

131 FERC ¶ 61,252  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
and John R. Norris.

Southwest Power Pool, Inc.

Docket No. ER10-1069-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued June 17, 2010)

1. On April 19, 2010, Southwest Power Pool, Inc. (SPP) filed revisions to its Open Access Transmission Tariff (Tariff) to adopt a new “Highway/Byway” cost allocation methodology (Highway/Byway Methodology). The Commission accepts SPP’s proposed tariff revisions for filing effective June 19, 2010, as discussed below.
2. Cost allocation reform is one of the most difficult issues facing transmission service providers and regional transmission organizations (RTO)/independent system operators (ISO), including SPP. This is especially true given the changing circumstances affecting the transmission grid including, particularly the need to upgrade existing transmission infrastructure and build new transmission facilities to satisfy the expanding demands on the transmission system. Efforts to integrate new resources, including significant amounts of location-constrained generation, into existing transmission systems and to address renewable portfolio standards and other regulatory policies challenge existing cost allocation and transmission planning protocols.
3. Recognizing these challenges, SPP and its stakeholders, including state regulators, load-serving entities, transmission owners, project developers, and generators, have worked for over 15 months to reform SPP’s cost allocation mechanisms and transmission planning processes, which were initially adopted to join together individual utilities into a unified RTO structure. SPP’s proposed Highway/Byway Methodology is part of SPP’s ongoing effort to move from a traditional transmission planning approach that focuses on local reliability issues to one that takes a more holistic approach to meeting the needs of the region as a whole. SPP states that one such regional goal is the integration of the western and eastern portions of the SPP grid to enable renewable resources, predominately in the western areas of the SPP region, to serve load centers in the east. Strengthening SPP’s transmission infrastructure will also improve SPP’s transmission service request process and relieve the backlog in SPP’s generation interconnection queue.

4. For the reasons discussed below, we find that SPP's proposed Highway/Byway Methodology will foster improvements in SPP's transmission system by consolidating and simplifying the cost allocation process and by providing greater certainty for cost recovery. The proposed Highway/Byway Methodology is an important step in facilitating investment in new transmission facilities to integrate the eastern and western portions of the SPP grid, reduce congestion, efficiently integrate new resources, and accommodate new or growing loads.

### **I. Background**

5. Since 2005, SPP has allocated the costs of Base Plan Upgrades<sup>1</sup> greater than \$100,000 according to the following methodology: one-third of the costs are allocated across the SPP region on a postage stamp basis, and the other two-thirds are allocated to the SPP pricing zones based on each zone's share of the incremental positive MW-mile benefits<sup>2</sup> as computed by a MW-mile analysis. Base Plan Upgrades that cost \$100,000 or less are allocated to the zone in which the upgrade is located (host zone). In 2009, SPP modified the allocation factors specifically for Base Plan Upgrades resulting from transmission service requests that are associated with a Designated Resource<sup>3</sup> that is a wind generation resource. When the Base Plan Upgrade associated with a wind resource is located in the same zone as the transmission customer's point of delivery, costs are allocated one-third regionally and two-thirds zonally (using the MW-mile analysis). When the Base Plan Upgrade resulting from a transmission service request that is

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<sup>1</sup> Base Plan Upgrades are defined as follows: Upgrades included in and constructed pursuant to the SPP Transmission Expansion Plan in order to ensure the reliability of the Transmission System. Base Plan Upgrades also include Service Upgrades required for new or changed Designated Resources to the extent allowed for in Attachment J to the SPP Tariff. *See* SPP Tariff at Attachment J section III.B.

<sup>2</sup> Under the existing Attachment J of SPP's Tariff, each zone with a benefit of at least 10 MW-miles from a given Base Plan Upgrade is allocated a portion of the zonal revenue requirement for the Base Plan Upgrade based on that zone's incremental positive MW-mile benefit divided by the sum of the incremental positive MW-mile benefits for all of the Zones with a benefit of at least 10 MW-miles from the upgrade. *See id.* at Attachment J section III.A.

<sup>3</sup> SPP defines a Designated Resource as: Any designated generation resource owned, purchased or leased by a transmission customer to serve load in the SPP region. Designated 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 transmission customer's load on a non-interruptible basis. *Id.* at section 1.9a.

associated with a wind generation resource is located in a different zone than the transmission customer's point of delivery, two-thirds of the costs of the upgrade are allocated regionally, with the remaining one-third allocated to the transmission customer.

6. In January 2009, in response to SPP's annual stakeholder survey from previous years and anticipated changes in federal energy policy, the SPP Board of Directors established the Synergistic Planning Project Team (SPPT)<sup>4</sup> and charged it with examining SPP's transmission planning procedures and developing recommendations to stimulate investment in, and facilitate the construction of, critically needed new transmission.

7. SPP states that the SPPT considered several cost allocation approaches including license plate/zonal rates, direct assignment/beneficiary pays, and full regional postage stamp, but concluded that a Highway/Byway approach was the most appropriate for SPP.<sup>5</sup> On April 23, 2009, the SPPT issued a report<sup>6</sup> with recommendations for reforming SPP's cost allocation and transmission planning processes, including adopting the Highway/Byway Methodology and Integrated Transmission Plan (ITP),<sup>7</sup> and identifying and recommending a list of extra high voltage (EHV)<sup>8</sup> "Priority Projects" to be approved

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<sup>4</sup> Membership in the SPPT includes: two state regulatory commissioners; one representative each from the investor-owned utility, transmission-dependent utility, and market segments of the SPP membership; an outside investor; an industry consultant; and a senior SPP staff member. *See* Dillahunty Test., Ex. No. SPP-1 at 17. .

<sup>5</sup> SPP Filing at 9.

<sup>6</sup> Southwest Power Pool, Report of the Synergistic Planning Project (Apr. 23, 2009) ( SPPT Report), available at [http://www.spp.org/publications/SPPT Report Version v6-1.pdf](http://www.spp.org/publications/SPPT%20Report%20Version%20v6-1.pdf).

<sup>7</sup> SPP filed its ITP proposal on May 17, 2010, in Docket No. ER10-1269-000. SPP states that the ITP process will involve a three-year planning cycle during which SPP will study its transmission system needs over near-term (4-year), mid-term (10-year), and long-term (20-year) periods to identify the transmission facilities necessary to create a robust transmission system to meet the reliability and economic needs of the region. The Commission will address the ITP in a separate order to be issued in Docket No. ER10-1269-000.

<sup>8</sup> SPP defines EHV facilities as transmission facilities operating at or above 300 kV. SPP Filing at 2.

by the Board of Directors within six months. SPP states that in making its recommendations, the SPPT observed that SPP's:

current process has resulted in numerous cost allocation methodologies. Approved SPP transmission rates consist of the zonal rates; a regional rate and MW-mile rate under the Base Plan Funding mechanism; a postage-stamp rate for the Balanced Portfolio<sup>9]</sup> projects, and the possibility of yet another cost allocation method for an EHV Overlay system. SPP members and staff have expressed concern that these cost recovery methods are fragmented, confusing, and difficult to administer as it requires a complex system to track costs by project over the life of the project...[T]he SPPT recommends expanding and including a comprehensive review of all cost allocation methodologies for possible consolidation under a unified system using the recommended "highway-byway" approach.<sup>10</sup>

8. SPP also states that the Regional State Committee (RSC)<sup>11</sup> and SPP's cost allocation working group met frequently from April through October 2009 to reform the cost allocation method following the SPPT's recommendations. On October 26, 2009, the RSC approved the working group's recommended cost allocation methodology (which formed the basis for the Highway/Byway Methodology) with one member voting no. Pursuant to the SPP Bylaws, the RSC has the primary responsibility for determining regional proposals regarding, among other things, "whether license plate or postage stamp rates will be used for the regional access charge."<sup>12</sup> Under the SPP Bylaws, if the RSC reaches a decision on the methodology that would be used, SPP is required to file the methodology with the Commission under section 205 of the Federal Power Act

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<sup>9</sup> Under the Balanced Portfolio provision of its Tariff, SPP evaluates a portfolio of economic upgrades to achieve a balance where the benefits of the portfolio to each zone (as measured by adjusted production costs) equals or exceeds the costs allocated to each zone over a ten-year period. Where necessary, SPP will include costs associated with reliability upgrades or existing facilities that are allocated zonally to achieve a balance among all SPP Zones. *See* SPP Tariff at Attachment J section IV.A.

<sup>10</sup> SPP Filing at 9, citing SPPT Report at 13.

<sup>11</sup> The RSC provides state regulatory agency input on regional matters related to the development and operation of bulk electric transmission and includes one designated commissioner from each state regulatory commission having jurisdiction over an SPP member. SPP Bylaws, Original Volume No. 4 section 7.2.

<sup>12</sup> *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at P 219 (2004).

(FPA), 16 U.S.C. § 824d (2006).<sup>13</sup> While SPP may also file an alternative cost allocation methodology under section 205, SPP has not done so in this proceeding.<sup>14</sup>

9. Based on this approved methodology, the SPP tariff working group developed Tariff language to implement the Highway/Byway Methodology. On March 2, 2010, the SPP Markets and Operations Policy Committee (MOPC),<sup>15</sup> with a 64 percent favorable vote, failed to approve the Tariff revisions under its super-majority voting requirements.<sup>16</sup> Subsequently, on March 31, 2010, the SPP Board of Directors and SPP Members Committee<sup>17</sup> held a special meeting to consider the Highway/Byway Methodology. At the meeting, SPP's tariff working group presented draft tariff language representing the position of the majority of tariff working group members, SPP staff presented an alternative proposal to include enhanced "unintended consequences"<sup>18</sup> language, and opponents of the tariff working group's proposal presented a "compromise position" advocating an alternative cost allocation methodology. The SPP Members Committee voted in favor of the tariff working group's proposal with SPP staff's alternative language, and the Board of Directors approved the modified tariff working group proposal.

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<sup>13</sup> *Id.* P 219.

