

December 10, 2009

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

RE: *Southwest Power Pool, Inc.*, Docket No. ER09-1397-_____
Submission of Revised Network Integration Transmission Service
Agreement

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act, 16 U.S.C. § 824d, and section 35.13 of the Federal Energy Regulatory Commission's ("Commission") regulations, 18 C.F.R. § 35.13, Southwest Power Pool, Inc. ("SPP") submits: (1) an unexecuted, revised Service Agreement for Network Integration Transmission Service between SPP as Transmission Provider and Kansas Power Pool ("KPP") as Network Customer ("Revised KPP Service Agreement"); (2) an executed, revised Network Operating Agreement ("NOA") between SPP as the Transmission Provider, KPP as the Network Customer, and Westar Energy, Inc. ("Westar") as the Host Transmission Owner ("Revised Westar NOA"); and (3) an executed, revised NOA among SPP as the Transmission Provider, KPP as the Network Customer, and Midwest Energy, Inc. ("Midwest") as the Host Transmission Owner ("Revised Midwest NOA").¹ The Revised Agreements reflect various amendments to the service agreement and NOAs currently pending before the Commission in this proceeding, and contain terms and conditions that do not conform to the standard forms of service agreements in SPP's Open Access Tariff ("SPP Tariff").² As discussed below, the Revised KPP Service Agreement is being submitted on an unexecuted basis because KPP does not agree with certain terms and conditions required to accommodate its request for service.

¹ The Revised KPP Service Agreement, the Revised Westar NOA, and the Revised Midwest NOA are collectively "the Revised Agreements," and SPP, KPP, Westar, and Midwest are collectively "the Parties." A copy of the Revised Agreements, designated as Substitute Original Service Agreement No. 1822, is provided as Exhibit I.

² See SPP Tariff at Attachment F ("*pro forma* Service Agreement") and Attachment G ("*pro forma* NOA").

I. Background of this Proceeding

On July 1, 2009, SPP submitted prior versions of the Revised Agreements to the Commission (“July 1 Filing”) in this proceeding.³ The July Agreements would permit KPP to serve network load to several of KPP’s member cities in Kansas (“Cities”),⁴ and reflects KPP’s decision to pool its Network Resources⁵ to serve Network Load⁶ on the Westar transmission system and the Midwest transmission system to serve the Cities. Prior to the July 1 Filing, the Cities were served through separate agreements for Network Integration Transmission Service (“NITS”) and Firm Point-to-Point Transmission Service as well as pursuant to agreements with Westar Energy (“Previous Agreements”). Sixteen of the twenty-one Cities have behind the meter generation. Prior to June 1, 2009, the total firm transmission service from resources other than the behind the meter generation to these sixteen Cities was approximately 20% of their projected summer network load for 2010. As of June 1, 2009, all network load for the Cities will be served by KPP pursuant to the Revised Agreements.⁷

³ The service agreement submitted in the July 1 Filing is the “July Service Agreement,” the NOAs are the “July NOAs,” and the July Service Agreement and July NOAs collectively are the “July Agreements.”

⁴ Cities consist of twenty-one cities in Kansas.

⁵ See SPP Tariff, Section 1.25 (“Network Resource is any designated generating resource owned, purchased or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer’s Network Load on a non-interruptible basis, except for purposes of fulfilling obligations under a reserve sharing program.”).

⁶ See SPP Tariff, Section 1.22 (“Network Load” is the “load that a Network Customer designates for Network Integration Transmission Service under Part III of the Tariff.”)

