be considered an independent system. Mr. Bourne explained that if a prospective TO would prefer to be in an existing zone rather than in its own zone, SPP could consider the TO's preference, if that preference were acceptable to all the parties involved.<sup>151</sup>

99. Lastly, Mr. Bourne asserted that cost shifts that arise when a new TO joins an RTO are inevitable, and can result from many factors in addition to simply differences in the relative embedded costs of the new TO's transmission facilities and the embedded costs of transmission facilities within an existing SPP pricing Zone. Other such factors include, *inter alia*, the elimination of rate pancaking and the treatment of grandfathered agreements, which, as Mr. Bourne explained, are factors to be considered if one were to perform a comprehensive cost shift analysis. Mr. Bourne asserted that this cost shift scenario can happen whether the TO is placed in a new or existing zone. Furthermore, Mr. Bourne explained that while some SPP Tariff provisions consider the cost causation related to incremental transmission service request, SPP does not consider cost shifts and does not consider a company's rates when considering appropriate zonal placement of a prospective TO.<sup>152</sup>

### **3. Initial Brief**

100. SPP states that the record clearly demonstrates that its proposed placement of Tri-State in Zone 17 is just and reasonable. SPP asserts that its zonal placement criteria are appropriate to ensure just and reasonable placement of a new TO. SPP explains that the first two criteria—which evaluate whether a new TO's ATRR is smaller than the lowest ATRR of any existing pricing zone, and the extent to which a new TO's facilities substantively increase the SPP footprint—are necessary to determine if a new TO's system is sufficiently large to justify creating a separate pricing zone. SPP further explains that should a new TO fail the "size test," the latter two criteria—which examine the extent to which a new TO's facilities are integrated (including the number of interconnections) with the facilities of an existing TO, and the extent to which a new TO's facilities are embedded within a pre-existing zone—are designed to determine the most appropriate zone in which to place the new TO. Together, SPP explains, these

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<sup>151</sup> Tr. 302:10-21.

<sup>152</sup> Tr. 175:8-19.

criteria form a reasonable framework for SPP to conclude whether it is appropriate to create a separate new pricing zone, or to include a new TO in an existing zone. As SPP explained in the pre-filed testimony and at the hearing, the four criteria work together to ensure just and reasonable incorporation of a new TO into SPP, while preventing a new TO's zonal placement from having unintended consequences for SPP's transmission planning and cost allocation processes.<sup>153</sup>

101. Importantly, SPP states that it does not consider whether the new TO is interconnected or integrated with facilities not under its functional control, because SPP is not authorized to use non-SPP facilities to provide transmission service and, accordingly, such facilities are not integrated with the SPP system. The number of interconnections between a new TO's facilities and facilities that are not under the SPP Tariff is irrelevant. SPP states that the criteria facilitate the evaluation of numerous factors that must be considered in determining zonal placement. SPP explains that such factors include: (1) the scope and configuration of the new TO's facilities; (ii) whether the new facilities form a coherent system within SPP's existing system; (iii) whether the new facilities are significantly integrated with the facilities of other TOs; and, (iv) the extent to which the new facilities can function independently of other TOs.<sup>154</sup> SPP states that if, upon considering these factors, it concludes that the facilities of the new TO are integrated with or dependent upon the facilities of an existing SPP TO, then inclusion in an existing zone is warranted. Conversely, SPP states that if it concludes that the new TO's facilities constitute a separate system, the addition of which would significantly increase the SPP footprint, then the creation of a new separate zone is warranted.<sup>155</sup>

102. SPP asserts that throughout the course of this proceeding, no party has argued that SPP's four criteria are inappropriate for determining zonal placement. Mr. Malone, acknowledged in his pre-filed testimony that the four criteria used by SPP are appropriate factors to consider when evaluating whether to place a new TO's facilities and ATRR in a new separate zone or in an existing zone.<sup>156</sup>

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<sup>153</sup> SPP Initial Br. at 4-5.

<sup>154</sup> *Id.* at 5 (citing Exh. SPP-001 at 7:1-6).

<sup>155</sup> *Id.* at 9 (citing Exh. SPP-001 at 7:6-12).

<sup>156</sup> *Id.* at 10 (citing Exh. NPP-008 at 13:15-17 (“I agree that all of the criteria identified by SPP are factors that should be considered in determining whether a new TO should be integrated into SPP as a new pricing zone or as part of an existing pricing zone.”); NPPD Motion, Answering Testimony of Paul J. Malone on Behalf of Nebraska Public Power District at 8:5-7 (“Yes. I agree that all of the criteria identified by SPP are

103. SPP explains that the first criterion evaluates the size of the new TO's ATRR, specifically, whether the new TO's ATRR is lower than the ATRR of the existing pricing zone with the smallest ATRR.<sup>157</sup> SPP states that because its transmission service rates are based on the zonal ATRR where the load is located, but provide access to the entire transmission system, the ATRR threshold ensures that customers in a pricing zone pay a sufficient share of the costs of accessing the entire SPP Transmission System.<sup>158</sup> SPP explains that if a zone is created with a relatively small ATRR, customers in that zone would pay a disproportionately low share of the costs of the SPP Transmission System. Thus, SPP states that the first criterion limits the creation of additional pricing zones to situations in which the new TO's system is sufficiently large so as to merit creation of a separate zone.<sup>159</sup>

104. SPP states that the second criterion SPP considers is the extent to which the new TO's facilities substantively increase the SPP footprint.<sup>160</sup> SPP explains that it limits the addition of pricing zones only to those situations in which a TO's facilities comprise a transmission system of sufficient size and scope to constitute a significant expansion of the current SPP system. SPP explains that the criteria seek to ensure that pricing zones are of sufficient scope and geographically large enough to internalize reliability problems, so as to avoid situations in which a reliability issue in one inordinately small zone, i.e., insufficient in scope, causes the need for upgrades in another zone to resolve the issue.<sup>161</sup> SPP explains that the first and second criteria seek to mitigate this problem by ensuring that pricing Zones are sufficiently large, and limiting the creation of new

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factors that should be considered in determining whether a new [TO] should be integrated into SPP as a separate pricing zone or as part of an existing pricing zone.”)).

<sup>157</sup> *Id.*

<sup>158</sup> *Id.* at 11; *see* Tr. 164:15-20, 300:9-13 (Bourne) (explaining that the purpose of the ATRR threshold is so that zones are created in a manner that ensures that the zonal ATRR is sufficiently high to allow access to the entire transmission system in a manner that is fair to other existing zones).

<sup>159</sup> *Id.* at 12.

<sup>160</sup> *Id.* (citing Exh. SPP-001 at 6:21-22).

<sup>161</sup> *Id.* at 12-13 (citing Tr. 300:9-16).

zones to those instances in which the new TO's system would represent a substantive increase to the SPP footprint.<sup>162</sup>

105. SPP asserts that SPP's zonal criteria reasonably consider the extent to which a new TO's facilities are integrated with those of an existing TO and the extent to which the new TO's facilities are embedded within an existing zone. SPP explains that if, after examining the first two criteria, it determines that it is not appropriate to place a new TO in its own separate zone, it applies the third and fourth criteria to find the most appropriate pre-existing zone in which to place the new TO.<sup>163</sup>

106. In applying these criteria, SPP explains that its goal is to determine if the new TO is significantly interconnected with or interdependent on the facilities of an existing TO, such that the two TOs' systems form a cohesive whole. In particular, SPP states that the third criterion examines the number of interconnections the new TO has with the facilities of any existing SPP TOs, and other potential indicators of integration. SPP asserts that if a new TO's facilities are highly integrated with an existing TO's facilities (i.e., there are a significant number of interconnections between the two), placement of that new TO's facilities into the pre-existing zone is reasonable, given the relationship of the respective TOs' systems. SPP states that the greater the level of interconnection between the new TO's facilities and the facilities in the existing pricing zone, the more likely it is that the facilities are operated as an integrated whole and are interdependent. Similarly, the fourth criterion is appropriate for placing a new TO that does not meet the size criteria in an existing pricing zone, because the extent to which a TO is embedded within another TO's system also shows interconnectedness and interdependence with other existing facilities.<sup>164</sup>

107. Additionally, SPP explains that its third and fourth zonal placement criteria are rooted in SPP's obligation to conduct its transmission planning process and allocate costs for the construction of new transmission facilities in a just and reasonable manner.<sup>165</sup> SPP further explains that in situations in which a new TO's facilities are highly integrated with the facilities of an existing TO, it is possible that the optimal solution to a reliability

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<sup>162</sup> *Id.* at 13.

<sup>163</sup> *Id.* (citing Exh. SPP-003 at 6:5-7; Tr. 241:12-15, 241:19, 301:8-16, 301:21-24 (Bourne)).

<sup>164</sup> *Id.* at 14-15 (citing Exh. SPP-001 at 12:1-4).

<sup>165</sup> *Id.* at 16 (citing Exh. SPP-003 at 17:18-20).

issue affecting one TO's facility is to construct an upgrade to the other TO's system.<sup>166</sup> SPP states that if the two systems are located in separate pricing zones, a potential mismatch between cost causation and cost allocation could occur under SPP's Commission-approved cost allocation methodology.<sup>167</sup>

108. SPP states that its criteria demonstrate that Tri-State's proper, just and reasonable placement is in Zone 17, rather than in any other SPP pricing zone. SPP asserts that it is undisputed that the relevant Tri-State transmission facilities that have been placed under SPP's functional control have five direct transmissions-to-transmission interconnections with NPPD transmission facilities in Zone 17.<sup>168</sup> Additionally, as Mr. Steinbach notes, Tri-State and NPPD Zone 17 facilities combine to form a 345 kV/115 kV loop in western Nebraska from North Platte to Ogallala (owned by NPPD), from Ogallala to Grant (owned by Tri-State), and through Enders and Red Willow back to North Platte (owned by NPPD). Despite Trial Staff and NPPD suggestions to the contrary, SPP states that these five interconnections and the comingling of NPPD and Tri-State facilities to form the 345 kV/115 kV loop demonstrate that Tri-State is more interconnected and, thus, more integrated with NPPD's transmission system than with any other transmission system under SPP's functional control.<sup>169</sup>

109. Notably, SPP explains that in asserting that Tri-State is integrated with facilities in Zone 19, NPPD witness, Mr. Randy Lindstrom, generally relies on interconnections with facilities owned by Western-RMR. With one exception, Western-RMR facilities are not placed under SPP's functional control and thus are, by definition, not included in Zone 19, and therefore cannot demonstrate interconnection or integration between Tri-State and Zone 19. SPP states that despite Mr. Lindstrom's claim that Tri-State has "significant integration" with transmission facilities in Zone 19 including "facilities owned by Western and Basin,"<sup>170</sup> SPP states that Mr. Lindstrom identifies only two locations where he alleges that Tri-State-owned transmission facilities interconnect with Zone 19 facilities—the Sidney 230 kV Substation and Stegall 230 kV Substation. However, SPP asserts that upon a closer examination of these two substations, as testified

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<sup>166</sup> *Id.* (citing Exh. SPP-003 at 17:20-25).

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 21.

<sup>169</sup> *Id.* at 22.

<sup>170</sup> *Id.* at 23 (citing Exh. NPP-022 at 4:6-12).

to by various witnesses in this proceeding, Mr. Lindstrom's claims of significant integration are undermined.<sup>171</sup>

110. According to SPP, with regard to Tri-State's Sidney 230 kV Substation, Mr. Lindstrom asserts that Tri-State is interconnected with the following facilities: (1) the 230 kV interconnection with the Missouri Basin /Western-UGP Sidney 345 kV Substation; (2) the 230 kV interconnection with the Western-RMR Sidney DC Tie; (3) the 230/115 kV interconnection with the Western-RMR 115 kV line from Sidney-Ogallala; and, (4) the 230 kV interconnection with NPPD's Sidney – Ogallala 230 kV line. SPP asserts that contrary to Mr. Lindstrom's claim, the record shows that the only one of these interconnections between Tri-State and a Zone 19 facility is the 230 kV Sidney interconnection with Missouri Basin. SPP states that the other interconnections are with Zone 17 (i.e., the interconnection with NPPD's Sidney – Ogallala line) and with non-SPP transmission facilities (i.e., the Western-RMR Sidney – Ogallala line and the Western-RMR DC Tie) that, accordingly, are not included within Zone 19. In other words, SPP states that Tri-State's facilities at the Sidney Substation have an equal number of interconnections between Zone 17 and Zone 19. Also, SPP notes that this single Substation is not tied to any Tri-State load and is not directly interconnected with any other Tri-State transmission facility, further demonstrating that NPPD's reliance on interconnections at Sidney to show integration between Tri-State and Zone 19 is unavailing.<sup>172</sup>

111. SPP asserts that Mr. Lindstrom's claim of Tri-State's significant integration and interconnection with Zone 19 via the Stegall 230 kV Substation equally lacks merit. Mr. Lindstrom asserts that the Tri-State Stegall DC Tie Facilities "are tied directly to the Western-RMR Stegall 230 kV Substation owned by Western-RMR," which includes the following interconnections: (1) the 230 kV interconnection with the Stegall-Wayside 230 kV line in Zone 19; (2) the 230 kV interconnection with the Missouri Basin 345 kV Substation in Zone 19; and, (3) the 230 kV interconnection with NPPD's Stegall-Victory Hill 230 kV line.<sup>173</sup> SPP avers that Mr. Lindstrom overstates his case because Tri-State's transmission assets at Stegall include Tri-State's David Hamil DC Tie and the 230 kV transfer breaker 1186. And SPP explains that Tri-State has not transferred the David Hamil DC Tie to SPP's functional control under the Tariff, SPP thus cannot use the DC Tie to provide transmission service under its Tariff. Therefore, SPP asserts that the

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<sup>171</sup> *Id.* at 24.

<sup>172</sup> *Id.* at 25.

<sup>173</sup> *Id.* at 26 (citing Exh. NPP-022 at 9:9-19).

David Hamil DC Tie's connections with Zone 19 do not show any integration between Tri-State's SPP transmission facilities and Zone 19. Moreover, SPP explains that, as demonstrated by the record in this proceeding, the 230 kV transfer breaker 1186 is a maintenance breaker that: (1) is not directly connected to any other transmission facilities that are under SPP's functional control;<sup>174</sup> and, [REDACTED]<sup>175</sup> [REDACTED] SPP explains that Tri-State's remaining SPP transmission facilities are only able to access this transfer breaker through NPPD's Stegall facilities that are included in Zone 17,<sup>176</sup> further diminishing Mr. Lindstrom's claim of significant interconnections between Tri-State and Zone 19.<sup>177</sup>

112. SPP states that Trial Staff witness Ms. An Jou Jo Hsiung relied exclusively on Mr. Lindstrom's interconnection discussion with no independent analysis.<sup>178</sup> Thus, SPP asserts that any erroneous assertions in his testimony regarding interconnections between Tri-State and Zone 19 are incorporated into her analysis. Additionally, SPP explains that her summary conclusion that "Tri-State's Transmission Facilities . . . comprise an integrated whole with the facilities in Zone 19" because "[b]y transferring functional control to SPP, the transmission provider is able to provide transmission service to itself or other transmission customers over those facilities thus the two systems are integrated,"<sup>179</sup> falls short for the following reasons. First, SPP states that Mr. Hsiung ignores that many of the transmission facilities that she identifies as interconnections with Tri-State are with facilities that are not under SPP's functional control. SPP asserts that

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<sup>174</sup> *Id.* at 27 (citing Exh. WES-001 at 11:4-5); *see also* Exh. TS-001 at 25:6-10 (stating that Tri-State's facilities at Stegall are not directly connected to Zone 19 facilities but instead are connected to the Western-RMR bus); Exh. TS-027 at 8:17-9:3; Tr. 328:9-14 (Mr. Sanders explaining that the 230 kV transfer breaker 1186 is "isolated by RMR facilities that [were not] transferred to [SPP's] functional control").

<sup>175</sup> [REDACTED]

<sup>176</sup> SPP Initial Br. at 28 (citing Exh. TS-027 at 9:1-3, 10:7-8).

<sup>177</sup> *Id.*

<sup>178</sup> *Id.* (citing Exh. S-014 at 10:19-23, 13:17-20; Exh. SPP-032 at 1-7 (containing several Trial Staff responses to SPP data requests in which Ms. Hsiung indicates that the only documents, information, materials, or data upon which she relied was "the testimony and exhibits already provided in this hearing," which, for Zone 19 facilities, only included Mr. Lindstrom's testimony and exhibits)).

<sup>179</sup> *Id.* (citing Exh. S-014 at 13:4-8).

contrary to her conclusory assertion, SPP as transmission provider cannot “provide transmission service . . . over those facilities.” Second, SPP states that interconnections between Tri-State’s transmission facilities that have been transferred to SPP’s functional control, and Zone 19 facilities are limited to a single interconnection point at the Sidney Substation. Moreover, SPP explains that this single point involves a Tri-State facility that is isolated from the rest of the Tri-State system, and from Tri-State’s loads, by NPPD facilities and non-SPP transmission facilities. Additionally, SPP asserts that in discussing the Stegall Substation, Ms. Hsiung: (1) ignores the fact that the only Tri-State transmission facility at that location that has been transferred to SPP’s functional control is directly connected solely to transmission facilities that are not under SPP’s functional control, and thus not included within Zone 19; and, (2) appears to believe that the NPPD Stegall-Victory Hill 230 kV line is a Zone 19 facility, which it is not.<sup>180</sup> SPP explains that given her lack of independent analysis and erroneous conclusions, the Presiding Judge should entirely disregard Ms. Hsiung’s conclusions regarding Tri-State’s interconnections and integration with Zone 19.<sup>181</sup>

113. SPP asserts that both NPPD and Commission Trial Staff appear to rely on non-SPP transmission facilities owned by Western-RMR to demonstrate integration with Zone 19, and (in the case of NPPD), to undermine SPP’s placement of Tri-State in Zone 17. SPP states that evidence regarding Tri-State interconnections with Western-RMR transmission facilities is irrelevant, and should be disregarded.<sup>182</sup>

114. Additionally, SPP asserts that the record clearly demonstrates the error in NPPD’s claim (as duplicated in Commission Trial Staff’s testimony) that Tri-State has ten interconnections with Western-RMR transmission facilities. Mr. Lindstrom listed (and Ms. Hsiung repeated) several alleged “transmission interconnections that Tri-State has with Western’s facilities.”<sup>183</sup> However, SPP asserts that the record shows that several of these alleged interconnections actually involve interconnections with facilities that are not Tri-State-owned facilities under SPP’s functional control.<sup>184</sup> SPP explains that one alleged interconnection involves an interconnection at an NPPD-owned facility located in

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<sup>180</sup> *Id.* at 29 (citing Exh. S-014 at 11:14-18 (discussing facilities at the Stegall Substation)).

<sup>181</sup> *Id.* at 29.

<sup>182</sup> *Id.* at 31.

<sup>183</sup> *Id.* at 33 (citing Exhs. NPP-022 at 10:5-16; S-014 at 13:17-14:2).

<sup>184</sup> *Id.* (citing Exhs. NPP-022 at 10:5-16; S-014 at 13:17-14:2).

Zone 17,<sup>185</sup> and one alleged interconnection involves a lone Tri-State transfer breaker that is isolated from its other SPP Transmission Facilities. Finally, SPP states that NPPD's and Trial Staff's list of alleged Tri-State interconnections with Western-RMR is misleading, because it includes Tri-State delivery points, while their analyses of interconnections between Tri-State and NPPD does not include NPPD delivery points on the Tri-State system.<sup>186</sup>

115. SPP states that while it is true that Tri-State obtains generation supply from resources located within Zone 19, this is not uncommon, and, as NPPD previously has acknowledged,<sup>187</sup> NPPD also receives generation supply from resources located in Zone 19. SPP notes that, while several Zone 17 NPPD loads are served by Tri-State transmission facilities, the record shows no evidence of any Zone 19 load being served by or being dependent on Tri-State's transmission facilities. For all of these reasons, SPP asserts that NPPD's commercial integration argument is a red herring that should not distract from a finding that Tri-State's placement in Zone 17 is just and reasonable.<sup>188</sup>

116. Likewise, SPP states that Ms. Hsiung's implication that "integration" is binary because there are not "degrees" of integration<sup>189</sup> is both wrong and misses the point. First, SPP explains that the case law Ms. Hsiung quotes in support of her argument undermines her claim that "[t]here is no 'more' integrated or 'less' integrated."<sup>190</sup> SPP explains that the Commission's use of the words "any degree of integration" demonstrates that the Commission acknowledges that there are degrees of integration, any of which is sufficient for the purposes that the Commission was addressing in Opinion No. 474—i.e., whether to roll-in the costs of certain transmission facilities into

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<sup>185</sup> *Id.* (citing Tr. 338:25-339:15 (Lindstrom) (acknowledging that NPPD owns the Big Springs Substation to which Tri-State's Blue Creek/Big Springs 115 kV line connects)); [REDACTED]

<sup>186</sup> *Id.* at 33-34 (citing Exhs. TS-027 at 4:20-5:3; TS-028).

<sup>187</sup> *Id.* at 45 (citing Exh. TS-034 at 8-11).

<sup>188</sup> *Id.* at 45.

<sup>189</sup> *Id.* at 45 (citing Exh. S-014 at 16:13-19, 17:7-11).

<sup>190</sup> *Id.* (citing Exh. S-014 at 17:10-11).

the transmission provider's rates. SPP asserts that contrary to Ms. Hsiung's reading, Opinion No. 474 actually acknowledges that there are degrees of integration.<sup>191</sup>

117. SPP states that the only issue in this proceeding is whether the October 2015 filing, submitted pursuant to FPA section 205, is just and reasonable. Therefore, SPP explains that the sole issue in this case is whether SPP's proposal to include Tri-State's facilities and ATRR in Zone 17 is just and reasonable. SPP asserts that the Presiding Judge should ignore irrelevant, alternative proposals submitted by other parties and not consider whether such proposals would also be deemed just and reasonable, as they are contrary to the Commission's rate review authority under FPA section 205 and are beyond the scope of this proceeding.<sup>192</sup>

118. SPP asserts that the alleged cost shift in this proceeding does not render SPP's zonal placement proposal unjust and unreasonable. SPP states that establishing just and reasonable rates for transmission service lies solely within the authority and purview of the Commission under FPA sections 205 and 206. Accordingly, SPP explains that in determining zonal placement, it reviews the incorporation of a new TO into SPP from a transmission system scope and configuration perspective, using its four zonal placement criteria to do so. Moreover, as Mr. Bourne explained, cost shifts that arise when a new TO joins an RTO are inevitable, and can result from many factors in addition to simply differences in the relative embedded costs of the new TO's transmission facilities, and the embedded costs of transmission facilities within an existing SPP pricing zone.<sup>193</sup> Accordingly, SPP asserts that the Presiding Judge should find that, notwithstanding any

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<sup>191</sup> *Id.* at 46.

<sup>192</sup> *Id.* at 48; *see, e.g., Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (finding that under the FPA, as long as the Commission finds a methodology to be just and reasonable, that methodology "need not be the only reasonable methodology, or even the most accurate"); *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (finding that a utility needs to establish that its proposed rate is reasonable, not that it is superior to alternatives); *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,185, at P 25 (2010) ("[T]he mere fact that the methodology can be refined does not undercut [the Commission's] conclusion that [a proposed] method affords a just and reasonable rate for transmission customers. As the court noted . . . 'reasonableness is a zone, not a pinpoint.'");

<sup>193</sup> *Id.* at 51.

allegations of cost shift, placement of Tri-State in any zone other than Zone 17 is not just and reasonable.<sup>194</sup>

#### 4. Reply Brief

119. According to SPP, NPPD's claim that Tri-State has a "long history of integration with the Integrated System"<sup>195</sup> is undermined by record evidence. Specifically, as Western witness Mr. Steven Sanders testified, the "Integrated System" that is now located in Zone 19 was jointly planned, operated, and managed as an integrated whole prior to the decision by Western-UGP, Basin Electric, and Heartland to join SPP. In contrast, SPP states that the Integrated System was never planned or operated jointly in any coordinated and integrated fashion with Tri-State's transmission facilities, for the mutual benefit of Tri-State and Integrated System TOs and their loads. SPP asserts that NPPD offered no evidence to refute Mr. Sanders's assertion regarding the lack of integrated planning and operation between the Integrated System and Tri-State's transmission system.<sup>196</sup>

120. SPP states that NPPD's reliance on non-SPP transmission facilities to show integration with Zone 19 does not support a finding that Zone 19 is a more appropriate zone into which to place Tri-State's entire SPP Transmission System. SPP explains that considering the greater number of interconnections that Tri-State shares with NPPD at other locations in western Nebraska, and the significant intermingling of Tri-State and NPPD Zone 17 transmission facilities and loads that are depicted in numerous NPPD exhibits in this proceeding, Tri-State's limited interconnections to Zone 19 at the Sidney and Stegall substations do not justify placement of all of Tri-State's transmission facilities in Zone 19. Regardless, Tri-State states, the small number of interconnections with Zone 19 does not negate the fact that Tri-State's transmission facilities developed under the NETS Agreement were developed explicitly to serve both Tri-State loads and NPPD western Nebraska loads located in Zone 17.<sup>197</sup>

121. SPP asserts that NPPD's discussion of the David Hamil DC Tie in the context of transmission interconnections between Tri-State and Zone 19 is unavailing. First, as the

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<sup>194</sup> *Id.* at 52.

<sup>195</sup> SPP Reply Br. at 16 (citing NPPD Initial Br. at 40-43).

<sup>196</sup> *Id.*

<sup>197</sup> *Id.* at 22 (citing Exhs. SPP-001 at 13:20-14:19; SPP-003 at 12:19-26; TS-003 at 6).

record shows, the DC Tie has not been transferred to SPP's functional control. More importantly, SPP states, NPPD's assertion that "Mr. Bourne made clear that Basin Electric receives power at the Stegall-DC Tie Receipt Point to make deliveries at the 38 delivery points on the Tri-State and Western-RMR facilities"<sup>198</sup> mischaracterizes the record. Mr. Bourne indicated that the Laramie River Station 2 and 3 units "are normally operated in the Western interconnection"<sup>199</sup> and, in response to a question from NPPD's counsel that Basin Electric "could be using this power to make deliveries to all the receipt points we just talked about . . .," Mr. Bourne answered "correct."<sup>200</sup> SPP states that the mere fact that Basin Electric could receive energy over the Tri-State-owned, non-SPP David Hamil DC Tie from generating plants that normally operate in the Western Interconnection does not show integration sufficient to justify placing Tri-State's entire SPP transmission system in Zone 19. In short, SPP asserts that NPPD fails to present a compelling case to refute SPP's assessment that Tri-State's transmission facilities and ATRR most appropriately belong in Zone 17.<sup>201</sup>

122. SPP states that NPPD's further suggestions that SPP can utilize "contract rights" of others to provide transmission service are without any support, and are contrary to record evidence. SPP asserts that neither argument undermines SPP's zonal placement decision in this case. As SPP explained, its zonal placement analysis focuses solely on transmission facilities that are under SPP's functional control specifically because SPP lacks the ability to provide transmission service over facilities that have not been transferred to its control. As Ms. Hsiung testified, a "key requirement of integration" is the ability to provide transmission service over the facilities in question.<sup>202</sup> SPP argues that the fact that Tri-State may share some interconnections with non-SPP transmission facilities does not show integration between Tri-State and Zone 19 through those facilities, because SPP is not authorized to use those facilities to provide transmission service. As it relates to NPPD's argument regarding Tri-State's "contract rights" over Western-RMR transmission facilities, SPP states that NPPD did not produce any evidence that: (1) such assignment is indeed permissible under Tri-State's agreement with Western-RMR; or, (2) that such an assignment to SPP has occurred. In fact, the

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<sup>198</sup> *Id.* (citing NPPD Initial Br. at 49).

<sup>199</sup> *Id.* (citing Tr. 290:18–19).

<sup>200</sup> *Id.* (citing Tr. 292:21–24).

<sup>201</sup> *Id.* at 23.

<sup>202</sup> *Id.* at 23-24 (citing Exh. S-014 at 7:14).

only record evidence on the relevance of Tri-State's contract rights over Western-RMR facilities comes from the hearing, in which Mr. Bourne expressly testified that SPP does not have the right to utilize non-SPP Western-RMR transmission facilities to provide transmission service.<sup>203</sup>

123. SPP argues that NPPD's reliance on *PJM Interconnection L.L.C.*, 106 FERC ¶ 61,253 (2004) (*ComEd*) is misplaced. SPP argues that the Commission's order in the *ComEd* proceeding is readily distinguishable from the current situation involving Tri-State's facilities. SPP explains that while NPPD is correct that, at the time of the *ComEd* order, the only interconnection between ComEd's facilities and PJM Interconnection LLC (PJM) was through a 500 MW transmission pathway across American Electric Power Service Corp.'s (AEP) transmission system, what NPPD neglects to mention is that, at the time of the Commission order, the Commission already had accepted AEP's proposal to transfer functional control of its facilities to PJM.<sup>204</sup> SPP asserts that in stark contrast, there is no evidence in the record in this case that Western-RMR is pursuing SPP membership and placing its facilities under SPP's functional control, much less an acceptance by the Commission of a proposed transfer of control. SPP further asserts that another important distinction is that to facilitate the integration of ComEd's facilities into PJM, PJM entered into a service agreement with AEP "as to capacity assignment and dynamic scheduling to implement the generation transfer between PJM and ComEd."<sup>205</sup> Here, SPP argues, the record reflects no such service agreement between Western-RMR and SPP. SPP states that the *ComEd* case involved an express agreement between PJM and an incoming TO, to allow PJM to use the TO's system temporarily to facilitate the integration of another TO, pending the incoming TO's imminent entry into the RTO, which are facts that set that case entirely apart from this case.<sup>206</sup>

124. SPP states that NPPD's and Trial Staff's challenge to SPP's zonal placement decision based on how SPP allegedly developed its zonal placement criteria and its conduct during the decision-making process are irrelevant. For example, SPP explains that NPPD and Trial Staff criticize SPP for not addressing the issue of "cost-shifting" when determining Tri-State's zonal placement; however, neither cites any Commission

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<sup>203</sup> *Id.*

<sup>204</sup> *Id.* at 26-27 (citing *PJM Interconnection L.L.C.*, 106 FERC ¶ 61,253, at P 4 (2004) (citation omitted) (*ComEd*)).

