

December 31, 2009

VIA HAND DELIVERY

Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: *Southwest Power Pool, Inc.*, Docket No. ER10-____
Submission of Revisions to Open Access Transmission Tariff to
Incorporate Revisions Providing for Modifications, Additions, or
Abandonment of Delivery Point Facilities Necessary for Transmission
Service and Miscellaneous Clarifying Provisions

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Part 35 of the regulations of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. part 35, Southwest Power Pool, Inc. ("SPP"), as authorized by its independent Board of Directors, proposes to revise its Open Access Transmission Tariff ("OATT" or "Tariff") to incorporate: (a) provisions specifying the process by which transmission customers add, modify, or abandon the local physical delivery point facilities necessary to deliver power and energy pursuant to their transmission service agreement under the SPP Tariff; and (b) miscellaneous clarifying revisions. SPP requests an effective date of March 1, 2010 for these Tariff modifications. In support, SPP states the following:

I. Background

SPP is a Commission-approved Regional Transmission Organization ("RTO"). It is an Arkansas non-profit corporation with its principal place of business in Little Rock, Arkansas. SPP currently has 54 members serving more than 5 million customers and covering a geographic area of 370,000 square miles. SPP's current membership consists of 12 investor-owned utilities, 9 municipal systems, 11 generation and transmission

cooperatives, 4 state authorities, 5 independent power producers, 10 power marketers, and 3 independent transmission companies.¹

As a RTO, SPP is a transmission provider administering transmission service over portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

II. SPP Stakeholder Process and Approval of Proposed Tariff Revisions

In this filing, SPP proposes to incorporate Tariff revisions specifying the process by which transmission customers add, modify, or abandon the local physical delivery point facilities necessary to deliver power and energy pursuant to their transmission service agreement under the SPP Tariff. These revisions originated within SPP's Regional Tariff Working Group ("RTWG")² and its Delivery Point Addition Task Force ("DPATF").³ On October 1, 2009 the DPATF presented its proposed Tariff revisions to the RTWG. After the DPATF's proposed revisions were slightly modified, the RTWG approved the modified revisions on the same day.

The RTWG forwarded the proposed revisions to SPP's Markets and Operations Policy Committee ("MOPC") for further review and consideration.⁴ At its October 13 – 14, 2009 meeting, the MOPC voted to recommend to the SPP Board of Directors that the revisions be approved. Finally, on October 27, 2009, SPP's Board of Directors granted final approval to the Tariff revisions submitted in this filing.

Thus, all of the revisions proposed in this filing have been thoroughly vetted through the SPP stakeholder process, with all entities having an interest able to participate in their development and approval. While SPP recognizes that such stakeholder approval by itself does not cause a filing to be just and reasonable, SPP

¹ As of January 1, 2010, two additional investor-owned utilities will join SPP, bringing SPP's total membership to 56 members.

² The RTWG is responsible for the development, recommendation, overall implementation, and oversight of SPP's regional Tariff.

³ The DPATF was formed by the RTWG to consider and recommend Tariff language to clarify the process by which a transmission customer adds a delivery point for transmission service taken over SPP's transmission system.

⁴ The MOPC reports to the SPP Board of Directors. The representatives to the MOPC consist of an officer or employee of each SPP member. Among its responsibilities, the MOPC recommends modifications to the regional transmission service tariff.

requests that the Commission provide substantial deference to the wishes of SPP's stakeholders, consistent with its precedent.⁵