⁷ Four of the Previous Agreements provided for the delivery of SPP NITS, individually to four following Cities: Erie, Fredonia, Iola, and Augusta. KPP’s decision to pool its load and resources will result in these four cities being served pursuant to the Revised Agreements. Because these four cities no longer will be served under the Previous Agreements, the July 1 Filing included notices of cancellation for the four NITS Agreements associated with the four Cities and their corresponding NOAs. For the reasons stated in the July 1 Filing, SPP reiterates its request that the Commission accept for filing the notices of cancellation submitted in the July 1 Filing. SPP notes that five of the twenty-one Cities were full requirements wholesale customers of Westar Energy served under individual bundled grand-fathered agreements, that included Westar firm
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The July Agreements were submitted on an unexecuted basis because the Parties did not have sufficient time to review and execute the July Agreements before the deadline for filing and still had outstanding issues regarding imposition of import capability limitations.⁸ Subsequent to the July 1 Filing, SPP submitted several motions to extend the comment date and defer action in the proceeding to give the Parties additional time to negotiate the outstanding issues related to the July Agreements. The Commission accepted each of these motions.⁹ On November 23, 2009, SPP filed a motion to further extend the comment date.¹⁰ In that motion, SPP indicated that given extra time it hoped that the Parties could resolve the outstanding issues and execute a revised version of the July Agreements.¹¹ The Commission granted SPP's motion on November 24, 2009.¹² As explained below, the Parties have failed to reach an accord, and therefore SPP submits the Revised Agreements for filing, including the Revised KPP Service Agreement on an

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transmission service. Twelve of the twenty-one Cities were partial requirements wholesale customers of Westar Energy served under individual bundled grandfathered agreements that included Westar non-firm transmission service. Several of these twelve cities also had Westar Energy and SPP firm point-to-point transmission service agreements. All other transmission service provided in excess of the Long-Term Firm Point-To-Point Transmission Service was short term non-firm transmission service on an as available basis.

⁸ The July Agreements needed to be filed by July 1, 2009 so that they could be made effective June 1, 2009. *See Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (the Commission will grant waiver of the 60-day prior notice requirement "if service agreements are filed within 30 days after service commences.").

⁹ *See Sw. Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER09-1397-000 (Aug. 25, 2009); *Sw. Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER09-1397-000 (July 22, 2009); *Sw. Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER09-1397-000, *et al.* (Oct. 22, 2009).

¹⁰ *See Motion of Southwest Power Pool, Inc. to Extend the Comment Date*, Docket No. ER09-1397-000 (Nov. 23, 2009) ("November Motion").

¹¹ *See id.* at 2. SPP indicated in the November Motion that it planned to file the unexecuted revised agreements by December 8, 2009 if the Parties failed to reach agreement. Due in part to last minute changes to the executed, revised NOAs, SPP is filing the Revised Agreements two days later than contemplated. SPP informed KPP's counsel of this filing date.

¹² *See Sw. Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER09-1397-000 (Nov. 24, 2009).

unexecuted basis. As the Commission has not yet acted on the July Agreements, SPP withdraws the July Agreements and requests that the Commission accept for filing only the Revised Agreements filed herein.¹³

II. Maximum Firm Import Capability Limits

SPP is submitting the Revised KPP Service Agreement on an unexecuted basis because KPP and SPP cannot agree regarding certain proposed provisions in Attachment B and C of the Revised KPP Service Agreement which set forth maximum firm import capability limitations into several individual Cities (“Limited Cities”) associated with KPP’s service request, as determined necessary by SPP’s Aggregate Transmission Service Study (“ATSS”) process.¹⁴ These Limited Cities have behind the meter generators, and several of these behind the meter generators are being designated as Network Resources under the Revised KPP Service Agreement.

A. Long-Term Firm Import Capacity Limitations in the July Agreements

On February 9, 2007, pursuant to the SPP Tariff, KPP submitted to SPP an application for network service for study in ATSS SPP-2007-AG1 (“KPP Network Service Application”).¹⁵ On April 2, 2007, KPP revised the KPP Network Service Application. As stated above, KPP submitted the KPP Network Service Application to pool Network Resources to serve the Cities on the Westar and Midwest transmission systems. The KPP Network Service Application designated Network Resources that were either behind the meter or external to the Cities. In accordance with Attachment Z1 of the SPP Tariff, based on the information provided by KPP, SPP studied the designated resources listed in the KPP Network Service Application through ATSS SPP-2007-AG1.¹⁶ The results of SPP-2007-AG1 identified the Network Upgrades¹⁷ necessary to

¹³ SPP does not withdraw the notices of cancellation submitted in the July 1 Filing. *See supra* note 7.