<sup>205</sup> *Id.* at 27 (citing *ComEd*, 106 FERC ¶ 61,253 at P 10 n.11).

<sup>206</sup> *Id.* at 27-28.

precedent or policy statement mandating that that SPP, as an RTO, is required to consider cost-shifting when determining zonal placement of a new TO. SPP states that Trial Staff attempts to draw a contrast between SPP's position on cost shift and its willingness to perform cost assessments at the request of prospective members; however, providing cost information to prospective members so that they can independently assess the costs and benefits of RTO membership is a perfectly reasonable service for an RTO to perform. As Mr. Bourne made clear at the hearing, SPP conducted "a comparative cost estimate for the cost of SPP network service" at the request of Tri-State; it did not "do any assessment of benefits" as "it is not [SPP's] business to assess their benefits."<sup>207</sup> SPP states that its willingness to provide information to a new TO to enable it to analyze the costs and benefits of joining SPP is not nefarious conduct and, more to the point, has no bearing on the justness and reasonableness of its independent decision to place Tri-State in Zone 17.<sup>208</sup>

125. SPP asserts that NPPD's and Trial Staff's reliance on Opinion No. 494 to support their cost shift arguments is misplaced. In Opinion No. 494, the Commission rejected AEP's proposal to allocate the legacy costs of its higher voltage facilities (over 345 kV) on a regional basis.<sup>209</sup> A review of the Commission's analysis in Opinion No. 494, however, supports placement of Tri-State in Zone 17. SPP states that unlike in Opinion No. 494, it does not seek to socialize the costs of Tri-State's legacy facilities across the entire RTO footprint. Rather, SPP explains that its proposed placement of Tri-State's facilities in Zone 17 would limit cost recovery of Tri-State's legacy transmission system to Zone 17 customers, who historically have been served by facilities that were jointly developed and planned pursuant to a "Single-Entity Concept" under the NETS Agreement. SPP avers that by virtue of this joint planning and operation under the NETS Agreement "Single-Entity Concept," "it is therefore consistent with principles of cost causation to continue to allocate the costs of [the NETS] facilities to customers for whom they were constructed," including loads in Zone 17 that were historically served by the NETS facilities.<sup>210</sup>

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<sup>207</sup> *Id.* at 37 (citing Tr. 248:21 – 249:1); *see also* Tr. 250:13–22 (Bourne) (explaining that Mr. Steinbach was planning to perform a cost/benefit analysis and that SPP's only input would be on the cost of network service).

<sup>208</sup> *Id.* at 37-38.

<sup>209</sup> *Id.* at 45 (citing Opinion No. 494, 119 FERC ¶ 61,063 at PP 41–42).

<sup>210</sup> *Id.*

126. SPP provides the following excerpt from the United States Court of Appeals for the Seventh Circuit's (Seventh Circuit) review of Opinion No. 494 to support its position:

We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars. If it cannot quantify the benefits to the midwestern utilities . . . but [if] it has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with those utilities' share of total electricity sales in PJM's region, then fine; the Commission can approve PJM's proposed pricing scheme on that basis.<sup>211</sup>

**C. Western Cross-Answering Testimony**

**1. Pre-Hearing Testimony of Mr. Steven Sanders**

127. Mr. Sanders explains that contrary to NPPD's suggestion or implication, Western-UGP facilities and Western-RMR facilities were not, and are not today, planned, built, or operated as one integrated system. He explains that federal hydrogeneration in Western-UGP has historically been, and continues to be, marketed separately from the federal hydrogeneration from different Federal hydropower projects in Western-RMR. The facilities of Western-UGP and Western-RMR are identified separately and the Regions' wholesale power and transmission rates are developed separately.<sup>212</sup>

128. Mr. Sanders explains that historically, the only Western-RMR-owned transmission facility in the western Nebraska area that was utilized by Western-UGP and included in the Integrated System, and Western-UGP's prior legacy Joint Transmission System, was the Stegall-Wayside 230kV line, which connected Laramie River Station generation into the Integrated System. Mr. Sanders explains that Western-UGP has included the Stegall-Wayside 230kV line in Zone 19. He states that, with the exception of the Stegall-Wayside 230kV line, Western-UGP does not control or dispatch Western-RMR facilities, and unlike Western-UGP, Western-RMR is not an SPP TO.<sup>213</sup>

129. Mr. Sanders states that as an initial matter, Mr. Lindstrom's testimony presents a direct conflict as not all Zone 19 facilities are owned by Western-UGP. According to Mr. Sanders, Mr. Lindstrom's map and testimony provide the misleading impressions that Western-RMR facilities operate as one integrated system with Western-UGP

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<sup>211</sup> *Id.* at 46 (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 477).

<sup>212</sup> Exh. WES-001 at 4.

<sup>213</sup> *Id.* at 5.

facilities (and other Zone 19 facilities), that Western-RMR is a TO in SPP, and/or that Western-RMR and Western-UGP constitute one entity, which would ignore their distinct projects, separation of operations, separate marketing plans, and separately developed rates. Further, Mr. Sanders states that Mr. Lindstrom's testimony twice refers to "Western" facilities, while failing to make the important distinction between Western-RMR facilities (which are not under the functional control of SPP) and Western-UGP facilities (which are under the functional control of SPP).<sup>214</sup>

130. Mr. Sanders states that there are interconnections between Tri-State-owned facilities and transmission facilities currently included in Zone 19 at the following two locations: 1) Sidney 230kV Substation, and 2) Stegall 230kV Substation. However, based upon SPP's October 30, 2015 Filing in this docket and Tri-State's Informational Filing of 2016 Annual Update, Mr. Sanders asserts that there is only one interconnection between Tri-State facilities included under the SPP Tariff in Tri-State's SPP ATRR and Zone 19 facilities. He states that this interconnection is the Missouri Basin interconnection to Tri-State's Sidney 230kV Substation. He further states that Tri-State's remaining interconnections with Zone 19 involve facilities that Tri-State has not included under the SPP Tariff in its SPP ATRR.<sup>215</sup>

131. According to Mr. Sanders, the interconnections to Western-RMR's Stegall Substation include: 1) the Stegall-Wayside 230kV line owned by Western-RMR; 2) the Stegall (Western-RMR)-Stegall 230kV line owned by Missouri Basin; 3) the David Hamil Converter Station (110 MW back-to-back DC Tie to the Western Interconnection) owned by Tri-State; 4) the Stegall-Victory Hill 230kV line owned by NPPD; and, 5) the 230kV transfer breaker 1186 owned by Tri-State. Among these listed facilities, Western-UGP has included the Stegall-Wayside 230kV line (including portions of Western-RMR's substation buses) under the SPP Tariff in Zone 19. Mr. Sanders asserts that there are no interconnections at Western-RMR's Stegall 230kV Substation between the facilities that Tri-State has included in its SPP ATRR and the Zone 19 facilities. Based upon the testimony of Mr. Steinbach, Tri-State has not included its David Hamil (Stegall) DC Tie under the SPP Tariff in its SPP ATRR. It is Western-UGP's understanding that Tri-State does not have any costs eligible for recovery in the Stegall (Western-RMR)-Stegall 230kV line and associated facilities. Therefore, Mr. Sanders asserts that the only Tri-State facility in Western-RMR's Stegall 230kV Substation included in Tri-State's

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<sup>214</sup> *Id.* at 6.

<sup>215</sup> *Id.* at 9.

SPP ATRR is the 230kV transfer breaker 1186. However, Mr. Sanders explains that the transfer breaker is not interconnected to Zone 19 facilities.<sup>216</sup>

132. In summary, Mr. Sanders asserts that the Sidney Substation is the only interconnection between facilities that Tri-State has included in its SPP ATRR and Zone 19 facilities, and Tri-State's facilities at this location are isolated from Tri-State's load, which is embedded in the NPPD system. The rating of this interconnection is 400 mega-volt ampere (MVA). However, Mr. Sanders explains that only a portion of the total capacity rating of this facility is included by Missouri Basin owners that have put their allocated share of this Missouri Basin facility into Zone 19; therefore, the interconnection capacity between Tri-State and Zone 19 facilities at Sidney is actually less than the 400 MVA facility rating.<sup>217</sup>

133. Furthermore, Mr. Sanders states that the existence of this interconnection does not warrant a conclusion that Tri-State and Zone 19 facilities are integrated, because the Tri-State facilities at Sidney 230kV Substation are isolated from Tri-State load, and require the facilities of NPPD in Zone 17 and Western-RMR to connect to the remaining Tri-State facilities. On the other hand, Mr. Sanders explains that Tri-State's facilities and NPPD's facilities in Zone 17 are integrated, and the integration is extensive given Tri-State and NPPD's long history of joint transmission planning and operations and higher number of interconnections and significantly higher capacity of such interconnections. Accordingly, Mr. Sanders asserts that placement of Tri-State's facilities in Zone 17 would be appropriate, while placement in Zone 19 would be inappropriate.<sup>218</sup>

## **2. Cross-Examination Testimony of Mr. Sanders**

134. During cross examination, Mr. Sanders explained that the Stegall-Wayside line, which is owned by Western RMR, is utilized by Western-UGP. He explained that Western-UGP had the rights to utilize the line and provide transmission service under the Integrated System across that facility. Mr. Sanders explained that usage rights over the line stem from a historical arrangement between the regions, rather than a contractual relationship. When asked whether Tri-State load was served by the Integrated System prior to the Integrated System becoming a part of SPP, Mr. Sanders stated that there was network service for deliveries to Tri-State across the Integrated System by Basin Electric. He further explained that Basin Electric provided service to the edge of the Integrated System. Mr. Sanders asserted that the customers would be responsible for having a path

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<sup>216</sup> *Id.* at 10-11.

<sup>217</sup> *Id.* at 11.

<sup>218</sup> *Id.* at 16-18.

beyond the Integrated System. He stated that Western-UGP provided service to the edge of the Integrated System. When asked whether the edge of the Integrated System was the Stegall and the Sidney substations for purposes of the Tri-State system, Mr. Sanders responded that it could have been various points, depending on the arrangements that Tri-State had with other external entities. He explained that Western-UGP has interconnection points with NPPD into that area as well. According to Mr. Sanders, it would be dependent on their arrangements, and he asserted that he was uncertain as to the nature of such arrangements for deliveries once they left the Integrated System.<sup>219</sup>

135. When asked whether the Western-RMR, Tri-State, and NPPD lines that are used to serve the Tri-State load are integrated, Mr. Sanders explained that they are not, as the Tri-State line from the DC tie was a connection point to the Integrated System at Stegall. He further stated that it was at the edge of the Integrated System, so it appeared to be an input point to the Integrated System. When asked whether the Western-RMR lines that have not been transferred to SPP's functional control provide service to the Tri-State load as a part of the Integrated System, Mr. Sanders stated that this would be outside of the Integrated System, and he does not have any knowledge of the details beyond the Integrated System. He explained that to the extent there were deliveries to the Tri-State load, the service ended at the Integrated System. He asserted that customers handled any arrangements beyond the Integrated System.<sup>220</sup>

136. [REDACTED]<sup>221</sup>

137. [REDACTED]<sup>222</sup>

### **3. Initial Brief**

138. According to Western, there is only one point of direct interconnection between Tri-State facilities transferred to SPP's functional control and facilities in SPP Pricing Zone 19. Western explains that this point of interconnection is found between Tri-State-owned facilities at the Sidney 230 kV Substation and facilities of the Missouri Basin, a

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<sup>219</sup> Tr. 310:7-312:5.

<sup>220</sup> Tr. 315:18-316:9.

<sup>221</sup> [REDACTED]

<sup>222</sup> [REDACTED]

portion of which is included in Zone 19.<sup>223</sup> With respect to this Tri-State-Missouri Basin interconnection, Mr. Sanders testified as follows:

The rating of this interconnection is 400 MVA. However, only a portion of the total capacity rating of this facility is included by the MBPP owners that have put their allocated share of this MBPP facility into Zone 19; therefore, the interconnection capacity between Tri-State and Zone 19 facilities at Sidney is actually less than the 400 MVA facility rating.<sup>224</sup>

139. Accordingly, Western asserts that the five direct interconnections between Tri-State facilities included in its SPP ATRR and NPPD facilities in Zone 17 have *at least* 2.7 times the capacity (1,079 MVA compared to 400 MVA) of the single interconnection between such Tri-State facilities and those in Zone 19.<sup>225</sup>

140. Furthermore, Western explains that upon detailed analysis, the single interconnection between Tri-State facilities transferred to SPP and Zone 19 actually demonstrates the extent to which Tri-State is embedded within and integrated with NPPD's facilities in Zone 17. As stated by Mr. Steinbach and supported by reference to TS-014, a diagram of facilities in and around Tri-State's Sidney Substation, Tri-State equipment at Sidney is "the bridge connecting Zone 19 facilities to NPPD-owned facilities in Zone 17," and this interconnection at Sidney "is further evidence of the embedded nature of Tri-State's and NPPD's systems . . . because Tri-State's remaining facilities under the functional control of SPP are unable to access Sidney without the use of NPPD's transmission facilities in Zone 17."<sup>226</sup> Western explains that the fact that Tri-State's facilities at Sidney are isolated from Tri-State's remaining facilities and load in Nebraska, and require the facilities of NPPD (a Zone 17 TO) to connect to Tri-State's

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<sup>223</sup> Western Initial Br. at 5 (citing Exh. WES-001 at 9:13-19, 11:6-8); *see also* Exh. SPP-003 at 8:7-10; Exh. TS-027 at 10:14-17; Tr. 279:12-22; Exh. TS-014, One-Line Diagram Showing Tri-State-owned equipment at Sidney. The Missouri Basin is owned by several entities including Zone 19 TOs Basin Electric, Heartland, and Missouri River. Exh. WES-001 at 9:13-19.

<sup>224</sup> Western Initial Br. at 6 (citing Exh. WES-001 at 11:8-13).

<sup>225</sup> *Id.* (citing Exh. WES-001 at 15:2-6).

<sup>226</sup> *Id.* (citing Exh. TS-047 at 6:8-15).

remaining facilities and load demonstrates that Tri-State is embedded within and integrated with Zone 17.<sup>227</sup>

141. Western avers that NPPD and Trial Staff repeatedly, but incorrectly, argue that Tri-State's facilities are not isolated and are in fact integrated with Zone 19 facilities by way of various interconnections with Western-RMR facilities.<sup>228</sup> Fundamentally, Western asserts, NPPD and Trial Staff's arguments that Tri-State is integrated with Zone 19 facilities by way of Western-RMR facilities—i.e., on contract paths over Western-RMR facilities—ignore the crucial fact that SPP cannot provide service over facilities that have not been placed under the SPP Tariff. Indeed, as noted by Mr. Steinbach, several of the alleged Tri-State-Zone 19 interconnections identified by NPPD and Trial Staff require the use of Western-RMR facilities that have not been transferred to the functional control of SPP.<sup>229</sup> Western asserts that because SPP cannot provide transmission service over such Western-RMR facilities, it is unreasonable to conclude that Tri-State facilities transferred to the functional control of SPP are integrated with Zone 19.<sup>230</sup>

142. Western asserts that the only Tri-State-owned facility at Stegall that was transferred to SPP's functional control is transfer breaker 1186. [REDACTED]<sup>231</sup> [REDACTED]<sup>232</sup> [REDACTED]<sup>233</sup> [REDACTED]<sup>234</sup>

#### **4. Reply Brief**

143. Western responds to certain arguments raised in NPPD's Initial Brief. Western takes issue with NPPD's argument that Tri-State's interconnection with the Zone 19

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<sup>227</sup> *Id.* at 7; *see, e.g.*, Exhs. WES-001 at 14:9-12, 16:16-17:2; SPP-001 at 13:12-16; TS-047 at 6:8-15; Tr. 279:17-22.

<sup>228</sup> *Id.* at 10 (citing Exhs. NPP-022 at 8:11-9:19; S-014 at 10:12-11-21).

<sup>229</sup> *Id.* (citing Exh. TS-027 at 7:3-9).

<sup>230</sup> *Id.* at 10-11.

<sup>231</sup> [REDACTED]

<sup>232</sup> [REDACTED]

<sup>233</sup> [REDACTED]

<sup>234</sup> [REDACTED]

Missouri Basin facilities at Sidney is “more heavily used” than its interconnections with NPPD. Western states that NPPD apparently relies on a Basin Electric-SPP Network Integration Transmission Service (NITS) Agreement for a three-month period at the end of 2015 and Tri-State’s use of Western-RMR facilities for this conclusion. Western asserts that this evidence fails to establish integration between Tri-State and Zone 19, however. As an initial matter, Western argues, with the exception of the Stegall-Wayside 230 kV transmission line and associated substation equipment, Western-RMR facilities in the western Nebraska area have not been transferred to SPP’s functional control and SPP cannot provide service over these facilities. Therefore, Western avers that even accepting Tri-State’s contractual rights to use Western-RMR facilities, they are simply not relevant to the integration analysis.<sup>235</sup>

144. Additionally, according to Western, NPPD inaccurately maintains that Tri-State facilities at the Sidney Substation are not isolated, but rather, are “in the middle of a cohesive, integrated delivery system.”<sup>236</sup> Western explains that NPPD’s conclusion relies upon the use of Western-RMR facilities. Western asserts, however, that SPP cannot provide service over Western-RMR facilities that have not been transferred to its functional control, so interconnections with and use of such facilities are not relevant to determining proper zonal placement of Tri-State’s facilities.<sup>237</sup>

**D. South Central MCN LLC**

**1. Initial Brief**

145. According to South Central, the evidence in the record strongly supports SPP’s conclusion that the Tri-State Facilities are tightly integrated with those of NPPD, making Zone 17 a just and reasonable choice. South Central states that no intervenor has proven that this approach is not just and reasonable and, importantly, finding that the small rate impact that would result in this case rises to the level of “unjust and unreasonable” would set a troubling precedent. South Central asserts that placing Tri-State’s facilities in a new single-owner zone is not required to assure just and reasonable rates, and doing so would hinder the expansion of SPP, run contrary to established regulatory principles, and

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<sup>235</sup> Western Reply Br. at 8.

<sup>236</sup> *Id.* (citing NPPD Initial Br. at 46).

<sup>237</sup> *Id.*

ultimately interfere with attaining important Commission policy goals for the development of RTOs.<sup>238</sup>

146. South Central avers that requiring Tri-State's facilities to be placed in a new single-owner pricing zone would impose obstacles to all future proposals to incorporate new SPP members. South Central explains that unless the ratio of the ATRR to load of the new TO is equal to or less than that of the existing zone, costs for existing customers in the zone will always "increase." It further explain that in any such instance, existing customers in the affected pricing zone will be able to argue that an unjustified "cost shift" is occurring and seek to block the process of bringing additional facilities under the control of the SPP RTO.<sup>239</sup>

147. South Central states that the record in this case provides a compelling basis for placing the assets into the NPPD Zone. South Central explains that according to testimony, Tri-State's and NPPD's facilities have been jointly planned and operated for more than 40 years and neither NPPD nor Tri-State has a physical path to all of its loads without using the facilities of the other.<sup>240</sup> According to an SPP witness, "including Tri-State's facilities in any other pricing zone would conflict with the historical operation of Tri-State and NPPD's respective facilities and would likely result in an improper allocation of costs between Tri-State and NPPD."<sup>241</sup> The alleged "cost shift" cited by Trial Staff and NPPD may simply be the reasonable rebalancing of a historic imbalance of cost-recovery that resulted when some assets were included in SPP while adjacent, interconnected assets were left outside. The mere existence of a "cost shift" resulting from the later inclusion of a current non-member's integrated transmission assets into RTO rates should not be determinative of whether the overall post-inclusion in rates is just and reasonable. The failure to achieve that equilibrium historically should not be used to justify continued preferential rate treatment under the guise of an alleged "cost shift." Whether customers in a pricing zone benefit from facilities should be the driving factor, not when the facilities were placed under RTO control.<sup>242</sup>

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<sup>238</sup> South Central Initial Br. at 5.

<sup>239</sup> *Id.* at 6.

<sup>240</sup> *Id.* at 7 (citing Exh. TS-001 at 19:6-15); *see also* Exh. TS-001 at 21:23-22:3.

<sup>241</sup> *Id.* at 7 (citing October 2015 Filing at 4); *see also* Exh. SPP-001 at 18:5-9.

<sup>242</sup> *Id.* at 7-8.

148. South Central explains that in addition to introducing an inappropriate (and discriminatory) hurdle to the efficient expansion of existing RTOs, adoption of a “no cost shift” test for integration of assets into an RTO would frustrate established Commission policy. It states that bringing additional transmission facilities under RTO control, and particularly those of Public Power entities, is a policy objective of the Commission.<sup>243</sup> South Central asserts that defaulting to single-owner pricing zones whenever a “cost shift” is alleged would discriminate against current transmission-owning non-members moving their facilities into SPP, by treating them differently from existing transmission-owning members who, when joining SPP, received zonal cost recovery for their integrated facilities. Moreover, it asserts that moving to single-owner pricing zones to avoid a “cost shift” would constitute a significant barrier to the Commission’s policy objective of continued expansion of RTOs, thereby diminishing the benefits that wider participation in RTOs brings to consumers of legacy and new members alike.<sup>244</sup>

149. South Central explains that cost allocation in a pricing zone will virtually always change when the annual revenue requirement of additional transmission facilities is added to the zone, and in many cases, rates in the zone will increase by some amount for most customers, and decrease for those who previously were paying pancaked rates. Moreover, it explains that the smaller the pricing zone, the more likely a notable rate percentage adjustment will occur, because of the small size of the existing revenue requirement and load. Thus, it asserts that if the remedy to avoid cost shifts is the creation of a new pricing zone, the result would likely be the creation of new pricing zones for each new transmission-owning member, no matter how small its load.<sup>245</sup>

150. According to South Central, encouraging the profusion of small pricing zones would have significant practical consequences. It explains that NPPD’s and Trial Staff’s arguments introduce a slippery slope, ending with the addition of multiple small pricing zones in an RTO that is already fragmented by too many pricing zones covering relatively small loads. South Central asserts that a large regional transmission entity with multiple small pricing zones makes no sense if the goal is sound transmission pricing and rational RTO expansion. It further asserts that unreasonably small pricing zones impede

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<sup>243</sup> *Id.* at 8 (citing Order No. 2000, 89 FERC ¶ 61,285 at 3).

<sup>244</sup> *Id.*

<sup>245</sup> *Id.* at 9.

the achievement of the benefits RTOs are intended to provide—joint planning and development, efficiency, and increased reliability.<sup>246</sup>

151. South Central explains that RTOs were meant to provide transmission planners with a holistic view of grid needs. It states that SPP already recognizes that networked facilities 100 kV and above provide regional benefits, not just local benefits. South Central asserts that creating small pricing zones that must bear the entire cost of certain networked assets (or two-thirds of the cost for assets between 100 kV and 300 kV) tilts the scale against the development of new efficient projects, particularly at lower voltages, which are often the right choice in the relatively sparsely-populated portions of SPP.<sup>247</sup>

## 2. Reply Brief

152. According to South Central, the profusion of small pricing zones would have significant practical consequences that pose barriers to the operational efficiency and reliability of RTOs. South Central states that unreasonably small pricing zones impede the achievement of the benefits RTOs are intended to provide: joint planning and development, efficiency, sharing of cost among all parties that benefit and increased reliability. Under the SPP tariff, local expansions and reliability upgrades are paid for entirely by the wholesale and retail customers within the zone. Thus, South Central argues that zones should be designed to encompass all transmission facilities that comprise the integrated, local systems, so that joint planning and coordination can include all affected TOs. As SPP explains, if integrated facilities are placed in separate zones, SPP likely would be faced with the continuous problem of local reliability solutions in one zone being best solved by new lines or upgrades in another zone, resulting in a situation in which both the costs and benefits of a reliability solution are not assignable to a single zone. South Central asserts that SPP already is encountering this issue increasingly in its regional cost allocation review process, when assessing the needs of the smaller zones within the SPP region; TOs in the zone in which the upgrades would be placed understandably would not want to pay -- nor should they pay --100% of the costs for the benefit of another zone.<sup>248</sup>

153. South Central explains that faced with a continued proliferation of small, single owner zones, SPP would likely be driven towards more expensive and less optimal local upgrades. It states that facilities that historically were built to operate in an

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

<sup>247</sup> *Id.*

<sup>248</sup> South Central Reply Br. at 5.

interconnected fashion, despite being owned by different entities will, over time, become more like stand-alone systems, as new local upgrades are planned and built in small zones comprising just a single owner's facilities, resulting in unnecessary duplication, inefficiency and isolation. South Central explains that the benefits of being part of the regional grid that the Commission hoped to achieve when it first went down the path in Order No. 2000, will be reduced as such an outcome would represent a large backward step.<sup>249</sup>

154. South Central states that given the high degree of integration between Tri-State and NPPD, any proposed facility expansion or modification would have to be evaluated across both systems. It explains that if, however, they are in different pricing zones, the cost-benefit analysis of any proposed project will be skewed against construction, and result in inefficient transmission planning. For these reasons, South Central states that the placement of Tri-State in a zone other than Zone 17 would prevent SPP from achieving its primary RTO function of efficient regional planning and operation of the grid.<sup>250</sup>

155. South Central argues that the costs of the Tri-State and NPPD transmission facilities under SPP control are appropriately shared. It states, however, that proper rate design involves judgment and consideration of all relevant factors, not a singular focus on cost-shift. In Order No. 890, to which the Commission cites in Opinion No. 494, the Commission explained that it takes a flexible approach on cost allocation issues and, "when considering a dispute over cost allocation, exercise[s] judgment by weighing several factors." South Central states that one of the relevant factors the Commission considers is "whether a cost allocation proposal provides adequate incentives to construct new transmission."<sup>251</sup> South Central notes that smaller pricing zones skew the cost-benefit analysis of facility upgrades against new construction and generally result in inefficient transmission planning. Furthermore, it explains that while the Commission also considers whether a cost allocation proposal fairly assigns costs, including to those who caused or benefit from them,<sup>252</sup> the Commission has never applied such a cost-shift

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<sup>249</sup> *Id.*

<sup>250</sup> *Id.* at 5-6.

<sup>251</sup> *Id.* at 6 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 38) (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119 (2007)).

<sup>252</sup> *Id.*

consideration as a strict test and has often allowed or even required an allocation that shares costs more broadly across customers that benefit from the facilities at issue. For example, as the Commission expressly pointed out in Opinion No. 494, it has “required” a “rolled-in” cost approach when there are commonly operated and coordinated facilities.<sup>253</sup>

156. Moreover, South Central states that in understanding how the cost-shift consideration is applied, both the courts and the Commission have described its application in relatively flexible terms. Namely, it explains that if there is “an articulable and plausible” evidentiary basis of “roughly” commensurate benefits, then the cost shift consideration would support allocation.<sup>254</sup> South Central states that the Commission adopted a similar standard in Order No. 1000 in finding that costs should be allocated “in a manner that is at least roughly commensurate with the benefits received” by those who will pay those costs.<sup>255</sup> Thus, South Central argues that while it is not the only consideration or even the dominant consideration, both Commission policy as well as court precedent recognize that costs are appropriately shared to the extent there is an articulable and plausible evidentiary basis to conclude that all of the affected parties benefit.<sup>256</sup>

157. In this case, South Central asserts that there is uncontroverted evidence that the NPPD system benefits from Tri-State’s facilities, which unquestionably qualify under Attachment AI to the SPP Tariff as transmission facilities. It states that there are numerous interconnections between the facilities, providing strong evidence of integrated operations and continuous power flows, and demonstrating that both Tri-State and existing Zone 17 customers benefit from the use of the facilities. South Central states that the assertion by Trial Staff and NPPD that Tri-State facilities can be zonally located anywhere there is a connection, as there are no “degrees” of integration, is nonsensical and operationally false. It explains that the number of interconnections and network integration of the transmission systems is clear evidence of the inter-operability of the

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<sup>253</sup> *Id.* at 6-7 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 54) (citing as an example *Alabama Power Co. v. FERC*, 993 F.2d 1557 (D.C. Cir. 1993)).

<sup>254</sup> *Id.* at 7 (citing *Illinois Commerce Commission v. FERC*, 576 F.3d at 477).

<sup>255</sup> *Id.* (citing *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051, at P 10 and 622 (2011)).

<sup>256</sup> South Central Reply Br. at 7.