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

<sup>15</sup> The MOPC consists of a representative officer or employee from each SPP member and reports to the SPP Board of Directors. Its responsibilities include recommending modifications to the SPP Tariff. *See* SPP Bylaws at section 6.1.

<sup>16</sup> Pursuant to section 3.9.1 of the SPP Bylaws, each SPP membership sector (transmission owning members and transmission using members) votes separately, with the result for that sector being a percent of approving votes to the total number of members voting. An action is approved by the MOPC if the average of the two sector vote percentages is at least 66 percent. *See id.* at section 3.9.1.

<sup>17</sup> The SPP Members Committee, which includes up to 19 representatives of the transmission owning member and transmission using member sectors of SPP's membership, provides input to and assists SPP's Board of Directors with the management and direction of the general business of SPP. *See id.* at section 5.1.

<sup>18</sup> Under section III.D of Attachment J, SPP is currently required to review the reasonableness of the regional and zonal allocation factors as least once every five years.

## II. SPP's Filing

10. SPP proposes revisions to its Tariff to adopt the Highway/Byway Methodology.<sup>19</sup> Under SPP's proposal, Base Plan Upgrade costs will be allocated based on the voltage of the upgrade, as follows: (1) the costs of facilities operating at 300 kV and above will be allocated 100 percent across the SPP region on a postage stamp basis; (2) the costs of facilities operating above 100 kV and below 300 kV will be allocated one-third on a regional postage stamp basis and two-thirds to the zone in which the facilities are located; and (3) the costs of facilities operating at or below 100 kV will be allocated 100 percent to the zone in which the facilities are located. SPP proposes to eliminate the MW-mile analysis for costs allocated to zones. Additionally, SPP proposes to allocate the costs of certain upgrades that operate at two different voltages (e.g., transformer equipment) based on the facilities' lower operating voltage.

11. In addition, the proposal modifies the definition of Base Plan Upgrades to include high priority upgrades,<sup>20</sup> excluding Balanced Portfolios that are approved for construction by the SPP Board of Directors. Thus, the proposed cost allocation methodology will apply to the Priority Projects (i.e., the group of EHV projects that SPP developed as interim projects pending implementation of its proposed new transmission planning process), to transmission projects resulting from the ITP, and to Base Plan Upgrades that are developed after the proposed June 19, 2010 effective date and that are not in a Balanced Portfolio.

12. The Highway/Byway Methodology will also apply to Base Plan Upgrades that are associated with a Designated Resource that is a wind generation resource if the facilities are located within the same zone as the transmission customer's point of delivery. SPP states that for Base Plan Upgrades that are associated with Designated Resources that are wind generation resources where the upgrade is located in a different zone than the point of delivery, the Highway/Byway Methodology will only apply if the facility operates at 300 kV and above. In such case, 100 percent of the costs will be allocated regionally. However, if the upgrade operates at less than 300 kV (including those operating at or below 100 kV), 67 percent of the costs of the upgrade will be

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<sup>19</sup> Specifically, SPP proposes modifications to Attachment H (Annual Transmission Revenue Requirement), Attachment J (Recovery of Cost Associated with New Facilities), and Attachment O (Coordinated Planning Procedures) of the Tariff.

<sup>20</sup> A high priority upgrade is an economic upgrade recommended by SPP for inclusion in the SPP Transmission Expansion Plan based on the results of a high priority study requested by SPP stakeholders. See SPP Tariff at Attachment O section IV.3.

allocated regionally, with the remaining 33 percent allocated to the transmission customer.

13. SPP also proposes revisions to its existing unintended consequences provisions set forth in Attachment J. Specifically, the revisions will require review of the Highway/Byway Methodology and allocation factors at least every three years, rather than every five years as currently provided. The proposed revisions also authorize the RSC to recommend any adjustments to the cost allocation if a review shows an imbalanced cost allocation to one or more zones and require that the analytical methods used in the review be defined. Furthermore, SPP proposes other revisions to allow member companies (beginning in 2015) that believe they have been allocated an imbalanced portion of costs to seek relief from the MOPC. SPP further states that several revisions are proposed in Attachment O detailing how it will assess the costs and benefits of transmission alternatives allocated under the Highway/Byway Methodology.

### **III. Notice of Filing and Responsive Pleadings**

14. Notice of SPP's filing was published initially in the *Federal Register*, 75 Fed Reg. 27,549 (2010), with interventions and protests due on or before May 10, 2010. On April 26, 2010, the Nebraska Public Power District (NPPD) filed a request for an extension of time to file comments. The Commission granted a one-week extension to file comments up to and including May 17, 2010.<sup>21</sup> The parties filing notices and motions to intervene are listed in the Appendix.

15. Comments were filed by the following: American Electric Power Service Corp. (AEP); American Wind Energy Association and the Wind Coalition (collectively, AWEA); Arkansas Public Service Commission (Arkansas Commission); CPV Renewable Energy Company, LLC (CPV Renewable); E.ON Climate & Renewables North America LLC (E.ON); Horizon Wind Energy (Horizon); Iberdrola Renewables, Inc. (Iberdrola Renewables); Invenergy Wind Development LLC (Invenergy); ITC Great Plains LLC and ITC Companies (collectively, ITC Companies); Jeff Cloud Vice Chairman, Oklahoma Corporation Commission (Jeff Cloud); Kansas Corporation Commission (Kansas Commission); Kansas Electric Transmission Authority; Majority of the Missouri Public Service Commission (MoPSC Majority); NextEra Energy Resources, LLC (NextEra); Oklahoma Corporation Commission (Oklahoma Commission); Oklahoma Gas & Electric Company (OG&E), the Public Utility Commission of Texas (PUCT); Renewable Energy Systems Americas, Inc. (RES Americas); Western Farmers

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<sup>21</sup> *Southwest Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER10-1069-000 (May 4, 2010).

Electric Cooperative (Western Farmers); Westar Energy Inc. (Westar); and Xcel Energy Services Inc. (Xcel).

16. East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives); Nebraska Power Review Board (NPRB); and Commissioners Jarrett and Davis of the Missouri Public Service Commission (Missouri Public Service Commission Members)<sup>22</sup> filed protests. Novus Windpower LLC (Novus) and Novus Wind II, LLC (Novus II) filed a limited protest. The Empire District Electric Company (Empire), Lincoln Electric System (Lincoln Electric), City Utilities of Springfield, Missouri (Springfield), Omaha Public Power District (OPPD), and NPPD (collectively, Joint Protestors) filed a joint protest (Joint Protest), a supplement and errata to the Joint Protest. Lincoln Electric and OPPD also filed protests separately.

17. Several entities outside of the SPP region generally support the development of EHV transmission facilities but request that the Commission limit its decision in the instant proceeding to SPP. For example, the Midwest Independent System Transmission Operator, Inc. (Midwest ISO), the Midwest ISO Transmission Owners, the Massachusetts Department of Public Utilities, and the New England States Committee on Electricity all request that the Commission limit any decision in this proceeding to SPP and not pre-judge what cost allocation is appropriate in other regions.

18. NextEra filed an answer addressing the Midwest ISO's comments. Sunflower Electric Power Corporation with Mid-Kansas Electric Company, LLC (collectively, Sunflower); and Arkansas Electric Cooperative Corporation with Golden Spread Electric Cooperative, Inc. (collectively, Golden Spread) filed joint answers to the protests. SPP, ITC Companies, and E.ON each filed an answer to protests. East Texas Cooperatives filed answers addressing Sunflower's and SPP's answers and a motion to consolidate the filing in the instant proceeding with the ITP proposal in Docket No. ER10-1269-000. Joint Protestors also filed an answer.

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<sup>22</sup> Comments were received from two parties from the Missouri Public Service Commission. Three of the five Commissioners (MoPSC Majority) filed comments supporting the Highway/Byway Methodology, while two Commissioners (Missouri Public Service Commission Members) filed comments protesting certain aspects of SPP's proposal.

#### IV. Discussion

##### A. Procedural Matters

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits answer to a protest or to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by NextEra, Sunflower, Golden Spread, SPP, East Texas Cooperatives, ITC Companies, E.ON, and Joint Protesters because they have provided information that assisted us in our decision-making process.

##### B. Analysis

20. As a preliminary matter, some commenters, while supporting the development of high voltage facilities in the transmission grid, request that the Commission limit its determinations to SPP and not pre-judge alternative methods of cost allocation. What the Commission has before it in this proceeding is the SPP Highway/Byway Methodology, which SPP filed to address cost allocation in its region. No other cost allocation proposal or method is before us in the instant proceeding. Accordingly, if and when another transmission provider submits a section 205 filing to revise an existing cost allocation methodology as SPP had done, the Commission will evaluate whether that proposal has been shown to be just and reasonable and not unduly discriminatory or preferential in accordance with the mandates of the FPA.

#### 1. Highway/Byway Methodology

##### a. SPP Support

21. In its filing, SPP describes the circumstances and considerations under which it developed the Highway/Byway Methodology, as well as its new transmission planning process, the analyses it conducted, the expected benefits from expansion of EHV facilities in the SPP region, legal precedents, and the stakeholder process that led to the instant filing. First, SPP states that due to the realities of an integrated network and Commission policies such as Order No. 890,<sup>23</sup> transmission system planning in SPP has

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<sup>23</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on reh'g*,

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evolved from a utility-by-utility approach focusing primarily on maintaining reliability at the local level to a region-wide approach. SPP states that a region-wide approach focuses on the development of a robust transmission system that is required to take into account not only reliability issues, but economic opportunities to reduce congestion, as well as state and federal policy goals such as increased use of renewable energy resources, greater incorporation of demand response and energy efficiency technologies, and reduced carbon dioxide emissions. SPP states that the RSC was guided by these policies and principles of transmission system planning in developing the Highway/Byway Methodology.

