

171 FERC ¶ 61,118
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Southwest Power Pool, Inc.

Docket No. ER20-1351-000

ORDER ACCEPTING TARIFF FILING

(Issued May 19, 2020)

1. On March 20, 2020, Southwest Power Pool, Inc. (SPP) submitted, pursuant to section 205 of the Federal Power Act (FPA)¹ and part 35 of the Commission's regulations,² an executed Generator Interconnection Agreement (GIA) among SPP as transmission provider, Haystack Wind Project, LLC (Haystack) as interconnection customer, and Nebraska Public Power District (NPPD) as transmission owner (Haystack GIA).³ In this order, we accept the Haystack GIA, effective March 12, 2020, as discussed below.

I. Background

2. NPPD is a publicly-owned electric utility and political subdivision of the state of Nebraska. On November 26, 2008, the Commission accepted revisions to SPP's Bylaws, Open Access Transmission Tariff (Tariff), and Membership Agreement to enable NPPD to become a transmission-owning member of SPP.⁴

3. Haystack plans to construct a 300 MW wind generating facility that will interconnect to the SPP-controlled transmission system at NPPD's existing 345 kV

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. § 35.13 (2019).

³ The Haystack GIA is designated as Southwest Power Pool, Inc., FERC FPA Electric Tariff, Service Agreements Tariff, [3641 Haystack Wind GIA, 3641 Haystack Wind Project, LLC GIA, 0.0.0](#).

⁴ *Sw. Power Pool, Inc.*, 125 FERC ¶ 61,239 (2008).

Hoskins Substation, the point of interconnection. Three transmission owner's interconnection facilities⁵ are necessary to interconnect the Haystack generating facility, two of which are shared facilities between Haystack and other interconnection customers. One of these customers, Sholes Wind Energy, LLC (Sholes Wind), is constructing a 14.5-mile generator tie line that will connect the Sholes Wind generating facility,⁶ at its collector substation, to the Hoskins Substation.⁷

4. The second interconnection customer, Plum Creek Wind, LLC (Plum Creek), is constructing a 230 MW wind generating facility.⁸ The interconnection of Plum Creek's and Haystack's generating facilities requires the construction of a new Satellite Substation, located on the 14.5-mile Sholes Wind generator tie line, with approximately 8.5 miles of the line extending from the Satellite Substation to the Sholes Wind collector substation and the remaining six miles extending from the Satellite Substation to the point of interconnection with the Hoskins Substation. This six-mile portion of the Sholes Wind generator tie line, termed the Gen Tie Link, will be used by Haystack and Plum Creek to connect the new Satellite Substation to the point of interconnection at the Hoskins Substation. Plum Creek and Haystack will each be responsible for 50% of the

⁵ Transmission owner's interconnection facilities are defined as follows:

all facilities and equipment owned, controlled, or operated by the Transmission Owner from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Generator Interconnection Agreement, including any modifications, additions, or upgrades to such facilities and equipment. Transmission Owner's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades, or Network Upgrades.

SPP Tariff, Attachment V, app. 6, art. 1 (Definitions).

⁶ See *Sw. Power Pool, Inc.*, Docket No. ER17-587-000 (Jan. 18, 2017) (delegated order); *Sw. Power Pool, Inc.*, Docket No. ER18-650-000 (Mar. 6, 2018) (delegated order); *Sw. Power Pool, Inc.*, Docket No. ER19-1928-002 (Nov. 13, 2019) (delegated order).

⁷ Haystack GIA, app. A, §§ 1(d) and 11.

⁸ See *Sw. Power Pool, Inc.*, Docket No. ER19-794-000 (Mar. 6, 2019) (delegated order); *Sw. Power Pool, Inc.*, Docket No. ER19-2675-000 (Oct. 16, 2019) (delegated order); *Sw. Power Pool, Inc.*, Docket No. ER20-554-001 (Feb. 14, 2020) (delegated order).

cost of the Satellite Substation,⁹ and Sholes Wind, Plum Creek, and Haystack will each be responsible for approximately 33% of the cost of the Gen Tie Link.¹⁰

5. The interconnection of the Haystack generating facility will also require the construction of a 12-mile generator tie line, termed the Gen Tie Line, from the Haystack generating facility collector substation to the new Satellite Substation. Haystack will pay for the full cost of the Gen Tie Line.¹¹ In addition, Haystack will also pay the cost to install Phasor Measurement Units (PMU) equipment.¹²

6. The Satellite Substation, Gen Tie Link, and Gen Tie Line are classified as transmission owner's interconnection facilities in the Haystack GIA.¹³ The interconnection customers have elected to exercise their option to build these facilities. Plum Creek is constructing the Satellite Substation, Sholes Wind is constructing the Gen Tie Link, and Haystack is constructing the Gen Tie Line.¹⁴

7. On May 24, 2019, in Docket No. ER19-1980-000, SPP submitted the original version of the Haystack GIA (May 2019 GIA). On June 14, 2019, Haystack filed a timely motion to intervene and protest (June 2019 Protest). On July 22, 2019, Commission staff issued a letter advising SPP that its May 24, 2019 filing was deficient. On August 21, 2019, SPP submitted a response to the deficiency letter (Deficiency Response) and an amended version of the Haystack GIA (August 2019 GIA). In its Deficiency Response, SPP stated that it had identified an error in the calculation of the initial payment in the May 2019 GIA. SPP explained that because the Gen Tie Line was classified as a transmission owner's interconnection facility, it was revising the initial payment to include the cost estimate of the Gen Tie Line.¹⁵

⁹ Haystack GIA, app. A, §§ 1(b) and 11.

