FERC Accepts SPP Service Agreement with MISO, Subject to Refund and Consolidates Dockets

OVERVIEW

On March 28, 2014, the Federal Energy Regulatory Commission (FERC) issued a significant ruling in the Southwest Power Pool (SPP) and the Midcontinent Independent System Operator (MISO) dispute over MISO’s uncompensated usage of the SPP Transmission System. Following is a summary of the order and its impact going forward.

At a high level FERC’s Order contains two significant elements:

1. FERC’s acceptance of the SPP filed Service Agreement (SPP-MISO Service Agreement), subject to refund, requiring MISO to pay for use of the SPP transmission system when MISO dispatches exceed the 1000MW tie between MISO-Midwest (MISO-M) and MISO-South (MISO-S); and

2. Consolidation of four FERC dockets related to the above-mentioned SPP-MISO dispute. In addition to the consolidation, FERC established a procedural schedule to resolve this SPP-MISO dispute through settlement or at hearing before a FERC Administrative Law Judge.

SPP-MISO Service Agreement

In the March 28, 2014 Order, FERC accepted the SPP-MISO Service Agreement, subject to refund, filed by SPP in FERC docket ER14-1174-000. This Service Agreement imposes charges and other terms/conditions of service for MISO’s flows above the 1000MW tie between MISO-Midwest and MISO-South. FERC’s action makes this Service Agreement effective January 29, 2014.

As a result, effective January 29, 2014, MISO must reserve and pay for transmission service across the SPP system in accordance with the terms of the SPP-MISO Service Agreement. This means that when MISO’s market dispatch exceeds its base transmission capacity between MISO-S and MISO-M (currently, 1000MW), MISO must make an OASIS reservation and pay the applicable non-firm, point-to-point ("PTP") rate prescribed by the SPP Tariff for energy transfers exceeding the 1000MW tie. The applicable zonal rates are based on direction of flow; the specific zonal rates, and the method for calculating losses, are described in the Service Agreement.

Additionally, under the SPP-MISO Service Agreement MISO is required to provide SPP with actual daily dispatch volumes. The volume of flow subject to charges is represented by the difference between actual reported flow and MISO’s base transmission capacity (currently 1000MW).
CONSOLIDATION OF DOCKETS AND PROCEDURAL SCHEDULE

Consolidation of Dockets

The March 28, 2014 Order consolidated four pending FERC dockets related to the SPP-MISO dispute over MISO’s uncompensated use of the SPP transmission system. SPP supported the consolidation of these dockets by FERC:

- **FL11-34-002** - Remand from DC Circuit Court of Appeals back to FERC of the original proceeding on MISO’s JOA declaratory order petition. The remand stems from the DC Circuit vacating of FERC’s orders related to the SPP-MISO dispute over MISO’s use of the SPP transmission system upon Entergy’s integration into MISO.
- **ER14-1174-000** – Docket initiated by SPP asking FERC to approve the SPP-MISO Service Agreement imposing charges and other terms/conditions of service for MISO’s flows above the 1000MW tie between MISO-M and MISO-S.
- **FL14-21-000** – Complaint initiated by SPP against MISO for unauthorized use of the SPP system on and after December 19, 2013 and complaint to modify the JOA, if necessary, to require compensation for MISO flows.
- **FL14-30-000** – Complaint initiated by MISO against SPP for invoicing MISO for MISO’s use of the SPP system.

Key Procedural Steps/Dates

In its March 28, 2014 Order, FERC established key procedural steps and dates related to the consolidated dockets.

The deadline for notifying the Chief Judge of the parties’ agreement on selection of a Settlement Judge was Wednesday, April 2, 2014. The parties requested one of two judges as the settlement judge.

On April 4, 2014 the Chief Judge issued an Order designating Judge Carmen A. Cintron as the Settlement Judge. A settlement conference has been scheduled for April 29 at the Commission’s offices.

Settlement judge conferences are held as long as the parties are making progress. These negotiations are not subject to any deadlines, although the settlement judge is required to provide periodic status reports and recommendations concerning the continuation of discussions. If an impasse is declared, the Settlement Judge will notify the Chief Judge and the case will be assigned to a trial judge for formal evidentiary hearings.

Formal hearings are designated as Track 1 (simple case), Track 2 (complex case), or Track 3 (extremely complex case); procedural schedules are based on the track designation. For Track 3 hearings, the trial judge’s initial decision deadline is 63 weeks after assignment. The trial judge’s initial decision is subject to FERC review, rehearing, and possible appeal.

April 4, 2014