22. Additionally, SPP states that the Highway/Byway Methodology is a necessary adjunct to a regional transmission planning approach, providing appropriate cost allocation by focusing on cost effectiveness to encourage the development of EHV facilities that provide benefits to the entire SPP region. SPP notes that the ultimate goal of the ITP process is to develop, to the extent reasonably practical, a demonstrable correlation between the actual allocation of costs and the benefits received over time. Further, SPP states that in the SPPT Report, the SPPT identified several goals for the ITP based on the evolving needs of the SPP region, including (among other things): (1) integrating west to east portions of the SPP grid to enable renewable resources located primarily in the west to reach load centers located mostly in the east; (2) providing support for the Aggregate Transmission Service Study process;<sup>24</sup> (3) providing relief to the generation interconnection queue; and (4) relieving known congestion.<sup>25</sup> SPP asserts that in adopting the Highway/Byway Methodology, the RSC recognized the necessity of coupling a comprehensive regional transmission planning process with regional cost allocation that appropriately reflects the benefits and costs of new transmission facilities.

23. Second, SPP states that it conducted a number of studies to evaluate its proposed voltage-based cost allocation methodology. SPP states that it undertook the Transmission Distribution Analysis to determine which facilities are used primarily for regional flows and therefore fulfill more of a highway function on an integrated transmission network, and which facilities are used more at the local level (i.e., byway).<sup>26</sup> SPP explains that the

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Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>24</sup> Under SPP's Aggregate Transmission Service Study process, customers may submit and withdraw requests for long-term transmission service during a pair of open seasons. These requests are evaluated simultaneously to provide for optimization of transmission expansion. SPP Tariff, section I, 1.1c and Attachment Z1.

<sup>25</sup> SPP Filing at 14, citing SPPT Report at 11, 16.

<sup>26</sup> *Id.*, citing Dillahunty Test., Ex. No. SPP-1 at 36-39.

Transmission Distribution Analysis assesses the responsiveness of different facilities to power transfers among SPP zones as indicated by the impact of illustrative transactions on the facilities included in the analysis. Specifically, SPP performed the analysis using five EHV facilities included in an SPP Balanced Portfolio, existing 345 kV facilities in the SPP system, and existing SPP facilities operating at 138 kV, 115 kV, and 69 kV. SPP states that this analysis indicated that EHV facilities were far more responsive to inter-zonal flows (98 percent for the Balanced Portfolio EHV facilities and 77 percent for existing SPP EHV facilities) than were lower voltage facilities (38 percent for the 115 – 138 kV facilities and 14 percent for the existing 69 kV facilities).<sup>27</sup> SPP states that it found similar results when analyzing a series of through transactions.<sup>28</sup> Thus, SPP concludes that the Transmission Distribution Analysis demonstrates that higher voltage facilities contribute more to transmission transactions that cross one or more zonal boundaries, and therefore have a greater role in supporting regional use of the integrated transmission system than lower voltage facilities.

24. SPP states that the second study, the Injection Withdrawal Transmission Utilization Analysis (Injection/Withdrawal Analysis), was used to estimate the portion of transmission line flow that is the result of local utilities serving local load with local generation versus the portion of the transmission line flow that is the result of regional, non-local utilization. From this analysis, SPP reports that it determined that the total average percentage of regional usage of the EHV facilities studied was 78 percent.<sup>29</sup> SPP notes that while the percentages vary based on the facilities and time period studied (i.e., 85 percent regional usage of EHV facilities during spring peak, 83 percent regional usage during summer peak, and 65 percent regional usage during winter peak), the Injection/Withdrawal Analysis supports the conclusion that EHV facilities primarily fulfill a regional function. SPP concludes that these studies demonstrate that EHV facilities support regional service primarily and lower voltage facilities support local transmission services.

25. Next, SPP describes regional benefits that it states will result from greater development of EHV facilities including: congestion relief; transmission system unloading and regional reliability and stability; improvement of the interconnection and transmission service request processes; facilitation of public policy goals such as increasing use of renewable energy resources; and other economic benefits. With regard to congestion relief, SPP provides an example of a five-minute interval in January 2010,

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<sup>27</sup> *Id.* at 14-15, citing Dillahunty Test., Ex. No. SPP-1 at 36-39.

<sup>28</sup> *Id.* at 15, citing Dillahunty Test., Ex. No. SPP-1 at 38-39.

<sup>29</sup> *Id.*, citing Dillahunty Test., Ex. No. SPP-1 at 41.

when a flowgate was breached. SPP states that it was the only congested flowgate on the SPP transmission system at that time, and this congested flowgate triggered significant price separation in SPP, with prices ranging between -\$475/MWH and \$1,480/MWH.<sup>30</sup> SPP states that absent this congestion event, the price at all locations would have been \$25.26/MWH, the system marginal price. SPP argues that one additional EHV transmission facility and associated transformer would have relieved this congestion. Thus, SPP contends the costs of adding the EHV facility and related transformer needed to relieve this congestion should be allocated on a regional basis, because the relief the facilities provide would benefit the region.

26. Regarding system unloading, SPP asserts that the addition of new EHV transmission facilities reduces the risk of overload and system instability by unloading the existing network in other parts of the system. SPP further asserts that adding more EHV transmission facilities to its system would improve the generation interconnection process and reduce complexities and delay associated with granting transmission service requests.<sup>31</sup> Additionally, SPP states that constructing EHV transmission facilities will increase west-to-east power flows enabling energy generated by renewable resources located in the west to move to loads in the east. SPP also states developing EHV transmission facilities will provide the flexibility necessary to comply with federal and state energy policies. SPP adds that EHV transmission facilities also facilitate public policy goals such as increasing the use of renewable energy resources and provide greater access to a wide array of generation resources for multiple load centers, which enhances fuel diversity for the entire SPP region.

27. SPP also commissioned a study to evaluate the economic and employment effects of wind power and transmission development in the SPP footprint specifically for the Priority Projects (Brattle Group Study). SPP reports that the Brattle Group Study found that economic gains from developing wind generation and the transmission needed to support that development could exceed \$13 billion for the states in the SPP footprint over a twenty-year period.<sup>32</sup>

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<sup>30</sup> *Id.* at 16-17 n.62, citing Dillahunty Test., Ex. No. SPP-1 at 34-35.

<sup>31</sup> SPP provides maps showing overlapping EHV facilities necessary for reliability, generator interconnection requests, and transmission service requests currently pending on the SPP system. *See* Dillahunty Test., Ex. No. SPP-1 at 29-33.

<sup>32</sup> This figure represents the combined economic effects from construction and operation of wind generation resources and transmission facilities over a 20-year period, including economic gains from the manufacturing of transmission and wind plant components within the SPP region. Without economic gains from in-region

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28. Regarding legal precedents, SPP states that the Commission and the courts have recognized that cost allocation is not an exact science where costs and benefits are allocated with exacting precision.<sup>33</sup> SPP also points out that the U.S. Supreme Court has stated that “allocation of costs is not a matter for the sliderule. It involves judgment on a myriad of facts. It has no claim to an exact science.”<sup>34</sup> SPP assert that the courts have also repeatedly summarized the Commission’s cost causation principle as requiring that “rates reflect *to some degree* the costs actually caused by the customer who must pay them.”<sup>35</sup>

29. SPP notes that in its recent remand of the Commission’s orders accepting PJM Interconnection, L.L.C.’s (PJM) postage stamp rate for high voltage (i.e., 500 kV and above) facilities, the Court of Appeals for the Seventh Circuit recognized that cost allocation is not a precise exercise,<sup>36</sup> and remanded the PJM cost allocation approach not because it was demonstrated to be unjust and unreasonable, but because the Commission failed to demonstrate sufficiently that its decision to approve the PJM method was a

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manufacturing, this figure would be \$9.4 billion. *See* The Brattle Group, Job and Economic Benefits of Transmission and Wind Generation Investment in the SPP Region, at p. ES-3 (March 2010), *available at* [http://www.spp.org/publications/Priority%20Projects%20Phase%20II%20Rev%201%20Report%20-%204-2-10\\_final%20with%20Attachments.pdf](http://www.spp.org/publications/Priority%20Projects%20Phase%20II%20Rev%201%20Report%20-%204-2-10_final%20with%20Attachments.pdf).

<sup>33</sup> SPP Filing at 16, citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368-69 (D.C. Cir. 2004) (*Midwest ISO Transmission Owners*) (“Also not surprisingly, we have never required a ratemaking agency to allocation costs with exacting precision.”); *Sithe/Independence Power Partners, L.P. v. FERC*, 285 F.3d 1, 5 (D.C. Cir. 2002) (*Sithe*) (“FERC is not bound to reject any rate mechanism that tracks the cost-causation principle less than perfectly.”).

<sup>34</sup> SPP Filing at 16, citing *Colorado Interstate Gas Co. v. FPC*, 324 U.S. 581, 589 (1945).

<sup>35</sup> *Id.*, citing *Midwest ISO Transmission Owners*, 373 F.3d at 1368 (emphasis added by SPP); *see also Transmission Access Study Policy Group v. FERC*, 225 F.3d 667, 708 (D.C. Cir. 2000); *K N Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992) (*K N Energy*).

<sup>36</sup> *Id.* at 17, citing *Illinois Commerce Commission v. FERC*, 576 F.3d 470, 477 (7<sup>th</sup> Cir. 2009) (“We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars.”) (*Illinois Commerce Commission*).

reasoned decision based upon substantial evidence in the record. SPP contends that in contrast to the PJM case, SPP has presented substantial evidence to support the regional allocation of EHV facilities to support a Commission decision approving the Highway/Byway Methodology. SPP claims that even the court in *Illinois Commerce Commission* recognized that there are certain benefits provided by EHV facilities to the entire region based on the integrated nature of the transmission system.<sup>37</sup>

30. SPP asserts adopting brightline voltage levels for cost allocation provides cost certainty to customers and transmission builders and promotes administrative efficiency. SPP contends that the brightline voltage levels in the Highway/Byway Methodology ease the complexity and alleviate some of the administrative burden of the existing cost allocation system. Moreover, SPP states that the additional Tariff provisions it has proposed will provide added protection that the benefits and costs of new transmission facilities will be subject to significant and rigorous review by both the RSC and SPP over time to prevent any unintended consequences of the Highway/Byway Methodology.