III. Description and Justification for Tariff Revisions

A. Revisions Allowing Transmission Customers to Modify Their Transmission Service Delivery Point Facilities

1. General Justification

Periodically, customers taking transmission service under SPP's Tariff must add, modify, or abandon their delivery point facilities associated with such service. Such modifications may become necessary under a variety of circumstances. For example, a customer's existing load that is connected to its local delivery point facilities may increase as additional loads are added to the customer's distribution facilities, thereby requiring an increase in the capacity of the customer's existing delivery point facilities. Also, new residential and commercial developments served at retail by a transmission customer, or a new industrial site or single industrial customer, would require the addition of delivery point facilities. Each such circumstance requires timely commencement of service to the new retail customers in order for the SPP transmission customer to fulfill its retail service obligations and maintain a competitive presence. Such timely commencement of service is dependent upon a coordinated, prompt response by SPP and the relevant Transmission Owner to complete delivery point facility modifications and any necessary network upgrades to SPP's transmission system. In order to provide for such a response, SPP's stakeholders have developed the Tariff revisions submitted in this filing, which standardize and specify all necessary actions to be taken by SPP, the Transmission Owner, and the transmission customer to achieve

⁵ The Commission has previously recognized that provisions approved through the stakeholder processes of RTOs and ISOs are due deference. *See Sw. Power Pool, Inc.*, 127 FERC ¶ 61,283, at P 33 (2009) (noting how the Commission "accord[s] an appropriate degree of deference to RTO stakeholder processes"); *New Eng. Power Pool*, 105 FERC ¶ 61,300, at P 34 (2003) (Commission approving transmission cost allocation proposal based upon the extensive and thorough stakeholder process); *Policy Statement Regarding Regional Transmission Groups*, 1991-1996 FERC Stats. & Regs., Regs. Preambles ¶ 30,976, at 30,872 (1993) ("RTG Policy Statement") (the Commission will afford an appropriate degree of deference to the stakeholder approval process). The Commission's deference to RTO stakeholder processes has been upheld by the courts. *See Pub. Serv. Comm'n of Wis. v. FERC*, 545 F.3d 1058, 1062-63 (D.C. Cir. 2008) (noting how the Commission often gives weight to a proposal that is the position of the majority of a stakeholder group of the RTO) (*quoting Am. Elec. Power Serv. Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,083, at P 172 (2008)).

timely execution of their respective responsibilities when a customer seeks to add, modify, or abandon delivery point facilities associated with transmission service under SPP's Tariff.

Under SPP's current effective Tariff, any designation of a new network load must be made through a new application modifying the existing transmission service.⁶ All such applications for network transmission and firm point-to-point of one year or longer are processed through SPP's Aggregate Transmission Service Study ("ATSS") procedure, which combines all designated network resource and long-term firm point-to-point requests received during a specified period of time into a single aggregate study and determines the appropriate upgrades that will be needed to accommodate the aggregate group.⁷ Due to the length of time required for SPP to complete an aggregate study, requests by customers to add, modify, or abandon delivery point facilities can be considerably delayed. Such delay is often unnecessary because the majority of such requests by customers are submitted to accommodate the growth or reconfiguration of existing load under SPP's Tariff, as opposed to the designation of an entirely new load. It is therefore inefficient for SPP to process such requests through the ATSS.

SPP has therefore developed, and seeks to incorporate into its Tariff through this filing, a separate, more efficient process whereby transmission customers can request to add, modify, or abandon delivery point facilities and have such requests processed in a timely manner. Specifically, as detailed below, all requests by transmission customers to add, modify, or abandon delivery point facilities will be governed by a new Attachment AQ to SPP's Tariff. Pursuant to the new Attachment AQ, SPP and the relevant Transmission Owner will study such modification requests and expeditiously report their findings to the transmission customer. As further detailed below, the engineering, design, construction, and cost of any local facilities needed to accommodate the delivery point facility addition or modification request will be established in a written agreement between the customer and the relevant Transmission Owner. SPP's proposal will significantly simplify and eliminate delay in the process for requests to add, modify, or abandon delivery point facilities, which will allow SPP to more efficiently and uniformly accommodate the growth and reconfiguration of existing load under its Tariff. Given

⁶ See SPP Tariff at Section 31.2 ("A designation of new Network Load must be made through a modification of service pursuant to a new Application."); *id.* at Section 31.3 (requiring network customers intending to add a new network load that is not physically connected to SPP's transmission system to submit such a request "through a modification of service pursuant to a new Application.").