Tri-State and Zone 17 facilities. It further explains that power flows necessarily occur continuously across the interconnections into and from the facilities, evidencing that both Zone 17 and Tri-State consumers are served by the interconnected facilities and, therefore, benefit from them. South Central states that the amount of such power flows increases with each interconnection, and varies to the benefit of either party based on the in-service status of interconnected transmission and generation facilities, meaning that Tri-State is even more integrated with a system to which it has five interconnections than to a system in which it has one. South Central asserts that Trial Staff and NPPD are correct that a single interconnection can integrate two systems, but the physics of the system compel the conclusion that the degree of shared operation is greater with multiple interconnections than with one.<sup>257</sup>

158. According to South Central, the record in this case presents an articulable and plausible reason to believe that the benefits are at least roughly commensurate with the costs allocated, and surely clears quite easily the hurdle of a “crude” showing. It states that according to the testimony in this proceeding, neither NPPD nor Tri-State has a physical path to all of its loads without using the facilities of the other. According to SPP, “including Tri-State’s facilities in any other pricing zone would conflict with the historical operation of Tri-State and NPPD’s respective facilities and would likely result in an improper allocation of costs between Tri-State and NPPD.”<sup>258</sup> And on the other hand, South Central states that there is no evidence that supports a finding that the small increase in Zone 17 rates is not commensurate with the benefits received by Zone 17 ratepayers.<sup>259</sup>

159. South Central asserts that viewing Opinion No. 494 in its appropriate factual context is important, not just for this proceeding, but for the integration of future entities into SPP and other RTOs in which there are still “holes” of small utilities (often non-jurisdictional cooperatives and municipals) that for whatever reason have not yet joined the RTO. It explains that the question of the appropriate zonal placement for the Tri-State facilities depends primarily on their operational configuration and layout. South Central states that nothing in Opinion No. 494, nor the Seventh Circuit decision on appeal, dictates a finding that the SPP proposal is not just and reasonable solely because it results in other Zone 17 ratepayers bearing some share of the costs of facilities that Tri-State has contributed to SPP’s operational control. The clear evidence that Zone 17

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<sup>257</sup> *Id.* at 8.

<sup>258</sup> *Id.* at 8-9 (citing October 2015 Filing).

<sup>259</sup> *Id.* at 9.

customers do benefit from the Tri-State facilities, and the absence of any evidence that the relatively small impact on Zone 17 rates is not commensurate with those benefits, mandates approval of the SPP proposal.<sup>260</sup>

**E. NPPD**

**1. Pre-Hearing Testimony of Mr. Todd Swartz**

160. Mr. Swartz's testimony provides an analysis of the cost impact on SPP's pricing Zone 17 and its customers, including NPPD, which will result from SPP's proposal to include Tri-State as a new TO within Zone 17. Mr. Swartz also responds to claims by Mr. Steinbach that NPPD has overstated the cost-shift attributable to the inclusion of Tri-State in Zone 17. Mr. Swartz explains that a "cost shift" occurs when a portion of a new SPP TO's ATRR associated with its transmission facilities is not paid by that new TO's own load. He explains that the amount of a new TO's ATRR that is not paid by its own load results in a cost shift to existing SPP customers.<sup>261</sup>

161. Mr. Swartz explains that, based on Mr. Steinbach's recommended ATRR of \$7.2 million for Tri-State, rolling-in Tri-State's ATRR into Zone 17 would increase the annual per MW cost of serving Zone 17 load by eight percent. He further explains that by joining Zone 17, Tri-State will reduce its responsibility for paying its own costs by 60 percent by shifting \$4.3 million of its \$7.2 million ATRR to NPPD and other Zone 17 customers. Mr. Swartz explains that this cost shift occurs because by including Tri-State in Zone 17, more costs are being added to the zone proportionately than is being added to the total zonal load. Specifically, he explains that Tri-State's proposed \$7.2 million ATRR, when combined with the existing Zone 17 ATRR of \$56.8 million, comprises 11.2 percent of the combined total, while its total load when added to existing Zone 17 load is only 4.4 percent of the combined total for the zone.<sup>262</sup>

162. Mr. Swartz refutes claims by Mr. Steinbach that NPPD's calculation of the \$4.3 million cost shift to Zone 17 customers should be adjusted to account for: (1) exclusion of revenue associated with Tri-State's termination of its NETS Agreement with NPPD; (2) addition of costs that NPPD would incur if Tri-State were in another zone; (3) costs shifted only to NPPD's load, rather than to all Zone 17 loads; and, (4) adjustments based on purported known and measureable future changes. Mr. Swartz separately addresses each of these adjustments and explains that they improperly reduce the true magnitude of

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<sup>260</sup> *Id.* at 12.

<sup>261</sup> Exh. NPP-001 at 2-3.

<sup>262</sup> *Id.* at 3-4.

the cost shift attributable to the inclusion of Tri-State facilities in Zone 17. Specifically, Mr. Swartz explains that a cost shift analysis should be based on the costs making up the ATRR and load of the new TO as of the effective date of it becoming an SPP member. He explains that it is inappropriate to adjust these costs for changes to certain elements of the ATRR scheduled or projected to occur in the distant future, and adds that Tri-State's attempt to minimize the true size of the cost shift by claiming that some elements of its costs may be reduced in the future constitutes cherry-picking, and overlooks potential offsetting increases to other cost elements of its ATRR that may occur over the same time period.<sup>263</sup>

163. Mr. Swartz states that he rebuts Mr. Steinbach's misleading and illogical effort to adjust the \$4.3 million cost shift to Zone 17 by netting out costs that NPPD would incur if Tri-State were placed in a separate pricing zone. He explains that the cost impacts that would occur if Tri-State were instead included in a different zone do not impact the magnitude of the cost shift under the scenario in which Tri-State is included in Zone 17.<sup>264</sup>

164. According to Mr. Swartz, his analysis demonstrates that by placing Tri-State's facilities in a new Tri-State Zone, rather than in Zone 17, the impact of the cost shift is reduced from an eight percent cost increase to a two percent cost increase for other Zone 17 customers, while Tri-State load will still reduce its responsibility for paying its own costs by \$1.1 million, a 14 percent reduction.<sup>265</sup>

165. Mr. Swartz also states that his analysis shows that placing Tri-State's ATRR in Zone 19 would increase the annual per MW cost of serving load in that zone by only a small amount. As he explains, the cost shift to Zone 19 customers associated with placing Tri-State's facilities in Zone 19 is minimal because Tri-State's contribution to Zone 19's ATRR and load are nearly equal on a percentage basis. Mr. Swartz asserts that placing Tri-State in Zone 19 would result in a \$0.6 million cost shift to the other Zone 19 transmission customers – representing a mere 0.2 percent increase in costs. He further states that this cost shift to Zone 19 customers drops to about \$0.4 million when factoring

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<sup>263</sup> *Id.* at 4-5.

<sup>264</sup> *Id.* at 7.

<sup>265</sup> *Id.* at 8.

in estimated zonal cost payments made by the 8.2 MW of Tri-State load that would be properly included in Zone 17 under this scenario.<sup>266</sup>

166. Mr. Swartz concludes that cost shifts resulting from the addition of a new TO should be avoided or mitigated to the maximum extent possible, and the best way to achieve this objective is to place Tri-State in its own pricing zone. Lastly, Mr. Swartz discredits Mr. Steinbach's position that the \$4.3 million cost shift to Zone 17 should be reduced by about 20 percent, to reflect only the cost shift to NPPD's portion of Zone 17 loads, rather than all loads in that zone. This, Mr. Swartz explains, is simply an attempt to minimize the true size of the cost shift by disaggregating the dollar amount into individual customer components.<sup>267</sup>

## 2. Pre-Hearing Testimony of Mr. Paul Malone

167. Mr. Malone explains that SPP's refusal to consider the creation of a separate pricing zone for Tri-State, and to instead include Tri-State as a TO within NPPD's existing Zone 17, will result in a substantial and unreasonable shift of the costs of Tri-State transmission facilities to NPPD and other transmission customers in Zone 17. He explains that the internal criteria, as applied by SPP in this case, did not provide a reasonable process for determining zone placement. Instead of trying to mitigate any potential cost shift resulting from zone placement, Mr. Malone states that SPP actively assisted in the analysis demonstrating that placement in Zone 17 produced the maximum benefits for Tri-State. Unfortunately for existing Zone 17 customers, Mr. Malone asserts that SPP failed to consider that such placement also would maximize the cost shift to Zone 17. He further asserts that instead of finding ways to mitigate the cost shift, SPP strategized with Basin Electric, an SPP transmission customer taking NITS on behalf of Tri-State, about how to structure such service in a manner that would facilitate placement of Tri-State in Zone 17.<sup>268</sup>

168. Mr. Malone states that the SPP employee that performed the analysis not only ignored cost shifts, he actively encouraged Tri-State to join Zone 17 by explaining, even before receiving final management approval of this analysis, that his "preliminary analysis shows a significant benefit to Tri-State in the NPPD zone."<sup>269</sup> Mr. Malone states

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<sup>266</sup> *Id.* at 9.

<sup>267</sup> *Id.* at 10-11.

<sup>268</sup> *Id.* at 3-4.

<sup>269</sup> *Id.* at 7 (citing Exh. NPP-012 at 4).

that no mention was made of the fact that such “significant benefit” was at the expense of a significant cost shift to NPPD and other Zone 17 customers. He explains that it is not appropriate for SPP to be subsidizing the cost to join SPP by offering to place the new TO in the zone that maximizes benefits by means of an unreasonable cost shift to existing customers in that zone. He states that instead of funding its new membership drive with existing customers’ money, SPP should be considering ways to bring in new members while mitigating significant cost shifts to existing customers.<sup>270</sup>

169. Mr. Malone states that SPP refused to consider placing Tri-State in its own pricing zone because Tri-State’s proposed ATRR fell below SPP’s most recently revised minimum size criteria for a separate zone. He explains that even if some provisions of SPP’s criteria determined that Tri-State is too small to be included in a separate zone, the other provisions of SPP’s criteria overemphasize the relative degrees of interconnection as the main driver for determining placement in an existing zone. In cases as here, in which there is interconnection with two existing SPP zones, Mr. Malone explains that Tri-State should be placed in the zone that results in the smallest cost shift. He explains that Tri-State should be placed in Zone 19 as that would result in an increase of less than 0.2 percent, as contrasted with the nine percent increase resulting from placement in Zone 17.<sup>271</sup>

170. Mr. Malone does not agree with SPP’s determination that “not substantial enough” is simply established by the lowest zonal ATRR at any given point in time that must be exceeded in order to qualify for a separate pricing zone. Mr. Malone states that SPP should never reject the option of creating a separate pricing zone without first analyzing the resulting financial impact on transmission customers in the existing pricing zone, and looking for ways to avoid or at least mitigate any significant and unreasonable cost shifts. He avers that the circumstances in this case demonstrate how the changes in SPP’s minimum ATRR threshold can produce arbitrary results. Regarding SPP’s criteria of whether the inclusion of Tri-State would significantly expand the geographic footprint of SPP, Mr. Malone asserts that the addition of Tri-State’s 22,000 square mile services territory would be the seventh largest of 19 SPP zones.<sup>272</sup>

171. Mr. Malone responds to claims that Tri-State is highly integrated in Zone 17 by explaining that Tri-State is both electrically and commercially integrated with SPP and the facilities of Basin Electric in Zone 19. He explains that Tri-State has a wholesale

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<sup>270</sup> *Id.* at 7-8.

<sup>271</sup> *Id.* at 8.

<sup>272</sup> *Id.* at 14, 24.

power contract which obligates Tri-State to purchase all power supply, beyond an allocation of Western–RMR preference power, from Basin Electric, and Basin Electric is the designated agent to obtain SPP NITS on Tri-State’s behalf. Historically, Mr. Malone explains, Basin Electric has used the Zone 19 facilities, non-SPP Western–RMR facilities, and NPPD facilities to deliver power to Tri-State load. He asserts that placing Tri-State in Zone 19 would be consistent with Tri-State’s longstanding commercial integration with Basin Electric and Western.<sup>273</sup>

172. Mr. Malone further explains why there is no support for SPP’s and Tri-State’s position that Tri-State load is embedded in the Zone 17. He explains that embedded means surrounded, and Tri-State is not surrounded by NPPD’s transmission system. He asserts that it is clearly demonstrated in Mr. Lindstrom’s map and testimony that Tri-State is not embedded in the NPPD Pricing Zone, as Tri-State has more transmission interconnections with the Western–RMR and the Integrated System than with NPPD. Mr. Malone states that Tri-State load was “trapped” in SPP as a result of the Integrated System (Zone 19 facilities) joining SPP. He explains that in his view, “trapped” is synonymous with surrounded. As such, he avers that Tri-State recognizes that it is embedded within SPP by Zone 19 and Zone 17 facilities.<sup>274</sup>

173. Mr. Malone explains that it is vitally important that the Commission understand that certain of the Western–RMR transmission facilities are essential to serving Tri-State load. He asserts that although Western has decided not to place certain of the Western–RMR transmission facilities under the SPP tariff, this decision does not change the fact that these facilities are integrated significantly with Tri-State facilities, and are needed to serve Tri-State load.<sup>275</sup>

### **3. Pre-Hearing Testimony of Mr. Randy Lindstrom**

174. Mr. Lindstrom’s testimony describes Tri-State’s integration with facilities owned by Western. Mr. Lindstrom refutes Mr. Bourne’s claim that Tri-State’s facilities and those of NPPD in Zone 17 are highly integrated, that Tri-State’s load is not directly

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<sup>273</sup> *Id.* at 17-18.

<sup>274</sup> *Id.* at 19.

<sup>275</sup> *Id.* at 20.

connected to any Zone 19 transmission facilities, and that NPPD facilities are required to connect them to Tri-State load-serving facilities.<sup>276</sup>

175. Mr. Lindstrom explains that this analysis fails to account for the fact that: (1) the Tri-State facilities are interconnected not only with NPPD but also with the facilities owned by Western–RMR that are not currently included in the SPP footprint; (2) Tri-State’s facilities are significantly integrated with the Missouri Basin transmission system included in Zone 19, in which Tri-State has a 24 percent ownership interest; and, (3) there is significant integration between Tri-State and the facilities commonly referred to as the “Integrated System” in Zone 19.<sup>277</sup>

176. Mr. Lindstrom explains that based on a complete analysis of the interconnection of Tri-State’s facilities to all surrounding transmission facilities, it is the Western–RMR and Zone 19 transmission facilities that are required to connect the Tri-State load-serving facilities to the SPP footprint. He further asserts that the transmission facilities in NPPD’s Zone 17 are not adequate by themselves to provide this interconnection capacity. Mr. Lindstrom adds that Mr. Steinbach’s claim that Tri-State has zero interconnections with other SPP zones ignores the extensive connectivity between Tri-State and Zone 19, and is inconsistent with prior statements made by Mr. Steinbach.<sup>278</sup>

177. Mr. Lindstrom explains that, contrary Mr. Steinbach’s representations, Tri-State’s facilities at the Sidney Substation are indeed significantly integrated with facilities in Zone 19 and facilities owned by the Western–RMR, and Tri-State’s facilities are tied directly to the Western–RMR Stegall Substation. Mr. Lindstrom discredits claims made by Mr. Steinbach that Tri-State is connected to the rest of SPP solely through NPPD facilities, explaining that Tri-State also connects directly to SPP’s Zone 19 through two substations owned by Tri-State, and indirectly through numerous interconnections between Tri-State and Western–RMR.<sup>279</sup>

178. According to Mr. Lindstrom, his evidence demonstrates that the Tri-State facilities are directly connected to, and significantly integrated with the Western facilities, by explaining in detail the extent to which Tri-State load is directly connected to the

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<sup>276</sup> Exh. NPP-022 at 3-4.

<sup>276</sup> *Id.* at 4.

<sup>277</sup> *Id.* at 6.

<sup>278</sup> *Id.* at 6-7 (citing Mr. Steinbach’s affidavit in Docket No. ER12-1179).

<sup>279</sup> *Id.* at 6-7.

transmission facilities owned by Western at ten different locations in western Nebraska. Specifically, he explains that the Sidney 230 kV Substation owned by Tri-State is significantly integrated with facilities in Zone 19 and facilities owned by the Western–RMR that interconnect directly to Tri-State’s facilities at many points. He explains that Tri-State’s Sidney 230 kV Substation is connected with the following facilities, which includes facilities in the Eastern Interconnection:

1. the 230 kV Interconnection with Missouri Basin/ Western–UGP Sidney 345 kV Substation;
2. the 230 kV Interconnection with the Western–RMR Sidney DC Tie;
3. the 230/115 kV Interconnection with the Western–RMR 115 kV Line from Sidney – Colton – Chappell – Julesburg – Big Springs – Ogallala; and,
4. the 230 kV Interconnection with the NPPD’s Sidney - Ogallala 230 kV line.<sup>280</sup>

179. Mr. Lindstrom asserts that Tri-State’s Sidney Substation has more direct interconnections with Western–owned facilities than with NPPD-owned facilities. Further, Mr. Lindstrom asserts that Exhibit No. NPP-24 illustrates the direct path delivery from the Sidney 345/230 kV (Zone 19) Interconnection directly across the Sidney (Tri-State) 230 kV bus onto the Sidney (Tri-State) 230/115 kV Transformer and onto the Western–RMR 115 kV line, which has numerous direct interconnections with Tri-State-owned 115 kV load substations.<sup>281</sup>

180. Mr. Lindstrom asserts that these deliveries can be accommodated without the direct use of any of NPPD’s owned transmission facilities. Similarly, he states that the facilities owned by Tri-State at Stegall, consisting of the Stegall DC Tie facilities, are not isolated. He explains that such facilities are tied directly to the Western–RMR Stegall 230 kV Substation owned by Western–RMR, which includes the following East Side interconnections:

1. the 230 kV Interconnection with the Western–UGP Stegall – Wayside – New Underwood 230 kV line in Zone 19;
2. the 230 kV Interconnection with the Missouri Basin/Western–UGP Stegall 345 kV Substation in Zone 19; and,
3. the 230 kV Interconnection with NPPD’s Stegall – Victory Hill 230 kV line.<sup>282</sup>

181. Mr. Lindstrom explains that Tri-State load is directly connected to the transmission facilities owned by Western at ten different locations in western Nebraska,

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<sup>280</sup> *Id.* at 8-9

<sup>281</sup> *Id.* at 9.

<sup>282</sup> *Id.* at 9.

including: 1) Box Butte 115 kV Substation; 2) Snake Creek 115 kV Substation; 3) Morrill 115 kV Substation; 4) Colton 115 kV Substation; 5) Julesburg/Interstate 115 kV Line; 6) Blue Creek/Big Springs 115 kV Line; 7) Brule 115 kV Substation; 8) Sidney 230 kV Substation; 9) Ogallala 115 kV Substation; and, 10) Stegall 230 kV Substation.<sup>283</sup>

182. Additionally, Mr. Lindstrom explains that while Tri-State and NPPD have coordinated their joint planning efforts in accordance with the NETS agreement, this joint planning coordination is no different than the coordinated joint planning efforts between NPPD and all other interconnected transmission systems. He explains that coordinated planning is a longstanding basic requirement of all interconnected systems – it is not unique to NETS – and while NPPD has historically coordinated planning efforts with Western, Basin Electric, Omaha Public Power District, Lincoln Electric System (LES), and Sunflower Electric Power, this history did not lead to each of these individual entities being placed in Zone 17.<sup>284</sup>

183. Lastly, Mr. Lindstrom asserts that the Tri-State facilities are embedded by the Zone 17, Western–RMR facilities and Zone 19 facilities. He explains that while all of these facilities operate as an integrated system, the Tri-State facilities can be easily separated into a stand-alone pricing zone without any operational issues. He asserts that Tri-State is interconnected significantly with Western–RMR facilities and Western–UGP (Zone 19) facilities, and adds that there is adequate capacity in the Western–UGP (Zone 19) interconnections to accommodate deliveries to the entire Tri-State load. Based on his analysis of three of the four criteria that determine zonal placement of new TOs, Mr. Lindstrom concludes that there is sufficient technical basis for placing Tri-State into its own separate zone, or including it in Zone 19.<sup>285</sup>

**a. Cross-Examination Testimony of Mr. Lindstrom**

184. [REDACTED]<sup>286</sup>

185. When asked whether deliveries to Tri-State can be accommodated without the direct use of any of NPPD's own transmission facilities in the Sidney 345 kV Zone 19 interconnection, Mr. Lindstrom responded in the affirmative, even though he agreed that

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<sup>283</sup> *Id.* at 10.

<sup>284</sup> *Id.* at 11.

<sup>285</sup> *Id.* at 12.

<sup>286</sup> [REDACTED]

Western-RMR has not placed the 115-kV line from Sidney to Ogallala under SPP's OATT.<sup>287</sup>

186. When asked about the ten different transmission interconnections that Mr. Lindstrom asserted that Tri-State has with Western facilities, Mr. Lindstrom indicated that he included interconnections that Tri-State has with both Western-RMR and Western-UGP.

187. [REDACTED]<sup>288</sup>

188. Next, Mr. Lindstrom was asked whether SPP can provide transmission service over the Julesburg-to-Interstate 115-kV line, even though these facilities were not transferred to SPP's control and placed under its tariff. Mr. Lindstrom responded that, from his understanding of Mr. Bourne's testimony, SPP cannot provide tariff services such as transmission service or generator interconnection, but that does not mean that other services are not provided across those facilities as a part of the interconnected transmission system. Mr. Lindstrom explained that based on the foregoing, these facilities can be considered an SPP Tri-State connection with the Western-RMR facilities, as Tri-State has NITS service to supply the load to those facilities, and it is important to those customers to receive that power.<sup>289</sup>

189. [REDACTED]<sup>290</sup>

190. [REDACTED]<sup>291</sup>

191. [REDACTED]<sup>292</sup>

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<sup>287</sup> Tr. 344:13-16.

<sup>288</sup> [REDACTED]

<sup>289</sup> Tr. 350:2-17.

<sup>290</sup> [REDACTED]

<sup>291</sup> [REDACTED]

<sup>292</sup> [REDACTED]

192. [REDACTED]<sup>293</sup>

**4. Initial Brief**

193. According to NPPD, SPP's criteria governing zone placement are not designed to produce just and reasonable rates. NPPD notes that such criteria were never formally developed, vetted or filed with the Commission. NPPD also notes that SPP's criteria were developed internally, without input from the SPP Board of Directors, and without any vetting through the SPP stakeholder process. Mr. Bourne acknowledged that the criteria were developed absent a filing with the Commission or publication in SPP's Business Practice Manual. In sum, NPPD asserts that these zone placement criteria were developed and implemented without any opportunity for public comment and due process that otherwise must occur in connection with an SPP Tariff filing made with the Commission.<sup>294</sup>

194. NPPD states that when the Nebraska Entities (NPPD, Omaha Public Power District and the Lincoln Electric System) commenced discussions with SPP in 2008 about joining SPP as TOs, no mention was made of criteria governing zone placement.<sup>295</sup> NPPD states that it was unaware of any minimum ATRR threshold to establish eligibility as a separate zone. At that time, only one SPP pricing zone had multiple TOs, with the ATRRs of the new TOs in that zone ranging from \$428,131 to \$2,733,879.<sup>296</sup> The smallest ATRR of any single-owner zone was \$4,197,347.<sup>297</sup> The three Nebraska Entities joined SPP as three separate pricing zones.<sup>298</sup>

195. NPPD states that although there were no discussions in 2008 between SPP and the Nebraska Entities concerning minimum ATRR size to be eligible for placement in a separate zone,<sup>299</sup> Mr. Bourne now explains in this case that SPP became concerned in

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<sup>293</sup> [REDACTED]

<sup>294</sup> NPPD Initial Br. at 8.

<sup>295</sup> *Id.* at 9 (citing Exh. NPP-008 at 5:14-17; Tr. 163:19-23).

<sup>296</sup> *Id.* (citing Exh. NPP-040 at 2).

<sup>297</sup> *Id.* (citing Exh. NPP-040 at 2; Tr. 167:23).

<sup>298</sup> *Id.*

<sup>299</sup> *Id.* (citing Tr. 167:13-14).

2008 that the inclusion of LES as a separate zone raised issues about the minimum size to be eligible for a separate pricing zone.<sup>300</sup> Mr. Bourne claims that SPP at that time developed two criteria: (1) a new zone should only be created in the case of a substantial increase in the geographic area of the SPP Transmission System footprint; and, (2) the ATRR of the prospective zone must be at least as great as the smallest ATRR of any then-existing zone.<sup>301</sup>

196. NPPD explains that LES's \$14 million ATRR, as compared to the smallest ATRR of \$4.1 million in 2009, suggests that Mr. Bourne's concern about LES's size must have related to its geographic footprint. However, NPPD asserts that such assumption is contradicted by SPP's subsequent position in 2015 that LES's 300 miles of transmission lines warranted treatment as a separate pricing zone.<sup>302</sup> Moreover, NPPD states that these first two criteria have nothing to do with zone placement in cases as here, in which a new TO is connected to two or more transmission zones and a decision must be made as to which zone is the appropriate placement. At some point thereafter, NPPD explains, SPP added a third criterion which established the "integration/embedded" threshold for inclusion of a TO in an existing zone.<sup>303</sup> As with the initial two criteria, SPP asserts that no documentation exists regarding the development of this additional third criterion.<sup>304</sup>

197. NPPD asserts that SPP's position that it is not the RTO's responsibility to include potential cost shifts in its zone placement criteria is contrary to Commission policy and precedent. NPPD explains that SPP did not include cost-shifting as a factor in its zone placement criteria based on its belief that, as an independent RTO, it does not have any responsibility to evaluate zonal placement of new TOs from a "ratemaking perspective," but rather only from a transmission configuration and scope perspective.<sup>305</sup> NPPD notes

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<sup>300</sup> *Id.* (citing Tr. 173: 13-19; Exh. NPP-039).

<sup>301</sup> *Id.* at 9-10 (citing Exh. NPP-039 at 1).

<sup>302</sup> *Id.* at 10 (citing Exh. NPP-009 at 10).

<sup>303</sup> *Id.* at 10 (citing Exh. SPP-001 at 12:15-17).

<sup>304</sup> *Id.*

<sup>305</sup> *Id.* at 14 (citing Joint Statement of Issues at 4; Tr. 194:8-12).

that SPP does not believe that the Commission should ignore cost-shifting when approving zonal placement of a new TO within an existing RTO.<sup>306</sup>

198. According to NPPD, the Commission adopted a flexible approach to such cost-shift problems by implementing “license plate” rates for each RTO approved prior to Order No. 2000.<sup>307</sup> NPPD explains that the Commission reaffirmed this policy in Order No. 2000 for two reasons: (1) the commenters to that proceeding demonstrated convincingly that problems associated with cost-shifting are not easily resolved by means other than the use of license plate rates; and, (2) the Commission was concerned that the potential for cost-shifting could act as an impediment to RTO formation, thereby denying all stakeholders the benefits that come from RTO membership.<sup>308</sup>

199. Furthermore, NPPD asserts that license plate rates are consistent with the concept of cost causation, a point emphasized by the Commission in Opinion No. 494 when it upheld the license plate rate design of PJM. NPPD notes that the Commission stated that when “transmission facilities [are] developed by . . . individual companies to benefit their own systems and their own customers. . . [i]t is . . . consistent with principles of cost causation to continue to allocate the costs of these facilities to the customers for whom they were constructed and whom they continue to serve to date.”<sup>309</sup> NPPD explains that this same precedent applies to new TOs joining an existing RTO with license plate rates. NPPD asserts that allowing a new high-cost TO to be placed in an existing low-cost license-plate zone, and thereby shift the costs of facilities built to serve the new TO’s load to existing customers of a low-cost zone, is inconsistent with the purpose of zonal license plate rates – to avoid cost-shifting.<sup>310</sup>

200. When NPPD joined SPP, it did so in a new Zone 17, using a license plate rate to avoid the shifting of costs associated with its transmission facilities. NPPD explains that to allow Tri-State to be placed into Zone 17 and thereby shift a significant amount of the costs incurred to construct and operate Tri-State’s legacy transmission facilities to other

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<sup>306</sup> *Id.*

<sup>307</sup> *Id.* at 15 (referencing Order No. 2000, 89 FERC ¶ 61,285).

<sup>308</sup> *Id.*

<sup>309</sup> *Id.* at 16 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 42); *see also Illinois Commerce Comm’n v. FERC*, 576 F.3d at 476-77.

<sup>310</sup> *Id.* at 17 (citing *Sw. Power Pool, Inc.*, 89 FERC ¶ 61,284, at ¶ 61,889 (1999), *order on reh’g*, 98 FERC ¶ 61,038 (2002)).