31. Finally, SPP describes the 15-month stakeholder process leading up to its filing the instant proceeding, noting that it recognizes that stakeholder approval does not by itself cause a filing to be just and reasonable. SPP acknowledges that a significant minority of its stakeholders oppose the cost allocation proposal set forth in its filing. However, SPP requests that the Commission extend appropriate deference to the wishes of a majority of its stakeholders and the directives of the RSC, consistent with Commission precedent. SPP states that provisions approved through the stakeholder processes of RTOs and ISOs are given due deference.<sup>38</sup>

#### **b. Supporting Comments**

32. SPP transmission owners, state agencies, and renewable energy developers filed comments supporting SPP's Highway/Byway Methodology.<sup>39</sup> OG&E and other

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<sup>37</sup> *Id.* at 18, citing *Illinois Commerce Commission*, 576 F.3d at 477 (“No doubt there will be *some* benefits to the Midwestern utilities just because the network *is* a network”) (emphasis in original).

<sup>38</sup> *Id.* at 12 & n.45, citing *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,283, at P 33 (2009) (noting that the Commission “accord[s] an appropriate degree of deference to RTO stakeholder processes”).

<sup>39</sup> These commentors include: AEP; AWEA; Arkansas Commission, CPV Renewable; Horizon; Invenergy; ITC Companies; Jeff Cloud; Kansas Commission; MoPSC Majority; NextEra; Oklahoma Commission, OG&E, PUCT; RES Americas; Western Farmers; Westar; Xcel; and E.ON.

supporters point out that SPP's current cost allocation methodology does not match up costs and benefits, as the majority of costs associated with a regional transmission project are imposed on the host zone, while the benefits are enjoyed by customers throughout the SPP region.<sup>40</sup> The MoPSC Majority, the Kansas Commission, AEP, and CPV Renewable note that SPP's filing was submitted after a vigorous stakeholder process, involved exhaustive analysis and thorough deliberation, obtained support of many of SPP's stakeholders, and represented a thoroughly vetted and balanced compromise proposal.<sup>41</sup> ITC Companies, Western Farmers, Westar, Xcel, the Oklahoma Commission, and others state that the Highway/Byway Methodology will attract investment in new transmission facilities by providing more transparent, simple, and predictable cost allocation rules.<sup>42</sup> Furthermore, Oklahoma Commission argues that without the Highway/Byway Methodology, "individual companies within the SPP footprint would continue to build transmission that benefits themselves and their customers rather than the region."<sup>43</sup>

33. AWEA, Horizon, Iberdrola Renewables, Invenergy, ITC Companies, OG&E, RES Americas, and Xcel emphasize the reliability benefits of regional transmission facilities, including the provision of access to alternative resources and paths during contingencies, and the potential for EHV transmission facilities to reduce transmission line losses.<sup>44</sup> Many argue that regional transmission facilities will provide economic benefits, including access to lower cost energy, reduced congestion costs, reduced total costs to ratepayers, greater access to markets, improved power flows, and job creation.<sup>45</sup> ITC Companies add that these facilities will provide benefits such as efficient location of

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<sup>40</sup> See e.g., OG&E Comments at 3.

<sup>41</sup> See MoPSC Majority Comments at 5; Kansas Commission Comments at 3; AEP Comments at 4; CPV Renewable Comments at 3.

<sup>42</sup> See AWEA Comments at 6; CPV Renewable Comments at 3; Horizon Comments at 2, Invenergy Comments at 3; ITC Companies Comments at 6; Kansas Commission Comments at 4; Oklahoma Commission Comments at 2; Western Farmers Comments at 3; Westar Comments at 3; Xcel Comments at 4-5.

<sup>43</sup> See Oklahoma Commission Comments at 2.

<sup>44</sup> See AWEA Comments at 8-9, Horizon Comments at 2; Iberdrola Renewables Comments at 3; Invenergy Comments at 3-4; ITC Companies Comments at 6, 23; OG&E Comments at 3; RES Americas Comments at 3; Xcel Comments at 5.

<sup>45</sup> See e.g., Jeff Cloud Comments at 1; Kansas Commission Comments at 4; ITC Companies Comments at 6, 11-13; AWEA Comments at 8-9.

new generation capacity, increased effective capacity factors, the ability to reduce the cost of capacity, and levelization of locational marginal prices.<sup>46</sup> Moreover, ITC Companies, along with AWEA, Invenergy, and Westar contend that regional transmission facilities can support SPP's existing markets, as well as the future markets that SPP is developing.<sup>47</sup> Many argue that EHV facilities support the development of renewable energy resources, such as the wind resources located in SPP, and that they are necessary to achieve state, regional, and/or national energy policy goals.<sup>48</sup> E.ON states that the Highway/Byway Methodology is timely and necessary and that there is a need for policies that foster the development of significant new EHV transmission throughout the nation and in wind-rich SPP.<sup>49</sup>

34. With regard to SPP's analysis of the expected benefits, some supporters state that the benefits that will accrue may not be equal to each zone at any given time. They argue that benefits will depend on the projects developed and will change over time with changes in the SPP footprint. They also contend that because the benefits associated with transmission facilities and their distribution change over a project's in-service life, based on the season, generation resources being used and the level at which they are used, and on the topology of the system, the exact level of benefits cannot be precisely quantified and all the beneficiaries cannot be definitively identified.<sup>50</sup> Many supporters argue that the benefits of regional transmission planning, expansion, and funding outweigh the differences in benefits across zones over time. ITC Companies adds that SPP's quantitative analyses demonstrate that costs allocated under the Highway/Byway Methodology would result in benefits "at least roughly commensurate" with those costs.<sup>51</sup>

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<sup>46</sup> See ITC Companies Comments at 23.

<sup>47</sup> See AWEA Comments at 7, 10; Invenergy Comments at 3-4; ITC Companies Comments at 11-13; Westar Comments at 3-4.

<sup>48</sup> See RES Americas Comments at 3; ITC Companies Comments at 6, 23; Jeff Cloud Comments at 1; Western Farmers Comments at 3; Westar Comments at 3-4; AWEA Comments at 7; CPV Renewable Comments at 3; Iberdrola Renewables Comments at 3; Kansas Commission Comments at 4; Oklahoma Commission Comments at 2; Xcel Comments at 5; Horizon Comments at 2.

<sup>49</sup> E.ON Comments at 2.

<sup>50</sup> See Invenergy Comments at 3-4; AWEA Comments at 10-11; ITC Companies Comments at 13.

<sup>51</sup> See ITC Companies Comments at 19.

Therefore, most supporters contend that regional cost allocation for high-voltage transmission facilities is consistent with the beneficiaries pay cost allocation principle because these facilities have regional benefits.<sup>52</sup>

35. In addition, AEP and other supporters argue that the proposed Tariff revisions intended to mitigate unintended consequences will protect rate payers in the long-term.<sup>53</sup> Western Farmers emphasizes the importance of SPP's unintended consequences review and urges the Commission to accept SPP's cost allocation methodology only so long as the unintended consequences review is included.<sup>54</sup>

**c. Protests**

36. Several parties raise issues and concerns in protest of the proposal.<sup>55</sup> Protestors assert that SPP has not adequately supported the Highway/Byway Methodology, and that the proposal may be unjust, unreasonable, and unduly discriminatory, and thus request that the Commission reject SPP's filing, or in the alternative hold the proceeding in abeyance and provide other relief. Specifically, Joint Protestors contend that SPP's proposed Highway/Byway Methodology is an abrupt and radical change of course compared to SPP's existing cost allocation methods, all of which are very recent methodologies. Joint Protestors and East Texas Cooperatives assert that the current Base Plan Funding provisions were approved just five years ago, the Balanced Portfolio was approved less than two years ago, and just last year SPP obtained special cost allocation rules for Base Plan Upgrades associated with wind generation resources. Joint Protestors and East Texas Cooperatives maintain that SPP's current proposal would effectively overturn these existing cost allocation mechanisms, and therefore SPP should be required to explain why the positions it asserted in supporting each method are no longer

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<sup>52</sup> See CPV Renewable Comments at 3-4; RES Americas Comments at 3; Xcel Comments at 4-5; ITC Companies Comments at 17; AWEA Comments at 8, 12; Kansas Commission Comments at 2; Iberdrola Renewables Comments at 3; Jeff Cloud Comments at 1; Westar Comments at 2.

<sup>53</sup> See, e.g., AEP Comments at 4-6.

<sup>54</sup> See Western Farmers Comments at 4.

<sup>55</sup> As noted above, Lincoln Electric, OPPD, East Texas Electric Cooperatives, Inc., and NPRB each filed a protest, and Lincoln Electric with the Empire, Springfield, Missouri, OPPD, and NPPD collectively filed a joint protest (Joint Protest). Members of the Missouri Public Service Commission filed protests, and Novus and Novus II filed a limited protest.

sustainable, particularly in light of the radical cost shifts that would occur under SPP's Highway/Byway Methodology.<sup>56</sup>

37. In addition, Joint Protestors and East Texas Cooperatives argue that SPP's current cost allocation methods have been very effective in promoting new transmission investment. For example, Joint Protestors state that there has been over \$9.36 billion in total transmission planned for the region under SPP's 2007-2009 SPP transmission expansion plans, and at its January 2010 meeting, the SPP Board of Directors approved the issuance of Notices to Construct for \$878 million in transmission projects to be funded under the current Base Plan Funding Methodology.<sup>57</sup>

38. In regard to SPP's two power flow studies, Joint Protesters, East Texas Cooperatives, and the Missouri Public Service Commission Members all take issue. Joint Protestors contend that the RSC's consideration and approval of the Highway/Byway Methodology came first, and the two quantitative tests SPP provides were reverse-engineered to support a decision that was already made. Joint Protestors and East Texas Cooperatives argue that SPP does not provide either of the studies in its filing, only the results, and thus SPP has failed to carry its evidentiary burden.