¹⁰ *Id.*, app. A, §§ 1(d) and 11.

¹¹ *Id.*, app. A, §§ 1(c) and 11.

¹² *Id.*, app. A, § 1(b).

¹³ *Id.*, app. A.

¹⁴ Haystack Protest at 5 and n.7.

¹⁵ Article 11.6 in SPP's *pro forma* GIA requires interconnection customers to make an initial payment equal to the greater of: (1) 20% of the total cost of network upgrades, shared network upgrades, transmission owner's interconnection facilities,

8. On October 18, 2019, the Commission issued an order rejecting the August 2019 GIA without prejudice.¹⁶ The Commission found that because the Gen Tie Line was appropriately classified as a transmission owner's interconnection facility, it was appropriate for SPP to include the cost estimate for the Gen Tie Line in the calculation of Haystack's initial payment. However, the Commission also found that if SPP refiled the Haystack GIA, SPP should: (1) ensure that the cost estimates for the Gen Tie Link, Satellite Substation, and Gen Tie Line do not include estimated costs for NPPD's oversight of interconnection customers' construction of transmission owner's interconnection facilities;¹⁷ and (2) demonstrate that only Haystack's share of the cost of the Satellite Substation facilities (including land, gravel, and fencing) that would not be needed "but for" Haystack's interconnection is assigned to Haystack.¹⁸ The Commission noted that the option to build provisions in the SPP *pro forma* GIA, effective as of the requested effective date of the August 2019 GIA, were based on the option to build provisions established in Order No. 2003. Additionally, the Commission noted that Order No. 2003-A rejected requests to require the interconnection customer to reimburse the transmission owner for construction oversight costs when the interconnection customer elects the option to build.¹⁹ On November 18, 2019, Haystack submitted a request for rehearing of the October 2019 Order regarding the inclusion of the cost estimate for the Gen Tie Line in the calculation of Haystack's initial payment.

and/or distribution upgrades listed in the GIA, or (2) \$4,000/MW of the size of the generating facility.

¹⁶ *Sw. Power Pool, Inc.*, 169 FERC ¶ 61,056 (2019) (October 2019 Order).

¹⁷ *Id.* P 31.

¹⁸ *Id.* P 42.

¹⁹ *Id.* P 29 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, at PP 218-219, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008)).

9. On January 23, 2020, the Commission accepted SPP's proposed revisions to its Tariff in compliance with the requirements of Order Nos. 845 and 845-A,²⁰ effective January 23, 2020.²¹ In that order, pursuant to Order No. 845-A,²² the Commission accepted revisions to article 5.2(12) in SPP's *pro forma* GIA to allow transmission owners the ability to recover costs associated with their oversight of an interconnection customer's construction of transmission owner's interconnection facilities and stand alone network upgrades when the interconnection customer elects the option to build those facilities.²³

10. On February 14, 2020, the Commission accepted SPP's proposed revisions to Attachment V in the SPP Tariff requiring the installation of PMU equipment at new generator interconnections, effective November 20, 2019.²⁴ In support of its proposal in that proceeding, SPP explained that the Department of Energy estimated that the costs of new PMU equipment could range from \$40,000 to \$180,000.²⁵

II. Haystack GIA

11. SPP states that the executed Haystack GIA provides for the interconnection of Haystack's generating facility to NPPD's transmission system.²⁶ SPP further states that the Haystack GIA contains provisions that do not conform to SPP's *pro forma* GIA in the

²⁰ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137, *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

²¹ *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,042 (2020) (SPP Order No. 845 Compliance Order).

²² Order No. 845-A, 166 FERC ¶ 61,137 at P 75.

²³ SPP Order No. 845 Compliance Order, 170 FERC ¶ 61,042 at P 23.

²⁴ *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,100 (2020) (SPP PMU Order).

²⁵ *Id.* P 23.

²⁶ The cost estimates for the Satellite Substation and Gen Tie Link in the Haystack GIA are unchanged from those in the August 2019 GIA. *See* Haystack GIA, app. A, §§ 1(b) and 1(d); August 2019 GIA, app. A, §§ 1(b) and 1(d).