¹⁴ *See* Section 29.1 of the SPP Tariff.

¹⁵ *See* SPP Tariff at Section 29.2 (outlining the procedures and information to be submitted by an Eligible Customer to receive Network Integration Transmission Service).

¹⁶ *See* SPP Tariff at Attachment Z1, Section I (“The Transmission Provider will combine all long-term point-to-point and long-term designated network resource requests received during a specified period of time into a single Aggregate Transmission Service Study.”)

¹⁷ *See* SPP Tariff Section 1.26 (“Network Upgrades are all or a portion of the modifications or additions to transmission-related facilities that are integrated
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provide long-term firm NITS for the designated Network Resources requested by KPP based on the KPP Network Service Application.¹⁸ The Network Upgrades required for the Network Resources, however, would not allow unlimited use by the non-designated resources to serve the Limited Cities without compromising the safety and reliability of the transmission system. Therefore, SPP determined it was necessary to impose long-term firm import capability limits on the firm transmission service from external resources in the July Agreements, which are set forth in the tables in Attachment B to the July Service Agreement (“Original Attachment B”).¹⁹ SPP also added language pertaining to the long-term firm import capability limitations in Section 8.7 of Attachment 1 of the July Service Agreement.²⁰ Consistent with the SPP Tariff, any transmission service from resources other than the Network Resources will be accommodated by secondary network service to the extent available.²¹

Original Attachment B and the associated language in Section 8.7 of the July Service Agreement placed limits on the amount of external resources that KPP could use to serve Limited Cities load under certain seasonal loading conditions. In other words, under certain conditions, to preserve the safety and reliability of the system, SPP and the host transmission owner (either Westar or Midwest) would need to limit the amount of power that could be brought into the Limited Cities from external resources. As detailed in Original Attachment B, some of these limits were applicable prior to completion of certain network upgrades, but would be eliminated once the Network Upgrades were complete. Other limits were applicable even after completion of certain Network

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with an support the Transmission Provider’s overall Transmission System for the general benefit of all users of such Transmission System.”).

¹⁸ Pursuant to the SPP Tariff, SPP is required to provide firm network service for the delivery of capacity and energy from its designated network resources to its load. *See* SPP Tariff at Section 28 (“The Transmission Provider will provide firm transmission service over the Transmission System to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads.”) In contrast, for resources that have not been designated, the SPP tariff provides that network customers may use the transmission system to deliver power from such resources, on an as available basis. *Id.* at Section 28.4.

¹⁹ In the July Service Agreement, these limitations are referred to as “Long-Term Firm Import Capacity Limits.”

²⁰ *See* July Service Agreement at Attachment 1, Section 8.7.

²¹ *See supra* note 15.

Upgrades.²² Further, Section 8.7 of the July Service Agreement clarified that the limits imposed by Original Attachment B could be altered in the event of later ATSS, facility improvements, and or modifications to KPP's network loads and/or resources. SPP added this language to alert KPP to the possibility that the import capability limits in the July Service Agreement most likely would decrease if additional external network resources to the Cities were designated and the necessary system improvements were completed.