39. Additionally, Joint Protestors, East Texas Cooperatives, and Missouri Public Service Commission Members contend that the two studies are flawed. First, in regard to the Injection/Withdrawal Analysis, Joint Protestors assert that the analysis was not structured to distinguish between "local" and "region-wide" use of the grid but quantifies "local" usage and treats the remainder as "regional" usage, which treats non-local flows as "regional."<sup>58</sup> Joint Protestors and East Texas Cooperatives contend that even if the study was not flawed, the results it produced do not support a 100 percent allocation factor for EHV facilities. Missouri Public Service Commission Members claim that a more reasonable regional allocation would be 85 percent.<sup>59</sup> In addition, East Texas Cooperatives argue that SPP provided no basis for using 2019 rather than 2011 as the model year in the Injection/Withdrawal Analysis and that SPP assumes that in 2019, a perfect market will exist where all generation in the SPP footprint is dispatched under an

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<sup>56</sup> See Joint Protest at 69.

<sup>57</sup> See *id.* at 72, citing Minutes of SPP Board of Directors Meeting, January 26, 2010, available at <http://www.spp.org/publications/BOD012610.pdf>, at PDF page 7 of 772.

<sup>58</sup> See Joint Protest at 38; East Texas Cooperatives Protest at 12.

<sup>59</sup> See Missouri Public Service Commission Members Protest at 7.

economic-based model. East Texas Cooperatives contend that when SPP implements a Day 2 market, local constraints and system limitations will almost certainly prevent perfect dispatch from ever being achieved.<sup>60</sup>

40. Concerning the Transmission Distribution Analysis, Joint Protestors and East Texas Cooperatives question SPP's use of a 0.1 percent impact threshold, which is used to determine the responsiveness to power transfers exhibited by each group of transmission facilities in the analysis. Joint Protestors maintain that the lower the impact threshold, the more often a category of facilities will experience a power flow change exceeding that threshold. Joint Protestors and East Texas Cooperatives argue that 0.1 percent is a low threshold and that SPP uses a 3.0 percent threshold in evaluating transmission service requests and in transmission system planning.<sup>61</sup> Joint Protestors and East Texas Cooperatives assert that if SPP had used a 3.0 percent threshold value, the Balanced Portfolio facilities would have experienced power flow changes in excess of that value in only 48 percent of the study hours, and the existing 345 kV facilities would have experienced power flow changes only 26 percent of the time.<sup>62</sup>

41. Joint Protestors also contend that SPP's analyses demonstrate that the Highway/Byway Methodology would create unlawful discrimination because SPP proposes a uniform cost recovery mechanism that treats all zones alike, but the SPP zones are not similarly situated as judged by the expected receipt of benefits.<sup>63</sup> Joint Protestors assert that SPP has stated that "the various SPP zones have different levels of transmission robustness that will cause differences in relative savings that can be achieved in each zone."<sup>64</sup> Therefore, Joint Protestors contend that by failing to align the

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<sup>60</sup> See East Texas Cooperatives Protest at 12.

<sup>61</sup> See *id.* at 10; Joint Protest at 42, citing <http://www.spp.org/publications/Criteria04-27-2010-wih%20AppendicesCurrent.pdf>, at PDF page 254 of 259.

<sup>62</sup> See Joint Protest at 42, Appendix 1 at ¶ 20.

<sup>63</sup> See *id.* at 50-51, citing *Alabama Electric Coop. v. FERC*, 684 F.2d 20 (D.C. Cir. 1982).

<sup>64</sup> See Joint Protest at 51, citing Submission of Revisions to Open Access Transmission Tariff to Add Balanced Portfolio Cost Allocation Process for Economic Planning Upgrades, filed August 15, 2008 in Southwest Power Pool, Inc., Docket No. ER08-1419-000 at 19 n.67 (Balanced Portfolio proceeding).

allocation of costs and receipt of benefits, SPP's Highway/Byway Methodology violates the FPA's prohibition against undue discrimination.

42. In addition, Joint Protestors state that SPP failed to provide two studies showing that regional cost recovery for Base Plan Upgrades would result in many SPP zones bearing costs well in excess of any calculated benefits.<sup>65</sup> Joint Protestors state that the first such study is the Balanced Portfolio Report, which examines the economic effect of the Balanced Portfolio upgrades on each SPP zone both before and after any reallocation of zonal revenue requirements. Joint Protestors assert that the report shows that before any reallocation, seven out of the 16 zones were projected to incur costs in excess of benefits, and in order for each zone to attain a benefit to cost ratio of at least 1.0, it was necessary to reallocate \$31 million each year in zonal revenue requirements.<sup>66</sup> According to Joint Protestors, the second study, Revision 1 of the "SPP Priority Projects – Phase 2 Report," (Priority Projects Report), shows that under a 7 GW wind penetration scenario, 12 of the 16 SPP zones would experience more costs than benefits as a result of the Priority Projects.<sup>67</sup> Similarly, Lincoln Electric asserts that SPP's adjusted production cost study projects that the Priority Projects will result in a negative impact of \$13.6 million to Lincoln Electric. Lincoln Electric contends that it is not likely to experience benefits in the future, as it will not likely build any new 345 kV projects for the next decade or longer.<sup>68</sup>

43. Joint Protestors note that in developing its Base Plan Funding methodology, SPP applied a MW-mile analysis to determine the use of facilities regionally and locally. Joint Protestors state that SPP uses a MW-mile analysis for various other purposes under the Tariff. Joint Protestors contend that given SPP's failure to explain why it decided to abandon the MW-mile analysis, it would not be unreasonable for the Commission to apply an "adverse inference" and to presume that an updated MW-mile analysis would contradict the premises of SPP's current proposal.<sup>69</sup>

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<sup>65</sup> *See id.* at 24.

<sup>66</sup> *Id.* at 25 n.33

<sup>67</sup> *Id.* at 25-26

<sup>68</sup> Lincoln Electric Protest at 4, 6.

<sup>69</sup> Joint Protest at 45, citing *Alabama Power Company v. FPC*, 511 F.2d 383 at 391 n.14 (D.C. Cir. 1974) ("It is a familiar rule of evidence that a party having control of information bearing upon a disputed issue may be given the burden of bringing it forward and suffering an adverse inference from failure to do so. ... In regulatory proceedings,

(continued...)

44. Additionally, Joint Protestors question SPP's demonstration of the expected benefits of the Highway/Byway Methodology. They assert that SPP must provide rigorous evidence that benefits are likely to be received by SPP's members and the magnitude of such benefits in relation to allocated costs. Joint Protestors question SPP's use of data from the Brattle Group study as well as another study (KEMA study) that Joint Protestors state SPP used to identify benefits.<sup>70</sup> Joint Protestors assert that the Commission cannot reach definitive conclusions about the justness and reasonableness of SPP's proposal based on broad and unsubstantiated claims about other benefits.<sup>71</sup>

45. With regard to SPP's proposed revisions to the unintended consequences provisions of its Tariff, Joint Protestors and East Texas Cooperatives argue that the revisions will not offer adequate protections because there is no requirement that the cost allocation provisions or the amount of costs allocated to an SPP member will actually be modified based on the outcome of an unintended consequences review.<sup>72</sup> Joint Protestors also assert that the factors listed in Attachment O that will be used to evaluate the effects of the cost allocation methodology include highly subjective benefits such as avoided projects, reduction in carbon emissions, reduction in required operating reserves, interconnection improvements, and congestion reduction. Joint Protestors claim that an SPP member wishing to contest the outcome of an analysis would face a daunting task in challenging whatever values SPP assigns to these factors. Joint Protestors also assert that under the proposed revisions, SPP and the RSC may consider any other benefit metrics developed by the SPP Economics Studies Working Group without identifying such metrics or identifying what vetting they would undergo.<sup>73</sup>

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placing such a burden on the regulated firm, where the relevant information concerns its operations and management, has become part of the 'common lore' of regulations.") (citations omitted)).

<sup>70</sup> Joint Protest at 55.

<sup>71</sup> See Joint Protest at 56-57 & n. 72, citing *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,319, at P 19 (2005).

<sup>72</sup> Joint Protestors and East Texas Cooperatives also contend that SPP has made a cross-referencing error in the provision stating that SPP, in collaboration with the RSC, will determine the impacts of the cost allocation using the factors listed in section IV(4)(f) of Attachment O but it should refer to section VI(4)(g) of Attachment O. The Commission notes that SPP's November 2, 2009 filing pending in Docket No. OA08-61-002 accounts for this issue.

<sup>73</sup> Joint Protest at 64, citing [www.spp.org/publications/ESWG%20-](http://www.spp.org/publications/ESWG%20-)

(continued...)

46. Additionally, Joint Protestors argue that the unintended consequences review would rely on a comparison of costs and benefits over a 40-year term (a 20-year forecast and an additional 20 years based on the last year of the forecast period). Joint Protestors assert that any forecast of benefits reaching twenty years into the future is simply not reliable. Joint Protestors claim that in contrast, SPP justified using a 10-year, rather than a longer study period to support its filing of the Balanced Portfolio provisions.<sup>74</sup> Joint Protestors and East Texas Cooperatives note that SPP's provisions allow members to seek relief from unintended consequences starting in 2015, but contend that SPP members could begin to feel the effects of the proposed cost allocation this year. Joint Protestors add that at a May 13, 2010 SPP Board meeting, two SPP members noted that the year 2015 may be an error and that the first year for members to seek relief under the unintended consequences provision should be 2014.<sup>75</sup>

47. East Texas Cooperatives assert that the Commission should require SPP to revise the proposed unintended consequences provisions to detail the analysis SPP staff will perform, make all relevant aspects of that analysis available for public scrutiny, establish parameters for when corrective actions must be taken, and make the process for an SPP member to petition for relief from an inequitable cost allocation available immediately rather than in 2015.