SPP Tariff that was in effect prior to July 1, 2019.²⁷ SPP explains that many of these non-conforming provisions are necessary to accommodate Nebraska state law and/or correspond to provisions in the NPPD Membership Agreement; SPP notes that the Commission has previously accepted GIAs with similar non-conforming provisions.²⁸ SPP requests waiver of the Commission's 60-day notice requirement²⁹ to permit a March 12, 2020 effective date for the Haystack GIA. SPP states that waiver is appropriate because it filed the Haystack GIA no later than 30 days after the requested effective date of the agreement.³⁰

III. Notice and Responsive Pleadings

12. Notice of SPP's filing was published in the *Federal Register*, 85 Fed. Reg. 17,050 (Mar. 26, 2020), with interventions and protests due on or before April 10, 2020. On March 30, 2020, NPPD filed a timely motion to intervene. On April 10, 2020, Haystack filed a timely motion to intervene and protest. On April 24, 2020, NPPD and SPP each filed answers to the protest.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

²⁷ Transmittal at 1. On June 28, 2019, the Commission issued an order accepting revisions to SPP's generator interconnection procedures and *pro forma* GIA effective July 1, 2019, which included transition provisions to the revised procedures and agreement. In accordance with these transition provisions, the revisions to SPP's *pro forma* GIA in that order do not apply to the Haystack GIA. See *Sw. Power Pool, Inc.*, 167 FERC ¶ 61,275, at P 19 (2019).

²⁸ Transmittal at 2-5.

²⁹ 18 C.F.R. § 35.3 (2019).

³⁰ Transmittal at 5 (citing *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *reh'g denied*, 65 FERC ¶ 61,081 (1993)).

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.23(a)(2) (2019), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept NPPD's and SPP's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

15. We accept the Haystack GIA, as discussed below. Because SPP filed the Haystack GIA within 30 days of the commencement of service, we grant SPP's request for waiver of the Commission's prior notice requirement to permit the Haystack GIA to become effective on March 12, 2020, as requested.³¹

1. Oversight Costs

a. Haystack GIA

16. Under the terms of the Haystack GIA, as compared to the August 2019 GIA, the cost estimate for the Gen Tie Line decreased by \$300,000.³² Also, in compliance with the revisions accepted in the SPP Order No. 845 Compliance Order, SPP added article 5.2(12) to the Haystack GIA.³³

b. Protest and Answers

17. In its protest, Haystack states that it executed the Haystack GIA to facilitate the negotiation of offtake arrangements and financing of the project. Haystack notes that wind projects must begin construction in 2020 to be eligible for production tax credits that are scheduled to expire. Haystack states that its execution of the Haystack GIA should not be an impediment to the Commission addressing the concerns raised in its protest.³⁴ Specifically, concerning oversight costs, Haystack argues that, contrary to the

³¹ 18 C.F.R. § 35.3(a)(2) ("Service agreements that are required to be filed and posted authorizing a customer to take electric service under the terms of a tariff, or any part thereof, shall be tendered for filing with the Commission and posted not more than 30 days after electric service has commenced or such other date as may be specified by the Commission."); *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *reh'g denied*, 65 FERC ¶ 61,081.

³² Haystack GIA, app. A, § 1(c); August 2019 GIA, app. A, § 1(c).

³³ *Id.*, art. 5.2(12).

³⁴ Haystack Protest at 4 and n.6.

Commission's directive in the October 2019 Order that SPP should ensure that the cost estimates for the Gen Tie Link, Satellite Substation, and Gen Tie Line do not include oversight costs, SPP has made no changes to the cost estimates for the Gen Tie Link and Satellite Substation and reduced the cost estimate for the Gen Tie Line by only \$300,000.³⁵

18. Haystack emphasizes that in SPP's Deficiency Response in Docket No. ER19-1980-001, SPP acknowledged that there were oversight costs included in the Satellite Substation, Gen Tie Line, and Gen Tie Link cost estimates.³⁶ Haystack further notes that while the May 2019 GIA required a deposit equal to 10% of the estimated cost of the Gen Tie Line (\$1,200,000) for "transmission owner activities,"³⁷ the proposed Haystack GIA reduces Haystack's allocated cost estimate for the Gen Tie Line by only \$300,000.³⁸ Haystack alleges that SPP has not explained why the amount removed from the estimate for oversight costs is only 25% of the deposit required by NPPD in the May 2019 GIA, nor has SPP explained why it made no changes to the Satellite Substation and Gen Tie Link cost estimates. Haystack requests that the Commission require SPP to remove all transmission owner oversight costs from the cost estimates of the Gen Tie Link, Satellite Substation, and Gen Tie Line and demonstrate that the remaining estimates exclude such costs.

19. In regard to the addition of article 5.2(12) in the Haystack GIA, Haystack argues that any reimbursement of oversight costs would be contrary to the Commission's decision in the October 2019 Order and that the parties have not agreed to an amount in article 5.2(12) (i.e., the placeholder in article 5.2(12) for an agreed-upon amount states "N/A"). Haystack requests that the Commission clarify that Haystack has no payment obligations for transmission owner oversight costs pursuant to article 5.2(12) in the Haystack GIA.³⁹

³⁵ *Id.* at 6-7 (citing October 2019 Order, 169 FERC ¶ 61,056 at P 31).

³⁶ *Id.* at 6 (citing Deficiency Response at 5).