⁷ See *id.* at Attachment Z1, Section I. Presently, SPP's ATSS combines all long-term firm point-to-point and network transmission service requests received in two four-month periods into one aggregate study. See *id.* at Attachment Z1, Section III.

these benefits to SPP and its transmission customers, SPP's proposal is just and reasonable, and warrants Commission acceptance.

2. Specific Revisions to the SPP Tariff

a. Section 31.2

SPP has revised Section 31.2 to provide that, with respect to physical load connections to SPP's transmission system, the addition, modification, or abandonment of any delivery point facility for network transmission service will be governed by the provisions of Section 31.2 and the new Attachment AQ of SPP's Tariff.⁸ Specifically, network customers are required to provide SPP and the relevant Transmission Owner with as much advance written notice as reasonably practicable of any physical addition or abandonment of a delivery point facility, or any modifications requiring action by the Transmission Owner to existing delivery point facilities.⁹ Such notice must generally be in a manner and form similar to the Sample Request for Change in Local Delivery Facilities in Addendum 1 to the new Attachment AQ.¹⁰

When a network customer requests a new delivery point facility to be built to serve its load, such notification and processing of the request is governed by the new Attachment AQ.¹¹ In the event a network customer desires to modify or abandon an existing delivery point facility, it must notify SPP and the relevant Transmission Owner, and such notification and processing of the request shall be governed by the new

⁸ See Exhibit II at proposed Section 31.2. SPP has also incorporated into its Tariff a new Section 17.9 providing that the addition, modification, or abandonment of any delivery point facility in conjunction with the provision of point-to-point transmission service will be governed by the applicable provisions of Sections 31.2, 31.3, and the new Attachment AQ. See *id.* at proposed Section 17.9.

⁹ See *id.* at proposed Section 31.2. This new provision incorporates the current effective requirement of Section 31.4 of SPP's Tariff, which requires network customers to provide SPP with advance notice in the event the network customer wants to add a new delivery point or interconnection point between SPP's transmission system and a network load. SPP has therefore deleted the current effective Section 31.4 from its Tariff. See *id.* at proposed Sheet No. 107.

¹⁰ See *id.* at proposed Section 31.2; see also *id.* at proposed Attachment AQ, Addendum 1. SPP's proposed Addendum 1 calls for the network customer to provide information similar to that of an initial service request. See SPP Tariff at Section 29.2 (specifying the information required in an initial network service application).

¹¹ See Exhibit II at proposed Section 31.2a.

Attachment AQ (and Section 31.2a for modifications).¹² In the event that there are both modifications and abandonment, all such desired changes in delivery point configuration shall be noticed and processed simultaneously.¹³

Finally, any costs related to the construction, operation, maintenance and/or retirement of a network customer's delivery point facilities, other than any required Network Upgrades, will be charged to the network customer in accordance with SPP's Tariff and Commission policies.¹⁴ Where Network Upgrades are required pursuant to Attachment AQ study results to accommodate the addition or modification of facilities at a delivery point, such Network Upgrades will be deemed to be reliability upgrades in accordance with Section III of Attachment O of SPP's Tariff, and funded pursuant to the provisions of Section III of Attachment J of SPP's Tariff.¹⁵ This is consistent with SPP's obligation to plan for and accommodate the growth of existing load under its Tariff.¹⁶

b. New Attachment AQ

As noted above, SPP has added a new Attachment AQ to its Tariff that will govern changes in delivery point facilities, particularly the upgrade, retirement, replacement, or establishment of a new delivery point, including metering or other facilities at such location.¹⁷ Attachment AQ identifies the responsibilities of the parties

¹² See *id.* at proposed Sections 31.2b, 31.2c.

¹³ See *id.* at proposed Section 31.2b.

¹⁴ See *id.* at proposed Section 31.2d.