Zone 17 customers directly conflicts with the very purpose of license plate rates – that is, to avoid cost-shifting.<sup>311</sup>

201. According to NPPD, SPP’s position that cost-shifting is not the purview of an RTO is inconsistent with Mr. Bourne’s testimony that SPP considers cost-shifting and cost causation factors related to incremental transmission service requests.<sup>312</sup> Mr. Bourne explained that such consideration of cost shift is appropriate because provisions of the SPP Tariff require SPP to analyze cost causation for new facilities.<sup>313</sup> NPPD explains that this rationale demonstrates why the zone placement criteria developed by SPP’s staff should have been filed with the Commission and included in SPP’s Tariff. NPPD asserts that SPP’s failure to make such filing caused its argument—that cost-shifting should not be analyzed in zone placement decisions because the Tariff does not require such consideration—to become a self-fulfilling prophecy.<sup>314</sup>

202. NPPD asserts that there is no support for SPP’s concern that since cost shift are inevitable whenever a new TO joins SPP, worrying about cost-shifting is a slippery slope that will lead to constant disputes about cost shifts whenever a new TO joins an existing zone of an RTO. NPPD notes that Zone 17 has already absorbed a cost-shift as a result of Central Nebraska Public Power District joining SPP as a new TO in Zone 17. NPPD states that it did not oppose the resulting \$450,000 cost shift to Zone 17 because the impact was less than a one percent increase to Zone 17 rates, and it was unavoidable. In this case, however, NPPD states that the impact of the cost shift is both significant and avoidable.<sup>315</sup>

203. As explained by Mr. Swartz, Tri-State’s cost shift to Zone 17 customers occurs because Tri-State’s annual \$64,333 per MW cost of transmission service to its load is approximately 2.7 times higher than the pre-existing \$23,581 per MW cost of serving Zone 17 load.<sup>316</sup> According to Mr. Swartz, rolling in Tri-State’s ATRR and load into Zone 17 will increase the annual per MW cost of serving Zone 17 load from \$23,581 per

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<sup>311</sup> *Id.*

<sup>312</sup> *Id.* at 17 (citing Tr. 190:11-14; Tr. 191:8-18).

<sup>313</sup> *Id.* at 17-18 (citing Tr. 190:11-14; Tr. 191:8-18).

<sup>314</sup> *Id.*

<sup>315</sup> *Id.* at 18-19.

<sup>316</sup> *Id.* at 19 (citing Exh. NPP-001 at 3:13-15).

MW to \$25,386 – an eight percent increase.<sup>317</sup> NPPD submits that the end result of SPP’s placement of Tri-State in Zone 17 is unjust and unreasonable because it requires existing Zone 17 customers to subsidize \$4.3 million, or 60 percent, of the costs previously incurred by Tri-State to construct and operate its legacy transmission facilities to serve its historical load. NPPD states that this end result, and the eight percent rate increase to existing Zone 17 customers, is contrary to cost causation principles which, as the courts have made clear, the Commission must follow.<sup>318</sup>

204. NPPD asserts that there is no evidence that Zone 17 customers receive any benefits attributable to inclusion of Tri-State in Zone 17 that are commensurate with a \$4.3 million annual cost shift. Mr. Steinbach, on behalf of Tri-State, initially stated in his testimony accompanying SPP’s original filing in this case, that the cost shift to NPPD is justified by “significant benefits to NPPD and Tri-State customers.”<sup>319</sup> NPPD states that this claim is conspicuously absent from Mr. Steinbach’s direct and rebuttal testimony included in the record.<sup>320</sup> As Mr. Malone explained, the fact that Mr. Steinbach did not include this claim of “significant benefits” to NPPD customers in his subsequent testimony filed on May 18, 2016, after NPPD challenged such claim in its protest, demonstrates there is no evidence supporting any claim that the increased costs allocated to NPPD and other Zone 17 customers will be commensurate with any quantifiable benefits.<sup>321</sup>

205. According to NPPD, Mr. Steinbach’s baseline cost shift is not a shift of any portion of Tri-State’s ATRR to Zone 17, but relates to 21.5 MW of existing Zone 17 load currently served by Tri-State facilities, which would be transferred to the new Tri-State zone, coupled with the transfer to Zone 17 of 8.2 MW of existing Tri-State load currently served by NPPD Zone 17 facilities.<sup>322</sup> As explained by Mr. Steinbach, his \$1.4 million baseline cost shift consists of the \$1.2 million of revenue that will be paid by the 21.5 MW of transferred Zone 17 load when charged the higher rates applicable to the new Tri-

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<sup>317</sup> *Id.* (citing Exh. NPP-001 at 3:13-16).

<sup>318</sup> *Id.* at 20 (citing *Illinois Commerce Comm'n v. FERC*, 576 F.3d at 477).

<sup>319</sup> *Id.* (citing Exh. NPP-011 at 22:9-12).

<sup>320</sup> *Id.* (citing Exhs. TS-001 and TS-027).

<sup>321</sup> *Id.* at 20-21.

<sup>322</sup> *Id.* at 22 (citing Tr. 62:8-25).

State Zone, and the approximate \$200,000 of revenue that will be paid by the 8.2 MW of Tri-State load served by Zone 17 facilities.<sup>323</sup>

206. NPPD notes that Mr. Steinbach admitted that his \$1.4 million baseline cost shift is not a cost shift incurred by all Zone 17 customers, and that the baseline cost shift is limited to load that will be transferred from one zone to another.<sup>324</sup> Mr. Steinbach then also admitted that the rest of load in Zone 17 that is not served by the Tri-State facilities does not receive any of the \$1.2 million cost shift.<sup>325</sup>

207. NPPD explains that to place the localized nature of the load affected by the transfer of revenue in perspective, the 21.5 MW of NPPD and MEAN load experiencing the increased costs constitutes less than one percent of the 2,407 MW of existing Zone 17 load.<sup>326</sup> NPPD states that the remaining 99 percent of existing Zone 17 load does not experience any “baseline” cost shift. Moreover, as explained by Mr. Malone, the increase of \$1.2 million to certain Zone 17 loads due to load switching is not unreasonable, as it represents the cost of facilities actually utilized to provide service to 21.5 MW of Zone 17 load attached to the high-cost Tri-State facilities.<sup>327</sup> NPPD asserts that this end result is consistent with cost causation. By contrast, NPPD states that attempting to justify a \$4.3 million cost shift by artificially reducing such actual cost shift to the remaining 99 percent of Zone 17 customers, to reflect a “baseline” cost shift experienced by one percent of Zone 17 load, is inconsistent with cost causation principles.<sup>328</sup>

208. According to NPPD, the \$4.3 million cost shift should not be adjusted for changes taking place in 2020. The second adjustment to the \$4.3 million cost shift recommended by Mr. Steinbach is to eliminate the \$1 million NETS payment from Tri-State’s \$7.2 million ATRR. As a threshold matter, NPPD states that this adjustment would have no impact on the annual \$4.3 million cost shift that will be incurred from January 1, 2016 through November 2020. Thus, NPPD asserts that there is no dispute that existing Zone

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<sup>323</sup> *Id.* at 23 (citing Tr. 63:8-25; Tr. 64:8-13).

<sup>324</sup> *Id.* (citing Tr. 66:1-7).

<sup>325</sup> *Id.* (citing Tr. 68: 21-25).

<sup>326</sup> *Id.* at 24 (citing Exh. NPP-005, line 2).

<sup>327</sup> *Id.* (citing Exh. NPP-008, 11:9-13).

<sup>328</sup> *Id.*

17 customers will experience a \$20.7 million cost shift during the January 1, 2016 through November 1, 2020 period. NPPD notes that even assuming the \$4.3 million cost shift will be reduced to \$3.3 million, without any offsetting increases in costs from inclusion of Western-RMR and other facilities embedded within Tri-State's service territory, Tri-State would still be shifting approximately 53 percent ( $3.3 \div 6.2$ ) of its \$6.2 million ATRR to NPPD and other Zone 17 customers. NPPD asserts that this end result clearly is unjust and unreasonable.<sup>329</sup>

209. Tri-State's third adjustment to the \$4.3 million cost shift relates to Tri-State's future responsibility for approximately \$700,000 of Balanced Portfolio and Regional Schedule 11 costs that would be allocated to Zone 17 and paid by Tri-State load if it is placed in Zone 17. Mr. Steinbach admitted that the \$478,000 contribution by Tri-State to the Balanced Portfolio costs would not occur until 2023.<sup>330</sup> Taken together, NPPD explains that the total amount that Tri-State would contribute to Zone 17 costs would be approximately \$700,000, most of which would not take place until 2023. The end result, NPPD asserts, whether measured by the eight percent cost increase over the first five years, or the 4.6 percent cost increase measured after 2023, is unjust and unreasonable.<sup>331</sup>

210. NPPD states that the cost shift resulting from placement of Tri-State in Zone 17 should be measured as of January 1, 2016, the effective date of Tri-State becoming an SPP TO. As explained by Mr. Swartz, taking a test period approach ensures that all costs and revenues are synchronized, and prevents Tri-State from cherry-picking certain changes that are scheduled to occur over a five-to-seven year period without recognizing the potential for offsetting increases that may occur during the same period.<sup>332</sup> For example, Mr. Swartz has noted that Tri-State has purchased additional facilities, the costs of which have not yet been included in the Tri-State ATRR.<sup>333</sup> NPPD asserts that while such costs may not be significant, they should be accounted for in the analysis of potential cost shifts. According to NPPD, another, more significant offsetting cost concern is the possibility that the two non-SPP transmission lines owned by the Western-

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<sup>329</sup> *Id.* at 25.

<sup>330</sup> *Id.* (citing Tr. 74:19-24).

<sup>331</sup> *Id.* at 26.

<sup>332</sup> *Id.* at 27 (citing Exh. NPP-001 at 5:7-22).

<sup>333</sup> *Id.* (citing Exhs. NPP-001 at 6:4-8; NPP-008 at 10:15-21; NPP-015).

RMR that connect Tri-State load to the Missouri Basin could be transferred to SPP's functional control.<sup>334</sup>

211. Next, NPPD avers that the record demonstrates that imposing a minimum ATRR threshold that must be met for a new TO to be eligible for a separate pricing zone, by itself, does not necessarily achieve the objective underlying SPP's imposition of a minimum size criteria. In response to the Presiding Judge's question relating to the parameters of "big enough," Mr. Bourne explained that because SPP utilizes a license-plate rate design that requires each TO to bear only the costs of its own facilities, while providing such TO access to the whole SPP transmission system, SPP is concerned that "the cost of entry should be sufficiently high to be fair to the other existing zones."<sup>335</sup> NPPD asserts that contrary to Mr. Bourne's assumption, the application of a minimum ATRR threshold did not in this case address SPP's underlying concern that a "cost of entry" for a new TO is sufficiently high to be fair to the existing owners. In this case, NPPD states, the minimum ATRR threshold resulted in the placement of Tri-State in Zone 17. Thus, rather than paying a "cost of entry" that is fair to existing TOs, Tri-State load was required to contribute only \$2.9 million of revenue for transmission services, while Tri-State receives \$7.2 million in revenue from SPP. Thus, NPPD asserts that instead of an entrance fee, Tri-State received a \$4.3 million subsidy from existing Zone 17 customers.<sup>336</sup> This end result is contrary to SPP's stated objective of requiring new TOs to pay an entry fee that is fair to existing SPP transmission customers.<sup>337</sup>

212. According to NPPD, Mr. Bourne's observation that Tri-State has more interconnections to the NPPD system than to any other SPP TO is flawed for several reasons. NPPD explains that Mr. Bourne's assessment: (1) ignores the long history of operational and commercial integration between Tri-State and the former Integrated System that now comprises SPP Zone 19; (2) overemphasizes degrees of integration between Tri-State and existing SPP zones; (3) ignores the significant integration between Tri-State facilities and Zone 19 facilities at the Sidney and Stegall substations; (4) relies upon an inaccurate and misleading claim that NPPD facilities are required to connect Zone 19 facilities to Tri-State's load-serving facilities; and, (5) fails to recognize that the

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<sup>334</sup> *Id.*

<sup>335</sup> *Id.* at 36 (citing Tr. 164:6-20).

<sup>336</sup> *Id.* at 37 (citing Exh. NPP-001 at 4:7-12).

<sup>337</sup> *Id.*

joint planning and use of Tri-State and NPPD facilities under the NETS Agreement have been superseded, and rendered moot, by Tri-State becoming a TO in SPP.<sup>338</sup>

213. Additionally, NPPD states that Tri-State is integrated with the Zone 19 Missouri Basin facilities at the Sidney Substation. According to NPPD, Mr. Sanders confirms that Tri-State's Sidney 230kV Substation has a 230kV interconnection with the Missouri Basin facilities located in Zone 19.<sup>339</sup> NPPD states that Tri-State's Sidney 230kV Substation is included in Tri-State's SPP ATRR.<sup>340</sup> NPPD states that Tri-State also has two 230kV interconnections at its Sidney 230kV Substation with the facilities of the Western-RMR that have not been transferred to SPP's functional control.<sup>341</sup> NPPD explains that Tri-State, however, pays Western-RMR almost \$2 million per year for Western-RMR NITS that provides Tri-State with contract rights on the Western-RMR facilities that connect Tri-State's Sidney 230kV Substation to Tri-State's load-serving facilities.<sup>342</sup> Western-RMR confirmed that Tri-State utilizes the Western-RMR NITS to serve 24 Tri-State delivery points.<sup>343</sup> NPPD explains that a map illustrating the points of delivery served by the Western-RMR NITS demonstrates that the Zone 19 Missouri Basin facilities, Tri-State's 230kV Sidney Substation, the Western-RMR facilities and Tri-State's load-serving facilities all operate in an integrated manner to serve Tri-State load at 24 delivery points. NPPD avers that far from being isolated, Tri-State's Sidney Substation in the middle of a cohesive, integrated delivery system.<sup>344</sup>

214. Moreover, NPPD states that Tri-State is integrated with the Zone 19 Missouri Basin facilities at the Stegall Substation. NPPD explains that Tri-State owns a breaker at the Stegall Substation that is included in the list of Tri-State facilities transferred to SPP's functional control under the SPP Tariff.<sup>345</sup> NPPD asserts that contrary to Messrs. Bourne

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<sup>338</sup> *Id.* at 40.

<sup>339</sup> *Id.* at 45 (citing Exh. WES-001 at 9:1-12).

<sup>340</sup> *Id.* at 45 (citing Exh. WES-001 at 9:18-19).

<sup>341</sup> *Id.* at 45-46 (citing Exh. WES-001 at 9:19-21).

<sup>342</sup> *Id.* at 46 (citing Tr. 78:14-15).

<sup>343</sup> *Id.* (citing Exh. NPP-034).

<sup>344</sup> *Id.* at 46.

<sup>345</sup> *Id.* at 47 (citing Exhs. WES-001 at 10:16-18; TS-007).

and Steinbach's understanding, the Tri-State 230kV transfer breaker is operationally integrated with all of the facilities in the Western-RMR Stegall Substation, including the Stegall to Wayside Zone 19 transmission line owned by Western-RMR, the Missouri Basin facilities located in Zone 19, and the eastern terminus of the Stegall DC Tie that serves as a point of receipt and a point of delivery in Zone 19. [REDACTED]<sup>346</sup> [REDACTED]<sup>347</sup> [REDACTED]<sup>348</sup>

215. NPPD states that Tri-State also owns the David Hamil (Stegall) DC-Tie which it leases to Basin Electric, Tri-State's supplier. According to NPPD, Basin Electric, in turn, has designated the eastern terminus of the Stegall DC-Tie as both a Zone 19 Receipt Point and a Zone 19 Delivery Point under the SPP NITS Agreement.<sup>349</sup> In addition, Basin Electric has designated the Laramie River Units 2 and 3 as Designated Network Resources. NPPD asserts that this is evidence of significant integration between Tri-State and Zone 19. NPPD also asserts that the fact that Tri-State has not included its Stegall DC Tie under its SPP Tariff does not mean that it is not integrated with Zone 19 facilities.<sup>350</sup>

216. According to NPPD, it is very misleading for Mr. Bourne and Mr. Steinbach to claim that "NPPD facilities are required to connect [Zone 19 facilities] to Tri-State load."<sup>351</sup> NPPD explains that the map included as Exhibit No. NPP-043 illustrates the extent to which Basin Electric relies upon the Western-RMR facilities to make deliveries from Zone 19 network resources to Tri-State load. NPPD asserts that this evidence demonstrates the degree to which Western-RMR facilities, as contrasted with NPPD facilities, are required to connect Zone 19 facilities to Tri-State load. NPPD states that the fact that the Western-RMR facilities have not been transferred to SPP's functional control does not make them irrelevant to the integration analysis. NPPD asserts that Tri-State has contractual rights on the two non-SPP Western-RMR transmission lines that

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<sup>346</sup> [REDACTED]

<sup>347</sup> [REDACTED]

<sup>348</sup> [REDACTED]

<sup>349</sup> NPPD Initial Br. at 49 (citing Exh. NPP-044 at 45; Tr. 212:1-23).

<sup>350</sup> *Id.*

<sup>351</sup> *Id.* at 50 (citing Exh. SPP-001 at 13:14-15).

connect the Zone 19 facilities to Tri-State's load-serving facilities.<sup>352</sup> NPPD further asserts that such contract rights are not limited to use by Tri-State; Basin Electric, as Tri-State's agent, utilizes Tri-State capacity rights on the Western-RMR facilities to make deliveries under its SPP NITS via Western-RMR facilities to Tri-State load.<sup>353</sup>

217. NPPD explains that in analogous situations involving whether a new TO is sufficiently interconnected to join an RTO, the Commission has made it clear that the relevant interconnections may be established by contract, and need not be limited to direct physical connections. In *ComEd*, the Commission permitted the integration of Commonwealth Edison Co. (ComEd) into PJM, despite the fact that ComEd at the time was not directly interconnected with PJM.<sup>354</sup> The non-contiguous nature of these two systems was such that the only actual integration between PJM and ComEd occurred through the use of the 500 MW contract for transmission service across the AEP transmission system, connecting ComEd's service territory to PJM.<sup>355</sup> ComEd thus created a contract path to the RTO by purchasing transmission service from AEP until such time as AEP joined PJM, and on the basis of this arrangement FERC concluded that sufficient connectivity existed for ComEd to join PJM on an interim basis.<sup>356</sup>

218. According to NPPD, the *ComEd* proceeding applies with equal or greater force to the circumstances of this case involving the use of Tri-State contractual rights on Western-RMR facilities to connect Tri-State's load-serving facilities to Tri-State's other facilities directly connected to the Zone 19 Missouri Basin facilities. NPPD explains that unlike the circumstances in *ComEd*, Tri-State has a direct physical connection to Zone 19 at the Sidney Substation. NPPD states that the contract rights are needed not at the direct points of interconnection to Zone 19 facilities, but only to connect the Tri-State facilities at Sidney to Tri-State load-serving facilities.<sup>357</sup>

219. Based on the foregoing, NPPD states that the integration analysis should be focused upon the interconnections between Tri-State and all other TOs, including non-

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<sup>352</sup> *Id.* at 51 (citing Exh. NPP-034; Tr. 311:8-12).

<sup>353</sup> *Id.* (citing Exh. NPP-047 at 16-17).

<sup>354</sup> *Id.* (citing *ComEd*, 106 FERC ¶ 61,253 at PP 4-5).

<sup>355</sup> *Id.* (citing *ComEd*, 106 FERC ¶ 61,253 at P 28).

<sup>356</sup> *Id.* at 52 (citing *ComEd*, 106 FERC ¶ 61,253 at P 27).

<sup>357</sup> *Id.* at 53.

SPP transmission facilities. NPPD asserts that focusing the analysis upon whether the new TO is significantly integrated with SPP and non-SPP TOs is particularly important in cases as here, in which the new TO is significantly integrated with, and dependent upon, transmission facilities that Western-RMR has decided, up to the current date, not to place under SPP's functional control.<sup>358</sup>

220. NPPD states that SPP's proposal to include Tri-State's transmission facilities in Zone 17 will produce an unjust and unreasonable result. NPPD asserts that to achieve a just and reasonable result, SPP must place Tri-State in its own zone or in Zone 19. These two options ensure that any cost-shifting that results from Tri-State's integration into SPP will be substantially mitigated or altogether eliminated.<sup>359</sup>

## 5. Reply Brief

221. According to NPPD, SPP in its Initial Brief seeks to absolve itself from any responsibility to consider or mitigate cost shifts resulting from zone placement on the basis that "as an independent RTO, [SPP] is not authorized to set rates for transmission service."<sup>360</sup> NPPD states that SPP appears to be conflating its independence as an RTO from setting the rates of its TOs with SPP's burden under section 205 of the FPA to demonstrate that the allocation of costs stemming from SPP's zone placement decisions is just and reasonable.<sup>361</sup>

222. NPPD states that there has been no showing of *any* benefits accruing to Zone 17 customers from Tri-State's placement in Zone 17. NPPD explains that these customers are thereby left to subsidize 60 percent of the costs of the legacy system built to serve Tri-State's load without realizing anything approaching a "roughly commensurate benefit."<sup>362</sup>

223. According to NPPD, the issues raised by South Central in their Initial Brief should be addressed in the SPP stakeholder process, to provide all affected parties an opportunity to comment on whether SPP's existing license plate zonal rate structure should be

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<sup>358</sup> *Id.* (citing Exh. NPP-008 at 15:11-16).

<sup>359</sup> *Id.* at 56.

<sup>360</sup> NPPD Reply Br. at 6 (citing SPP Initial Br. at 50-51).

<sup>361</sup> *Id.* at 6-7 (citing *ISO New England, Inc.*, 136 FERC ¶ 61,221, at P 20 (2011)).

<sup>362</sup> *Id.* at 7-8.

changed to a postage-stamp rate or some other transition approach that involves consolidation of existing rate zones. NPPD states that this is not the appropriate venue for deliberation of such matters, which will directly affect many SPP stakeholders.<sup>363</sup>

224. NPPD asserts that the Commission precedent in Opinion No. 494 does not support Tri-State's claim that cost shifts must cause rate increases ranging from 30-70 percent to be unjust and unreasonable. The Commission in Opinion No. 494 recognized that the alternatives to PJM's zonal license plate rate design that were advanced by various parties could lead to "significant cost shifts" with "some zones experiencing increases to their transmission cost responsibility in excess of 70%."<sup>364</sup> NPPD asserts that the mere fact that the magnitude of the rate increase resulting from the cost shift before the Commission in Opinion No. 494 was in excess of 70 percent for some PJM zones, does not vindicate the eight percent rate increase that results from SPP's proposal to place Tri-State in Zone 17. NPPD explains that Opinion No. 494 involved potential wide-scale changes to the rate design mechanism in place in PJM, with cost-shifting implications that would be experienced across that RTO's system. Thus, NPPD avers that the Commission's reference to cost shifts in excess of 70 percent in that context serves as no indication that a cost shift of less than 70 percent that impacts a single zone within the context of an existing license plate rate design is inconsequential.<sup>365</sup>

225. Moreover, NPPD states that Tri-State's argument that the Commission "has never before overruled an RTO's zonal placement decision on the basis of cost shifts,"<sup>366</sup> and Tri-State's assertion that "[t]he Commission has never before taken cost shifts into account in deciding the zonal placement of a new TO in an RTO" are unavailing. NPPD explains that in the one case cited by Tri-State in which the Commission did address placement of new transmission facilities into an existing RTO zone in PJM – an RTO employing zonal license plate rates – the Commission approved placement of Allegheny's transmission facilities and associated revenue requirement in the PPL Zone on the basis that customers in that zone received actual benefits from such facilities. Thus, NPPD states that the Commission's decision is consistent with principles of cost causation, because the customers in the PPL Zone received benefits from the Allegheny

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<sup>363</sup> *Id.* at 12.

<sup>364</sup> *Id.* at 21 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 59).

<sup>365</sup> *Id.* at 22.

<sup>366</sup> *Id.* at 22-23 (citing Tri-State Initial Br. at 10).

facilities that were commensurate with the two percent increase at issue in that case.<sup>367</sup> NPPD asserts that the precedential value of this case reveals that the Commission requires a showing of benefits before approving placement of facilities in an existing zone, even where the cost shift resulting from such placement is approximately two percent.<sup>368</sup> NPPD states that in the present case, in contrast to the abovementioned proceeding, both SPP and Tri-State have failed to muster any evidence demonstrating that the eight percent cost shift will be accompanied by any benefits.<sup>369</sup>

## **F. Trial Staff**

### **1. Pre-Hearing Testimony of Mr. Craig Deters**

226. Mr. Deters examines the cost shift of the proposed placement of Tri-State into SPP's Zone 17 on the existing Zone 17 transmission customers.<sup>370</sup> Mr. Deters explains that using the stipulated values of \$6,767,443 for Tri-State's ATRR and \$408,922 for Tri-State's Schedule 1 annual revenue requirement from the Joint Statement of Stipulated Facts in spreadsheets developed by NPPD, and slightly modified by Mr. Deters, Mr. Deters computed a cost shift of about \$4,333,000, or 60 percent of Tri-State's revenue requirements, which will be paid by existing customers in Zone 17.<sup>371</sup> Mr. Deters also evaluates the scenarios of placing Tri-State in its own SPP Zone, or placing Tri-State in SPP Zone 19. The scenarios of a Tri-State Zone and Tri-State being placed in Zone 19 result in cost shifts of \$1,040,000 (or 14 percent) and \$383,000 (or six percent), respectively.<sup>372</sup>

### **2. Pre-Hearing Testimony of Ms. An Jou Jo Hsiung**

227. Ms. Hsiung's testimony addresses: (1) whether the facilities whose costs Tri-State proposes to include in the ATRR of the SPP Tariff meet the criteria of eligibility under Attachment AI to the SPP OATT to be included in SPP's Transmission System; and, (2)

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<sup>367</sup> *Id.* at 23 (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,075).

<sup>368</sup> *Id.* (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,075).

<sup>369</sup> *Id.*

<sup>370</sup> Exh. S-015 at 3.

<sup>371</sup> *Id.* at 6-7.

<sup>372</sup> *Id.* at 7.

what the interconnections are between Tri-State's proposed facilities with NPPD facilities in Zone 17, facilities in Zone 19, and other facilities not currently included in the SPP footprint. It also addresses whether Tri-State's facilities are integrated with the respective facilities in each of these cases.<sup>373</sup>

228. First, Ms. Hsiung asserts that the transmission lines and substations that Tri-State proposes to include in the ATRR of the SPP Tariff meet the definition of "Transmission Facilities" under Attachment AI of the SPP OATT, and therefore are eligible to be included in SPP's Transmission System. Second, Ms. Hsiung asserts that Tri-State's proposed facilities are interconnected with NPPD's facilities in Zone 17, facilities in Zone 19, and other facilities not currently included in the SPP footprint.<sup>374</sup> While Ms. Hsiung did not address SPP's zone placement decision, she disagrees with Mr. Bourne's use of the term "degree of integration." Ms. Hsiung explains that when a facility is integrated with other facilities, the facilities become one integrated system—there is no degree; either it is integrated or it is not. Mr. Hsiung explains that one can identify different individual interconnections and perhaps conclude that a facility has more individual interconnections with one particular system than another; nevertheless, the existence of more interconnections does not suggest "more integrated." In other words, if the facilities are integrated to any degree, then they are integrated.<sup>375</sup>

### **3. Initial Brief**

229. Based on the facts of this case, as well as policy and precedent, Trial Staff believes that SPP's placement of Tri-State in Zone 17 is unjust and unreasonable because it shifts almost two-thirds (60 percent) of Tri-State's costs to the existing TOs in Zone 17 and their customers, and increases the zonal rate eight percent without demonstrable benefits for existing TOs and their customers.<sup>376</sup>

230. Trial Staff states that it does not take issue with the fact that SPP uses a set of criteria to determine zonal placement for a new TO, as the application of a practical set of criteria seems to be a benefit to any new TO seeking to join SPP, or any existing TO that would then be able to understand the process behind SPP's decisions. However, Trial Staff notes that the criteria, and SPP's application should be transparent, flexible, and

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<sup>373</sup> Exh. S-014 at 3.

<sup>374</sup> *Id.* at 4.

<sup>375</sup> *Id.* at 16.

<sup>376</sup> Trial Staff Initial Br. at 13-14.

thoughtful because, without that, SPP risks causing the very cost-shifting the Commission seeks to avoid.<sup>377</sup> Trial Staff asserts that SPP's criteria for determining zonal placement are currently not transparent. Trial Staff explains that a new TO seeking to join SPP would be hard-pressed to find these criteria listed or described anywhere but in this case, or in the previous Independence case. Trial Staff explains that the lack of transparency makes it difficult for anyone other than SPP to fully understand the decision process behind SPP's zonal placement proposals.<sup>378</sup>

231. Trial Staff states that SPP's policy regarding zonal placement should be flexible. In other words, SPP's policy regarding zonal placement should recognize that each circumstance is different. Trial Staff states that SPP's policy regarding zonal placement should be applied with care and thoughtfulness. For example, Trial Staff agrees with NPPD that the issue of cost-shifting is a critical consideration when determining zonal placement. Trial Staff asserts that SPP should be mindful of the impact on existing TOs of placing a new TO with high legacy costs into a pricing zone.<sup>379</sup>

232. Next, Trial Staff asserts that the criteria used by SPP to place Tri-State into Zone 17 have not been supported. Trial Staff explains that SPP has failed to show that its reliance on the four unpublished and unvetted internal criteria is just and reasonable, particularly as the application of the criteria results in an unjust and unreasonable cost-shifting. Trial Staff explains that the criteria have never been approved by the Commission and SPP has provided little support for them. But for one short data response that gives the history of SPP's use of the criteria, Trial Staff asserts that the record is devoid of support or descriptive rationale for these criteria.<sup>380</sup>

233. Regarding the first criterion, Trial Staff asserts that neither SPP nor Tri-State has placed anything in the record supporting this criterion. For example, Trial Staff states that SPP provides no explanation of why it cannot create a new pricing zone for a TO with ATRR less than the existing pricing zone with the smallest ATRR. Regarding the second criterion, Trial Staff states that SPP could provide no satisfactory explanation of what was meant by "embedded," nor any Commission precedent to support the requirement. Regarding the third criterion, Trial Staff states that the Commission does not consider integration by "degrees." Trial Staff explains that once a facility is

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<sup>377</sup> *Id.* at 14 (referencing Order No. 2000, 89 FERC ¶ 61,285).