³⁷ *Id.* at 8 (citing October 2019 Order, 169 FERC ¶ 61,056 at P 15). As part of its Deficiency Response, SPP amended the May 2019 GIA to remove a 10% deposit for the Gen Tie Line because it was including the Gen Tie Line in the calculation of Haystack's initial payment.

³⁸ Haystack Protest 7-8.

³⁹ *Id.* at 11.

20. NPPD asserts that the 10% deposit required in the May 2019 GIA covered many transmission owner activities and that \$300,000 is a reasonable estimate of NPPD's oversight of Haystack's construction of the Gen Tie Line. NPPD and SPP argue that the removal of these oversight costs is compliant with the directive in the October 2019 Order.⁴⁰

21. In regard to Haystack's suggestion that the cost estimate for the Satellite Substation contains oversight costs, NPPD and SPP explain that NPPD developed the cost estimate for the facilities study and assumed that NPPD would construct the Satellite Substation.⁴¹ NPPD and SPP assert that this cost estimate included costs for NPPD's oversight of its own construction of the Satellite Substation, not costs for NPPD's oversight of Plum Creek's construction of that facility, and that the parties did not revise this cost estimate when Plum Creek elected the option to build the Satellite Substation. NPPD and SPP also dispute Haystack's claim that SPP failed to explain why it made no changes to the Gen Tie Link cost estimate to remove oversight costs. NPPD and SPP explain that Sholes Wind provided the cost estimate for the Gen Tie Link and, to the best of their knowledge, Sholes Wind included no NPPD oversight costs in that cost estimate.⁴²

22. NPPD states that construction of the Satellite Substation and Gen Tie Link is complete.⁴³ NPPD affirms that all costs incurred by NPPD to oversee construction of the Satellite Substation and Gen Tie Link will be excluded in the true-up of actual costs and the final invoices to Plum Creek and Sholes Wind. NPPD also notes that Haystack has the right pursuant to sections 1(b) and 1(d) of Appendix A of the Haystack GIA to verify the construction costs of the Satellite Substation and Gen Tie Link, respectively.

c. Commission Determination

23. We find that Haystack's request that the Commission require SPP to remove all transmission owner oversight costs from the cost estimates of the Gen Tie Link, Satellite Substation, and Gen Tie Line, and demonstrate that the remaining estimates exclude such costs, is unnecessary. In their answers, NPPD and SPP confirm that costs associated with NPPD's oversight of interconnection customers' construction of the Gen Tie Link and

⁴⁰ NPPD Answer at 4; SPP Answer at 5.

⁴¹ NPPD Answer at 5; SPP Answer at 4-5 (citing Deficiency Response at 5).

⁴² NPPD Answer at 5-6; SPP Answer at 4.

⁴³ NPPD Answer at 5-6.

Satellite Substation are not included in the cost estimates for those facilities.⁴⁴ NPPD and SPP further explain that such oversight costs were removed from the cost estimate of the Gen Tie Line, which resulted in a \$300,000 reduction in the cost estimate for this facility.⁴⁵ NPPD also points out that Haystack has the right, pursuant to sections 1(b) and 1(d) of Appendix A of the Haystack GIA, to verify the costs for constructing the Satellite Substation and Gen Tie Link.⁴⁶ Thus, we find that NPPD and SPP have addressed Haystack's concerns.

24. In addition, we deny Haystack's request that the Commission clarify that Haystack has no payment obligation for transmission owner oversight costs pursuant to the Tariff revisions accepted in the SPP Order No. 845 Compliance Order. We find that the revisions to SPP's *pro forma* GIA accepted in the SPP Order No. 845 Compliance Order were in effect prior to the requested effective date of the Haystack GIA and, therefore, should apply to the Haystack GIA. We note that in Order No. 845-A, due to changes in the Commission's *pro forma* option to build provisions, the Commission permitted transmission owners to collect oversight costs when the interconnection customer exercises the option to build and amended article 5.2 in the Commission's *pro forma* GIA to reflect this change.⁴⁷ Accordingly, SPP proposed, and the Commission accepted, revisions to article 5.2(12) in SPP's *pro forma* GIA to implement this change, effective January 23, 2020.⁴⁸ Article 5.2(12) in the Haystack GIA reflects this change in the SPP *pro forma* GIA.⁴⁹ However, Order No. 845-A did not mandate that transmission owners must recover oversight costs from interconnection customers when the interconnection customer elects the option to build. Based on article 5.2(12) in the Haystack GIA, the parties have mutually agreed that NPPD will not recover oversight costs from Haystack, as "N/A" is indicated as the amount to be recovered.

⁴⁴ NPPD Answer at 4-6; SPP Answer at 4-5.

⁴⁵ NPPD Answer at 3-4; SPP Answer at 5.

⁴⁶ NPPD Answer at 5-6.

⁴⁷ Order No. 845-A, 166 FERC ¶ 61,137 at P 75.

⁴⁸ SPP Order No. 845 Compliance Order, 170 FERC ¶ 61,042 at P 23.

⁴⁹ Haystack GIA, art. 5.2(12).