¹⁵ See *id.*

¹⁶ See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,048, at 30,220-21, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *reh'g denied*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y. v. FERC*, 535 U.S. 1 (2002) (stating that "the transmission provider has an ongoing duty to plan and construct its system in a prudent manner in order to meet all of its firm service obligations," and that "public utilities may reserve existing transmission capacity needed for native load growth and network transmission customer load growth reasonably forecasted within the utility's current planning horizon.").

¹⁷ See Exhibit II at proposed Attachment AQ, Section 1.0.

and specifies the response times required to result in a timely conclusion of the desired delivery point facilities modification.

Attachment AQ and the accompanying revisions to the Tariff require transmission customers to make any request for changes in delivery point facilities, including facility upgrades, retirements and replacements, or the establishment of any new delivery point, in writing to SPP and the relevant Transmission Owner.¹⁸ The customer's request must contain as much information as is known or projected at the time of the request, as set forth in "Sample Request for Change in Local Delivery Facilities" in Addendum 1 of Attachment AQ.¹⁹

Upon receipt of such a request from a transmission customer, SPP and the relevant Transmission Owner will concurrently conduct all necessary studies associated with the delivery point facility change.²⁰ Specifically, the relevant Transmission Owner will conduct, if necessary, a Load Connection Study ("LCS").²¹ The LCS study will be initiated by the customer's execution of a LCS Agreement, which the Transmission Owner is required to provide within 10 Business Days of receipt of the customer's modification request.²² The LCS Agreement commits the customer to pay the actual cost to complete the study and possibly to make an advance deposit.²³ The customer must execute and deliver the LCS Agreement and any required deposit within 30 Calendar Days²⁴ following its receipt or at a later date as the parties may mutually agree, or else the

¹⁸ See *id.* at proposed Attachment AQ, Section 2.0; see also *id.* at Section 31.2 (requiring network customers to make such request in writing to both SPP and the Transmission Owner); *id.* at Section 17.9 (requests to add, modify or abandon delivery point facilities for point-to-point transmission service will be governed by Sections 31.2, 31.3 and Attachment AQ).

¹⁹ See *id.* at proposed Attachment AQ, Section 2.0 and Addendum 1.

²⁰ See *id.* at proposed Attachment AQ, Section 3.0.

²¹ See *id.* at proposed Attachment AQ, Section 3.1.

²² See *id.* SPP has also incorporated into its Tariff a new Section 1.31 defining "Business Day" as "[a] day on which the Federal Reserve System is open for business." The Commission has previously accepted an identical definition for the term. See Midwest Independent Transmission System Operator, Inc. Transmission and Energy Markets Tariff ("Midwest ISO TEMT") at Section 1.27.

²³ See Exhibit II at proposed Attachment AQ, Section 3.1.

²⁴ SPP has incorporated into its Tariff a new Section 1.3m defining "Calendar Day" as "[a]ny day including Saturday and Sunday." The Commission has previously accepted similar definitions for the term. See SPP Tariff at Attachment V, (continued . . .)

study request will be deemed to be withdrawn.²⁵ Upon receipt of an executed LCS Agreement, the Transmission Owner will conduct the LCS, which will use power flow and short circuit analyses, as well as any other appropriate analyses, to assess feasibility of modifying an existing delivery point facility or establishing the new delivery point facility.²⁶ Once the Transmission Owner completes the LCS, it will issue a report to the customer and SPP within 60 Calendar Days after receipt of an executed LCS Agreement, deposit, and necessary data, or at a later date as the customer and Transmission Owner may mutually agree.²⁷ The customer must reimburse the Transmission Owner for the unpaid cost of the study if the study's cost exceeds any deposit paid by the customer.²⁸ If any deposit paid by the customer exceeds the cost of the study, the Transmission Owner will refund any portion of such deposit that exceeds the cost of the study, with interest calculated according to the Commission's regulations.²⁹