B. Maximum Firm Import Capability Limits²³ in the Revised KPP Service Agreement

Since the July 1 Filing, KPP and SPP have continued negotiating the limits in Original Attachment B. SPP also conducted several supplemental, first contingency incremental transfer capability studies to determine the maximum firm import capability into some of the Limited Cities based on discussions with KPP. Based on these supplemental studies, SPP again confirmed that the Network Upgrades required for the Network Resources would not allow unlimited use by the non-designated resources to serve the Cities load on a long-term firm basis without compromising the safety and reliability of the transmission system.. Therefore, it remains necessary for the Revised KPP Service Agreement, like the July Service Agreement, to contain maximum firm import capability limits to cap the megawatts that KPP can import from external resources to serve the Cities' load under certain peak loading conditions. Notably, the limitations in the Revised KPP Service Agreement are less restrictive than in the July Service Agreement and permit KPP to import the energy necessary to meet approximately 89% of the Cities' load requirements based on the total maximum firm

²² In the ATSS process, SPP studies the designated Network Resources specified in the NITS application and determines the upgrades necessary to accommodate the delivery of energy and capacity from those Network Resources to the designated load. SPP plans the transmission system based on the designated Network Resources and designated load included in the ATSS process. Because KPP designated less Network Resources than required to serve the Network Load of the Cities, some firm import limitations still will be required even when the upgrades identified in the ATSS study for KPP's application are complete. See SPP Tariff at Attachment Z1, Section I. ("The Transmission Provider will combine all long-term point-to-point and long-term *designated network resource requests* received during a specified period of time into a single Aggregate Transmission Service Study.") (emphasis added).

²³ In the Revised Agreement, SPP changed the terminology from "Long-Term Firm Import Capacity" to "Maximum Firm Import Capability" because the latter more accurately describes the proposed limitations which were identified in the ATSS process. The two phrases represent the same thing.

import capability allowances to each city, assuming all Network Upgrades identified in SPP's ATSS are constructed by 2014.²⁴

For clarity in the Revised KPP Service Agreement, SPP separated the maximum firm import capability limits into two tables found in Attachments B and C (instead of just in one as in Original Attachment B). Attachment B to the Revised KPP Service Agreement provides the maximum amount of firm power (in megawatts) that can be imported from KPP external and behind the meter resources to the Limited Cities prior to completion of certain network upgrades.²⁵ Attachment C provides the maximum amount of firm power (in megawatts) that can be imported from an external and behind the meter resources to the Limited Cities after certain upgrades are completed. As in the July Service Agreement, language is included in Section 8.7 of Attachment 1 of the Revised KPP Service Agreement,²⁶ which clarifies that the limitations detailed in Attachment B and Attachment C could be altered or even eliminated in the future based on re-studies, facility improvements, and/or other modifications.

Even with the less restrictive limitations, SPP understands that KPP continues to dispute the imposition of maximum firm import capability limits on the Cities. SPP's repeated studies, however, have demonstrated that the limitations are necessary for the safety and reliability of the transmission system. SPP conducted the ATSS process in accordance with the SPP Tariff, and after each study, SPP determined that KPP's designated Network Resources specified in the KPP Network Service Application are not adequate to meet KPP's load demands. SPP is only obligated to design the transmission system for the designated Network Resources in the NITS applications being studied.²⁷ Based on the Revised Agreements submitted herein, SPP has committed to build \$52 million of service upgrades, of which \$44 million dollars have been cost allocated to KPP. This amount will be fully Base Plan funded in accordance with Attachment J of the SPP Tariff, with no cost to KPP in excess of the normal access charges. While these

²⁴ Exhibit IV to this transmittal letter illustrates the 89% figure. SPP derived this percentage by adding the network load without restrictions and the maximum import capability of the network loads with limitations and dividing that total into the total requested summer load. The result is the 89%. Exhibit 4 also illustrates that KPP's Network Resources equal only 77% of its Network Load, with 40% of the Network Resources being external Network Resources.

²⁵ The upgrades were identified by the SPP ATSS – SPP-2007-AG1.

²⁶ As noted in note 23 *supra*. The only change is that SPP replaced the term “long term firm transmission import capacity limitations” with “maximum firm import capability limitations,” and SPP added a reference to the new Attachment C. See Revised KPP Service Agreement at Attachment 1, Section 8.7.

²⁷ See *supra* note 22.