2. Overbuild Costs

a. Protest and Answers

25. Haystack argues that, contrary to the Commission's directive, SPP has not demonstrated that the costs assigned to Haystack meet the "but for" standard.⁵⁰ Haystack states that the Satellite Substation is nearly finished and that Haystack will imminently receive a bill for 50% of the full cost of the Satellite Substation. Haystack asserts that, due to NPPD's "unjust and unreasonable standards," this cost will exceed the original cost estimate by more than 50%.⁵¹ Haystack additionally expresses overbuild concerns regarding the Gen Tie Link and Gen Tie Line. Haystack believes that the total expected cost for the six-mile Gen Tie Link will be approximately \$25 million, which Haystack argues is significantly higher than the typical costs for similar projects.⁵² Haystack requests that the Commission require SPP to demonstrate that the design of the Satellite Substation and Gen Tie Link are consistent with the Commission's "but for" standard and to reduce the charges billed to Haystack that are the result of any practices that do not meet the "but for" standard.

26. NPPD asserts that Haystack was told that all facilities installed at the Satellite Substation site, including fencing and graveling, are limited to what is necessary for the Plum Creek and Haystack projects.⁵³ NPPD further asserts that Haystack was also made aware that the landowner, whose property was selected for siting of the Satellite Substation, refused to subdivide the parcel or sell less than 80 acres.⁵⁴ NPPD indicates that Haystack has not been charged for more than its share of the cost of land needed for the Haystack and Plum Creek generating facilities.⁵⁵ NPPD argues that there is no support for Haystack's allegation that the costs of the Satellite Substation will exceed NPPD's cost estimate by more than 50% because of NPPD's "unjust and unreasonable standards."⁵⁶ NPPD notes that the cost estimate for the Satellite Substation is based on

⁵⁰ Haystack Protest at 8.

⁵¹ *Id.* at 9.

⁵² *Id.*

⁵³ NPPD Answer at 6.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* at 7.

the same design standards that NPPD applies to all transmission facilities that it constructs on its system.⁵⁷

27. SPP states that the estimated cost of the Satellite Substation reflects the results of the Haystack project's facilities study and does not include any overbuild costs.⁵⁸ SPP points out that the initial costs of the Satellite Substation, including the purchase of the parcel of land, will be shared by Plum Creek and Haystack. SPP notes that additional costs to expand the Satellite Substation to accommodate additional projects will be borne by new projects requesting interconnection.⁵⁹ In addition, SPP indicates that NPPD requires 40 acres for a 345 kV substation, and the cost estimate for the Satellite Substation only includes Haystack's share of those costs. Further, SPP asserts that NPPD provided it with Plum Creek's report that confirmed that the affected landowner refused to sell less than an 80-acre parcel of land.⁶⁰

b. Commission Determination

28. We find that SPP has demonstrated that only Haystack's share of the cost of the Satellite Substation needed "but for" Haystack's interconnection has been assigned to Haystack. NPPD and SPP affirm that Haystack's allocated share of the cost of the Satellite Substation does not include overbuild costs.⁶¹ SPP states that while NPPD requires 40 acres for a 345 kV substation, the affected landowner refused to sell Plum Creek a parcel of land less than 80 acres.⁶² Therefore, we find that the additional cost for the larger parcel of land (including costs associated with site improvements, such as gravel and fencing) meets the Commission's "but for" standard because the Satellite Substation is required for the interconnection of the Haystack project, and the 80-acre parcel of land purchased for the Satellite Substation was the smallest plot size available.⁶³

⁵⁷ *Id.*

⁵⁸ SPP Answer at 5.

⁵⁹ *Id.* at 6.

⁶⁰ *Id.*

⁶¹ NPPD Answer at 6; SPP Answer at 5.

⁶² SPP Answer at 6.

⁶³ Plum Creek and Haystack share the cost of the Satellite Substation. We note that neither Plum Creek nor Haystack disputed the cost estimate for the Satellite Substation when SPP filed Plum Creek's original GIA, and subsequent revisions to this

Further, we deny Haystack's request that the Commission require SPP to demonstrate that the design of the Gen Tie Link is consistent with the Commission's "but for" standard because Haystack has not supported its allegation that the Gen Tie Link includes overbuild costs.⁶⁴

3. PMU Costs

a. Haystack GIA

29. Under the terms of the Haystack GIA, Haystack is allocated the cost of PMU equipment, estimated at \$100,000.⁶⁵

b. Protest and Answers

30. Haystack requests that the Commission require SPP to remove article 8.5⁶⁶ from the Haystack GIA and Haystack's allocated cost for PMU equipment in section 1(b) of Appendix A from the Haystack GIA.⁶⁷ According to Haystack, SPP did not include the PMU equipment in any facilities study report and the Haystack GIA does not identify the location for installing the PMU equipment.⁶⁸

31. In addition, Haystack asserts that there are two substations (the Hoskins Substation and the Satellite Substation) at which the PMU technology could be installed; however,

agreement, with the Commission. *See* Docket Nos. ER19-794-000, ER19-2675-000, and ER20-554-001.