<sup>378</sup> *Id.* at 15-16.

<sup>379</sup> *Id.* at 17.

<sup>380</sup> Trial Staff Initial Br. at 19 (citing Exh. S-024 at 1-2).

integrated into SPP's system, it is fully integrated. Regarding the fourth criterion, Trial Staff states that SPP provides no guidance as to what would constitute a "substantive" increase in the SPP footprint. As such, Trial Staff asserts that it is an arbitrary criterion that should be rejected because it allows an unjust and unreasonable substantial shifting of Tri-State's legacy transmission costs to Zone 17 customers.<sup>381</sup>

234. Trial Staff states that case law supports a determination that SPP's placement of Tri-State in Zone 17 results in an unjust and unreasonable cost shift. Trial Staff explains that the Commission expressed its particular concern about "the potential for cost-shifting effects of RTO pricing proposals."<sup>382</sup> The Commission did not want to advance transmission pricing proposals that might enhance TO revenues to the detriment of customers.<sup>383</sup>

235. Trial Staff states that the Commission described the problem in the following paragraph:

Each ISO approved by the Commission has struggled with the problem of cost shifting among the various individual TOs that make up the ISO. A single access rate would mean that the customers of low-cost transmission providers would see a rate increase and high-cost transmission providers would be concerned about not meeting their revenue requirements. The potential for cost shifting has been a stumbling block for several regions seeking to establish regional transmission organizations.<sup>384</sup>

236. For this reason, Trial Staff explains that the Commission stated its intent to take a flexible approach, including the use of license plate rates. In answer to a request on whether the license plate approach would be appropriate for the long-term, the Commission determined that it was appropriate to allow RTOs to propose the use of license plate rates for a fixed term of the RTO's choosing.<sup>385</sup> Trial Staff states that the

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<sup>381</sup> *Id.* at 20.

<sup>382</sup> *Id.* at 24 (citing Order No. 2000, 89 FERC ¶ 61,285 at 209).

<sup>383</sup> *Id.*

<sup>384</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 214).

<sup>385</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 215).

Commission signaled its intent to continue to review RTO transmission rate proposals to ensure that they are just and reasonable, and not unduly discriminatory.<sup>386</sup>

237. Trial Staff states that the Commission acknowledged that “averaging or socialization of costs” spreads costs among all RTO participants regardless of whether those customers caused them, which could result in “economically inefficient outcomes.”<sup>387</sup> Therefore, Trial Staff asserts that the Commission concluded that, where it is possible to calculate cost and benefits, it is desirable to eliminate cost-shifting by using cost-causality principles instead.<sup>388</sup>

238. Next, Trial Staff explains that the Commission in Opinion No. 494 affirmed that shifting cost responsibility undermines its transmission pricing policy.<sup>389</sup> While this PJM case addressed rate methodologies, Trial Staff asserts that it is highly relevant to the issue of cost-shifting. In 2005, PJM submitted a filing in which it proposed to continue the existing rate design. AEP protested continuation of the existing rate design. After a hearing, the Presiding Judge found that PJM’s current modified zonal license plate rate for existing transmission facilities was unjust and unreasonable, and determined that a postage stamp rate design (under which all customers in a region would pay a uniform rate per unit of service based on the aggregated costs of all transmission facilities in the region) would be just and reasonable. The Commission reversed the Initial Decision and upheld PJM’s zonal license plate rate and method for allocating the costs for existing facilities to the customers for whom the facilities were constructed, and whom they continue to serve, consistent with principles of cost causation.<sup>390</sup> Trial Staff asserts that the Commission found that the integrated nature of the grid, alone, does not support shifting costs of existing transmission facilities to customers that did not cause them or benefit from them.<sup>391</sup> Trial Staff states that although the Commission recognized that the

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<sup>386</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 253).

<sup>387</sup> *Id.* at 25 (citing Order No. 2000, 89 FERC ¶ 61,285 at 265).

<sup>388</sup> *Id.*

<sup>389</sup> *Id.* (referencing Opinion No. 494, 119 FERC ¶ 61,063).

<sup>390</sup> *Id.* at 26 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 42).

<sup>391</sup> *Id.* (citing Opinion No. 494, 119 FERC ¶ 61,063 at PP 3 and 49).

existing facilities may provide some overall benefit, the Commission found that the benefit did not outweigh the “unacceptable cost shifts.”<sup>392</sup>

239. Trial Staff explains that the Commission reaffirmed that the introduction of RTOs was not intended to abandon basic cost-of-service principles, and “[s]hifting cost responsibility for existing transmission facilities also would do nothing to promote economic efficiency—a primary goal of our transmission pricing policy.”<sup>393</sup> The Commission reiterated that “the effect of transmission pricing on participation in RTOs, including the effect of cost shifts, has been among the Commission’s central concerns since introducing RTOs.”<sup>394</sup> Trial Staff asserts that this concern should not be abandoned here simply because SPP has decided to place Tri-State in the one zone that relieves Tri-State of the greatest amount of costs while shifting them to other TOs in that zone and their customers.<sup>395</sup>

240. The Seventh Circuit affirmed the Commission’s Opinion No. 494.<sup>396</sup> The court stated that “the fact that one group of utilities desires to be subsidized by another is no reason in itself for giving them their way.”<sup>397</sup> Trial Staff explains that the court noted that AEP’s facilities (like the Tri-State legacy transmission facilities in this case) were built before PJM became an RTO and were intended to serve AEP customers only.<sup>398</sup> Therefore, Trial Staff asserts that the court held that the costs of existing transmission facilities could not be shifted because the utility planned and constructed the facilities for their customers only and without the expectation that anyone but its customers would pay for them. Trial Staff, however, notes that the court underscored the fact that the utility will still be able to recover costs for any new transmission facilities.<sup>399</sup>

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<sup>392</sup> *Id.* (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 49).

<sup>393</sup> *Id.* at 27 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 57 (footnote omitted)).

<sup>394</sup> *Id.* (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 58).

<sup>395</sup> *Id.*

<sup>396</sup> *Id.* at 28 (referencing *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470).

<sup>397</sup> *Id.* (citing *Ill. Commerce Comm’n v. FERC*, 576 F.3d at P 475).

<sup>398</sup> *Id.* (citing *Ill. Commerce Comm’n v. FERC*, 576 F.3d at P 474).

<sup>399</sup> *Id.*

241. Trial Staff states that it recognizes that, generally, integrated Transmission Facilities under Attachment AI are considered to benefit the grid. Trial Staff, however, explains that the Seventh Circuit found that general grid or unquantified benefits do not justify subsidization of facilities from other utilities: “[n]o doubt there will be some benefit to the Midwestern utilities just because the network is a network, and there have been outages in the Midwest. But enough of a benefit to justify the costs that FERC wants shifted to those utilities? Nothing in the Commission’s opinions enables an answer to that question.”<sup>400</sup> The court held that FERC cannot use the presumption that transmission facilities benefit the entire system by reducing the likelihood or severity of outages to avoid the duty of comparing costs to benefits.<sup>401</sup> In this case, Trial Staff asserts that neither SPP nor Tri-State produced evidence of any benefit to be derived by Zone 17 TOs and customers from Tri-State’s legacy transmission facilities.<sup>402</sup>

242. Therefore, Trial Staff states, the Commission cannot grant Tri-State a presumption of benefit; the Commission must analyze the disparity between costs and benefits in order to make a just and reasonable determination. Here, Trial Staff explains that the significant disparity between the shift of 60 percent of Tri-State’s costs from Tri-State and its customers to Zone 17 TOs and their customers and the lack of any demonstration of benefit by Tri-State and SPP requires a finding that the proposed SPP Tariff changes are unjust and unreasonable.<sup>403</sup>

243. Trial Staff explains that regardless of which cost shift calculation is accepted in this proceeding, Tri-State’s entry into SPP Zone 17 results in a significant reallocation of Tri-State’s transmission costs to other TOs in Zone 17. Trial Staff states that all participants in this proceeding recognize that the inclusion of Tri-State in SPP leads to a shifting of a portion of Tri-State’s transmission costs to existing TOs in SPP. In particular, Trial Staff asserts that SPP’s placement of Tri-State in Zone 17 results in a shift of costs from Tri-State to the other TOs in Zone 17. Trial Staff states that its analysis demonstrates that, regardless of which cost shift calculation the Commission accepts as accurate, the level of the shift is significant, both in terms of burdening

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<sup>400</sup> *Id.* at 29 (citing *Ill. Commerce Comm’n v. FERC*, 576 F.3d at P 477).

<sup>401</sup> *Id.*

<sup>402</sup> *Id.*

<sup>403</sup> *Id.*

existing TOs with additional costs as well as reducing costs paid by Tri-State for its own service.<sup>404</sup>

244. Trial Staff states that aside from the “Baseline Cost Shift,” all of the items identified by Mr. Steinbach as reducing the cost shift take effect between four and seven years in the future, and thus are not relevant to SPP’s decision to place Tri-State in Zone 17. Trial Staff further states that there is no evidence in the record that SPP took any of these factors into consideration at the time it made its final decision to place Tri-State into Zone 17. In fact, Trial Staff asserts that SPP has made a point of stating explicitly that it does not take into consideration benefits, cost-shifting, or rates when determining zonal placement.<sup>405</sup>

245. Trial Staff explains that the expiration of the NETS Agreement and the construction of facilities by NPPD have nothing to do with whether it is appropriate to place Tri-State in Zone 17.<sup>406</sup>

#### **4. Reply Brief**

246. According to Trial Staff, South Central’s Initial Brief consists of contradictions and conclusory statements, and is nearly bereft of citations to the record or to precedent. For example, Trial Staff takes issue with South Central’s argument that “when a transmission-owning non-member of an RTO wishes to join the RTO, there is simply no basis in law or policy to treat the existing transmission-owning RTO members or their customers preferentially by denying new members zonal cost recovery for their integrated facilities. Nothing in the record counters the importance of this basic right of customers to comparable service.”<sup>407</sup> Trial Staff asserts that South Central’s concept of the “right of customers to comparable service” is unclear, but it seems to suggest that new TOs have a right to have their facilities paid for by others simply by joining an RTO.<sup>408</sup>

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<sup>404</sup> *Id.* at 31.

<sup>405</sup> *Id.* at 32 (citing Tr. 184:19-185:14; 191:11-192:6; 194:3-12; 241:21- 242:10; 248:15-249:2).

<sup>406</sup> *Id.* at 33.

<sup>407</sup> Trial Staff Reply Br. at 18-19 (citing South Central Initial Br. at 6-7).

<sup>408</sup> *Id.* at 19.

247. Furthermore, Trial Staff takes issue with South Central's argument that "[t]he alleged 'cost shift' cited by Staff and NPPD may simply be the rebalancing of a historic imbalance of cost-recovery that resulted when some assets were included in SPP while adjacent, interconnected assets were left outside."<sup>409</sup> Trial Staff argues that South Central seems to be suggesting that customers who use transmission facilities are getting a free ride if those facilities are not part of an RTO. Trial Staff asserts that this notion has no basis in Commission policy as customers utilize transmission facilities to most efficiently move power to their load. Trial Staff explains that to the extent those facilities are not part of an RTO, the customers bear no fault and they should not be penalized by the Commission's transmission pricing policy for taking the most cost-effective route.<sup>410</sup>

248. Next, Trial Staff takes issue with South Central's arguments against the creation of multiple small pricing zones.<sup>411</sup> Trial Staff states that without citation to any authority, South Central avers that "NPPD's and Trial Staff's arguments introduce a slippery slope, ending with the addition of multiple small pricing zones in an RTO that is already fragmented by too many pricing zones covering relatively small loads."<sup>412</sup> Trial Staff explains that South Central's proposed remedy to this situation is to merge small pricing zones and create larger zones including "the transmission facilities and expanded load of many TOs" in order to "foster the attainment of . . . benefits RTOs are designed to provide."<sup>413</sup> Trial Staff states that South Central's goal appears to be to phase out all pricing zones and moving to RTO-wide pricing. Trial Staff asserts that South Central's arguments either misstate the record or are unburdened by any record citation. Trial Staff further asserts that South Central's policy goals are murky and fail to follow the Commission's RTO policy. Therefore, Trial Staff requests that the Presiding Judge and the Commission give South Central's Initial Brief no weight. Trial Staff asserts that in order to prevent excessive and unwarranted cost-shifting, it believes that creation of a Tri-State-only zone is the best option to resolve the issue.<sup>414</sup>

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<sup>409</sup> *Id.* (citing South Central Initial Br. at 7).

<sup>410</sup> *Id.*

<sup>411</sup> *Id.* (citing South Central Initial Br. at 8-11).

<sup>412</sup> *Id.* (citing South Central Initial Br. at 9).

<sup>413</sup> *Id.* (citing South Central Initial Br. at 10).

<sup>414</sup> *Id.* at 26.

#### IV. Issues and Discussion

##### 1. Burden of Proof

249. This case involves two types of burden of proof questions. First, has SPP filed sufficient evidence in its testimony and briefs to carry its burden pursuant to section 205 of the FPA<sup>415</sup> that placing Tri-State's transmission facilities in SPP's Pricing Zone 17 is just and reasonable. Second and relatedly, whether the alleged cost shift of such zonal placement renders SPP's decision unjust and unreasonable. Third, as to the issue of the appropriate refunds owed by Tri-State, there is no burden of proof question. As discussed in the record of this proceeding, Tri-State has committed to refunding, with interest, the difference, if any, between the revenues collected based on Tri-State's proposed ATRR and the revenues developed based on the Tri-State ATRR that the Commission ultimately determines to be just and reasonable.

##### 2. Issue 1: Whether SPP's Proposed Placement of Tri-State Facilities and ATRR in SPP Pricing Zone 17 is Just and Reasonable

###### a. Issue 1.A: Whether SPP's Criteria As a Whole Are Appropriate in Determining Zonal Placement.

###### i. Background

250. As an RTO, SPP administers the provision of open access transmission service on a regional basis across the facilities of its transmission-owning members. Under the Commission's regulations, an RTO "must have exclusive and independent authority under section 205 of the FPA,<sup>416</sup> to propose rates, terms and conditions of transmission service provided over the facilities it operates."<sup>417</sup> As a result, as an RTO, SPP has the sole authority to determine the structure of its pricing zones, and this authority extends to adding a new TO to an existing pricing zone. Under the SPP Membership Agreement,

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<sup>415</sup> 16 U.S.C. § 824d (2012).

<sup>416</sup> *Id.*

<sup>417</sup> 18 C.F.R. § 35.34(j)(1)(iii) (2016).

SPP has “the general authority to “take any actions necessary for it to carry out its duties and responsibilities, subject to receiving any necessary regulatory approvals.”<sup>418</sup>

251. SPP applies four criteria to determine whether to place the transmission facilities and ATRR of a new TO in an existing SPP pricing zone or in its own separate zone. These criteria are: (1) whether the new TO’s ATRR is less than the ATRR of an existing pricing zone with the smallest ATRR; (2) the extent to which the new TO’s facilities substantively increase the SPP footprint; (3) the extent to which a new TO’s facilities are integrated with (including the number of interconnections) an existing TO’s facilities; and, (4) the extent to which a new TO’s facilities are embedded within a preexisting zone.<sup>419</sup> According to SPP, the first two of SPP’s criteria are designed to determine whether a new TO’s system is sufficiently large to warrant a separate pricing zone.<sup>420</sup> SPP explains that in the event that a new TO fails the size test, the latter two criteria are aimed at determining the most appropriate existing zone in which to place the new TO’s transmission facilities and ATRR.<sup>421</sup>

252. Importantly, SPP states that it does not consider in its criteria whether the new TO is interconnected or integrated with facilities not under SPP’s functional control, because SPP is not authorized to use non-SPP facilities to provide transmission service and, accordingly, such facilities are not integrated with the SPP system.<sup>422</sup> Furthermore, SPP does not consider in its criteria any cost shift resulting from the placement of a new TO into an existing pricing zone.<sup>423</sup>

## ii. Conclusion

253. Throughout the course of this proceeding, no party has argued that SPP’s four criteria are inappropriate for determining zonal placement. I find that SPP’s criteria are appropriate for determining zonal placement. The criteria at issue consider relevant

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<sup>418</sup> Exh. TS-008; SPP Membership Agreement, at § 2.1.1.

<sup>419</sup> Exh. SPP-001 at 6:16-22.

<sup>420</sup> SPP Initial Br. at 8 (citing Exh. SPP-003 at 6:2-5; Tr. 241:11-12, 301:8-20 (Bourne)).

<sup>421</sup> *Id.* (citing Exh. SPP-003 at 6:5-7; Tr. 241:12-15, 241:19, 301:8-16, 301:21-24 (Bourne)).

<sup>422</sup> *Id.* at 29.

<sup>423</sup> *Id.* at 50

factors that are necessary for the carrying out of an RTO's duties and responsibilities regarding the proper structure of a pricing zone. The relevant factors considered include: (1) the scope and configuration of the new TO's facilities; (2) whether the new facilities form a coherent system within SPP's existing system; (3) whether the new facilities are significantly integrated with the facilities of other TOs; and, (4) the extent to which the new facilities can function independently of other TOs. No party to this proceeding has argued that these factors are irrelevant in determining zonal placement.

254. Notwithstanding the cost-shifting concerns, which will be discussed below, no party has proffered any evidence to suggest SPP's zonal placement criteria as a whole render unjust and unreasonable results.

255. The main arguments against SPP's zonal placement criteria concern the lack of transparency in SPP's criteria, and that SPP should exercise flexibility when applying the criteria. For example, NPPD argues that SPP's criteria were developed internally without input from the SPP Board of Directors and without any vetting through the SPP stakeholder process.<sup>424</sup> I find NPPD's and Trial Staff's arguments unavailing. While having easier access to SPP's zonal placement criteria would be helpful in ascertaining their reasoning behind their zonal placement decisions, SPP is not obligated to publish these criteria or file them for Commission approval. Importantly, SPP presented and discussed the zonal placement criteria throughout this proceeding, and opposing parties were afforded sufficient time to articulate any criticism against the criteria. While the genesis of these criteria might be uncertain, what matters in this proceeding is whether the criteria render just and reasonable results. Moreover, Trial Staff have put forth contradicting arguments. Trial Staff adduces that SPP should have filed this criteria with the Commission.<sup>425</sup> Additionally, Trial Staff states that SPP should apply this criteria with flexibility.<sup>426</sup> If SPP were required to file its zonal placement criteria with the Commission, however, SPP would not be allowed to apply such criteria with the flexibility requested by Trial Staff. Thus, NPPD's and Trial Staff's argument regarding the lack of transparency in SPP's zonal placement criteria as well as their argument regarding the lack of flexibility in applying such criteria are dismissed. Accordingly, SPP's criteria as a whole are hereby determined to be appropriate for determining zonal placement in a RTO.

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<sup>424</sup> See NPPD Initial Br. at 7-8.

<sup>425</sup> See Trial Staff Initial Br. at 18-19.

<sup>426</sup> See *id.* at 17.

**b. Issue 1.B: Whether SPP's ATRR and Geographic Expansion Criteria Are Appropriate to Ensure a Just and Reasonable Zonal Placement**

**i. Parties' Position**

256. SPP states that its first and second criteria aim to determine whether a new TO's system is sufficiently large to warrant a separate pricing zone. The first criterion evaluates the size of the new TO's ATRR, specifically, whether the new TO's ATRR is lower than the ATRR of the existing pricing zone with the smallest ATRR. At hearing, SPP witness Mr. Bourne explained that the size of a TO's ATRR is indicative of the type of facilities a TO has, the scope of those facilities, and whether the facilities are inherently dependent on the facilities of other TOs. Moreover, SPP asserts that because SPP's transmission service rates are based on the zonal ATRR where the load is located, but provide access to the entire transmission system, the ATRR threshold ensures that customers in a pricing zone pay a sufficient share of the costs of accessing the entire SPP Transmission System. SPP explains that if a zone is created with a relatively small ATRR, customers in that zone would pay a disproportionately low share of the costs of the SPP Transmission System. Thus, according to SPP, the first criterion limits the creation of additional pricing zones to situations in which the new TO's system is sufficiently large so as to merit creation of a separate zone.<sup>427</sup>

257. The second criterion SPP considers is the extent to which the new TO's facilities substantively increase the SPP footprint. Similar to the first criterion, SPP states that this second criterion is appropriate for assessing whether a new TO should be placed in its own separate zone or an existing zone. SPP asserts that this criterion limits the addition of pricing zones only to those situations in which a TO's facilities comprise a transmission system of sufficient size and scope to constitute a significant expansion of the current SPP system.<sup>428</sup>

258. Mr. Bourne explained at hearing that the first and second criteria are rooted in economic policy. Together, Mr. Bourne explains, they reflect the "minimum fair cost" of establishing a new separate pricing zone and seek to ensure that reliability issues and their solutions are localized to the extent possible. SPP states that the criteria seek to ensure that pricing zones are of sufficient scope and geographically large enough to internalize reliability problems so as to avoid situations in which a reliability issue in one

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<sup>427</sup> SPP Initial Br. at 12.

<sup>428</sup> *Id.*

inordinately small zone, i.e., insufficient in scope, causes the need for upgrades in another zone to resolve the issue.<sup>429</sup>

259. Regarding the first criterion, Trial Staff states that while it can surmise that there is some reasonable economical size limit for a pricing zone, neither SPP nor Tri-State has placed anything in the record supporting this criterion.<sup>430</sup> For example, Trial Staff explains that SPP provides no demonstration of why it cannot create a new pricing zone for a TO with ATRR less than the existing pricing zone with the smallest ATRR.<sup>431</sup> On the other hand, NPPD does not dispute that the size of a new TO should be considered when determining whether an entity is “big enough” for a separate zone.<sup>432</sup> However, NPPD notes that the circumstances in this case demonstrate how changes in the minimum ATRR threshold can produce arbitrary results by not analyzing the financial impact.<sup>433</sup>

260. As it relates to the second criterion, Trial Staff argues that SPP provides no guidance as to what would constitute a “substantive” increase in the SPP footprint.<sup>434</sup> As such, Trial Staff argues that it is an arbitrary criterion that should be rejected in this case because it allows an unjust and unreasonable substantial shifting of Tri-State’s legacy transmission costs to Zone 17 customers.<sup>435</sup> NPPD does not dispute this criterion.

## ii. Conclusion

261. I find that the first criterion of SPP’s zonal placement criteria is an appropriate measure to guarantee that transmission customers pay their fair share of the entire SPP transmission system. Trial Staff’s argument regarding the lack of support for this criterion in the record is not persuasive.<sup>436</sup> SPP provided a sufficient explanation in its

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<sup>429</sup> *Id.* at 12-13.

<sup>430</sup> Trial Staff Initial Br. at 19.

<sup>431</sup> *Id.*

<sup>432</sup> NPPD Initial Br. at 36.

<sup>433</sup> *Id.*

<sup>434</sup> Trial Staff Initial Br. at 19.

<sup>435</sup> *Id.* at 19-20.

<sup>436</sup> *See id.* at 19.

briefs and during Mr. Bourne's cross-answering testimony, detailing how the first and second criteria are rooted in economic policy.<sup>437</sup> As explained in SPP's Initial Brief, the two criteria reflect the "minimum fair cost" of establishing a new separate pricing zone and seek to ensure that reliability issues and their solutions are localized to the extent possible.<sup>438</sup> I find that these criteria seek to ensure that the benefits associated with RTO participation, such as joint planning, efficiency, and increased reliability are not hindered by the creation of small pricing zones, which may be unable to internalize reliability issues.

262. Moreover, while not necessarily determinative, a low ATRR could indicate the limited scope of transmission facilities which may require integration with other facilities to provide a reliable and efficient service to its customers. Based on the foregoing, SPP has provided reasonable support for the development of its ATRR criterion, and its justification rightfully accords with its purview over the administration of pricing zones within its footprint.

263. Similarly, I find that the second criterion of SPP's zonal placement criteria is appropriate in limiting the creation of pricing zones to situations in which it is warranted i.e., a new TO's facilities possesses sufficient size and scope to constitute a significant expansion of the current SPP system. I do not believe further justification is warranted for these criteria. I find that these criteria establish appropriate thresholds that a prospective TO must meet in order to warrant its own zone. Accordingly, I find SPP's ATRR and geographic expansion criteria are appropriate in ensuring a just and reasonable zonal placement.

c. **Issue 1.C: Whether SPP's Placement of Tri-State in Zone 17 Satisfies the ATRR and Geographic Expansion Criteria**

i. **ATRR Criterion**

264. As it relates to the first criterion, no party has disputed that Tri-State's ATRR of \$7,176,365, resulting from its settlement with Trial Staff, is less than the ATRR for the City of Springfield Zone, which at \$11,832,533 was the smallest zonal ATRR at the time SPP placed Tri-State in Pricing Zone 17.

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<sup>437</sup> See SPP Initial Br. at 12 (citing Tr. 165:8-10).

<sup>438</sup> See *id.* at 12-13.

**ii. Geographic Expansion Criterion**

265. NPPD asserts that the addition of Tri-State as a separate zone would substantially increase SPP's geographic footprint. Specifically, NPPD argues that the addition of Tri-State as a separate zone would add more than 300 miles of transmission lines and 22,000 square miles to SPP's geographic footprint. According to NPPD, this is far more service area than the majority of SPP's zones.<sup>439</sup>

266. Moreover, NPPD asserts that SPP's position that the addition of Tri-State's facilities to the SPP footprint "does not warrant treatment as a separate zone" is "arbitrary when viewed in light of prior SPP determinations." To support its assertion, NPPD compares the addition of Tri-State's transmission line miles and geographic footprint to that of LES, which was comprised of 300 miles of transmission lines and was placed in its own zone when it joined SPP.<sup>440</sup>

**iii. Conclusion**

267. Because no party or participant disputed whether Tri-State satisfies the first criterion of SPP's zonal placement criteria, I find that Tri-State's ATRR is less than the ATRR for the pricing zone of the City of Springfield, which is the existing single-TO pricing zone in SPP with the smallest ATRR. Accordingly, SPP's placement of Tri-State in Zone 17 satisfies the first criterion of SPP's zonal placement criteria.

268. In addressing the second criterion, I will adopt arguments contained in SPP's Reply Brief as the rationale for dismissing NPPD's argument that placing Tri-State into SPP substantially increases SPP's footprint. It is important to consider the increase of SPP's footprint stemming from Tri-State's addition into SPP in the context of the current status of the SPP footprint. While the addition of Tri-State's facilities into SPP brings more than 300 miles of transmission lines and 22,000 square miles to SPP's geographic footprint, it does not expand the SPP footprint beyond its previous borders. The addition only fills in gaps in the existing system. Accordingly, NPPD's arguments that Tri-State's addition into SPP should warrant its own zone, because it constitutes a substantive increase in the SPP footprint, are dismissed.

269. Additionally, NPPD's argument that SPP is acting arbitrary in light of prior SPP determinations, i.e., placing LES in its own zone, is unpersuasive as it fails to address important facts from the record. Specifically, at the time LES joined SPP, in addition to

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<sup>439</sup> NPPD Initial Br. at 38 (citing Exh. NPP-008 at 24:9-12).

<sup>440</sup> *Id.* at 38-39.

having a higher ATTR, it had its own tariff, was a North American Electric Reliability Corporation (NERC) balancing authority, and had a cohesive system that did not pose any concern to SPP.<sup>441</sup> Moreover, LES served a significantly larger load than Tri-State serves today.<sup>442</sup> Conversely, Tri-State has been historically located in the NPPD balancing authority and dependent on NPPD facilities to serve its load before becoming part of the SPP balancing authority. NPPD's argument also neglects to recognize that the addition of Tri-State's facilities is not expanding SPP's borders, but rather filling in a gap or void in the existing system.<sup>443</sup> SPP's consideration of all these factors suggests that its application of the zonal placement criteria is not arbitrary. SPP performed an in-depth analysis of Tri-State's transmission facilities in order to determine whether Tri-State warrants placement in its own zone. Nothing suggests in the present case that SPP's consideration of such factors is inappropriate in determining that Tri-State did not warrant its own pricing zone. Accordingly, SPP's placement of Tri-State in Zone 17 satisfies the first and second criteria of SPP's zonal placement criteria.

**d. Issue 1.D: Whether the Extent to Which a New TO's Facilities are Integrated With Those of An Existing TO And the Extent to Which the New TO's facilities Are Embedded Within an Existing Zone are Appropriate Criteria in Ensuring a Just and Reasonable Zonal Placement.**

**i. Parties' Position**

270. According to SPP, if, after examining the first two criteria, it determines that it is not appropriate to place a new TO in its own separate zone, SPP applies the third and fourth criteria to find the most appropriate pre-existing zone in which to place the new TO.<sup>444</sup>

271. The third criterion of SPP's zonal placement criteria considers the extent to which a new TO's facilities are integrated with an existing TO's facilities. Specifically, the

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<sup>441</sup> See Tr. 168:12–16 (Bourne); see also Exh. SPP-003 at 16:19-17:9.