Network Upgrades will permit firm some level of firm transmission service in excess of the service required for KPP's external designated Network Resources, they will not enable long-term firm transmission service beyond the maximum firm import capabilities listed in Attachment C. Additionally, prior to the Network Upgrades being placed in service, the transmission system is not adequate to provide long-term firm transmission service, so the maximum firm import capabilities listed in Attachment B address this issue. Order No. 890-B provides that "situations in which a particular designated load cannot be served are best addressed on a case-by-case basis."²⁸ Order No. 890-B further provides that "the obligation of the transmission provider to adequately plan for the needs of its network customers is of course dependent on the network customer designating adequate network resources as well as providing information regarding its forecasted loads and resources."²⁹ Simply put, KPP has not designated adequate external and behind the meter network resources to serve the Cities' load, and therefore maximum firm import capability limitations are required. Furthermore, as noted above, SPP only is required to provide firm network transmission service for the delivery of capacity and energy from its designated network resources, not from undesignated resources.³⁰

While KPP presumably would prefer to have no limits placed on their ability to import power from external resources to serve the Cities load, the constraints of the transmission system simply will not permit unlimited imports from undesignated resources on a firm basis. In this case, the maximum firm import capability limits set forth in the Revised KPP Service Agreement, which still permit KPP to import 89% of the energy necessary for the Cities, are required to address the discrepancy between KPP's requested load and Network Resources under certain contingencies.

In short, the maximum firm import capability limits set forth in the Revised KPP Service Agreement are the least restrictive possible limits that will enable firm service under the Revised KPP Service Agreement given the constraints on the transmission

²⁸ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,241 ("Order No. 890"), *order on reh'g*, Order No. 890-A, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299, at P 219 (2008), *order on reh'g and clarification*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *reh'g pending sub nom. Nat'l Rural Elec. Coop. Ass'n v. FERC*, No. 08-1278 (D.C. Cir. filed Aug. 22, 2008).

²⁹ *Id.*

³⁰ See SPP Tariff at Section 28 ("The Transmission Provider will provide firm transmission service over the Transmission System to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads.").

system and the Network Resources and load designated by KPP. Furthermore, the Revised KPP Service Agreement provides that, in the future, the maximum firm import capability limitations could be deleted from the Revised KPP Service Agreement should the circumstances change. The limitations set forth in Attachments B and C are necessary for the safety and reliability of the system and thus the Commission should accept the Revised Agreements including the unexecuted KPP Service Agreement as just and reasonable.

III. Detailed Description and Justification of Revisions to the Revised Agreements

The Revised Agreements submitted herein are identical in all material respects to the July Agreements except for the changes described below.³¹ First, a table and language has been added to Section 8.7 to specify the potential redispatch pairs listed in Table 6 of the final posting of the relevant ATSS. KPP will provide at least one of these potential redispatch pairs. The new table and language also denote the transmission requests and Network Resources for which redispatch is required to alleviate loading on the facilities listed in Attachment A to the Revised KPP Service Agreement prior to completion of necessary reliability and construction pending upgrades.³²

Second, language in Section 8.7 of Attachment 1 of the Revised KPP Service Agreement now provides that SPP will curtail KPP's network service in the event KPP fails to comply with a SPP request for interim redispatch.³³ This new language is

³¹ Redlined pages illustrating the differences between the Revised Agreements and the July Agreements have been included as Exhibit II. The only change to the Revised Westar NOA and the Revised Midwest NOA was the removal of the phrase "as agent for its members" after KPP in the first paragraph, in Section 3.1, and Section 5.1 of both NOAs. These changes reflect that KPP is not a party to the Revised Agreements as an agent for its members. KPP is the network customer and not an agent for their member Cities. KPP possesses the ownership rights to designated network resources through the rights given KPP by the member cities in their Operating Agreement. A similar change is made in the Revised KPP Service Agreement.

³² Attachment A of the Revised KPP Service Agreement has also been updated to reflect the redispatch required for transmission service under the Revised Agreements. Appendix 1 and 3 also were updated with additional network resources and delivery points, respectively.