⁶⁴ Sholes Wind, Plum Creek, and Haystack share the cost of the Gen Tie Link. We note that neither Sholes Wind, Plum Creek, nor Haystack disputed the cost estimate for the Gen Tie Link when SPP filed the original Sholes Wind and Plum Creek GIAs, and subsequent revisions to these agreements, with the Commission. *See* Docket Nos. ER17-587-000, ER18-650-000, ER19-1928-002 (the Sholes Wind GIA proceedings); Docket Nos. ER19-794-000, ER19-2675-000, and ER20-554-001 (the Plum Creek GIA proceedings).

⁶⁵ Haystack GIA, app. A, § 1(b).

⁶⁶ Article 8.5 is entitled "Phasor Measurement Unit (PMU) Recording Equipment."

⁶⁷ Haystack Protest at 12.

⁶⁸ *Id.* at 10.

Haystack states that SPP has not determined which location will result in the least cost installation. Haystack also asserts that because article 8.5 of the Haystack GIA and the PMU cost estimate in section 1(b) were added to the Haystack GIA after SPP issued the final draft of the Haystack GIA to Haystack, they should be removed.⁶⁹ Haystack argues that if the Commission does not require SPP to remove the PMU requirement, then SPP should be required to provide a more detailed cost justification for the PMU equipment, provide the equipment installation location, and demonstrate that the proposed location is the least cost option.⁷⁰

32. SPP contends that the Haystack GIA correctly includes PMU provisions because the PMU provisions were in effect prior to the requested effective date of the Haystack GIA.⁷¹ SPP further argues that Haystack's allocated cost estimate for the PMU equipment is within the range accepted in the SPP PMU Order.⁷² Accordingly, SPP asserts that the cost estimate for the PMU equipment is not only reasonable, but is also justified; therefore, SPP contends, neither article 8.5 of the Haystack GIA nor the cost estimate for the PMU equipment in Appendix A should be removed from the Haystack GIA.⁷³

c. Commission Determination

33. We deny Haystack's request to require SPP to remove the PMU provisions from the Haystack GIA. We find that the Haystack GIA correctly includes the PMU provisions because the Commission accepted those provisions in the SPP PMU Order as part of SPP's *pro forma* GIA prior to the requested effective date of the Haystack GIA.

34. We also deny Haystack's request to require SPP to provide a more detailed cost justification for the PMU equipment, the installation location for the equipment, and a demonstration that the proposed location is the least cost option. We find that Haystack's allocated cost for the PMU equipment is just and reasonable because, as noted in the SPP PMU Order, the Department of Energy has estimated the cost of installing PMU equipment to range between \$40,000 and \$180,000, which is relatively minor compared

⁶⁹ *Id.* at 11-12.

⁷⁰ *Id.*

⁷¹ SPP Answer at 7.

⁷² *See id.* at 8 (citing SPP PMU Order, 170 FERC ¶ 61,100 at P 23).

⁷³ *Id.*

to the millions of dollars of capital costs of new generation.⁷⁴ Further, article 8.5 in the Haystack GIA, based on article 8.5 in the SPP *pro forma* GIA, provides that the PMU equipment shall be installed at the transmission owner's side of the point of change of ownership and become part of the transmission owner's interconnection facilities. Article 8.5 does not require SPP or the transmission owner to identify the precise location of the PMU facilities, nor does article 8.5 require SPP or the transmission owner to justify that the selected location of the PMU equipment be the least cost option.

4. Initial Payment

a. Haystack GIA

35. Under the terms of the Haystack GIA, the cost estimate for the Gen Tie Line is included in the calculation of Haystack's initial payment.⁷⁵

b. Protest and Answers

36. In its protest, Haystack states that it filed a request for rehearing regarding one issue in the October 2019 Order—specifically, the Commission's decision to uphold SPP's proposal to include 20% of the estimated costs of the Gen Tie Line in the initial payment. Haystack argues that because the Gen Tie Line will be built by Haystack, at Haystack's sole expense, it is unreasonable to require Haystack to make a payment to NPPD for 20% of the costs Haystack will incur.⁷⁶ Haystack also argues that the costs of the Gen Tie Line are inconsistent with Order No. 845. According to Haystack, in Order No. 845, the Commission determined that security would be appropriate only after an interconnection customer has failed to complete any option to build facilities.⁷⁷ Haystack notes that SPP filed nine GIAs with the Commission between October 1, 2015 and November 18, 2019, the date of its request for rehearing, which included transmission owner's interconnection facilities built by interconnection customers. Haystack states that all nine of the GIAs were with NPPD as the transmission owner; however, the August 2019 GIA was the only one that included the cost of the customer-built transmission owner's interconnection facilities in the initial payment. Haystack requests

⁷⁴ See SPP PMU Order, 170 FERC ¶ 61,100 at P 23.

⁷⁵ See Haystack GIA, app. A, § 3(e).

⁷⁶ Haystack Protest at 12.