After the issuance of the LCS report, the customer and Transmission Owner will agree to and specify in writing each party's responsibility for engineering, design, construction, and cost of the facilities described in the report.³⁰ This provision is necessary because delivery point facility modification requests may require local facility upgrades, which are not subject to the cost allocation provisions of SPP's Tariff. Therefore, the funding of such facilities must be negotiated between the customer and the Transmission Owner. Currently, whenever local upgrades are needed in order to accommodate a transmission service request, SPP's practice has been to allow the customer and the Transmission Owner to establish how such upgrades are to be

(. . . continued)

Section 1 (defining Calendar Day as "any day including Saturday, Sunday, or a Federal Holiday."); *see also* Midwest ISO TEMT at Section 1.28a (defining Calendar Day as "[a]ny day of the week, including Saturday, Sunday or a Federal holiday.").

²⁵ *See* Exhibit II at proposed Attachment AQ, Section 3.1. In addition, a customer may withdraw a study request at any time. *See id.*

²⁶ *See id.*

²⁷ *See id.*

²⁸ *See id.*

²⁹ *See id.*

³⁰ *See id.* at proposed Attachment AQ, Section 4.0. This provision is similar to Article 5.1 of SPP's *pro forma* LGIA, which provides that interconnection customers and Transmission Owners will negotiate the design, procurement and construction of necessary interconnection facilities. *See* SPP Tariff at Attachment V, Appendix 6, Article 5.1.

constructed and funded in a separate agreement. In this filing, SPP proposes to codify and standardize this practice for delivery point facility modification requests, thereby clarifying how upgrades needed to accommodate such requests will be handled.

Simultaneously, upon receipt of a customer request to add, modify, or abandon a delivery point facility, SPP will perform a preliminary assessment of the impact on its transmission system of all requested delivery point configuration changes received in one month. The preliminary assessment will be concluded on or before the 20th day of the succeeding month and posted on the SPP website.³¹ The costs of this preliminary assessment will not be directly charged to the customer.³² In the event SPP finds no significant impact resulting from the requested delivery point facilities modification, it will end its direct involvement in the process with respect to all such requests, and allow the Host Transmission Owner to coordinate completion of the facilities changes and execution of an agreement specifying the customer's and Host Transmission Owner's responsibilities for engineering, design, and construction of the facilities.³³

For all delivery point facility change requests that SPP determines will have a significant impact on its transmission system, SPP will conduct a Delivery Point Network Study ("DPNS") at the customer's expense.³⁴ The process for SPP's undertaking of a DPNS is substantially similar to that of a Transmission Owner undertaking a LCS.³⁵ Where SPP is unable to complete a DPNS study within 60 Calendar Days after receipt of an executed DPNS Agreement, SPP will provide an explanation to the customer and Transmission Owner regarding the cause(s) of such delay and a revised completion date and study cost estimate.³⁶

During the course of a LCS or DPNS, any party may identify desirable changes in the planned facilities that may improve the costs and/or benefits (including reliability) of the planned facilities.³⁷ To the extent the revised plan and study schedule are acceptable to the Transmission Owner, the customer, and if applicable, SPP,³⁸ the Transmission

³¹ See Exhibit II at proposed Attachment AQ, Section 3.2.

³² Instead, the costs of this preliminary assessment will be recovered through SPP's Tariff Administration Service in Schedule 1-A of SPP's Tariff.

³³ See *id.* at proposed Attachment AQ, Section 3.2.

³⁴ See *id.* at proposed Attachment AQ, Section 3.2.

³⁵ See *id.*

³⁶ See *id.*

³⁷ See *id.* at proposed Attachment AQ, Section 3.3.

³⁸ Such acceptance is not to be unreasonably withheld.