48. E.ON requests clarification that any change to SPP's cost allocation as a result of an unintended consequences review will not be effective unless it is filed with and accepted by the Commission. Both E.ON and Xcel request clarification that any such changes will apply on a prospective basis only.<sup>76</sup>

49. Concerning incentives for construction of transmission facilities, Joint Protestors argue that the Highway/Byway Methodology may distort investment decisions because by shifting the cost of new transmission from the host zone of a facility to other SPP zones, the Highway/Byway Methodology would skew locational decision-making in favor of siting new generation remotely from load centers, even though remote

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%20DRAFT%20Charter%20-%202013\_09\_redline.pdf (discussing the working group's Charter, which authorizes it to conduct its business through "closed meetings, closed session, etc." to avoid Standards of Conduct violations).

<sup>74</sup> Joint Protest at 65, citing SPP's September 22, 2008 answer to comments on its then-pending Balanced Portfolio proposal in Docket No. ER08-1419-000.

<sup>75</sup> Joint Protest at 66-67.

<sup>76</sup> E.ON Comments at 3-5; Xcel Comments at 8-9.

generation may be more costly and less reliable for the region as a whole.<sup>77</sup> As an example, they state that if a utility needs wind generation to meet a renewable portfolio standard, it can build generation in a distant area with more plentiful wind, or closer to load where the wind is less plentiful. Joint Protestors assert that the utility may chose the more distant wind generation option, even if it has a higher total cost, because the regionalization of the costs makes it appear more economical to the utility.

50. Furthermore, Joint Protestors along with NPRB express concern that because SPP's cost allocation proposal would shift the bulk of costs away from the constructing zones to other zones, there is a reduced incentive for the constructing party to select the most economic solution, to estimate the costs accurately at the outset of the project, or to manage costs aggressively as the project proceeds.<sup>78</sup>

51. With regard to SPP's stakeholder process, Joint Protestors assert that SPP's filing is not entitled to the deference that the Commission often accords to submittals created through healthy and well-functioning stakeholder processes. Joint Protestors and East Texas Cooperatives note that support for SPP's proposal is not overwhelming, and regardless, majority stakeholder support of the proposal does not ensure that it is just and reasonable. Moreover, Joint Protestors claim that the entire stakeholder process was driven by a single-minded focus on implementing the SPPT recommendations as quickly as possible and information needed by stakeholders was not readily available. Joint Protestors further claim that although stakeholders were given opportunities to make their views known, any efforts to work toward a consensus proposal ceased once the proponents of the Highway/Byway Methodology gathered enough votes to feel confident it would be approved.

**d. Answers**

52. In their answers, SPP and supporters of the Highway/Byway Methodology reiterate many of the arguments made in their previous submittals. However, they also offer responses to particular arguments raised in the protests. Sunflower disputes Joint Protestors' arguments that the current cost allocation methods should not be replaced with the Highway/Byway Methodology. Sunflower asserts that SPP was formed using zonal transmission rates, which has caused the costs to connect and move generation from the west to east in SPP to fall principally on the host zone of the generator, not on the load zone of the buyer.<sup>79</sup> Sunflower notes that the rural customers that populate the

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<sup>77</sup> Joint Protest at 57, Appendix 2 at 58-71.

<sup>78</sup> *Id.* at 58, Ried Affidavit ¶¶ 72-77.

<sup>79</sup> *See* Sunflower Answer at 5-6.

Sunflower and Mid-Kansas transmission zones in central and western Kansas have already incurred substantial costs to integrate into the SPP grid generation that serves eastern Kansas load. Sunflower states that the Sunflower footprint will also host a substantial majority of all future wind generation locating in Kansas and a major portion of the total high-value wind to be developed in SPP. Sunflower argues that without regional cost allocation for the EHV backbone SPP plans, this much needed network will not be built expeditiously or efficiently. Sunflower contends that these EHV facilities are not needed in Sunflower's footprint but clearly are needed for the region as a whole.<sup>80</sup>

53. In regard to the Balanced Portfolio methodology, Sunflower notes that SPP has approved a single Balanced Portfolio under the existing approach, and submits that it was the experience of producing this first Balanced Portfolio that convinced the SPP Board, the RSC, and a majority of the SPP stakeholders that it was time for a different approach to transmission planning and cost allocation. Sunflower asserts that this is because balance was difficult to achieve and EHV projects identified as regionally beneficial could not be included.<sup>81</sup> Thus, Sunflower asserts that SPP's experience (and Sunflower's in particular) provides more than ample evidence to justify SPP's stakeholders and regulators decision to move away from current allocation schemes and toward the regional Highway/Byway Methodology.

54. Golden Spread also disagrees with protestors, asserting that the protestors fail to raise substantial doubts concerning the justness and reasonableness of the Highway/Byway Methodology. Golden Spread and Sunflower argue that the Highway/Byway Methodology is integral to the deployment and success of SPP's planned day-ahead and ancillary services markets and SPP's evolution to a single SPP wide balancing authority.<sup>82</sup> Comparing the SPP region to PJM, Golden Spread points out that the SPP footprint is over twice the size of PJM's footprint, but SPP has fewer miles of transmission lines and only half the generation that is contained in PJM.<sup>83</sup> Thus, Golden Spread contends that SPP must develop a more robust transmission network if it is to function effectively as a single balancing authority and operate as an efficient wholesale power market for the benefit of all market participants in the SPP region.

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<sup>80</sup> *Id.* at 6.

<sup>81</sup> *Id.* at 8.

<sup>82</sup> Golden Spread Answer at 7; Sunflower Answer at 10.

<sup>83</sup> Golden Spread Answer at 7.

55. In its answers, ITC Companies and E.ON highlight the broad stakeholder and state utility commission support for SPP's proposal. ITC Companies note that if SPP's proposal is not accepted, the Priority Projects will be delayed, possibly indefinitely. They also argue that it is unnecessary for the Commission to consolidate this proceeding with SPP's ITP filing. E.ON disagrees with East Texas Cooperatives' contention that SPP has not provided an "effective means of ensuring that cost allocations that are made under its proposed methodology will be revised if expected region-wide benefits do not materialize."<sup>84</sup> E.ON notes that the unintended consequences review process has been a part of SPP's Tariff for several years and SPP has taken action in response to stakeholder concerns in the past.<sup>85</sup>

56. In response to the protests, SPP argues that it has met its burden under the FPA, and the protesters provide no basis to refute SPP's demonstration that the Highway/Byway Methodology is just, reasonable, and not unduly discriminatory or preferential. SPP notes that as the Commission has recognized, "[t]he FPA does not define 'just and reasonable,' and the Commission is not limited to one method of determining what is just and reasonable . . . [a] proposal does not need to be perfect, or the most desirable way of doing things, it need only be just and reasonable."<sup>86</sup>

57. SPP also argues that is not required to disprove the justness and reasonableness of other methodologies that a sub-group of its membership may prefer and is it not required to continue operating under an existing cost allocation methodology until it can prove that it is no longer just and reasonable. Regarding criticism of its analytical support, SPP contends that the Commission generally has not required RTOs filing revisions to their cost allocation methodology to submit the detailed cost data sought by the Joint Protesters. SPP notes that the Commission approved SPP's existing Base Plan Funding, Balanced Portfolio, and wind Base Plan Funding cost allocation provisions without the detailed level of cost data that the Joint Protesters seek for the Highway/Byway Methodology.<sup>87</sup> SPP adds that the studies that Joint Protestors criticize

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<sup>84</sup> E.ON Answer at 4, citing East Texas Cooperatives Protest at 3.

<sup>85</sup> *Id.* at 4-5.

<sup>86</sup> SPP Answer at 10-11, citing *Entergy Services Inc.*, 116 FERC ¶ 61,275, at P 32 (2006).

<sup>87</sup> *Id.* at 22, citing *Southwest Power Pool, Inc.*, 111 FERC ¶ 61,118, *order on reh'g*, 112 FERC ¶ 61,319 (2005) (accepting SPP's Base Plan Upgrade cost allocation methodology); *Southwest Power Pool, Inc.*, 125 FERC ¶ 61,054 (2008), *reh'g denied*, 127 FERC ¶ 61,271 (2009) (accepting SPP's Balanced Portfolio cost allocation methodology); *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,283 (2009) (accepting SPP's

(continued...)

SPP for not submitting do not undermine the findings of the Transmission Distribution Analysis and Injection/Withdrawal Analysis. According to SPP, both the Balanced Portfolio Report and the Priority Projects Report focused on individual groups of projects and studied a snapshot of the SPP transmission system and unsurprisingly demonstrated that different zones receive different benefits and costs from these specific sets of projects. In contrast, the Highway/Byway Methodology is designed to match the benefits and costs of transmission facilities over time. SPP states that as additional transmission upgrades are identified through its transmission planning process, costs will be distributed under the Highway/Byway Methodology, which will continue to alter the cost and benefit balance to zones over time.<sup>88</sup>

58. SPP also addresses Joint Protestors' and East Texas Cooperatives' claim that there is no other instance where SPP uses a 0.1 percent impact threshold. SPP states that for study purposes, it utilizes a 0.1 percent impact threshold for transmission planning and for its transmission service request process, because in both instances, all impacts are considered to be material. Furthermore, SPP states that using a higher impact threshold for study purposes would miss significant impacts on a studied transmission element.<sup>89</sup>

59. In response to claims that the revised unintended consequences provisions will not provide adequate protections and that SPP will not pursue changes when warranted, SPP states that when the 2006 SPP Transmission Expansion Plan revealed unintended consequences, SPP and its stakeholders promptly revised the MW-mile methodology to remedy the problem.<sup>90</sup> Further, with respect to arguments regarding incentives for investment, SPP states that arguments that the Highway/Byway Methodology will lead to overinvestment in transmission or "gold-plating" of the SPP transmission system are unfounded. SPP states that to receive cost allocation under the Highway/Byway Methodology, a facility must qualify as a Base Plan Upgrade under the SPP Tariff.<sup>91</sup> SPP argues that transmission builders are not granted unfettered discretion to build whatever facilities they wish under the Highway/Byway Methodology and that the SPP stakeholder process allows SPP and its stakeholders to guard against overbuilding of the transmission system.