⁷⁷ *Id.* at 13 (citing Order No. 845, 163 FERC ¶ 61,043).

that the Commission grant the relief requested in its rehearing request and require that SPP remove the Gen Tie Line costs from the initial payment calculation.⁷⁸

37. NPPD states that in the October 2019 Order, the Commission correctly found that the Gen Tie Line is a transmission owner's interconnection facility and that 20% of the costs of the Gen Tie Line should be included in Haystack's initial payment. NPPD further asserts that because this issue is the subject of a rehearing request, broaching this issue in this proceeding is an "inappropriate collateral attack" on the October 2019 Order and should be ignored.⁷⁹

38. SPP argues that the Gen Tie Line is properly classified as a transmission owner's interconnection facility and, therefore, should be included in the calculation of the initial payment.⁸⁰ SPP asserts that Haystack is incorrect when it argues that it should not have to pay for costs associated with its own construction responsibilities.⁸¹ SPP acknowledges that it failed to include transmission owner's interconnection facilities in the calculation of the initial payment in the GIAs identified by Haystack due to an administrative oversight. SPP states that it has updated its internal processes to prevent this error in the future.⁸² However, SPP contends that its error does not excuse Haystack from complying with article 11.6 of the Haystack GIA. SPP further asserts that article 11.6 of the Haystack GIA requires that transmission owner's interconnection facilities be included in the calculation of the initial payment and does not provide an exception to this requirement if the interconnection customer is constructing such facilities pursuant to the option to build.⁸³ SPP asserts that the initial payment serves as a financial indicator of Haystack's readiness to move forward, and SPP notes that the Haystack GIA provides for a refund of the initial payment if the Haystack GIA is terminated.⁸⁴

⁷⁸ *Id.*

⁷⁹ NPPD Answer at 8.

⁸⁰ SPP Answer at 8.

⁸¹ *Id.* at 8-9.

⁸² *Id.* at 10-11.

⁸³ *Id.* at 10.

⁸⁴ *Id.* at 9-10.

c. Commission Determination

39. We deny Haystack's request to remove the cost of the Gen Tie Line from the calculation of its initial payment. In an order issued concurrently with this order, we deny Haystack's request for rehearing of the October 2019 Order.⁸⁵ We find that SPP appropriately included the Gen Tie Line in the calculation of the initial payment because the Gen Tie Line was appropriately classified as a transmission owner's interconnection facility, and the SPP Tariff requires such facilities be included in the calculation of the initial payment. Further, we affirm that the initial payment is a project readiness milestone meant to deter speculative projects from entering into a GIA.⁸⁶ Additionally, we note SPP's acknowledgement of its error in not including transmission owner's interconnection facilities in the calculation of the initial payment in other GIAs; however, we affirm that the Tariff requires that the costs associated with transmission owner's interconnection facilities must be included in the calculation of the initial payment and that omission of such costs from prior agreements does not require the omission of such costs from Haystack's GIA.⁸⁷

5. Timing of Gen Tie Link Payment

a. Haystack GIA

40. Under the terms of the Haystack GIA, Haystack's payment for its allocated cost of the Gen Tie Link is due upon the following conditions being met:

- (1) the Satellite Substation has been energized and placed into service,
- (2) evidence establishing that ownership of the Gen Tie Link has passed to Transmission Owner, and (3) verification of actual costs of the Gen Tie Link, whereupon the Transmission Owner will invoice Interconnection Customer for its allocated percentage of said costs and Interconnection Customer shall make payment within thirty (30) days.⁸⁸

⁸⁵ See *Sw. Power Pool, Inc.*, 171 FERC ¶ 61,121, at PP 8-9 (2020). (May Rehearing Order).

⁸⁶ See May Rehearing Order, 171 FERC ¶ 61,121 at P 8 (citing *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,201, at PP 53, 67 (2014)).

⁸⁷ *Id.* P 9.

⁸⁸ Haystack GIA, app. A, § 1(d).

b. Protest and Answers

41. Haystack states that all the conditions for it to pay its allocated cost of the Gen Tie Link will be met during the second quarter of 2020; however, Haystack notes that its generating facility will not begin utilizing the Gen Tie Link until mid-2021. Haystack argues that the timing of this payment is not consistent with the *pro forma* GIA or relevant Commission precedent, which Haystack claims tie such payment to the time that Haystack begins using the shared facility. Haystack notes that article 9.9.2 of SPP's *pro forma* GIA (and the Haystack GIA) provides that if a third party uses a transmission owner's interconnection facility, the interconnection customer is "entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based on the pro rata *use* of the Interconnection Facilities by Transmission Owner, all third party users, and Interconnection Customer."⁸⁹ Haystack argues that article 9.9.2 does not authorize a transmission owner to force a third party to pay the transmission owner in advance for the estimated share of capital costs based on expected future use of the facility. Haystack requests that the Commission require SPP to modify section 1(d) of Appendix A to delete and replace condition one for establishing the payment due date (i.e., that the Satellite Substation has been energized and placed into service) with a condition that the Gen Tie Line has been energized and placed into service.⁹⁰

42. NPPD states that construction of the Gen Tie Link has been completed and placed in service.⁹¹ NPPD argues that following the verification of the actual cost of the Gen Tie Link, it is reasonable for Haystack and Plum Creek to pay Sholes Wind their allocated costs of the Gen Tie Link.