<sup>442</sup> See Exh. SPP-003 at 17:6–7

<sup>443</sup> See SPP Initial Brief at 19–20

<sup>444</sup> *Id.* at 13.

third criterion examines the number of interconnections the new TO has with the facilities of any existing SPP TOs and other potential indicators of integration.<sup>445</sup>

272. SPP asserts that if a new TO's facilities are highly integrated with an existing TO's facilities (i.e., there are a significant number of interconnections between the two systems or other factors demonstrating integration exist), placement of that new TO's facilities into the pre-existing zone is reasonable given the relationship of the respective TOs' systems. The greater the level of interconnection between the new TO's facilities and the facilities in the existing pricing zone, the more likely it is that the facilities are operated as an integrated whole and are interdependent upon each other.<sup>446</sup>

273. The fourth criterion of SPP's zonal placement criteria considers the extent to which a new TO's facilities are embedded within a preexisting zone. SPP asserts that it is an appropriate consideration for placing a new TO that does not meet the size criteria in an existing pricing zone because the extent to which a TO is embedded within another TO's system also shows interconnectedness and interdependence with other existing facilities.<sup>447</sup>

274. Regarding the third criterion, Trial Staff states that the Commission does not consider integration by "degrees." According to Trial Staff, once a facility is integrated into SPP's system, it is fully integrated. Trial Staff also asserts that SPP has provided no support for including this requirement as a criterion.<sup>448</sup> Regarding the fourth criterion, Trial Staff states that SPP could provide no satisfactory explanation of what was meant by "embedded" or any Commission precedent to support the requirement.<sup>449</sup>

275. No other party has disputed the appropriateness of the third and fourth criteria of SPP's zonal placement criteria.

276. SPP states that Trial Staff's argument that there are not "degrees" of integration, as attested by Ms. Hsiung, is incorrect. According to SPP, the case law that Ms. Hsiung quotes in support of her argument undermines her claim that a transmission system

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<sup>445</sup> *Id.* at 14.

<sup>446</sup> *Id.*

<sup>447</sup> *Id.* at 14-15.

<sup>448</sup> Trial Staff Initial Br. at 19.

<sup>449</sup> *Id.*

cannot be more integrated or less integrated. Ms. Hsiung states that, in Opinion No. 474, in “addressing the question of how to determine whether a facility is a network facility, the Commission stated that ‘a showing of any degree of integration is sufficient.’”<sup>450</sup> SPP explains that this statement is contradictory to Mr. Hsiung’s statement asserting that there is no “more or less integration.” SPP states that when the Commission used the words “any degree of integration,” it explicitly demonstrated the existence of degrees of integration. Thus, SPP avers that Ms. Hsiung’s reading of Opinion No. 474 is incorrect, as Opinion No. 474 acknowledges the existence of degrees of integration.<sup>451</sup>

277. Moreover, SPP asserts that the main concern at issue in Opinion No. 474 was whether certain facilities were integrated into the transmission system in such a way that the costs should be rolled into transmission service rates. Conversely, SPP explains, the purpose of SPP’s zonal placement criteria, including the integration criterion, is to determine the most appropriate placement for a new TO within the existing SPP Transmission System. Because SPP follows a license plate rate structure across its system, the costs of all transmission facilities in a zone are allocated to all customers in the zone. Thus, as SPP explains, a comparative analysis of the levels of integration aids in determining into which zone the placement of the new TO’s facilities will better ensure just and reasonable rates.<sup>452</sup>

278. Additionally, as SPP explained, the third and fourth criteria stem from SPP’s obligation to conduct its transmission planning process and allocate costs for the construction of new transmission facilities in a just and reasonable manner. In situations in which a prospective TO’s facilities are embedded with the facilities of an existing TO, SPP states that it is possible that the best solution to a reliability issue affecting one TO’s system is to construct an upgrade to the other TO’s system. In this scenario, SPP explains, if the two transmission systems are placed in separate pricing zones, a potential mismatch between cost causation and cost allocation could occur because some or all of the upgrade costs could be allocated to customers in a zone in which the issue did not arise, and customers in the zone in which the issue arose could escape some or all of the costs of resolving the issue. SPP asserts that its criteria aim to avoid these potential transmission planning and cost allocation issues.<sup>453</sup>

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<sup>450</sup> Exh. S-014 at 17:3-5 (citing *Northeast Tex. Elec. Coop.*, Opinion No. 474, 108 FERC ¶ 61,084, at P 48 (2004)).

<sup>451</sup> SPP Initial Br. at 47.

<sup>452</sup> *Id.* at 47.

<sup>453</sup> *Id.* at 16-17.

ii. **Conclusion**

279. I find that SPP has reasonably explained and justified the third and fourth criteria of its zonal placement criteria. First, the number of interconnections is undoubtedly relevant in determining zonal placement. If a new TO is greatly interconnected with the facilities in an existing pricing zone, it is logical that the new TO is placed into that zone as both facilities are likely to be operated as an integrated whole to serve each facility's load. Also, such facilities could potentially be interdependent upon each other to reliably and efficiently provide service to its customers. Traditionally, facilities that are highly integrated are also embedded among each other. Thus, the importance of providing reliable and efficient service between two highly integrated transmission facilities is a concern in SPP's third and fourth criteria. Also, as discussed above, the likeliness of a potential mismatch between cost causation and cost allocation occurring if a prospective TO is placed in another zone (in situation in which the new TO is embedded to transmission facilities in an existing zone) is a genuine concern that affects the TOs at issue, the customers of the pricing zones at issue, and potentially the transmission customers within the SPP footprint. Trial Staff's arguments against these criteria are either incorrect or unpersuasive. Accordingly, I find that the third and fourth criteria of SPP's zonal placement criteria are appropriate in ensuring just and reasonable zonal placement. Furthermore, for the reasons asserted in SPP's Initial Brief, I will afford no weight to Ms. Hsiung's testimony regarding degrees of integrations, and to her interpretation of Opinion No. 474.

e. **Issue 1.E: Whether the Tri-State Facilities are Integrated With the Facilities of an Existing TO and Whether Such Facilities are Embedded Within an Existing Zone.**

i. **Parties' Position**

280. SPP explains that in this case, the degree of integration between Tri-State and Zone 17 is greater than with any other SPP pricing zone for a myriad of reasons, including: (1) Tri-State has more interconnections with Zone 17 than with any other zone; (2) Tri-State's facilities and facilities in Zone 17 have been jointly planned and operated for more than 40 years under the NETS Agreement; and, (3) Zone 17 loads are served from Tri-State facilities and Tri-State loads are served from Zone 17 facilities.<sup>454</sup>

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<sup>454</sup> *Id.* at 47-48.

SPP asserts that no party has demonstrated that these same characteristics apply to Tri-State's integration, if any, with Zone 19 or any other SPP pricing zone.<sup>455</sup>

281. Tri-State asserts that NPPD and Tri-State have a decades-long history of joint planning, operation, and coordination of their respective Zone 17 facilities under the NETS Agreement. Pursuant to the NETS Agreement, NPPD and Tri-State planned their transmission systems under a "Single-Entity Concept" that treats the NETS as if it were only owned by one party for the purposes of reducing costs, avoiding duplication of facilities and maintaining reliability. When NPPD joined SPP on April 1, 2009, it placed its GFA 494 facilities, including its use rights to Tri-State's facilities, under the functional control of SPP in Zone 17. Tri-State explains that because of their treatment of the NETS as a single system, neither NPPD nor Tri-State has a physical path to all of its loads without using the facilities of the other entity, and managing the facilities as a single system under GFA 494 has allowed Tri-State and NPPD to avoid duplicative construction.<sup>456</sup>

282. Tri-State notes that its transmission facilities are interconnected at the following six points with NPPD transmission facilities: (1) Ogallala 115 kV Substation; (2) Paxton/Sutherland 115 kV Line; (3) Grant 115 kV Substation; (4) Enders 115 kV Substation; (5) Sidney 230 kV Substation; and, (6) Big Springs 115 kV Substation.<sup>457</sup>

283. Tri-State asserts that the express purpose of the NETS Agreement is to "establish a joint transmission system for the Parties' mutual benefit and joint use." The NETS Agreement also provides "for fair and equitable allocation of costs and benefits" of the joint transmission system.<sup>458</sup>

284. Under the NETS Agreement, additions of high-voltage transmission facilities are planned using the Single-Entity Concept. The NETS Agreement defines the Single-Entity Concept as "a concept used in planning, designing, constructing, operating, and maintaining a transmission system where the system is treated as though it were owned by only one Party." The concept is applied to avoid duplication of facilities and ensure a reliable joint transmission system at the least cost, which results in a single integrated

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<sup>455</sup> *Id.* at 48.

<sup>456</sup> Tri-State Initial Br. at 8.

<sup>457</sup> *Id.*

<sup>458</sup> Exh. TS-001 at 23.

transmission system that is owned by and provides reliable transmission service to two entities.<sup>459</sup>

285. Consistent with the Single-Entity Concept used for planning, the NETS Agreement allocates the costs of planning, constructing, operating, and maintaining the NETS so that those costs are equal to the benefit each party derives from transmission service on the NETS. In other words, SPP explains that although two parties are planning, building, operating, maintaining, and using the joint system, each pays only costs equal to the benefit it derives, as though it were a single system owned by one entity. The NETS Agreement mechanism for this cost allocation and equalization is an Annual Equalization Payment from one party to the other. According to SPP, all of these features of the NETS Agreement, and Tri-State's and NPPD's actions and course of dealing under the NETS Agreement and its predecessor agreements, support SPP's placement of Tri-State's transmission facilities in Zone 17.<sup>460</sup>

286. Conversely, NPPD argues that SPP places too much significance in the NETS Agreement, which will be no longer relevant when both Tri-State and NPPD have transferred functional control of their facilities to SPP, because the NETS Agreement "is not an uncommon agreement to govern the joint planning of facilities of two separate systems where their facilities interconnect and are used to provide service in the same area."<sup>461</sup> NPPD further argues that coordinated planning is not unique to the NETS Agreement and complains that NPPD also has a long-standing history of coordinated planning efforts with various SPP TOs, but that history did not cause each of those entities to be placed in Zone 17.<sup>462</sup>

287. Additionally, NPPD asserts that SPP overemphasizes the relative "degree" of integration between Tri-State and existing SPP zones as the driver in determining zone placement. Instead of determining whether Tri-State is "more integrated" or "highly integrated" with one zone versus another based on sheer number of interconnections, the analysis should focus on whether the new TO is integrated with more than one existing SPP zone. NPPD relies on Ms. Hsuing, to support its assertion that when a transmission facility is integrated with other facilities, the facilities become one integrated system –

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<sup>459</sup> *Id.* at 19.

<sup>460</sup> SPP Initial Br. at 37.

<sup>461</sup> NPPD Initial Br. at 55 (citing Exh. NPP-008 at 23:14-16).

<sup>462</sup> Exh. NPP-022 at 11:4-11.

there is no degree of integration. NPPD also asserts other arguments concerning Tri-State's integration with Zone 19 facilities, which will be discussed below.<sup>463</sup>

288. In responding to NPPD, SPP argues that the NETS Agreement is very different from NPPD's agreements with other entities. Mr. Bourne's analysis of the other agreements NPPD provided in discovery that NPPD claimed are similar to the NETS Agreement shows that three of them provide only for coordination of facility modifications at the points of interconnection between the parties and only require the parties' mutual agreement on modifications to the extent that the modifications may affect the other party.<sup>464</sup> Mr. Bourne explains that the fourth agreement provides for joint transmission planning, as opposed to simply coordinated planning, but only in and around the City of Grand Island, Nebraska's service territory. Mr. Bourne concluded, therefore, that the agreements with other entities that NPPD referenced address only the seams (the points of interconnection at the edges of adjoining systems) between the parties' systems, and three of the four other agreements provide only for coordination, not joint planning. Mr. Bourne further identified the NETS Agreement's provision for equalizing the parties' investment in and benefit from the combined NETS system through Annual Equalization Payments as distinct from the other four agreements provided by NPPD. As Mr. Bourne explained, the other agreements provide only for payment for construction of facilities as billed, payment for energy and credits for particular counter-party facilities that NPPD uses, or payment for power, energy, and planning services; these payments for specified facilities and services are very different from the NETS Agreement's comprehensive equalization of costs and benefits through annual payments.<sup>465</sup>

289. Western asserts that the direct interconnections between Tri-State facilities included in its SPP ATRR and NPPD facilities in Zone 17 have *at least 2.7* times the capacity (1,079 MVA compared to 400 MVA) of the single interconnection between such Tri-State facilities and those in Zone 19.<sup>466</sup> Furthermore, upon detailed analysis, Western states that the single interconnection between Tri-State facilities transferred to SPP and Zone 19 actually demonstrates the extent to which Tri-State is embedded within and integrated with NPPD's facilities in Zone 17. As stated by Mr. Steinbach and supported

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<sup>463</sup> NPPD Initial Br. at 43.

<sup>464</sup> Exh. SPP-003 at 14:8-13. The agreements NPPD provided in discovery are set forth in Exh. SPP-004.

<sup>465</sup> *Id.* at 15:2-10.

<sup>466</sup> Western Initial Br. at 6 (citing Exh. WES-001 at 15:2-6).

by reference to TS-014, a diagram of facilities in and around Tri-State's Sidney Substation, Tri-State equipment at Sidney is "the bridge connecting Zone 19 facilities to NPPD-owned facilities in Zone 17," and this interconnection at Sidney "is further evidence of the embedded nature of Tri-State's and NPPD's systems because Tri-State's remaining facilities under the functional control of SPP are unable to access Sidney without the use of NPPD's transmission facilities in Zone 17."<sup>467</sup>

## ii. Conclusion

290. The long history of joint planning and operation between the Tri-State and the NPPD facilities as a single, cohesive whole pursuant to the NETS Agreement demonstrates substantial integration. It is undisputed that both Tri-State and NPPD facilities are interconnected at, at least, five points of interconnection.<sup>468</sup> It is also undisputed that the NETS agreement provided for the joint planning, designing, constructing, operating, and maintaining of both Tri-State's and NPPD's transmission facilities in which their systems were treated as though they were owned by only one party. While NPPD has stated that the NETS agreement is not unique, the four agreements that NPPD has proffered to demonstrate the NETS agreement's lack of uniqueness are not persuasive.<sup>469</sup> None of the agreements presented includes important provisions from the NETS Agreement, such as the Single-Entity Concept, in which both systems are treated as one, or the Annual Equalization Payments provision, which equalizes the parties' investment in and benefit from a combined system.

291. These provisions are important in showing a level beyond mere collaboration between two or more entities as they demonstrate the need of each party's facilities to efficiently serve their aggregate customers in a reliable fashion. Thus, these provisions demonstrate a unique level of integration between the facilities of Tri-State and NPPD. This is an argument that NPPD has not successfully disputed. The agreements presented

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<sup>467</sup> Exh. TS-047.

<sup>468</sup> The undisputed five points of interconnections are the (1) Ogallala 115 kV Substation; (2) Paxton/Sutherland 115 kV Line; (3) Grant 115 kV Substation; (4) Enders 115 kV Substation; and, (5) Sidney 230 kV Substation.

<sup>469</sup> The four agreements are: (1) an Amended and Restated Interconnection Agreement between NPPD and LES; (2) an Interconnection Agreement between NPPD, Midwest Energy, ITC Great Plains, LLC, and SPP; (3) an Interconnection and Interchange Agreement between NPPD and Westar Energy, Inc.; and, (4) an Amended and Restated Electric Interconnection and Interchange Agreement between NPPD and the City of Grand Island, Nebraska.

by NPPD do show joint coordination and planning between NPPD and other parties, but to establish a level of integration similar to the one presented in the NETS agreement, NPPD's other agreements would need to demonstrate, *inter alia*, reliance among transmission facilities in order to serve their customers, or that the costs and benefits resulting from such joint operations were equalized. It is a reasonable inference that such provisions would be warranted only where a high degree of integration exists among transmission facilities.

292. NPPD has failed to demonstrate such qualities in the four agreements presented to dispute the NETS Agreement's uniqueness. Also, the fact that the NETS agreement will terminate soon is irrelevant as the underlying agreement concerns facilities that were developed to benefit NPPD, Tri-State, and their customers. In this case what matters is not whether the NETS Agreement will be relevant now that Tri-State and NPPD are both SPP TOs, but what led to the creation of such an agreement with distinctive provisions that demonstrate a high degree of integration, and whether Tri-State, NPPD, and their customers jointly benefitted from this agreement. In the present case, I find that this agreement is indeed unique and shows a high degree of integration between Tri-State's facilities and Zone 17.

293. Additionally, the NETS Agreement's 40 year duration shows that there was a mutual benefit from the joint coordination and operation efforts. Accordingly, NPPD's arguments attempting to marginalize the NETS agreement's importance in showing integration among the transmission facilities of Tri-State and NPPD transmission facilities are unpersuasive.

294. Similarly, NPPD's argument that SPP overemphasizes the relative "degree" of integration between Tri-State and existing SPP zones is unavailing. SPP, through its witness Mr. Bourne, acknowledged during the hearing and in their briefs that Tri-State has a point of interconnection in SPP Pricing Zone 19.<sup>470</sup> However, rightfully so, SPP analyzed Tri-State's interconnections with both zones in reaching its zonal placement decision. I find that Tri-State has more direct interconnections with Zone 17 than with Zone 19.

295. As mentioned above, the record shows that as many as six points of interconnection between Tri-State and Zone 17.<sup>471</sup> It is undisputed that Tri-State's interconnections with Zone 17 have more than twice the capacity than the single

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<sup>470</sup> See SPP Initial Br. at 24-25, 29.

<sup>471</sup> See Tri-State Initial Br. at 8.

interconnection with Zone 19.<sup>472</sup> As discussed above, Ms. Hsuing's testimony in which she asserts that there is no more or less integration has been afforded no weight in this proceeding. Accordingly, NPPD's reliance on this testimony to assert that there are no degrees of integration is misplaced.

296. Lastly, the evidence in the record shows that neither NPPD nor Tri-State has a physical path to all of its loads without using the facilities of the other entity, and managing the facilities as a single system under the NETS Agreement has allowed Tri-State and NPPD to avoid duplicative construction.<sup>473</sup> This demonstrate that Tri-State's facilities are embedded with NPPD (Zone 17) facilities. The fact that Tri-State also has several interconnections with non-SPP facilities such as those of Western-RMR is not relevant to the issue at hand, as discussed below. Accordingly, based on the foregoing, I find that Tri-State's facilities are integrated, with and embedded within, the facilities of SPP Pricing Zone 17.

f. **Issue 1.F: Whether it is Appropriate to Consider Interconnections of the Tri-State Transmission Facilities With Facilities Outside of the SPP System.**

i. **Parties' Position**

297. SPP states that it does not consider interconnections between a new TO's facilities and facilities of other TOs outside of SPP such as Western-RMR facilities because it lacks functional control over those facilities and thus the ability to provide transmission service over those facilities, which are key factors in determining integration.<sup>474</sup>

298. NPPD responds to SPP's argument by stating that the fact that the Western-RMR facilities have not been transferred to SPP's functional control does not make them irrelevant to the integration analysis. NPPD explains that Tri-State has contractual rights on the two non-SPP Western-RMR transmission lines that connect the Zone 19 facilities to Tri-State's load-serving facilities. NPPD further explains that such contract rights are not limited to use by Tri-State; Basin Electric, as Tri-State's agent, utilizes Tri-State

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<sup>472</sup> See Western Initial Br. at 6 (stating that "the direct interconnections between Tri-State facilities included in its SPP ATRR and NPPD facilities in Zone 17 have *at least 2.7* times the capacity (1,079 MVA compared to 400 MVA) of the single interconnection between such Tri-State facilities and those in Zone 19.")

<sup>473</sup> See Exhs. TS-001 at 17:12-15; TS-031; TS-032.

<sup>474</sup> SPP Initial Br. at 15.

capacity rights on the Western-RMR facilities to make deliveries under its SPP NITS via Western-RMR facilities to Tri-State load.<sup>475</sup>

299. To support its assertion, NPPD states that the Commission has made it clear that the relevant interconnections may be established by contract, and need not be limited to direct physical connections. In *ComEd*, the Commission permitted the integration of ComEd into PJM, despite the fact that ComEd at the time was not directly interconnected with PJM. The non-contiguous nature of these two systems was such that the only actual integration between PJM and ComEd occurred through the use of the 500 MW contract for transmission service across the AEP transmission system, connecting ComEd's service territory to PJM. ComEd thus created a contract path to the RTO by purchasing transmission service from AEP until such time as AEP joined PJM, and on the basis of this arrangement FERC concluded that sufficient connectivity existed for ComEd to join PJM on an interim basis.<sup>476</sup>

300. NPPD states that this case applies with equal or greater force to the circumstances of the present case involving the use of Tri-State's contractual rights on Western-RMR facilities to connect Tri-State's load-serving facilities to Tri-State's other facilities directly connected to the Zone 19 Missouri Basin facilities. NPPD asserts that unlike the circumstances in *ComEd*, Tri-State has a direct physical connection to Zone 19 at the Sidney Substation. NPPD argues that the contract rights are needed not at the direct points of interconnection to Zone 19 facilities, but only to connect the Tri-State facilities at Sidney to Tri-State load-serving facilities. Based on the foregoing, NPPD states that the integration analysis should be focused upon the interconnections between Tri-State and all other TOs, including non-SPP transmission facilities.<sup>477</sup>

301. Tri-State rejects as meritless NPPD's assertion that interconnections with non-SPP TOs must be considered in determining Tri-State's zonal placement within SPP, because SPP cannot provide transmission service over facilities that are not under its Tariff. Tri-State argues that NPPD's reliance on *ComEd* is misplaced because the circumstances addressed in that proceeding are different from the facts of this proceeding. In *ComEd*, the Commission permitted the integration of a TO into the RTO despite the new TO's lack of a direct interconnection to the other RTO TOs. Specifically, in *ComEd*, the Commission approved tariff revisions by PJM "to enable the integration of the

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<sup>475</sup> NPPD Initial Br. at 51.

<sup>476</sup> *Id.* at 51-52.

<sup>477</sup> *Id.* at 53.

transmission system of Commonwealth Edison Company ('ComEd') into PJM" without the simultaneous integration of AEP, the TO whose transmission facilities formed the connection between ComEd and the other PJM TOs.<sup>478</sup>

302. The Commission explained that while "there cannot be a complete integration of the markets of ComEd and PJM if AEP is not also part of PJM," there were benefits to customers to proceeding even absent the integration of AEP.<sup>479</sup> Thus, Tri-State explains that it was a question of whether ComEd could reach the PJM markets without AEP joining at the same time. The Commission concluded that ComEd could nonetheless join PJM because ComEd was assigning 500 MW of firm transmission reservations across AEP's transmission system to PJM with a receipt/delivery point on the ComEd transmission system and a receipt/delivery point on the PJM transmission system.<sup>480</sup> By contrast, Tri-State asserts that its transmission facilities are not isolated from the remainder of the SPP Transmission System. All parties agree that Tri-State's facilities are interconnected with NPPD's facilities at numerous points.<sup>481</sup>

303. In addition, Tri-State states that all parties agree that there is a point of interconnection between the transmission facilities Tri-State transferred to SPP's functional control and Zone 19 transmission facilities.<sup>482</sup> Thus, Tri-State asserts that there is no need to assess contract rights between Tri-State and non-SPP TOs to determine whether the transmission facilities that Tri-State transferred to SPP's functional control are sufficiently integrated with the SPP Transmission System for Tri-State's load to participate in the SPP markets.<sup>483</sup>

304. SPP also rejects NPPD's argument for inclusion of other TOs outside of SPP. According to SPP, while relying on *ComEd* to assert their argument, NPPD neglects to mention that, at the time of the Commission order, the Commission already had accepted AEP's proposal to transfer functional control of its facilities to PJM. In stark contrast, SPP states, there is no evidence in the record of this case that Western-RMR is pursuing

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<sup>478</sup> Tri-State Reply Br. at 15 (citing *ComEd*, 106 FERC ¶ 61,253 at 1, 4).

<sup>479</sup> *Id.* (citing *ComEd*, 106 FERC ¶ 61,253 at 22-23).

<sup>480</sup> *Id.* at 16 (citing *ComEd*, 106 FERC ¶ 61,253 at 5, 9, 27-29).

<sup>481</sup> *Id.*

<sup>482</sup> *Id.* (citing Exhs. TS-027 at 6:1-10; WES-001 at 9:6-10).

<sup>483</sup> *Id.* at 16-17.

SPP membership and placing its facilities under SPP's functional control, much less an acceptance by the Commission of a proposed transfer of control.<sup>484</sup>

ii. **Conclusion**

305. After reviewing all the arguments in favor and opposing the consideration of facilities outside of the SPP system in the integration analysis of Tri-State's transmission facilities, I find that consideration of such facilities is inappropriate. NPPD's reliance on *ComEd* is misplaced as that case is not analogous to the present case for several reasons. In *ComEd*, the Commission allowed the integration of ComEd into PJM despite ComEd's lack of a direct interconnection to the other PJM TOs. Additionally, ComEd needed the AEP facilities to integrate with other PJM TOs. The Commission, in that proceeding, stated that while "there cannot be a complete integration of the markets of ComEd and PJM if AEP is not also part of PJM," there were benefits to customers to proceeding even absent the integration of AEP.<sup>485</sup>

306. The Commission concluded that ComEd could nonetheless join PJM because ComEd was assigning 500 MW of firm transmission reservations across AEP's transmission system to PJM with a receipt/delivery point on the ComEd transmission system and a receipt/delivery point on the PJM transmission system.<sup>486</sup> While the Commission considered the assignment of contract rights in granting ComEd's entrance into PJM, the situation here does not involve whether Tri-State's contract rights are *needed* for Tri-State to join SPP. Unlike in *ComEd*, Tri-State's transmission facilities are significantly integrated with Zone 17; thus, Tri-State's contract rights governing the usage of facilities outside of the SPP system are irrelevant in the present case. There is no need to consider these facilities which are not under SPP's functional control to determine whether Tri-State is integrated with an existing SPP TO. As discussed above, there is sufficient evidence to reach the conclusion that Tri-State is indeed integrated with Zone 17 without considering contract rights.

307. Furthermore, because these contract rights that Tri-State currently possess have not been transferred to SPP's functional control, SPP cannot flow power through those facilities. It is speculative to assume that SPP will obtain functional control of these facilities either through Tri-State's contract rights or by Western-RMR joining SPP. There is no evidence in the record, that Western-RMR is pursuing SPP membership and

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<sup>484</sup> SPP Reply Br. at 27.

<sup>485</sup> See *ComEd*, 106 FERC ¶ 61,253 at 22-23.

<sup>486</sup> See *id.* at 5, 9, 27-29.

plans to place its facilities under SPP's functional control, much less an acceptance by the Commission of a proposed transfer of control. Accordingly, facilities outside of the SPP system will not be considered in deciding Tri-State's zonal placement within SPP. As such, NPPD's extra-record presentation related to the Mountain West Transmission Group<sup>487</sup> is hereby stricken for the record pursuant to Rule 716 of the Commission's Rules of Practice and Procedure.<sup>488</sup>

**g. Issue 1.G: Whether the Alleged Cost Shift of Tri-State's Costs Renders SPP's Proposed Zonal Placement Unjust and Unreasonable.**

**i. Parties' Position**

308. SPP states that its criteria do not assess whether cost shifts may result from a TO's zonal placement because SPP, as an independent RTO, is not authorized to set rates for transmission service. SPP states that establishing just and reasonable rates for transmission service lies solely within the authority and purview of the Commission under FPA sections 205 and 206. Accordingly, SPP asserts, in determining zonal placement, SPP looks at the incorporation of a new TO into SPP from a transmission system scope and configuration perspective through the use of its four criteria. Moreover, Mr. Bourne explained that cost shifts that arise when a new TO joins an RTO are inevitable, and can result from many factors in addition to simply differences in the relative embedded costs of the new TO's transmission facilities and the embedded costs of transmission facilities within an existing SPP pricing Zone. SPP explains that other such factors include, *inter alia*, the elimination of rate pancaking and the treatment of grandfathered agreements, which are factors to be considered if one were to perform a comprehensive cost shift analysis.<sup>489</sup>

309. SPP asserts that regardless of any alleged cost shift, its proposed zonal placement of Tri-State in this case using its four criteria was just and reasonable. SPP bases this assertion on the fact that Tri-State's transmission system lacks sufficient scope to warrant creation of a new pricing zone; and Tri-State's transmission system is significantly integrated with NPPD's Zone 17 transmission system as demonstrated by the number of interconnections, the long history of joint planning and operation, and the co-dependency

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<sup>487</sup> The Western Area Power Administration, Mountain West Transmission Group Update presentation (Nov. 29, 2016), included as Attachment 1 to NPPD's Initial Brief.

<sup>488</sup> 18 C.F.R. § 385.716 (2016).