Owner and, if applicable, SPP, will proceed with any necessary restudy at the customer's expense.³⁹ This language is substantially similar to current effective language in SPP's *pro forma* Large Generator Interconnection Procedures.⁴⁰

c. Section 31.3

A new Section 31.3 has been added to govern taxes on contribution in-aid of construction ("CIAC").⁴¹ This provision applies where a transmission customer funds construction of the added or modified delivery point facilities, and where such payments may be deemed to be a taxable event. Specifically, when a network customer funds the construction of Transmission Owner-owned facilities pursuant to a CIAC, the network customer must also reimburse the Transmission Owner for the tax effect of such CIAC (a "Tax Effect Recovery Factor" or "TERF"), where such payment is considered taxable income and subject to income tax under the Internal Revenue Service ("IRS") and/or a state department of revenue (State) requirements.⁴² Any such TERF will be computed consistent with the methodology set forth by the Commission in *Ozark Gas Transmission System*.⁴³

The Transmission Owner will make an initial determination, based on current law, as to whether the CIAC by the network customer is taxable.⁴⁴ If the Transmission Owner determines that the CIAC is taxable, it will charge the network customer a TERF.⁴⁵ If the Transmission Owner's initial conclusion is later determined to be incorrect by the IRS or state tax authority, the Transmission Owner will reimburse the TERF to the network customer (or the network customer must pay a TERF to the Transmission Owner, in the event the Host Transmission Owner incorrectly determined a CIAC was not taxable), in addition to any interest and penalty charged to the Host Transmission Owner by the IRS and/or state.⁴⁶ Such payment must be made within 30 Calendar Days of the date the Transmission Owner notifies the network customer of such

³⁹ *See id.*

⁴⁰ *See* SPP Tariff at Attachment V, Section 4.4.

⁴¹ *See* Exhibit II at proposed Section 31.3.

⁴² *See id.*

⁴³ 56 FERC ¶ 61,349, at 62,365 (1991).

⁴⁴ *See* Exhibit II at proposed Section 31.3.

⁴⁵ *See id.*

⁴⁶ *See id.*

determination by the IRS or state tax authority.⁴⁷ The network customer may request that the Transmission Owner file with the IRS, at the network customer's expense, a request for a private letter ruling as to whether any CIAC paid, or to be paid, by the network customer to the Transmission Owner is subject to federal income taxation.⁴⁸ Moreover, where a network customer has reimbursed the Transmission Owner a TERF, the network customer may request that the Transmission Owner, at the network customer's expense, contest the taxability of such CIAC, except where the Transmission Owner waives the payment of any amount that might otherwise be payable by the network customer.⁴⁹

The inclusion of Section 31.3 into SPP's Tariff is necessary because, as previously noted, requests to add or modify delivery point facilities may require local facility upgrades, which are not subject to the cost allocation provisions of SPP's Tariff. Therefore, the funding of such facilities must be negotiated between the customer and the Transmission Owner, a practice that SPP is proposing in this filing to codify in its Tariff for delivery point facility modification requests. Such negotiations could result in the customer making a lump sum payment for the construction of local facilities that will be owned by the Transmission Owner.⁵⁰ As the Commission established in Order No. 2003, such a payment, or CIAC, could have tax consequences for the Transmission Owner, and it is therefore appropriate to require customers to indemnify Transmission Owners in the event that the CIAC is considered to be taxable income.⁵¹ Currently in the SPP region, any such requirement is specified in the agreement between the customer and the Transmission Owner establishing how local facilities needed to accommodate a transmission service request will be funded. Because SPP is proposing to codify this practice in its Tariff, it is appropriate for SPP to include Tariff provisions standardizing

⁴⁷ *See id.* at proposed Section 31.3.

⁴⁸ *See id.*

⁴⁹ *See id.*

⁵⁰ This is different from network upgrades constructed to accommodate a transmission service request, for which the customer pays a monthly revenue requirement under SPP's Tariff. *See* SPP Tariff at Attachment Z1, Section V (specifying the monthly payments for ATSS network upgrades).