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cost allocation methodology for upgrades associated with wind generators).

<sup>88</sup> *Id.* at 34-35.

<sup>89</sup> *Id.* at 27-28.

<sup>90</sup> *Id.* at 37-38.

<sup>91</sup> *Id.* at 45-46.

60. SPP also points to Order No. 890 to dispute Joint Protestors' request that the Commission not accord SPP's stakeholder process deference. SPP states that the Commission recognizes that, while a proposal may not "represent complete stakeholder consensus . . . the position of the majority of the transmission owning members . . . cannot be ignored."<sup>92</sup> SPP argues that an overwhelming majority of the state commissions within SPP approved the Highway/Byway Methodology, and it is supported by a majority of SPP's stakeholders, including 12 of the 15 SPP Transmission Owning Members. SPP also argues that it conducted a thorough stakeholder process that provided ample opportunity for dissenting views to be heard.

61. Regarding Joint Protestors' statement that the Highway/Byway Methodology is an "abrupt and radical course change" compared to SPP's recently-accepted cost allocation methodologies, SPP contends that the Highway/Byway Methodology reflects SPP's continued focus on improving existing methodologies to meet the changing needs of its customers and stakeholders. SPP explains that the Highway/Byway Methodology modifies SPP's Base Plan Funding methodology, which was SPP's first regional cost allocation methodology adopted shortly after SPP became a Commission-approved RTO. SPP states that it has continually evaluated ways to evolve cost allocation and transmission planning to address regional needs and ensure adherence to the Commission's Order No. 890 open access and planning policies and cost causation principles, including adopting cost allocation for Sponsored Upgrades, Balanced Portfolios, and Base Plan Upgrades associated with wind Designated Resources.<sup>93</sup>

**e. Determination**

62. The Commission accepts SPP's Tariff revisions for filing effective June 19, 2010. The Commission recognizes that SPP and its stakeholders have taken a proactive approach to developing the cost allocation reforms filed in the instant proceeding. We realize that this was not a simple undertaking and that all parties may not agree on all aspects of the proposal. However, as we find below, the Highway/Byway Methodology, which was adopted consistent with SPP's Bylaws, is a just and reasonable proposal for cost allocation in the SPP region.

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<sup>92</sup> *Id.* at 4, citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,081, at P 30, 52 (2008); *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at P 56 (2007), *order on reh'g and compliance filing*, Opinion No. 494-A, 122 FERC ¶ 61,082 (2008).

<sup>93</sup> *Id.* at 16-17.

63. The Commission's responsibility to ensure that transmission rates are just and reasonable and not unduly discriminatory or preferential is not new; however, the circumstances in which the Commission must fulfill its statutory responsibilities change with developments in the electric industry, such as changes with respect to the demands placed on and the corresponding operation of the transmission grid.

64. The Commission has previously recognized circumstances that warranted changes in the manner by which public utilities recover transmission costs. In the early 1990s, the Commission identified "dramatic changes which the electric industry has faced, and will face in the near term," such as "increased reliance on market forces to meet power supply needs; new market entrants such as exempt wholesale generators; a significant number of utility mergers and combinations; more highly integrated operation of various power pools; and substantial bulk power trading among electric systems," as well as the initial filing of open access transmission tariffs.<sup>94</sup> To account for those developments and the industry's changing needs, the Commission issued a policy statement that increased flexibility with respect to transmission pricing.<sup>95</sup>

65. Presently, evolving circumstances in the SPP region require significant expansion of its transmission system. These include the continuing transition from relatively localized transmission system operation and markets trading to larger, centralized transmission system operations and regional power markets, and the increasing adoption of renewable portfolio standards, other state policies that promote increased reliance on renewable energy resources, and a focus by Congress and the Commission on promoting reliability and economically efficient transmission infrastructure development.<sup>96</sup> Furthermore, as Golden Spread highlights, SPP is in need of additional EHV infrastructure to realize the benefits of its planned day-ahead and ancillary services market and evolution to a single balancing authority.<sup>97</sup> Collectively, these changes result

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<sup>94</sup> See *Notice of Technical Conference and Request for Comments in Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities under the Federal Power Act*, 58 Fed. Reg. 36,400, 36,401 (1993).

<sup>95</sup> *Policy Statement in Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities under the Federal Power Act*, 69 FERC ¶ 61,086 (1994).

<sup>96</sup> See 16 U.S.C. §§ 824d, 824s (2006); *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

<sup>97</sup> See Golden Spread Answer at 7.

in a growing need for new regionally-integrated high voltage facilities and appropriate cost allocation for such facilities. These changing circumstances inform the Commission's evaluation of SPP's proposal.

66. With respect to the Commission's responsibility under sections 205 and 206 of the FPA to ensure that the rates, terms, and conditions for transmission of electricity in interstate commerce are just, reasonable, and not unduly discriminatory or preferential, the Commission and the courts have found that the costs of jurisdictional transmission facilities must be allocated in a manner that satisfies the "cost causation" principle. The U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has defined the cost causation principle as follows: "[I]t has been traditionally required that all approved rates reflect to some degree the costs actually caused by the customer who must pay them."<sup>98</sup> The U.S. Court of Appeals for the Seventh Circuit (Seventh Circuit) recently quoted and elaborated on that definition, stating:

All approved rates must reflect to some degree the costs actually caused by the customer who must pay them. Not surprisingly, we evaluate compliance with this unremarkable principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party. To the extent that a utility benefits from the costs of new facilities, it may be said to have "caused" a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed.<sup>99</sup>

67. The cost causation principle also requires the Commission to ensure that the costs allocated to a beneficiary under a cost allocation method are at least roughly commensurate with the benefits that are expected to accrue to that entity.<sup>100</sup> The Commission recognizes that it can be difficult and controversial to identify which types of benefits are relevant for cost allocation purposes, which entities are receiving those benefits, and the relative benefits that accrue to various beneficiaries in an integrated transmission grid.

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<sup>98</sup> *K N Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992) (*K N Energy*).

<sup>99</sup> *Illinois Commerce Commission*, 576 F.3d 470, 476 (citing *K N Energy*, 968 F.2d at 1300; *Transmission Access Policy Study Group v. FERC*, 225 F.3d 667, 708 (D.C. Cir. 2000); *Pacific Gas & Elec. Co. v. FERC*, 373 F.3d 1315, 1320-21 (D.C. Cir. 2004); *Midwest ISO Transmission Owners*, 373 F.3d 1361, 1368; *Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009); *Sithe*, 285 F.3d 1, 4-5 (D.C. Cir. 2002); 16 U.S.C. § 824d).

<sup>100</sup> *Illinois Commerce Commission*, 576 F.3d at 476-77, citing *Midwest ISO Transmission Owners*, 373 F.3d at 1369; *Sithe*, 285 F.3d at 5.

68. In Order No. 890, among other reforms intended to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis, the Commission directed each transmission provider to develop a transmission planning process that satisfies nine principles. In adopting “Cost Allocation for New Projects” as one of the nine transmission planning principles, the Commission recognized that knowing how the costs of new transmission facilities would be allocated is critical to the development of new infrastructure, because transmission providers and customers cannot be expected to support the construction of new transmission unless they understand who will pay the associated costs.<sup>101</sup> The Commission did not impose a particular cost allocation method, but provided overall guidance to permit public utility transmission providers, customers, and other stakeholders to determine methods appropriate for their particular regions that are consistent with the cost causation principle. The Commission also stated that it is important that each region address these cost allocation issues up front rather than having them relitigated each time a project is proposed. The Commission explained that up-front identification of how the cost of a facility will be allocated will allow transmission providers, customers, and potential investors to make the decision whether or not to build that facility on an informed basis.<sup>102</sup>

69. The Commission stated that when considering a dispute over cost allocation, it would exercise its judgment by weighing several factors. First, the Commission stated that it would consider whether a cost allocation proposal fairly assigns costs among participants, including those who cause the costs to be incurred and those that otherwise benefit from them. Second, the Commission stated that it would consider whether a cost allocation proposal provides adequate incentives to construct new transmission. Third, the Commission stated that it would consider whether the proposal is generally supported by state authorities and participants across the region.<sup>103</sup> Therefore, the Commission considers first whether SPP’s Highway/Byway Methodology fairly assigns costs among SPP members.

70. A fair assessment of costs requires not only identification of entities to which costs should be allocated, but also consideration of those entities that benefit as a result of

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<sup>101</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557.

<sup>102</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251. The Commission also stated that neither adoption of a cost allocation method nor identification of an upgrade (whether driven by reliability or economics) in a transmission plan triggers an obligation to build. *Id.*

<sup>103</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 559.

those costs. Elaborating on the latter component of the cost causation principle, the court in *Illinois Commerce Commission* stated:

FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.... We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars. If it cannot quantify the benefits to the Midwestern utilities from the new 500 kV lines in the East ... but it has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with those utilities' share of total electricity sales in PJM's region, then fine; the Commission can approve PJM's proposed pricing scheme on that basis.<sup>104</sup>

71. Similarly, the D.C. Circuit has stated that “the cost causation principle does not require exacting precision in a ratemaking agency’s allocation decisions.”<sup>105</sup>

72. To support its position that costs will be allocated fairly under the Highway/Byway Methodology, SPP makes a two-part demonstration. First, it offers information to support its position that EHV facilities in the SPP region are used more for regional purposes and that lower voltage facilities are more local in nature. Second, SPP describes the benefits that accrue from regional use of EHV facilities.