<sup>489</sup> SPP Initial Br. at 51 (citing Tr. 175:8-15, 176:7-17, 178:8-14).

of NPPD and Tri-State on each other's transmission facilities to serve their respective loads.<sup>490</sup>

310. According to SPP, placing Tri-State in its own zone or in any pricing zone other than Zone 17 simply to mitigate alleged cost shifts is not just and reasonable, because the evidence in this proceeding demonstrates that no other zone has the number of interconnections, degree of integration, or interdependence with Tri-State as does Zone 17. SPP states that aside from customers in Zone 17, there are no customers in other pricing zones that rely on Tri-State transmission to serve their load. Accordingly, SPP requests that the Presiding Judge find that, notwithstanding any allegations of cost shift, placement of Tri-State in any zone other than Zone 17 is not just and reasonable.<sup>491</sup>

311. Tri-State argues that precedent indicates that the operation and integration of facilities take precedence over cost shifts associated with the facilities in zonal placement decisions. For example, Tri-State states that in *Allegheny*, PJM filed revisions to its Tariff to enable Allegheny to recover its revenue requirement associated with a 42-mile section of 500 kV transmission line located within the PPL Zone of PJM.<sup>492</sup> The Commission explained that 98 percent of Allegheny's load is located in the GPU Zone and less than two percent of Allegheny's load is located in the PPL Zone.<sup>493</sup> PPL opposed the allocation of the revenue requirement for the facilities to the PPL Zone on the basis of cost shifts to PPL Zone customers. Specifically, PPL argued that "under the proposed allocation, Allegheny would receive 2.1% of the revenues derived from sales to load in the PPL Group Zone even though its load is only 0.09% of the zonal load," and therefore PJM's proposed zonal placement "results in cost shifting which is inconsistent with the purpose of PJM zonal rates ... [and] allocates costs in a manner inconsistent with the Commission's cost-causation principals[sic]."<sup>494</sup> As a remedy, PPL argued that Allegheny's revenue requirement in the PPL Zone should be limited to its load ratio share of that zone, or 1.6 percent of the cost of the facilities.<sup>495</sup> Tri-State explains that the Commission dismissed PPL's cost shift concerns and determined that the facilities were

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<sup>490</sup> *Id.* at 51-52.

<sup>491</sup> *Id.* at 52.

<sup>492</sup> Tri-State Initial Br. at 13 (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,074).

<sup>493</sup> *Id.*

<sup>494</sup> *Id.* (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,076).

<sup>495</sup> *Id.* (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,076).

properly included in the PPL Zone. Specifically, Tri-State explains that the Commission determined that because PPL has operational control over the facilities “as if the facilities were PPL’s own facilities,” the facilities are interconnected with PPL, and the facilities primarily support load within the PPL Zone, “it is reasonable for customers in the PPL Group Zone to support these facilities by assigning the revenue requirement associated with those facilities to the PPL Group Zone.”<sup>496</sup>

312. Tri-State states that the Commission should reach a similar result in this proceeding. Tri-State explains that its facilities serve load in Zone 17; the facilities have numerous points of interconnection with Zone 17 and only a single point of interconnection with any other pricing zone; and, the facilities have been jointly operated with Zone 17 facilities for decades. SPP has operational control over the facilities of both NPPD and Tri-State. As with the Commission’s holding in *Allegheny*, Tri-State asserts that the Commission should find that the cost shift associated with SPP’s placement of Tri-State’s facilities and ATRR in Zone 17 does not outweigh the integrated operation of such facilities with Zone 17, and that Tri-State’s facilities should be included in that zone.<sup>497</sup>

313. Tri-State explains that the Commission has taken intra-RTO cost shifts into consideration only in RTO-wide rate design proceedings in limited circumstances in which the cost shifts are much larger, in terms of dollars and percentage increases, than the cost shifts that will result from placement of Tri-State in Zone 17. NPPD asserts that Tri-State’s placement in Zone 17 will result in a cost shift of \$4.3 million, or eight percent, to other Zone 17 customers. Tri-State asserts that even if NPPD’s claim were correct, that is not sufficient to justify overruling SPP’s decision to place Tri-State in Zone 17. For example, Tri-State explains that in Opinion No. 494, the Commission rejected challenges to PJM’s license-plate rate design in part because the alternative rate design proposals by Trial Staff and other parties to the proceeding resulted in unacceptable cost shifts among PJM TOs.<sup>498</sup> The Commission stated that “significant cost shifts would occur under any of the proposals, with some zones experiencing increases to their transmission cost responsibility in excess of 70%.”<sup>499</sup> Tri-State explains that some TOs would have experienced cost shifts ranging from 30.9 percent (\$10.2 million per year) to 73.2 percent (\$113 million per year) under Trial Staff’s

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<sup>496</sup> *Id.* at 13-14 (citing *Allegheny*, 94 FERC ¶ 61,295 at ¶ 62,078).

<sup>497</sup> *Id.* at 14.

<sup>498</sup> *Id.* at 15-16 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 59).

<sup>499</sup> *Id.* at 16 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 59).

proposal. Tri-State further explains that other rejected proposals would have resulted in smaller cost shifts, but some utilities would still have experienced shifts of 26.1 percent (\$15 million per year) to 31.4 percent (\$48.7 million per year). In rejecting such proposals, the Commission explained that it would not tolerate “cost shifts of this magnitude.”<sup>500</sup> Tri-State asserts that since the cost shift resulting from SPP’s placement of Tri-State in Zone 17 does not approach the level of cost shift that the Commission previously has found to be unacceptable, the Commission should reject NPPD’s argument.<sup>501</sup>

314. On the other hand, NPPD asserts that SPP’s position that it is not the RTO’s responsibility to include potential cost shifts in its zone placement criteria is contrary to Commission policy and precedent. NPPD explains that SPP did not include cost-shifting as a factor in its zone placement criteria based on its belief that, as an independent RTO, it does not have any responsibility to evaluate zonal placement of new TOs from a “ratemaking perspective,” but rather only from a transmission configuration and scope perspective.<sup>502</sup> NPPD notes that SPP does not believe that the Commission should ignore cost-shifting when approving zonal placement of a new TO within an existing RTO.<sup>503</sup>

315. According to NPPD, the Commission adopted a flexible approach to such cost-shift problems by implementing “license plate” rates for each RTO approved prior to Order No. 2000.<sup>504</sup> NPPD explains that the Commission reaffirmed this policy in Order No. 2000 for two reasons: (1) the commenters to that proceeding demonstrated convincingly that problems associated with cost-shifting are not easily resolved by means other than the use of license plate rates; and, (2) the Commission was concerned that the potential for cost-shifting could act as an impediment to RTO formation, thereby denying all stakeholders the benefits that come from RTO membership.<sup>505</sup>

316. Furthermore, NPPD asserts that license plate rates are consistent with the concept of cost causation, a point emphasized by the Commission in Opinion No. 494 when it

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<sup>500</sup> *Id.*

<sup>501</sup> *Id.*

<sup>502</sup> NPPD Initial Br. at 14 (citing Joint Statement of Issues at 4; Tr. 194:8-12).

<sup>503</sup> *Id.*

<sup>504</sup> *Id.* at 15 (referencing Order No. 2000, 89 FERC ¶ 61,285).

<sup>505</sup> *Id.*

upheld the license plate rate design of PJM. NPPD notes that the Commission stated that when “transmission facilities [are] developed by . . . individual companies to benefit their own systems and their own customers. . . [i]t is . . . consistent with principles of cost causation to continue to allocate the costs of these facilities to the customers for whom they were constructed and whom they continue to serve to date.”<sup>506</sup> NPPD explains that this same precedent applies to new TOs joining an existing RTO with license plate rates. NPPD asserts that allowing a new high-cost TO to be placed in an existing low-cost license-plate zone, and thereby shift the costs of facilities built to serve the new TO’s load to existing customers of a low-cost zone, is inconsistent with the purpose of zonal license plate rates – to avoid cost-shifting.<sup>507</sup>

317. When NPPD joined SPP, it did so in a new Zone 17 using a license plate rate to avoid the shifting of costs associated with its transmission facilities. NPPD explains that to allow Tri-State to be placed into Zone 17 and thereby shift a significant amount of the costs incurred to construct and operate Tri-State’s legacy transmission facilities to other Zone 17 customers directly conflicts with the very purpose of license plate rates – that is, to avoid cost-shifting.<sup>508</sup>

318. According to NPPD, SPP’s position that cost-shifting is not the purview of an RTO is inconsistent with Mr. Bourne’s testimony that SPP considers cost-shifting and cost causation factors related to incremental transmission service requests.<sup>509</sup> Mr. Bourne explained that such consideration of cost shift is appropriate because provisions of the SPP Tariff require SPP to analyze cost causation for new facilities.<sup>510</sup> NPPD explains that this rationale demonstrates why the zone placement criteria conjured by SPP’s staff should have been filed with the Commission and included in SPP’s Tariff. NPPD asserts that SPP’s failure to make such filing caused its argument—that cost-shifting should not

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<sup>506</sup> *Id.* at 16 (citing Opinion No. 494, 119 FERC ¶ 61,063 at P 42); *see also Illinois Commerce Comm’n v. FERC*, 576 F.3d at 476-77.

<sup>507</sup> *Id.* at 17 (citing *Sw. Power Pool, Inc.*, 89 FERC ¶ 61,284 at ¶ 61,889).

<sup>508</sup> *Id.*

<sup>509</sup> *Id.* at 17 (citing Tr. 190:11-14; Tr. 191:8-18).

<sup>510</sup> *Id.* at 17-18 (citing Tr. 190:11-14; Tr. 191:8-18).

be analyzed in zone placement decisions because the Tariff does not require such consideration—to become a self-fulfilling prophecy.<sup>511</sup>

319. NPPD asserts that there is no support for SPP’s concern that since cost shift are inevitable whenever a new TO joins SPP, worrying about cost-shifting is a slippery slope that will lead to constant disputes about cost shifts whenever a new TO joins an existing zone of an RTO. NPPD notes that Zone 17 has already absorbed a cost-shift as a result of Central Nebraska Public Power District joining SPP as a new TO in Zone 17. NPPD states that it did not oppose the resulting \$450,000 cost shift to Zone 17 because the impact was less than a one percent increase to Zone 17 rates, and it was unavoidable. In this case, however, NPPD states that the impact of the cost shift is both significant and avoidable.<sup>512</sup>

320. NPPD submits that the end result of SPP’s placement of Tri-State in Zone 17 is unjust and unreasonable, because it requires existing Zone 17 customers to subsidize \$4.3 million, or 60 percent of the costs previously incurred by Tri-State to construct and operate its legacy transmission facilities to serve its historical load.<sup>513</sup>

321. Moreover, NPPD asserts that it defies logic for Tri-State to suggest that because the Commission in Opinion No. 494 cited examples of the largest cost shifts that would occur in the context of rejecting a proposal to move away from a license plate rate design, that it should not consider cost-shifting here, in the context of adding a new TO to an existing license-plate rate design. NPPD explains that taken to its logical conclusion, Tri-State’s position is that the Commission should approve any and all cost-shifting below an arbitrary 30 to 73 percent range, regardless of facts or whether any commensurate benefits are shown to exist. NPPD states that the mere fact that the magnitude of the rate increase resulting from the cost shift before the Commission in Opinion No. 494 was in excess of 70 percent for some PJM zones, does not somehow vindicate the eight percent rate increase that results from SPP’s proposal to place Tri-State in Zone 17.<sup>514</sup>

322. According to Trial Staff, case law supports a determination that SPP’s placement of Tri-State in Zone 17 results in an unjust and unreasonable cost shift. Trial Staff explains that the Commission expressed its particular concern about “the potential for

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<sup>511</sup> *Id.*

<sup>512</sup> *Id.* at 18-19.

<sup>513</sup> *Id.* at 19-20.

<sup>514</sup> NPPD Reply Br. at 22.

cost-shifting effects of RTO pricing proposals.”<sup>515</sup> The Commission did not want to advance transmission pricing proposals that might enhance TO revenues to the detriment of customers.<sup>516</sup>

323. Trial Staff states that the Commission described the problem in the following paragraph:

Each ISO approved by the Commission has struggled with the problem of cost shifting among the various individual TOs that make up the ISO. A single access rate would mean that the customers of low-cost transmission providers would see a rate increase and high-cost transmission providers would be concerned about not meeting their revenue requirements. The potential for cost shifting has been a stumbling block for several regions seeking to establish regional transmission organizations.<sup>517</sup>

324. For this reason, Trial Staff explains that the Commission stated its intent to take a flexible approach, including the use of license plate rates. In answer to a request on whether the license plate approach would be appropriate for the long-term, the Commission determined that it was appropriate to allow RTOs to propose the use of license plate rates for a fixed term of the RTO’s choosing.<sup>518</sup> Trial Staff states that the Commission signaled its intent to continue to review RTO transmission rate proposals to ensure that they are just and reasonable, and not unduly discriminatory.<sup>519</sup>

325. Trial Staff states that the Commission acknowledged that “averaging or socialization of costs” spreads costs among all RTO participants regardless of whether those customers caused them, could result in “economically inefficient outcomes.”<sup>520</sup> Therefore, Trial Staff asserts that the Commission concluded that, where it is possible to

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<sup>515</sup> Trial Staff Initial Br. at 24 (citing Order No. 2000, 89 FERC ¶ 61,285 at 209).

<sup>516</sup> *Id.*

<sup>517</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 214).

<sup>518</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 215).

<sup>519</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 253).

<sup>520</sup> *Id.* at 25 (citing Order No. 2000, 89 FERC ¶ 61,285 at 265).

calculate cost and benefits, it is desirable to eliminate cost-shifting by using cost-causality principles instead.<sup>521</sup>

326. Conversely, Tri-State states that important policy considerations compel the conclusion that cost shifts should not be a significant factor in determining zonal placement of new members of RTOs. Tri-State explains that cost shifts are inevitable when a new TO joins an RTO zone; either the cost per MW/year of the new TO in a zone will be higher than that of the existing TOs, and the new TO will shift costs to the existing TOs; or, the cost per MW-year of the new TO will be lower than that of the existing TOs, and the existing TOs will shift costs to the new TO. Tri-State states that if cost shift is a determinative or substantial factor in zonal placement, it will lead to greater balkanization of RTOs through the proliferation of single-TO zones because of the reluctance of the new TO to join as a single-TO zone and the reluctance of existing TOs to accept a new TO into their zone. Tri-State argues that if a prospective TO decides that the additional costs of joining the RTO as a separate zone do not offset the benefits, it will remain independent rather than joining the RTO.<sup>522</sup>

327. According to Tri-State, an increase in single-TO zones would be inconsistent with the Commission's policy of encouraging the expansion of RTOs. In Order No. 2000, the Commission stated, "[o]ur objective is for all transmission-owning entities in the Nation, including nonpublic utility entities, to place their transmission facilities under the control of appropriate RTOs in a timely manner."<sup>523</sup> Tri-State explains that more than ten years later, a significant number of non-public utilities have not joined RTOs. Typically, Tri-State argues, such entities have higher transmission costs per MW-year than public utilities because they have lower population densities. According to Tri-State, such entities would be less likely to join RTOs if cost-shifting is a significant factor in their zonal placement because the additional costs of RTO membership would not be offset by lower transmission costs.<sup>524</sup>

328. According to SPP, NPPD's and Trial Staff's reliance on Opinion No. 494 to support their cost shift arguments is misplaced. In Opinion No. 494, the Commission rejected AEP's proposal to allocate the legacy costs of its higher voltage facilities (over

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<sup>521</sup> *Id.*

<sup>522</sup> Tri-State Reply Br. at 25.

<sup>523</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 3).

<sup>524</sup> *Id.*

345 kV) on a regional basis.<sup>525</sup> A review of the Commission's analysis in Opinion No. 494, however, supports placement of Tri-State in Zone 17. SPP states that unlike in Opinion No. 494, it does not seek to socialize the costs of Tri-State's legacy facilities across the entire RTO footprint. Rather, SPP explains that its proposed placement of Tri-State's facilities in Zone 17 would limit cost recovery of Tri-State's legacy transmission system to Zone 17 customers, who historically have been served by facilities that were jointly developed and planned pursuant to a "Single-Entity Concept" under the NETS Agreement. SPP avers that by virtue of this joint planning and operation under the NETS Agreement "Single-Entity Concept," "it is therefore consistent with principles of cost causation to continue to allocate the costs of [the NETS] facilities to customers for whom they were constructed," including loads in Zone 17 that were historically served by the NETS facilities.<sup>526</sup>

## ii. Conclusion

329. To this day, the Commission has not considered whether the resulting cost shift stemming from the placement of a prospective TO into an existing pricing zone within an RTO is unjust and unreasonable. I will not comment on whether assessing potential cost shifts stemming from placing a prospective TO in an existing zone is a responsibility that lies within an RTO's purview. That is for the Commission to decide. This decision will only consider the cost shifts at issue here to determine whether they render SPP's proposal to place Tri-State in Zone 17 unjust and unreasonable. In addressing for the first time intra-zonal cost shift concerns as presented in this case, it is necessary to look at all the factors surrounding SPP's decision to place Tri-State in Zone 17, including SPP's zonal placement criteria, which, as already discussed, is a proper tool in determining appropriate zonal placement for new TOs.<sup>527</sup> While I agree that cost shifts that may cause a significant rate increase for customers must be given fair consideration in the proper management of an RTO, I find that NPPD's and Trial Staff's argument asserting that the Commission would find unjust and unreasonable the resulting rate increase stemming from Tri-State's placement in Zone 17, is unsupported by the record evidence.

330. NPPD uses Order No. 2000 to illustrate the Commission's concern regarding cost shifts within RTOs. NPPD also uses Opinion No. 494 to argue that license plate rates, such as the rate design adopted in SPP, must be consistent with the concept of cost

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<sup>525</sup> SPP Reply Br. at 45 (citing Opinion No. 494, 119 FERC ¶ 61,063 at PP 41–42).

<sup>526</sup> *Id.*

<sup>527</sup> *Supra* at P 255.

causation i.e., that transmission facilities are developed to benefit a TO's own system and customers. Order No. 2000 indeed addressed concerns relating to RTO-wide cost shifts in a postage stamp rate design in which the lack of cost causation between transmission customers existed.

331. While it is true that the Commission did express concern over a postage stamp rate design because of the allegations of large cost shifts and lack of cost causation, NPPD's and Trial Staff's reliance on Order No. 2000 does not provide me with a convincing argument as to why Tri-State's placement into Zone 17 would warrant similar treatment. In the present case, SPP already has a license plate rate design in place with 19 pricing zones, in which the transmission customers of each zone pay the zonal ATRR, which is derived from the ATRRs of all the TOs that belong to that pricing zone. Neither NPPD nor Trial Staff argued that SPP's current license plate rate structure is inappropriate. The evidence purporting to show that Tri-State's placement into Zone 17 creates an unjust and unreasonable result fails to illustrate how the cost shift at issue here warrants such a determination.

332. It is uncontested that any time a new TO joins an existing pricing zone under a license plate rate design, cost shifts will occur. NPPD and Trial Staff seem to imply that while cost shifts are inevitable, an eight percent zonal rate increase would be unjust and unreasonable, if there are no commensurate benefits. The record in this proceeding, however, is devoid of any precedent supporting this conclusion. I would note that the Commission has approved each of the nine multi-TO zones in SPP without rejecting any zonal placement on the basis of unjust and unreasonable cost shifts, and without requiring mitigation of any cost shift caused by a new TO's joining an existing zone. It is axiomatic that cost shifts are unavoidable, and that cost shifts that result in significant rate increases to customers, but which are unaccompanied by commensurate benefits, are unjust and unreasonable. The Commission has not defined the term "significant," and I decline to do so here. Perhaps the Commission would do well in this instance to adopt Justice Potter Stewart's use of that colloquial expression: "I know it when I see it"<sup>528</sup> in determining "significant" cost shifts.

333. I do find persuasive Tri-State's reliance on the *Allegheny* proceeding in asserting that the operation and integration of facilities take precedence over cost shifts associated with the facilities in zonal placement decisions.<sup>529</sup> While the resulting rate increase in the present case may be higher than in *Allegheny*, the uncontroverted evidence regarding Tri-

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<sup>528</sup> *Jacobellis v. State of Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

<sup>529</sup> See *Allegheny*, 94 FERC ¶ 61,295.

State's facilities operation and integration with Zone 17 strongly support Tri-State's placement into Zone 17, as no other SPP pricing zone offers a comparable alternative.<sup>530</sup>

334. Lastly, I find Opinion No. 494 to be illustrative in the present proceeding, though not dispositive, since it is not analogous to this proceeding. The narrow issue in the present case concerns zonal placement of a TO under a license plate rate structure; thus, it does not concern an RTO-wide rate design concern, as was the issue addressed in Opinion No. 494. That Opinion, however, is illustrative because it shows the Commission's consideration of cost shifts as the rationale for rejecting challenges to PJM's license plate rate design. Thus, Opinion No. 494 furthers the concerns expressed by the Commission in Order No. 2000 concerning cost shifts stemming from RTO-wide rate design proceedings. In Opinion No. 494, the Commission stated that "significant cost shifts would occur under any of the proposal, with some zones experiencing increases to their transmission cost responsibility in excess of 70%"<sup>531</sup> Among the rejected proposal, the resulting cost shifts ranged from 26.1 percent to 73.2 percent. The Commission explained that it would not tolerate "cost shifts of this magnitude." While Opinion no. 494 is not analogous, it provides me with a demonstration of when cost shifts may warrant Commission intervention.

335. In light of the above-mentioned findings concerning SPP's zonal placement criteria, and the lack of any substantial evidence in the record to assert otherwise, I find that in the context of bringing additional assets into an RTO, shifting cost responsibility for some degree of legacy costs is not *per se* unjust and reasonable. I find that such a cost shift may be appropriate in light of the operational characteristics of the transmission facilities involved here and other factors, as discussed below. While I agree that the shifting cost responsibility for some degree of legacy cost is not *per se* unjust and unreasonable in the present case, there may be situations that warrant such a finding.

**h. Issue 1.H: Whether the Alleged Cost Shift is Consistent With Cost Causation Principles of Commensurate Benefits**

**i. Parties' Position**

336. Trial Staff states that it recognizes that, generally, integrated transmission facilities under Attachment AI are considered to benefit the grid. Trial Staff, however, explains that the Seventh Circuit found that general grid or unquantified benefits do not justify

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<sup>530</sup> See *id.* at ¶ 62,078.

<sup>531</sup> Opinion No. 494, 119 FERC ¶ 61,063 at P 59.

subsidization of facilities from other utilities: “[n]o doubt there will be some benefit to the Midwestern utilities just because the network is a network, and there have been outages in the Midwest. But enough of a benefit to justify the costs that FERC wants shifted to those utilities? Nothing in the Commission’s opinions enables an answer to that question.”<sup>532</sup> The court held that FERC cannot use the presumption that transmission facilities benefit the entire system by reducing the likelihood or severity of outages to avoid the duty of comparing costs to benefits.<sup>533</sup> In this case, Trial Staff asserts that neither SPP nor Tri-State produced evidence of any benefit to be derived by Zone 17 TOs and customers from Tri-State’s legacy transmission facilities.<sup>534</sup> Therefore, Trial Staff states, the Commission cannot grant Tri-State a presumption of benefit; the Commission must analyze the disparity between costs and benefits in order to make a just and reasonable determination. Here, Trial Staff explains that the significant disparity between the shift of 60 percent of Tri-State’s costs from Tri-State and its customers to Zone 17 TOs and their customers, and the lack of any demonstration of benefit by Tri-State and SPP requires a finding that the proposed SPP Tariff changes are unjust and unreasonable.<sup>535</sup>

337. Furthermore, according to NPPD, there is no evidence that Zone 17 customers receive any benefits attributable to inclusion of Tri-State in Zone 17 that are commensurate with a \$4.3 million annual cost shift.<sup>536</sup> NPPD explains that the only specific evidence sponsored by Tri-State in this proceeding is in connection with alleged benefits from the NETS Agreement. NPPD asserts that Tri-State has failed to rebut Mr. Malone’s response to Tri-State’s initial testimony that such benefits bear no relation to Tri-State joining SPP as a new TO in Zone 17. According to NPPD, Tri-State agrees that “the NETS Agreement no longer provides any benefit to Tri-State because when it became an SPP TO it gained the right to use NPPD’s transmission facilities to serve its load without relying on the NETS Agreement.”<sup>537</sup>

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<sup>532</sup> Trial Staff Initial Br. at 29 (citing *Ill. Commerce Comm’n v. FERC*, 576 F.3d at P 477).

<sup>533</sup> *Id.*

<sup>534</sup> *Id.*

<sup>535</sup> *Id.*

<sup>536</sup> NPPD Initial Br. at 20.

<sup>537</sup> NPPD Reply Br. at 26 (citing Tri-State Initial Br. at 21).

338. NPPD states that prior to joining SPP, the net beneficiary of the joint use of the NETS facilities was Tri-State, as demonstrated by the annual \$1 million payment owed by Tri-State to NPPD, because Tri-State's share of the total load exceeded its share of the total investment in the joint facilities. Tri-State's decision to join SPP has allowed Tri-State to provide notice of termination of the NETS Agreement, along with Tri-State's annual \$1 million payment to NPPD under that agreement. NPPD states that it includes such payment as a \$1 million credit to its ATRR. Termination of the NETS Agreement will increase the Zone 17 ATRR by \$1 million. Thus, NPPD asserts that there is no basis for concluding that the shifting of \$4.3 million of additional costs to Zone 17 customers will be offset by other benefits such as provided for under the NETS Agreement.<sup>538</sup>

339. Contrary to the claims of NPPD and Trial Staff, SPP asserts that its placement of Tri-State's facilities in Zone 17 is consistent with Commission precedent regarding cost-shifting and cost causation. First, SPP states that its proposal to place Tri-State's facilities in Zone 17 adheres to Order No. 2000's guidance regarding cost-shifting and cost causation. In Order No. 2000, as part of its discussion of possible impediments to RTO formation, the Commission explained that "[e]ach ISO approved by the Commission has struggled with the problem of cost-shifting among the various individual TOs that make up the ISO."<sup>539</sup> The Commission added that "[w]here possible and cost effective, cost causality principles can be used to price services . . . ."<sup>540</sup> The "cost causation principle" mentioned by the Commission in Order No. 2000 is a well-established Commission policy under the FPA that requires "that all approved rates reflect to some degree the costs actually caused by the customer who must pay them."<sup>541</sup> The principle requires that "costs are allocated to the parties who cause the incurrence of such costs."<sup>542</sup>

340. According to SPP, the record in this case demonstrates that placing Tri-State's facilities in Zone 17 is consistent with the Commission's cost causation principle. SPP

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<sup>538</sup> *Id.*

<sup>539</sup> SPP Reply Br. at 43 (citing Order No. 2000, 89 FERC ¶ 61,285 at 214).

<sup>540</sup> *Id.* (citing Order No. 2000, 89 FERC ¶ 61,285 at 265).

<sup>541</sup> *Id.* (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (quoting *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992)).

<sup>542</sup> *Id.* (citing *ISO New England, Inc.*, 115 FERC ¶ 61,145, at P 13 (2006)).

explains that under the NETS Agreement, Tri-State and NPPD coordinated to plan, develop, and operate their western Nebraska transmission facilities using a “Single-Entity Concept.” SPP argues that because the NETS facilities were constructed under the NETS Agreement for the joint use and benefit of NPPD and Tri-State and their customers, NPPD and its customers in Zone 17 served by the NETS facilities can be said to have caused some of the costs of those facilities (including those NETS facilities built by Tri-State) such that including those facilities in Zone 17 is consistent with the cost causation principle.<sup>543</sup>

341. Moreover, according to Tri-State, Trial Staff’s reliance on *Illinois Commerce Comm’n v. FERC* to support its argument is also misplaced because that decision supports placing Tri-State’s facilities in Zone 17.<sup>544</sup> Tri-State explains that Trial Staff summarized the court’s decision on this point as holding that costs of transmission facilities could not be shifted “because the utility planned and constructed the facilities for their customers only and without the expectation that anyone but its customers would pay for them.”<sup>545</sup> That order and the court’s subsequent order emphasized that costs must be “roughly commensurate” with benefits.<sup>546</sup> Tri-State states that since Tri-State planned and constructed its NETS facilities for both itself and NPPD with the expectation that both its customers and NPPD’s customers would pay for them pursuant to the NETS Agreement, and since NPPD uses those facilities to serve its load, the “cost causation” principle dictates that NPPD should pay for Tri-State’s facilities as part of the Zone 17 costs.<sup>547</sup>

## ii. Conclusion

342. The “cost causation principle” addressed by the Commission in Order No. 2000 is a well-established Commission policy under the FPA that requires “that all approved rates reflect to some degree the costs actually caused by the customer who must pay

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<sup>543</sup> *Id.* at 44.

<sup>544</sup> Tri-State Reply Br. at 20 (citing Trial Staff Initial Br. at 28).

<sup>545</sup> *Id.*

<sup>546</sup> *Id.* (citing *Illinois Commerce Comm’n v. FERC*, 576 F.3d at 477).

<sup>547</sup> *Id.* at 20-21.

them.”<sup>548</sup> The principle requires that “costs are allocated to the parties who cause the incurrence of such costs.”<sup>549</sup>

343. NPPD’s and Trial Staff’s argument that the increase in zonal rates stemming from Tri-State’s placement into Zone 17 does not comply with the cost causation principle is not supported by the record. There is no indication that the development and construction of Tri-State’s facilities, which comprise their legacy transmission costs at issue here, have not and do not continue to benefit Zone 17 customers, particularly NPPD customers, for the length of time that the NETS agreement has been in effect. NPPD cannot deny that without Tri-State’s facilities and before joining SPP, NPPD might have had to expend a considerable amount of money to build and develop transmission facilities in order to provide an efficient and reliable service to its customers.

344. The record in this case demonstrates that placing Tri-State’s facilities in Zone 17 is consistent with the Commission’s cost causation principle espoused in Order No. 2000. Under the NETS Agreement, Tri-State and NPPD coordinated to plan, develop, and operate their western Nebraska transmission facilities using a “Single-Entity Concept” for several decades. The transmission facilities that were constructed under the NETS Agreement were built for the joint use and benefit of NPPD and Tri-State and their customers. It is a reasonable inference that NPPD and its customers in Zone 17 served by the NETS facilities may have caused a portion of the costs of those facilities, including the NETS facilities built by Tri-State.