⁵¹ *See Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 2001-2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,146, at P 421 (2003), *order on reh'g*, Order No. 2003-A, 2001-2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 2001-2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,171, *order on reh'g*, Order No. 2003-C, 2001-2005 FERC Stats. & Regs., Regs. Preambles ¶ 31,190 (2005), *affirmed sub nom. Nat'l Ass'n of Regulatory Utils. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

the requirement that transmission customers reimburse Transmission Owners for tax consequences resulting from the payment of a CIAC. SPP's proposal is similar to the procedure SPP uses in its *pro forma* Large Generator Interconnection Agreement ("LGIA").⁵²

d. Section 31.4

Section 31.4 of SPP's Tariff has been supplemented to govern, along with the relevant provisions of the new Attachment AQ, the addition, modification, or abandonment of any delivery point facilities for network load not physically interconnected with SPP's transmission system, notwithstanding the provisions of any agreement a network customer may have with another transmission provider.⁵³ Delivery point facilities associated with such loads are processed in a similar fashion to delivery point facilities associated with loads that are physically connected to SPP's transmission system. In other words, where a network customer gives notice of its intent to add a new delivery point facility for load that will be served from the customer's existing designated resources, then the delivery point modification request can be processed through the new Attachment AQ.⁵⁴ This is because such a request is considered by SPP to be normal growth of existing load, which SPP is required to plan for and accommodate,⁵⁵ and does not constitute a new transmission service request. However, where a customer seeks to designate a new network resource, SPP considers such a request to be a new transmission request, which must be made through a new application and be processed through SPP's ATSS.

B. Miscellaneous Clarifying Revisions to SPP Tariff

In developing the Tariff revisions submitted in this filing that allow transmission customers to modify their delivery point facilities, SPP has also incorporated two sets of

⁵² See SPP Tariff at Attachment V, Appendix 6, Article 5.17.3 (requiring interconnection customers to indemnify Transmission Owners from the cost consequences of any tax liability imposed against the Transmission Owner as the result of payments or property transfers made by the interconnection customer to the Transmission Owner, including any interest and penalties); *id.* at Attachment V, Appendix 6, Article 5.17.4 (using an identical formula to determine the tax gross-up amount); *id.* at Attachment V, Appendix 6, Article 5.17.5 (allowing interconnection customers to request that the Transmission Owner seek a private letter ruling).

⁵³ See Exhibit II at proposed Section 31.4.

⁵⁴ See *id.*

⁵⁵ See Order No. 888-A at 30,220-21.

miscellaneous Tariff revisions. As explained below, these modifications provide additional clarity to SPP's Tariff, and are therefore just and reasonable.

1. Wholesale Distribution Service

SPP has revised the definition of Wholesale Distribution Service and Schedule 10 of its Tariff to specify that Wholesale Distribution Service will be provided in conjunction with both point-to-point and network transmission service.⁵⁶ These revisions clarify that both point-to-point and network transmission service are offered under SPP's Tariff, and that Wholesale Distribution Service will be provided for both services.

2. Pro Forma Network Service Agreement and Network Operating Agreement

SPP has added language to Section 2.0 of Attachment 1 to its *pro forma* Network Service Agreement requiring the owner of metering equipment at each connection and delivery point for a network customer's load to provide to SPP and the network customer or the applicable Transmission Owner such data required by SPP for billing on a monthly basis.⁵⁷ The network customer's load will be adjusted, for settlement purposes, to include the applicable Transmission Owner's transmission and distribution losses, as specified in sections 8.5 and 8.6 of the network service agreement, respectively.⁵⁸

⁵⁶ See Exhibit II at proposed Section 1.49b and Schedule 10. SPP has also incorporated minor edits clarifying that Section 1.49b pertains to Wholesale Distribution Service, and that any rates to be charged to customers will be assessed under Schedule 10 of SPP's Tariff.

⁵⁷ See *id.* at proposed Sheet No. 191.