43. SPP asserts that because the Gen Tie Link energizes the Satellite Substation to be utilized by Haystack, and the facilities Sholes Wind funded are no longer for the sole use of the Sholes Wind project, it is reasonable for Haystack to reimburse Sholes Wind for its portion of the costs prior to its use of the Satellite Substation.⁹² SPP notes that should the Haystack GIA be terminated, articles 2.4 and 12.4 of the Haystack GIA would govern the disposition of these funds. SPP contends that Haystack should be required to abide by the terms of the Haystack GIA, which Haystack executed.⁹³

⁸⁹ Haystack Protest at 14 (citing Haystack GIA, art. 9.9.2) (emphasis by Haystack).

⁹⁰ *Id.* at 15.

⁹¹ NPPD Answer at 9.

⁹² SPP Answer at 11.

⁹³ *Id.* at 12.

c. Commission Determination

44. We deny Haystack's request to require SPP to modify section 1(d) of Appendix A in the Haystack GIA, which establishes the payment due date for Haystack's allocated share of the costs for the Gen Tie Link, with a revised condition making payment due when the Gen Tie Line has been energized and placed into service, which would effectively delay payment until the Haystack generating facility is operational. The Gen Tie Link is necessary for the interconnection of the Haystack, Plum Creek, and Sholes Wind generating facilities to the NPPD transmission system. We find that it would be unreasonable for Haystack to delay payment of its allocated share of the cost of the Gen Tie Link until Haystack places its own project into service, as such delay would temporarily shift Haystack's cost burden to Sholes Wind and Plum Creek, whose generating facilities will be operational before the Haystack generating facility goes into service.⁹⁴ Further, we disagree with Haystack's interpretation of the term "pro rata use" as used in article 9.9.2 of the Haystack GIA.⁹⁵ The term "pro rata use" in article 9.9.2 refers to the proportion of the interconnection facility to be used by each party, not a temporal indication of when payment is due (i.e., the date of actual use of the facility).

6. Facilities Study Cost Estimate Range

a. Protest and Answers

45. Haystack takes issue with cost estimates provided by NPPD in the facilities study report for Haystack's interconnection request, which Haystack alleges are given within a + 75%/- 25% range of accuracy.⁹⁶ Haystack asserts that this is a far broader range than

⁹⁴ In the June 2019 Protest, Haystack explained that the Sholes Wind generating facility has a higher interconnection queue position than the Haystack generating facility and that the Plum Creek generating facility is concurrently queued with the Haystack generating facility. June 2019 Protest at 4.

⁹⁵ Article 9.9.2 in the Haystack GIA, which is identical to article 9.9.2 in SPP's *pro forma* GIA, applies to third party use of transmission owner's interconnection facilities and contemplates compensation for the capital expenses incurred in connection with interconnection facilities based upon the pro rata use by the interconnection customer, transmission owner, and third party users.

⁹⁶ Haystack Protest at 9-10 (citing Haystack Interconnection Facilities Study Report at 28:
http://opsportal.spp.org/documents/studies/files/2016_Generation_Studies/GEN-2016-021-IFS-2016-001-31-_IFS-Summary_R2-Final.pdf).

typically permitted by the Commission or by SPP's Tariff.⁹⁷ Haystack requests that the Commission require SPP to refine its + 75%/- 25% cost estimate range consistent with the estimate range prescribed in the SPP Tariff.

46. SPP acknowledges that the facilities study report for Haystack's interconnection request included language that referenced a + 75%/- 25% cost estimate range.⁹⁸ However, according to SPP, NPPD has confirmed that the cost estimates provided in the facilities study report are within the required +/- 20% cost estimate range and that the reference to a + 75%/- 25% cost estimate range in the facilities study report was an error.

47. As such, SPP asserts that the facilities study report for the Haystack interconnection request has been revised to remove the + 75%/- 25% cost estimate range and has been replaced with the +/- 20% cost estimate range set forth in the SPP Tariff. According to SPP, the updated facilities study report has been shared with Haystack, and the cost estimates contained therein have not changed as a result of the revision.⁹⁹

b. Commission Determination

48. We find it unnecessary to grant Haystack's request that the Commission require SPP to refine the cost estimate range in the facilities study report consistent with the cost estimate range prescribed in the SPP Tariff. As explained by SPP in its answer, SPP has updated the facilities study report for the Haystack interconnection request to reflect a cost estimate range consistent with the SPP Tariff. Accordingly, for the reasons discussed above, we accept the Haystack GIA, effective March 12, 2020, as requested.

The Commission orders:

The Haystack GIA is hereby accepted, effective March 12, 2020, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁹⁷ *Id.* at 10 (citing SPP Tariff, Attachment V, § 8.11(a)).

⁹⁸ SPP Answer at 6-7.

⁹⁹ *Id.*