³³ As Section 8.7 of the July Service Agreement reads: "In the absence of an executed bilateral redispatch agreement, the Transmission Provider shall curtail the customers schedule for transactions resulting in overloads on limiting facilities." Section 8.7 of the Revised Service Agreement now reads: "In the
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consistent with the SPP Tariff and Commission precedent. Section 30.5 of the SPP Tariff provides that a condition of the network customer taking service is that the network customer agrees “to redispach its Network Resources as requested by the Transmission Provider pursuant to Section 33.2 [of the SPP Tariff] and in accordance with Attachment K.”³⁴ Therefore, by taking network service prior to all Network Upgrades being in-service, KPP has agreed to redispach Network Resources when called upon to do so by SPP. Further, Commission precedent allows a transmission provider to curtail service for a third-party resource if the third-party resource fails to perform its redispach obligation.³⁵ As the additional language is consistent with the SPP Tariff and Order No. 890, the Commission should accept the language in Section 8.7 of Attachment 1 of the Revised KPP Service Agreement.

Third, as discussed above, Attachment B and C to the Revised KPP Service Agreement have been revised and added to reflect current data for maximum firm import capability limitations identified by SPP in the most recent ATSS studies. Correspondingly, the phrase “and Attachment C respectively” has been added to Section 8.7 of Attachment 1 of the Revised KPP Service Agreement to refer to Attachment C. In addition, the phrase “maximum firm import capability limitations” replaced the phrase “long term firm transmission import capacity limitations” in Section 8.7.³⁶

Fourth, Section 8.9 of Attachment 1 of the Revised KPP Service Agreement includes new language specifying that KPP has confirmed additional Network Resources and load requiring Network Upgrades from subsequent ATSS process after the July 1 Filing³⁷. This additional language indicates that the transmission service requested by KPP from the new Network Resources depends on and is contingent upon the completion of certain Network Upgrades.³⁸ These additional provisions are consistent with Section

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absence of implementation of interim redispach as requested by the Transmission Provider for Network Customer transactions resulting in overloads on limiting facilities, the Transmission Provider shall curtail the customers schedule.”

³⁴ SPP Tariff at Section 30.5.

³⁵ Specifically, the Commission in Order No. 890 stated that “transmission providers may curtail transmission customers if a third-party resource fails to perform its contractual redispach obligation. This or any other remedy for non-performance must be specified in writing between the parties prior to commencement of the service.” *See* Order No. 890, at P 1007.

³⁶ *See supra* notes 19, 23.

³⁷ SPP-2007-AG2 and SPP-2007-AG3, respectively.

³⁸ Section 8.9 also indicates that KPP is not assigned the cost of these upgrades.

29.3 of the SPP Tariff, which provides that network transmission service may not commence until installation of all necessary equipment has been completed.³⁹ The Commission has previously accepted similar additions of network resources to agreements submitted by SPP.⁴⁰

IV. Description and Justification of Non-Conforming Language in Revised Agreements

In addition to the revisions to the Revised Agreements described above, the Revised Agreements contain many of the same non-conforming provisions as in the July Agreements, that were described in the July 1 Filing and are discussed below.⁴¹

Section 2.0 of Attachment 1 to the Revised KPP Service Agreement and Section 3.3 of the Revised Westar and Revised Midwest NOAs have been revised to properly reflect that KPP's delivery points are listed in Appendix 3. The Commission previously has accepted similar revision to service agreements submitted by SPP.⁴²

In Section 8.1 of Attachment 1 to the Revised KPP Service Agreement, the Parties added language stating that network loads connected to the Westar transmission system are based on the charges for the Westar Energy pricing zone, while network loads connected to the Midwest transmission system are based on the charges for the Midwest Energy pricing zone. This language accounts for the fact that the agreements pertain to

³⁹ See SPP Tariff at Section 29.3; see also *Sw. Power Pool, Inc.*, 118 FERC ¶ 61,148, at P 40 (2007) (describing how SPP Tariff Section 29.3 "states that network service 'shall not commence until the [transmission provider has] completed installation of all equipment.'").