345. NPPD argues that any benefit accruing to the NETS agreement expires with the agreement.<sup>550</sup> The costs at issue here, however, are the legacy transmission costs that are causing a cost shift to Zone 17 customers. NPPD has not proffered evidence sufficient to argue convincingly that those costs did not provide any quantifiable benefit to Zone 17 customers over the 40-year existence of the NETS agreement.

346. In Opinion No. 494, the Commission affirmed the cost causation principle as to PJM’s license plate structure. Specifically, the Commission stated that when “transmission facilities [are] developed by . . . individual companies to benefit their own systems and their own customers. . . [i]t is . . . consistent with principles of cost causation to continue to allocate the costs of these facilities to the customers for whom they were

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<sup>548</sup> *Midwest ISO Transmission Owners v. FERC*, 373 F.3d at 1368 (quoting *KN Energy, Inc. v. FERC*, 968 F.2d at 1300).

<sup>549</sup> *See ISO New England, Inc.*, 115 FERC ¶ 61,145 at P 13.

<sup>550</sup> *See* NPPD Initial Br. at 55.

constructed and whom they continue to serve to date.”<sup>551</sup> As stated above, the transmission facilities that were constructed pursuant to the NETS Agreement, which comprise Tri-State’s and NPPD’s respective legacy transmission costs, were built for the joint use and benefit of NPPD and Tri-State and their customers. Thus, placement of Tri-State in Zone 17 is supported by Commission precedent, as it satisfies the cost causation principle.

347. Moreover, in situations in which a new TO’s facilities are highly integrated with the facilities of an existing TO, such as noted previously in this decision, it is possible that the optimal solution to a reliability issue affecting one TO’s facilities is to construct an upgrade to the other TO’s system. If the two systems are located in separate pricing zones, a potential disparity between cost causation and cost allocation may occur under SPP’s Commission approved cost allocation methodology. Mr. Bourne explained that under SPP’s “Highway/Byway” cost allocation methodology, the costs of smaller, local facilities are allocated entirely to the individual host transmission pricing zone, the costs of larger facilities that serve both local and regional uses are allocated primarily to the host zone with a portion (1/3) allocated on a regional basis, and the costs of large-scale regional extra high voltage facilities are allocated 100 percent across the region on a postage-stamp basis.<sup>552</sup> Accordingly, an upgrade in one pricing zone to resolve a problem in another pricing zone could result in some or all of the costs being allocated to customers in a zone in which the issue did not arise, and could allow customers in the zone in which the issue arose to escape some or all of the costs of resolving the issue. Thus, allowing Tri-State to remain in Zone 17 could potentially lessen cost causation concerns due to the highly integrated nature of Tri-State’s facilities with NPPD’s transmission facilities in Zone 17. Based on the foregoing, I find that placing Tri-State’s facilities in Zone 17 is consistent with the cost causation principle.

**i. Issue 1. I: Whether Tri-State’s Offsetting Reductions to the Alleged Cost Shift Should be Considered**

**i. Parties’ Position**

348. Tri-State asserts that NPPD’s analysis incorrectly considers only first-year cost shifts. Tri-State states that Mr. Swartz incorrectly claimed that the cost shift analysis of a new TO such as Tri-State’s joining an existing pricing zone should be limited to the new

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<sup>551</sup> See Opinion No. 494, 119 FERC ¶ 61,063 at P 42.

<sup>552</sup> See Exh. SPP-003 at 17:26-18:5.

TO's ATRR "as of the effective date of becoming a member of SPP."<sup>553</sup> Mr. Swartz further claims that "[i]t is not appropriate to adjust such costs for changes to certain elements of the ATRR scheduled or projected to occur in the distant future" because such analysis "constitutes cherry-picking."<sup>554</sup> Tri-State asserts that there is no merit to Mr. Swartz's assertion because he failed to take into consideration that cost shifts are not fixed on day one when a new TO joins SPP. Indeed, Tri-State explains, Trial Staff witness Mr. Craig E. Deters correctly observed that "[e]ach year Tri-State's and NPPD's transmission formula rates will generate new ATRRs and each year loading on the SPP transmission system will be somewhat different – all of which will alter the amount of the actual cost shift."<sup>555</sup> Tri-State states that the placement of a TO has long-term impacts and is extremely unlikely to be modified once made. According to Tri-State, NPPD's request to make a long-term zonal placement decision based primarily on short-term cost information disregards the long-term and continuing nature of RTO membership. Consequently, Tri-State explains that consideration of the cost shift impacts of that placement – if cost shift should be considered at all – should take into consideration the known and measurable changes in those cost shifts over time.<sup>556</sup>

349. Mr. Steinbach testified that there are approximately \$1.2 million in "baseline" costs that will be incurred by existing SPP customers as a result of Tri-State joining SPP regardless of Tri-State's zonal placement. NPPD acknowledged that approximately 21.5 MW of non-Tri-State Zone 17 load is served directly from the Tri-State transmission facilities that were transferred to the functional control of SPP.<sup>557</sup> Mr. Swartz's testimony includes an exhibit showing that if Tri-State is not included in Zone 17 the additional cost to other Zone 17 customers would be approximately \$1.2 million.<sup>558</sup> Tri-State explains that these costs must be considered as offsets to the gross cost shift that would occur as a result of Tri-State's placement in Zone 17, because they will occur regardless of the zone in which Tri-State will be placed. In addition, according to Tri-State, NPPD acknowledges that the 8.2 MW of Tri-State load that is served directly from non-Tri-State facilities in Zone 17 pays a total of \$0.2 million in Schedule 1, 9 and 11

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<sup>553</sup> Tri-State Initial Br. at 18 (citing Exh. NPP-001 at 5:13-15).

<sup>554</sup> *Id.* (citing Exh. NPP-001 at 5:16-19).

<sup>555</sup> *Id.* (citing Exh. S-015 at 7:9-12).

<sup>556</sup> *Id.* at 19.

<sup>557</sup> Exh. NPP-001 at 7:20-23.

<sup>558</sup> Exh. NPP-004 at 1:40.

charges. Tri-State states that it will incur those costs, and the benefit will accrue to customers in Zone 17, regardless of whether Tri-State's transmission facilities are included in Zone 17. Tri-State explains that the total of these two figures – the \$1.2 million in additional costs that NPPD must pay if Tri-State is not included in Zone 17 and the \$0.2 million benefit that Zone 17 customers realize as a result of Tri-State's membership in SPP, or \$1.4 million – must be taken into consideration in determining the net impact on non-Tri-State Zone 17 customers. The gross cost shift to Zone 17 customers resulting from the addition of Tri-State's ATRR to the Zone 17 total ATRR must be reduced by this \$1.4 million baseline figure to identify the true net impact to the pre-existing Zone 17 customers of SPP's decision to place Tri-State in Zone 17. Consequently, Tri-State asserts that the first-year cost shift resulting from Tri-State's placement in Zone 17 is not \$4.3 million (8 percent), as NPPD claims, but \$2.9 million (5.2 percent).<sup>559</sup>

350. Moreover, Tri-State's second adjustment to the cost shift is to eliminate the \$1 million NETS payment from Tri-State's \$7.2 million ATRR. Tri-State's third adjustment to the cost shift relates to Tri-State's future responsibility for approximately \$700,000 of Balanced Portfolio and Regional Schedule 11 costs that would be allocated to Zone 17 and paid by Tri-State load if it is placed in Zone 17.<sup>560</sup>

351. On the other hand, NPPD states that Mr. Steinbach's baseline cost shift is not a shift of any portion of Tri-State's ATRR to Zone 17, but relates to 21.5 MW of existing Zone 17 load currently served by Tri-State facilities that would be transferred to the new Tri-State zone, coupled with the transfer to Zone 17 of 8.2 MW of existing Tri-State load currently served by NPPD Zone 17 facilities.<sup>561</sup> As explained by Mr. Steinbach, his \$1.4 million baseline cost shift consists of the \$1.2 million of revenue that will be paid by the 21.5 MW of transferred Zone 17 load when charged the higher rates applicable to the new Tri-State Zone, and the approximate \$200,000 of revenue that will be paid by the 8.2 MW of Tri-State load served by Zone 17 facilities.<sup>562</sup>

352. NPPD notes that Mr. Steinbach admitted that his \$1.4 million baseline cost shift is not a cost shift incurred by all Zone 17 customers, and that the baseline cost shift is

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<sup>559</sup> Tri-State Initial Br. at 18 (citing Tr. 62:3-6).

<sup>560</sup> *Id.* at 20-21.

<sup>561</sup> NPPD Initial Br. at 22 (citing Tr. 62:8-25).

<sup>562</sup> *Id.* at 23 (citing Tr. 63:8-25; Tr. 64:8-13).

limited to load that will be transferred from one zone to another.<sup>563</sup> Mr. Steinbach then also admitted that the rest of load in Zone 17 that is not served by the Tri-State facilities does not receive any of the \$1.2 million cost shift.<sup>564</sup>

353. Next, NPPD asserts that even after considering Tri-State's \$1,700,000 adjustment based on the elimination of the NETS payment and the Balanced Portfolio and Regional Schedule 11 costs that would be allocated to Zone 17, a \$2.6 million cost-shift would still result in Tri-State shifting approximately 42 percent of its ATRR to Zone 17 customers. According to NPPD, that is an unjust and unreasonable subsidy that would be funded by a rate increase to Zone 17 customers in 2023. In the interim, NPPD states, for the four year-ten-month period from January 1, 2016 through November 2020, these customers will experience the full eight percent increase to their existing rates.<sup>565</sup>

354. According to Trial Staff, aside from the "Baseline Cost Shift," all of the items identified by Mr. Steinbach as reducing the cost shift take effect between four and seven years in the future, and thus are not relevant to SPP's decision to place Tri-State in Zone 17. Trial Staff asserts that there is no evidence in the record that SPP took any of these factors into consideration at the time it made its final decision to place Tri-State into Zone 17. Moreover, Trial Staff states that while Mr. Steinbach asserts that not having Tri-State as a member of Zone 17 to share in those costs would mean that all other TOs in the zone would pay higher costs, such rationale would apply to any transmission cost incurred by a Zone 17 TO that may arise in the future. The expiration of the NETS Agreement, and the construction of facilities by NPPD, have nothing to do with whether it is appropriate to place Tri-State in Zone 17.<sup>566</sup>

355. Trial Staff explains that although it may be true that Zone 17 would incur some costs due to Tri-State's entry into SPP regardless of zonal placement, to ignore the effects of those costs on other TOs would be illogical. It states that the cost shift to Zone 17 from Tri-State is \$4.3 million, not \$2.9 million (\$4.3 million less the \$1.4 million in baseline cost espoused by Mr. Steinbach).<sup>567</sup>

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<sup>563</sup> *Id.* (citing Tr. 66:1-7).

<sup>564</sup> *Id.* (citing Tr. 68: 21-25).

<sup>565</sup> *Id.* at 26.

<sup>566</sup> Trial Staff Initial Br. at 32-33.

<sup>567</sup> *Id.* at 33.

**ii. Conclusion**

356. It is undisputed that “each year Tri-State’s and NPPD’s transmission formula rates will generate new ATRRs and each year loading on the SPP transmission system will be different – all of which will alter the amount of the actual cost shift.”<sup>568</sup> Thus, the full amount of the alleged cost shift of \$4.3 million will not remain static, as every year there will be several factors that could lead to an increase or decrease of such amount. The issue here is whether Tri-State’s offsetting reductions or adjustments should be considered. Tri-State’s argument that the placement of a TO has long-term impacts and is extremely unlikely to be modified once made is persuasive, in that it is unreasonable to ignore short-to-long-term known and measurable cost impacts, just simply because these cost impacts contradict NPPD’s position.<sup>569</sup> Additionally, I do not consider impacts that will take place in five years to be considered long-term. I find that five-to-seven years is, in this specific case, a short enough window within which to foresee, with a reasonable degree of certainty, factors that may impact Tri-State’s ATRR. In this case, there are factors that both increase and reduce the amount of Tri-State’s cost shift to Zone 17 customers. All should be considered in the cost shift calculation.

357. Therefore, I find that the elimination of the \$1 million payment from the NETS agreement, and the Balanced Portfolio and Regional Schedule 11 costs that would be allocated to Zone 17 should be considered in the cost-shift calculation. It is uncontested that when SPP submitted the October 2015 Filing, \$4.3 million would be the amount from Tri-State’s ATRR that would not be supported by its own load; however, as I noted above, that amount will change from year-to-year, and will include adjustments, such as the acquisition of assets.

358. Additionally, NPPD’s argument against the inclusion of the baseline cost shift if it only affects a small portion of the Zone 17 customers is compelling, but ultimately incorrect. Currently, SPP’s Tariff uses a license plate rate design, which requires that transmission customers in any given pricing zone pay the zonal ATRR. As discussed above, the zonal ATRR is derived from the ATRRs of all the TOs that belong to a given pricing zone. Thus, even if the baseline cost shift initially impacts a small portion of the Zone 17 customers, such impact will be socialized across the entire pricing zone. Accordingly, Zone 17’s ATRR will be the same for every transmission customer.

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<sup>568</sup> See Exh. S-015 at 7:9-12.

<sup>569</sup> See Tri-State Initial Br. at 18.

359. Based on the foregoing, I find that any adjustment to the alleged cost shift to Zone 17 customers that is known and measurable should be considered in the calculation of the alleged cost shift stemming from Tri-State's zonal placement.

360. Based on the findings that the cost shift at issue here is not *per se* unjust and unreasonable, does not violate cost causation principles, and its impact on Zone 17 customers will be reduced over the next five to seven years, I find that the cost shift at issue here does not render Tri-State's proposed placement into Zone 17 unjust and unreasonable. Future cases that raise the cost shift and cost causation concerns may well address the totality of the circumstances to assess whether such a filing complies with Commission precedent. In the present case, Tri-State's placement complies with Commission precedent because (1) it successfully meets SPP's criteria, which I found appropriate in ensuring a just and reasonable zonal placement, and, (2) no evidence in the record supports the argument that the alleged cost shift renders such placement unjust and unreasonable.

**j. Issue 1.J: Whether NPPD's Proposal of Placing Tri-State in Zone 19 is Just and Reasonable.**

**i. Parties' Position**

361. According to NPPD, placing Tri-State in Zone 19 would result in a small cost shift to existing Zone 19 load that would be offset by the additional revenue related to existing Zone 17 load that would be transferred to Zone 19. As explained by Mr. Swartz, the placement of Tri-State in Zone 19 would shift \$579,500 of Tri-State's \$7.2 million ATRR to other Zone 19 customers. NPPD explains that to place such cost shift in perspective, a \$579,500 cost shift to Zone 19's existing \$286 million zonal ATRR would increase Zone 19's rates by two-tenths of one percent. Moreover, NPPD states that the \$579,500 cost shift would be offset by the \$1.2 million of revenue attributable to the 21.5 MW of existing Zone 17 load that would be transferred to the new pricing zone. NPPD asserts that the end result is that Tri-State load benefits by shifting \$579,500 to Zone 19 and the rest of Zone 19 load benefits from the inclusion of \$1.2 million of additional revenue attributable to 21.5 MW of transferred load.<sup>570</sup>

362. NPPD states that SPP (1) ignores the long history of operational and commercial integration between Tri-State and the former Integrated System that now comprises SPP Zone 19; (2) ignores the significant integration between Tri-State facilities and Zone 19 facilities at the Sidney and Stegall substations; (3) relies upon an inaccurate and

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<sup>570</sup> NPPD Initial Br. at 30-31.

misleading claim that NPPD facilities are required to connect Zone 19 facilities to Tri-State's load-serving facilities; and, (4) fails to recognize that the joint planning and use of Tri-State and NPPD facilities under the NETS Agreement have been superseded, and rendered moot, by Tri-State becoming a TO in SPP.<sup>571</sup>

363. Conversely, SPP states that the record is wholly devoid of any evidence suggesting that the relevant Tri-State facilities were jointly planned or operated with any Zone 19 transmission facilities. According to SPP, NPPD's claim that Tri-State has a "long history of integration with the Integrated System" is further undermined by other record evidence.<sup>572</sup> SPP explains that the Integrated System was never planned or operated jointly in any coordinated and integrated fashion with Tri-State's transmission facilities for the mutual benefit of Tri-State and Integrated System TOs and their loads. SPP states that NPPD offered no evidence to refute Mr. Sanders's assertion regarding the lack of integrated planning and operation between the Integrated System and Tri-State's transmission system.<sup>573</sup>

364. Moreover, SPP states that NPPD's arguments regarding Tri-State's interconnections at the Sidney and Stegall substations likewise fail to show integration between Tri-State and Zone 19 sufficient to demonstrate that placing Tri-State's facilities in Zone 19 is appropriate. SPP asserts that Tri-State has an equal number of interconnections with Zone 19 and Zone 17 (one each) at the Sidney Substation and limited interconnections between Tri-State and Zone 19 at the Stegall Substation. SPP explains that in contrast, Tri-State has many interconnections with NPPD facilities elsewhere. SPP states that considering the greater number of interconnections that Tri-State shares with NPPD at other locations in western Nebraska and the significant intermingling of Tri-State and NPPD Zone 17 transmission facilities and loads, Tri-State's limited interconnections to Zone 19 at the Sidney and Stegall substations do not justify placement of all of Tri-State's transmission facilities in Zone 19. SPP further asserts that the few number of interconnections that do exist with Zone 19 does not negate the fact that Tri-State's transmission facilities developed under the NETS Agreement were developed explicitly to serve both Tri-State loads and NPPD western Nebraska loads located in Zone 17.<sup>574</sup>

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<sup>571</sup> *Id.* at 39-40.

<sup>572</sup> SPP Reply Br. at 16 (citing NPPD Initial Br. at 40-43).

<sup>573</sup> *Id.*

<sup>574</sup> *Id.* at 22.

365. Western responds to certain arguments raised by NPPD. Western takes issue with NPPD's argument that Tri-State's interconnection with the Zone 19 Missouri Basin facilities at Sidney is "more heavily used" than its interconnections with NPPD. Western states that NPPD apparently relies on a since-expired Basin Electric-SPP NITS Agreement for a three-month period at the end of 2015, and Tri-State's use of Western-RMR facilities for this conclusion. Western asserts that this evidence fails to establish integration between Tri-State and Zone 19, however. As an initial matter, Western argues, with the exception of the Stegall-Wayside 230 kV transmission line and associated substation equipment, Western-RMR facilities in the western Nebraska area have not been transferred to SPP's functional control, and SPP cannot provide service over these facilities. Therefore, Western avers that even accepting Tri-State's contractual rights to use Western-RMR facilities, they are simply not relevant to the integration analysis.<sup>575</sup>

366. [REDACTED]<sup>576</sup>

**ii. Conclusion**

367. Based on the foregoing, I am adopting arguments contained in SPP's and Western's briefs as the rationale for rejecting NPPD's proposal to place Tri-State in Zone 19. Based on the record evidence, I find that it is inherently unreasonable to place Tri-State in any zone other than Zone 17. While the cost shift stemming from placing Tri-State in Zone 19 may be lower when compared to placing Tri-State in Zone 17, it does not justify placing Tri-State in a SPP pricing zone where it possesses a minimal degree of integration. I find that Tri-State has only one point of interconnection with Zone 19 at the Sydney Substation. Based on SPP's and Western's rationalization, I do not find that transfer breaker 1186 constitute a point in which Tri-State's transmission facilities are integrated with Zone 19 facilities. Additionally, the limited capacity in the sole point of interconnection between Tri-State's facilities and Zone 19 at the Sidney Substation, coupled with the high degree of integration between Tri-State's transmission facilities and Zone 17, lends to the inference that if Tri-State were placed in Zone 19, Tri-State would likely have to expend a substantial amount of money in acquiring facilities to reliably serve its western Nebraska loads. This substantial amount of money would likely increase Tri-State's ATRR, which would thereby increase Zone 19's ATRR. It could also increase Zone 17's ATRR as this is the zone in which most of Tri-State's economic activity occur; thus, creating a cost causation concern. Thus, suggesting that there would be a minimal cost shift by placing Tri-State's facilities in Zone 19 is misleading and

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<sup>575</sup> Western Reply Br. at 8.

<sup>576</sup> [REDACTED]

unavailing, as it ignores potential cost impacts and reliability concerns that may occur with such placement.

368. Similarly, NPPD provided no evidence in the record to support the assertion that the Integrated System was planned or operated jointly in a coordinated and integrated fashion with Tri-State's transmission facilities for the mutual benefit of Tri-State and Integrated System TOs and their loads. Based on the record, I find that Zone 19 had its own "Integrated System" before the components joined SPP, just as the NETS Agreement was an integrated system before NPPD – and now Tri-State- joined SPP in Zone 17. Accordingly, these two systems were planned and have operated separately from each other. Notwithstanding the number of interconnections that Tri-State may have with Zone 19, the evidence in the record demonstrates that Tri-State's transmission facilities (developed under the NETS Agreement) were developed explicitly to serve both Tri-State loads and NPPD western Nebraska loads in Zone 17. Additionally, no evidence exists in the record to suggest that Tri-State is equally capable of reliably serving its western Nebraska load without causing a cost shift if placed in Zone 19. Accordingly, NPPD's proposal to place Tri-State in Zone 19 is unjust and unreasonable.

**k. Issue 1.K: Whether NPPD's and Trial Staff's Proposal of Placing Tri-State in Its Own Zone is Just and Reasonable.**

**i. Parties' Position**

369. According to NPPD, placing Tri-State in its own pricing zone would result in Tri-State including its \$7.2 million ATRR in its own separate zone, but the "financial impact" of having its existing load pay for the entire cost of facilities built to serve such load would be mitigated by the inclusion of 21.5 MW of existing Zone 17 load in the new pricing zone, resulting in \$1.2 million of new revenue in the new pricing zone. The end result, NPPD argues, is that the cost of SPP NITS to serve Tri-State's existing load would be reduced from \$7.2 million to \$6 million.<sup>577</sup>

370. Contrary to NPPD's assertion, South Central argues that placing Tri-State's facilities in a new single-owner zone is not required to assure just and reasonable rates, and doing so would hinder the expansion of SPP, run contrary to established regulatory principles, and ultimately interfere with attaining important Commission policy goals for the development of RTOs.<sup>578</sup>

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<sup>577</sup> NPPD Initial Br. at 31 (citing Tr. 69:2-16).

<sup>578</sup> South Central Initial Br. at 5.

371. South Central asserts that moving to single-owner pricing zones to avoid a “cost shift” would constitute a significant barrier to the Commission’s policy objective of continued expansion of RTOs, thereby diminishing the benefits that wider participation in RTOs brings to consumers of legacy and new members alike. South Central explains that the smaller the pricing zone, the more likely a notable rate percentage adjustment will occur because of the small size of the existing revenue requirement and load. Thus, it asserts that if the remedy to avoid cost shifts is the creation of a new pricing zone, the result would likely be the creation of new pricing zones for each new transmission-owning member, no matter how small its load.<sup>579</sup>

372. According to South Central, encouraging the profusion of small pricing zones would have significant practical consequences. It explains that NPPD’s and Trial Staff’s arguments introduce a slippery slope, ending with the addition of multiple small pricing zones in an RTO that is already fragmented by too many pricing zones, covering relatively small loads. South Central asserts that a large regional transmission entity with multiple small pricing zones makes no sense if the goal is sound transmission pricing and rational RTO expansion. It further asserts that unreasonably small pricing zones impede the achievement of the benefits RTOs are intended to provide—joint planning and development, efficiency, and increased reliability.<sup>580</sup>

373. South Central explains that RTOs were meant to provide transmission planners with a holistic view of grid needs. It states that SPP already recognizes that networked facilities 100 kV and above provide regional benefits, not just local benefits. South Central asserts that creating small pricing zones that must bear the entire cost of certain networked assets (or two-thirds of the cost for assets between 100 kV and 300 kV) discourages development of new and efficient projects, particularly at lower voltages, which are often the right choices in the relatively sparsely-populated portions of SPP.<sup>581</sup>

374. NPPD responds to South Central’s arguments by asserting that South Central’s Initial Brief raises broad policy issues that go far beyond the scope of the issue of whether it is just and reasonable to place Tri-State in NPPD’s existing Zone 17. According to NPPD, the broad policy issues that are outside of the scope include (1) the continued validity of SPP’s existing license plate rate design, (2) the number of small pricing zones established within the license plate structure, and, (3) the adoption of an

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<sup>579</sup> *Id.* at 8.

<sup>580</sup> *Id.* at 9.

<sup>581</sup> *Id.*

alleged transitional period of five to ten years in each RTO's license plate rates before moving to a single postage stamp rate.<sup>582</sup>

375. Trial Staff takes issue with South Central's arguments against the creation of multiple small pricing zones.<sup>583</sup> Trial Staff states that without citation to any authority, South Central avers that "NPPD's and Trial Staff's arguments introduce a slippery slope ending with the addition of multiple small pricing zones in an RTO that is already fragmented by too many pricing zones covering relatively small loads."<sup>584</sup> Trial Staff explains that South Central's proposed remedy to this situation is to merge small pricing zones and create larger zones including "the transmission facilities and expanded load of many TOs" in order to "foster the attainment of . . . benefits RTOs are designed to provide."<sup>585</sup> Trial Staff states that South Central's goal appears to be to phase out all pricing zones and move to RTO-wide pricing. Trial Staff asserts that South Central's arguments either misstate the record or are unburdened by any record citation. Trial Staff further asserts that South Central's policy goals are murky and fail to line up with the Commission's RTO policy. Therefore, Trial Staff requests that the Presiding Judge and the Commission give South Central's Initial Brief no weight. Trial Staff asserts that in order to prevent excessive and unwarranted cost-shifting, it believes that creation of a Tri-State-only zone is the best option to resolve the issue.<sup>586</sup>

## ii. Conclusion

376. Based on the foregoing, I am adopting arguments contained in South Central's briefs as the rationale for rejecting NPPD's and Trial Staff's proposal to place Tri-State in its own zone. Contrary to NPPD's and Trial Staff's arguments, South Central is not lobbying for a postage stamp rate design, or opposing SPP's current license plate rate design. It is merely arguing against the creation of multiple small pricing zones within an RTO solely to avoid potential cost shifts. It is uncontested that the proliferation of small pricing zones may impede the achievement of the benefits RTOs are intended to provide, such as joint planning and development, efficiency, and increased reliability. During cross-examination, Mr. Bourne confirmed this in his discussion of the first two criteria

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<sup>582</sup> NPPD Reply Br. at 10.

<sup>583</sup> Trial Staff Reply Br. at 19 (citing South Central Initial Br. at 8-11).

<sup>584</sup> *Id.* (citing South Central Initial Br. at 9).

<sup>585</sup> *Id.* (citing South Central Initial Br. at 10).

<sup>586</sup> *Id.* at 26.

that determine whether a TO could be placed in its own zone.<sup>587</sup> NPPD and Trial Staff have not presented convincing evidence to counter this argument.

377. Additionally, the record does not have a detailed comparative cost analysis that would show the benefits, if any, or detriment of placing Tri-State in its own zone vis-à-vis Zone 17. It is also worth noting that there is no detailed description of the cost and reliability impact or benefit of placing Tri-State in its own zone. NPPD's discussion of Tri-State reducing its ATRR by \$1.2 million as a result of being placed in its own zone fails to account for any other potential consequence of such placement.<sup>588</sup> Similarly, Trial Staff does not base its argument on any independent analysis that corroborated the assertion that placing Tri-State in its own zone would be beneficial for all the parties involved. Accordingly, I find that no basis exists in the record to consider placing Tri-State in its own zone within SPP. Therefore, I find that placing Tri-State in its own zone is unjust and unreasonable.

### **I. Issue 1 Conclusion**

378. For the reasons discussed above, I find that SPP's proposal to incorporate Tri-State's transmission facilities into SPP's Zone 17 is just and reasonable. Additionally, I find that all other alternative proposals have not been shown to be just and reasonable.

### **3. Issue 2: What Are the Appropriate Refunds Owed by Tri-State, If Any, to be Distributed by SPP if the Commission Determines that SPP's Proposed Zonal Placement of Tri-State is Unjust and Unreasonable?**

379. Tri-State has voluntarily committed to refunding, with interest, "the difference, if any, between the revenues collected based on Tri-State's proposed ATRR and the revenues developed based on the Tri-State ATRR that the Commission ultimately determines to be just and reasonable."<sup>589</sup> Because SPP's decision to place the Tri-State transmission facilities in Zone 17 is just and reasonable, as discussed above, no refunds will be owed in connection with Tri-State's zonal placement. The only refunds that Tri-State will owe in this proceeding will be those resulting from the ATRR settlement between Tri-State and Trial Staff, to be filed later in this proceeding.

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<sup>587</sup> See Tr. 164:11-165:16.

<sup>588</sup> See NPPD Initial Br. at 31.

<sup>589</sup> See Exh. TS-001 at 9:11-15.

V. **Order**

380. This Initial Decision's failure to discuss any matter raised by the parties, or any portion of the record, does not indicate that it has not been considered. Rather, any such matter(s) or portion(s) of the record has/have been determined to be irrelevant, immaterial, or meritless. Arguments made on brief which were otherwise unsupported by record evidence or legal precedent have been accorded no weight.

381. IT IS ORDERED, subject to review by the Commission on exceptions or on its own motion, as provided by the Commission's Rules of Practice and Procedure, that within thirty (30) days of the issuance of the final order of the Commission in this proceeding, all parties shall take appropriate action to implement all the rulings in this decision.

John P. Dring  
Presiding Administrative Law Judge