⁵⁸ See *id.* SPP has also revised its *pro forma* network service agreement to provide specifications for transmission and distribution losses. See *id.* at proposed Sheet No. 195. Pursuant to Sections 15.7 and 28.5, as well as Attachment M, of SPP's Tariff, transmission customers are required to replace loss energy. See SPP Tariff at Sections 15.7, 28.5, and Attachment M. In addition, SPP has provided for the specification of any meter data processing charge that may be imposed by a Transmission Owner. See, e.g., *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER09-1434-000 (Sept. 1, 2009) (accepting network service agreement that included an Interconnect and Local Delivery Service Agreement, which required the network customer to pay the Host Transmission Owner for meter data processing). These revisions are necessary so that SPP's *pro forma* network service agreement specifies all charges to which a network service customer may be subject.

Language has also been added to Section 8.1 of SPP's *pro forma* Network Operating Agreement requiring meter owners to permit network customers and/or Host Transmission Owners, as applicable, to remotely interrogate through read-only access any delivery point meter for the purpose of obtaining load data and other data, if available, utilizing existing equipment.⁵⁹ At the request of a network customer or a Host Transmission Owner, the meter owner will cooperate on the installation of advanced technology metering at a delivery point at the requestor's expense, provided such equipment does not interfere with the meter owner's equipment or the fulfillment by any party to the Network Operating Agreement of any statutory or contractual obligation.⁶⁰ Moreover, the meter owner will not be required to install, operate or maintain any meter or related equipment that is not approved for use by the meter owner and/or Host Transmission Owner.⁶¹

These revisions provide additional clarity concerning the obligations of a meter owner, be it the Host Transmission Owner or the network customer, and ensure that SPP will be able to accurately bill for network service on a timely basis.

IV. Effective Date

SPP requests that the Commission accept the Tariff revisions proposed in this filing with an effective date of March 1, 2010.

V. Additional Information

A. Information Required by Section 35.13 of the Commission's Regulations, 18 C.F.R. § 35.13:⁶²

1. Documents submitted with this filing:

In addition to this transmittal letter, the following material is provided with this filing: (a) a non-redlined copy of the revised portions of SPP's Tariff, as Exhibit I; (b) a redlined copy of the revised portions of SPP's Tariff, as Exhibit II; and (c) a list of its

⁵⁹ *See id.* at proposed Sheet No. 212.

⁶⁰ *See id.*

⁶¹ *See id.*

⁶² Because the revisions to the SPP Tariff submitted herein do not involve any change in rates, the use of the abbreviated filing procedures as set forth in 18 C.F.R. § 35.13(a)(2)(iii) is appropriate.

Members and Customers served with a copy of this filing, as Exhibit III.

2. Effective Date:

As discussed in this filing, SPP requests that the Commission accept the proposed Tariff revisions with an effective date of March 1, 2010.

3. Service:

SPP has served a copy of this filing on all its Members and Customers. A complete copy of this filing will be posted on the SPP web site www.spp.org, and is also being served on all affected state commissions.

4. Requisite Agreements:

SPP's Board of Directors approved this filing at its meeting on October 27, 2009.

5. Specifically assignable facilities installed or modified:

There are none.

B. Communications:

Correspondence and communications with respect to this filing should be sent to, and SPP requests the Secretary to include on the official service list, the following:

Heather H. Starnes, J.D.
Manager, Regulatory Policy
Southwest Power Pool, Inc.
415 North McKinley, Suite 140, Plaza West
Little Rock, AR 72205
Telephone: (501) 614-3380
Fax: (501) 664-9553
hstarnes@spp.org

Wendy N. Reed
Matthew K. Segers
Wright & Talisman, P.C.
1200 G Street, NW
Suite 600
Washington, D.C.
Telephone: (202) 393-1200
Fax: (202) 393-1240
reed@wrightlaw.com
segers@wrightlaw.com

VI. Conclusion

For all of the foregoing reasons, SPP respectfully requests that the Commission accept the Tariff revisions submitted in this filing, with an effective date of March 1, 2010. SPP further requests waiver of any additional Commission regulations that the Commission may deem applicable.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Wendy N. Reed", is written over a horizontal line.

Wendy N. Reed
Matthew K. Segers

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