⁴⁰ See *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-790-000 (Apr. 14, 2009); *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-441-000 (Feb. 11, 2009).

⁴¹ Included with this filing as Exhibit III are redlined pages illustrating the differences between the Revised Agreements and the *pro forma* Service Agreement and NOA.

⁴² See, *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER08-903-000 (May 30, 2008); *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-208-000 (Dec. 17, 2008). The Revised Midwest and Revised Westar NOAs also have been revised throughout to correct punctuation and to capitalize certain words. The Commission previously has accepted similar revisions in previous service agreements and NOAs submitted by SPP. See, e.g., *Sw. Power Pool, Inc.*, Letter Order, Docket Nos. ER09-1665-000 (Oct. 22, 2009); *Sw. Power Pool, Inc.*, Letter Order, Docket Nos. ER09-1070-000, *et al.* (June 25, 2009).

load in both the Westar and Midwest transmission systems, and the monthly charges must reflect this fact.

Section 8.7 of Attachment 1 of the Revised KPP Service Agreement contains language regarding KPP's redispatch obligations. This language is consistent with Attachment K of the SPP Tariff,⁴³ and the Commission previously has accepted similar language.⁴⁴

Section 8.8 of Attachment 1 to the Revised KPP Service Agreement contains language indicating that wholesale distribution service charges for all of KPP's delivery points within the Westar transmission system will be calculated pursuant to an agreement, currently in effect, between Westar and KPP ("Ancillary Services Agreement").⁴⁵ This language is consistent with Schedule 10 of the SPP Tariff, which provides that "[a]ll rates and charges for Wholesale Distribution Service shall be on file with the appropriate agency as required by law or regulation."⁴⁶ Section 8.4.1 of Attachment 1 of the Revised KPP Agreement similarly references the Ancillary Services Agreement. Specifically, the additional language provides that the ancillary services initially will be self-supplied by KPP utilizing the Ancillary Services Agreement, subject to change pursuant to the Ancillary Services Agreement. The Commission has accepted similar revisions in service agreements submitted by SPP.⁴⁷

Section 8.9 of Attachment 1 of the Revised KPP Service Agreement further includes language specifying that the transmission service requested by KPP from certain designated resources depends on and is contingent upon completion of the specified

⁴³ See SPP Tariff at Attachment K, Section I.A. ("To the extent the Transmission Provider can relieve any system constraint for Firm Point-To-Point or Network Integration Transmission Service by redispatching the generation resources of the Transmission Owner(s) or other willing generators, it shall do so, provided that the Eligible Customer agrees to compensate the Transmission Provider pursuant to the terms of Section 27 of this Tariff and this procedures.").

⁴⁴ See, e.g., *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-208-000 (Dec. 17, 2008); *Sw. Power Pool, Inc.*, Letter Order, Docket No. E08-1604-000 (Oct. 31, 2008).

⁴⁵ On September 2, 2008, SPP filed the Ancillary Services Agreement with the Commission, which the Commission accepted on October 28, 2008. *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER08-1487-000 (Oct. 28, 2008).

⁴⁶ See SPP Tariff at Schedule 10.

⁴⁷ See, *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER08-766-000 and -001 (June 23, 2008).

network upgrades. This language details which of the Network Upgrades are fully base plan fundable in accordance with Section III.A of Attachment J of SPP's Tariff, as well as the Network Upgrades for which KPP is and is not financially responsible. These provisions in Section 8.9 are consistent with Section 29.3 of SPP's Tariff, which provides that network transmission service may not commence until installation of all necessary equipment has been completed.⁴⁸ The proposed language also details the requirement for transmission owner reliability upgrades and construction pending upgrades, neither of which are not assignable to KPP. This language is consistent with similar provisions previously accepted by the Commission for other SPP network service agreements.⁴⁹

Finally, Section 8.9 of Attachment 1 of the Revised KPP Service Agreement contains language indicating that KPP will be responsible for paying the remaining revenue requirements for several specific upgrades associated with firm point-to-point service to four specific cities in Kansas: Erie, Girard, Holton, and Ellinwood. The costs of the upgrades listed in Section 8.9 were assigned to KPP due to its requests for SPP to provide Firm Point-To-Point Transmission Service to serve these four cities. While KPP has pooled its load and the four cities now will be served with NITS under the Revised Agreements, it is still responsible for the Network Upgrades deemed necessary by the original request for point-to-point service because they remain required for network service. Further, the Network Upgrade charges in Section 8.9 are consistent with Schedule 9 of the SPP Tariff, which allows SPP to charge a Transmission Customer for "Directly Assigned Upgrade Costs in addition to the charges specified in this Schedule [9] and any other applicable charges under" the SPP Tariff.⁵⁰ This Network Upgrade charges also are consistent with similar provisions previously accepted by the Commission for other SPP service agreements.⁵¹

The modifications to the Revised KPP Service Agreement, and the non-conforming provisions in the Revised Agreements, clarify how SPP will provide network service to KPP, and are necessary because of the unique circumstances of KPP's service request. As such, this filing is consistent with the public interest and warrants acceptance by the Commission. SPP is serving a copy of this filing on the representatives for the Parties listed in the Revised Agreements.

⁴⁸ See SPP Tariff at Section 29.3.

⁴⁹ See, e.g., *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER07-1201-001 (Dec. 18, 2007).

⁵⁰ See SPP Tariff at Schedule 9.

⁵¹ See *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-1665-000 (Oct. 22, 2009) (accepting network service agreement that made the network customer responsible for network upgrade charges associated with a previous Point-to-Point agreement).

V. Effective Date and Waiver

Pursuant to section 35.11 of the Commission's rules and regulations, 18 C.F.R. § 35.11, SPP requests a waiver of the Commission's 60-day notice requirement set forth at 18 C.F.R. § 35.3 to permit an effective date of June 1, 2009 for the Revised Agreements, which is the requested effective date of the July Agreements that the Revised Agreements replace. Waiver is appropriate because the July Agreements were originally filed no later than 30 days after the commencement of service.⁵²

VI. Additional Information

Information Required by Section 35.13 of the Commission's Regulations, 18 C.F.R. § 35.13:

(1) Documents submitted with this filing:

In addition to this transmittal letter, SPP submits: (1) clean copies of the Revised Agreements are included herein as Exhibit I; (2) the redlined pages illustrating the differences between the Revised Agreements and the July Agreements included as Exhibits II;(3) redlined pages illustrating the differences between Revised Agreements and the *pro forma* Service Agreement and NOA; and (4) a table illustrating the relationship between KPP's Network Resources and Network Load as Exhibit IV.

(2) Effective Date:

As discussed herein, SPP respectfully requests that the Commission accept the Revised Agreements with an effective date of June 1, 2009.

(3) Service:

SPP is serving a copy of this filing on the representatives for the Parties listed in the Revised Agreements.

⁵² See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993). See also *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-1386-000 and -001 (Nov. 17, 2009). (Accepting amended service agreements, and allowing the amended agreements to be effective as of the dates requested in the original filing.).

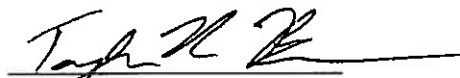
(4) **Basis of Rate:**

All charges will be determined in accordance with SPP's Tariff and the Ancillary Services Agreement.

VII. Conclusion

For all the foregoing reasons, SPP respectfully requests that the Commission accept the Revised Agreements with an effective date of June 1, 2009.

Respectfully submitted,



Wendy N. Reed
Tyler R. Brown

**Attorneys for Southwest Power
Pool, Inc.**