73. We find SPP’s Transmission Distribution Analysis demonstrates that EHV facilities tend to support regional power flows among the SPP zones and that lower voltage facilities tend to support local power flows within a single SPP zone. SPP’s study demonstrates that EHV facilities included in the Balanced Portfolio experience inter-zonal power flow changes in excess of the impact threshold for 98 percent of the study hours, and other existing 345 kV facilities experience such changes for 77 percent

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<sup>104</sup> *Illinois Commerce Commission*, 576 F.3d at 476-77, citing *Midwest ISO Transmission Owners*, 373 F.3d at 1369; *Sithe*, 285 F.3d at 5. The Seventh Circuit further stated: “For that matter, [the Commission] can presume that new transmission lines benefit the entire network by reducing the likelihood or severity of outages. But it cannot use the presumption to avoid the duty of ‘comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.’” *Id.* at 477, citing *Western Massachusetts Elec. Co. v. FERC*, 165 F.3d 922, 927 (D. C. Cir. 1999); *Midwest ISO Transmission Owners*, 373 F.3d at 1368.

<sup>105</sup> *Midwest ISO Transmission Owners*, 373 F.3d at 1371, citing *Sithe*, 285 F.3d at 5.

of the study hours.<sup>106</sup> On the other hand, lower voltage facilities (i.e., 115-138 kV and 69 kV) only were responsive to 38 percent and 14 percent of power flows, respectively.<sup>107</sup> We find this evidence compelling that the high voltage 345 kV and EHV facilities provided significantly greater support to regional power flows relative to the lower voltage facilities.

74. We disagree with Joint Protestors' assertions that the studies SPP conducted do not support a conclusion that use of EHV facilities is regional in nature because SPP should have used different assumptions, such as a 3 percent rather than a 0.1 percent impact threshold in the Transmission Distribution Analysis and a different model year in the Injection/Withdrawal Analysis. The fact that some protesters would have chosen to use different study methods and assumptions than SPP did does not render SPP's analyses unreasonable to illustrate the nature of power flows on its transmission system. Furthermore, we find SPP's use of the 0.1 percent threshold in the Transmission Distribution Analysis reasonable because this is also the threshold used to measure material impacts in transmission planning for reliability purposes. While the purpose of the Transmission Distribution Analysis differs from transmission planning studies, each requires a measure of actual transmission system usage. Thus, SPP has provided sufficient information to support a finding that EHV facilities in the SPP region are used more for regional purposes relative to lower voltage facilities that are more local in nature.

75. We also find that SPP has demonstrated that the benefits of the EHV facilities accrue to all members of its system. We disagree with Joint Protestors' claims that SPP's failure to provide the Balanced Portfolio and Priority Projects Reports cost-benefit analyses was improper. While such analyses are useful in providing evidence regarding the benefits of new transmission facilities, they are certainly not the only valid method of benefit analysis. As the U.S. Supreme Court has stated, the "allocation of costs is not a matter for the sliderule. It involves judgment on a myriad of facts. It has no claim to an exact science."<sup>108</sup> Although an applicant must justify its proposal to the Commission, the Commission has not established a specific requirement regarding the analyses or tests a party must undertake to justify a particular cost allocation proposal.

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<sup>106</sup> See *supra* P23; SPP Filing Exhibit No. SPP-1 at 36-37 (describing how SPP conducted the Transmission Data Analysis).

<sup>107</sup> *Id* at 37.

<sup>108</sup> *Colorado Interstate Gas Co. v. FPC*, 324 U.S. 581, 589 (1945).

76. Furthermore, cost-benefit analyses often evaluate benefits at a distinct point in time. Because power flows change constantly with fluctuations in generation and load, as well as the addition of new transmission facilities, generation resources, and loads to the system, such static analyses cannot capture all benefits over time. Therefore, relying solely on the costs and benefits identified in a quantitative study at a single point in time may not accurately reflect the true beneficiaries of a given transmission facility, particularly because such tests do not consider any of the qualitative, (i.e., less tangible) regional benefits inherently provided by an EHV transmission network. No single analytical study can reflect future needed expansions to the electric grid to support regional power flows as system conditions change and the manner in which the function of earlier expansions will change once integrated with future expansions. SPP has therefore sought, reasonably in our view, to align the costs associated with transmission expansions with the usage of the system. When considered in conjunction with SPP's description of the benefits of a robust EHV transmission network that accrue throughout the region, we find that SPP's Highway/Byway Methodology fairly assigns costs among SPP members.

77. Lincoln Electric argues that for the Priority Projects, it, along with others, will experience costs in excess of expected benefits. It may be true that the adjusted production cost study SPP performed in regard to the Priority Projects, or that it performs for other future discrete transmission facilities, may indicate a ratio of transmission costs greater than production cost savings for an SPP zone or zones. However, production cost savings are not the only metric relevant in considering whether the benefits of transmission expansion are roughly commensurate with associated costs. The regional benefits provided by EHV facilities that result from SPP's comprehensive regional planning process are extensive and represent real and substantial benefits.

78. More specifically, SPP operates its transmission system and energy market on a single-system regional basis to reliably and efficiently integrate resources to serve loads throughout its entire footprint, and is planning to expand its markets to include day-ahead regional markets for energy and operating reserves. SPP conducts regional planning of its EHV transmission network that reflects its single-system regional operations in order to enhance the reliability and efficiency of its regional market operations. The strong regionally-integrated EHV transmission network that results from this process provides benefits to all that are interconnected to it. The fundamental benefit of the EHV facilities supporting regional power flows is the flexibility they provide to deliver energy and operating reserves more efficiently and reliably within and between balancing areas throughout the SPP footprint.<sup>109</sup> Although such benefits may be more appreciated at

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<sup>109</sup> NERC Special Report: Accommodating High Levels of Variable Generation, p. 34-35. Available at [http://www.aeso.ca/downloads/IVGTF\\_Report\\_041609\(1\).pdf](http://www.aeso.ca/downloads/IVGTF_Report_041609(1).pdf).

different times by different customers with respect to different groups of transmission projects that enter the plan, these benefits are experienced by all SPP members and accrue over time. Moreover, by distinguishing between the types of facilities that are used on a regional and zonal basis, the Highway/Byway Methodology will ensure that allocations of costs are roughly commensurate with associated benefits. EHV facilities that are used more regionally will be allocated on a regional basis, and lower voltage facilities that are used more locally will be allocated on a local basis.

79. The Commission notes that EHV facilities provide benefits to SPP members that are difficult to quantify in a given transmission study. For example, as indicated by actual events that occurred in SPP, EHV facilities can help to reduce congestion,<sup>110</sup> and enhance reliability by reducing loading on existing lines and circuits which increases their capacity to withstand emergency situations.<sup>111</sup> These facilities provide all SPP members access to a wider range of generation resources, leading to more cost-effective generation dispatch and flexibility in adjusting to additional federal and state energy policies.

80. The courts and the Commission have consistently found that an integrated transmission network, such as the one in the SPP region, benefits all users of the network. In *Southern Company Services, Inc.*,<sup>112</sup> the Commission stated,

Rolled-in pricing is appropriate when the relevant facilities are integrated into the transmission network. [footnote omitted] This pricing is appropriate because it spreads the cost of network facilities across the entire network; as part of the network, the added facilities benefit all users of the network and thus their costs should be shared among all users of the network.<sup>113</sup>

81. The Commission disagrees with protestors arguing that allocation of cost can only be associated with individual, particularized use of a facility. As the courts have recognized, users of an integrated system change over time, and the availability of the system for use is itself a benefit to the users as a whole. When discussing the administrative charges of the Midwest ISO, the courts have concluded that Midwest ISO transmission owners benefit from having an ISO even if they are not in some sense using

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<sup>110</sup> See Dillahunty Test., Ex No. SPP-1 at 34-35.

<sup>111</sup> *Id.* at 44.

<sup>112</sup> 116 FERC ¶ 61,247 (2006)(Southern Company).

<sup>113</sup> *Id.* P 17.

the Midwest ISO at a particular point in time.<sup>114</sup> The court used the analogy of a court system, in which all taxpayers fund the court system through taxation because they all benefit from the administration of justice even if the individual taxpayers do not actually use the court system in a given year.

82. Furthermore, we disagree with protestors' assertions that the Highway/Byway Methodology is unduly discriminatory because it treats all SPP zones alike when they are not similarly situated. We recognize that every utility will have different transmission needs depending on its unique load profile and resource mix. However, as noted above, we find that the SPP zones are similarly situated in the context of transmission planning and cost allocation because all of the zones consist of RTO participants, users, and beneficiaries of the same regionally-integrated EHV transmission network. As such, they accrue certain benefits common across all SPP zones.

83. The Commission notes that as an added measure to ensure that benefits are at least roughly commensurate with costs under the Highway/Byway Methodology, SPP proposes modifications to its existing unintended consequences provisions. We find the revisions provide a reasonable mechanism for adversely affected parties to raise their concerns through the stakeholder process and for unintended outcomes to be amended, despite the arguments to the contrary. We also find it unnecessary to impose cost and/or benefit parameters in the absence of evidence that such reallocation is necessary. This is particularly the case because SPP has in the past taken action to address stakeholder concerns related to cost allocation. Pursuant to unintended consequences tariff provisions, when a review of the 2006 transmission plan revealed unfavorable consequences resulting from the MW-mile cost allocation analysis, SPP revised the MW-mile methodology to remedy the problem and filed the change for Commission approval. We expect SPP will respond in a like manner if the Highway/Byway Methodology becomes inequitable. Furthermore, if SPP declines to modify its cost allocation provisions at the request of an adversely affected party, that party may file an FPA section 206 complaint with the Commission.

84. In addition, we find that there is no need for SPP to clarify that any reallocation of costs will be done on a prospective basis. Any change in allocation will have to be filed under section 205 of the FPA, as the unintended consequences provisions already provide.<sup>115</sup> Upon such a filing, the Commission will review such proposed change in

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<sup>114</sup> See *Midwest ISO Transmission Owners*, 373 F.3d at 1371.

<sup>115</sup> SPP Tariff, Attachment J, proposed section III.D.5 (“In accordance with the SPP Bylaws, the SPP Board of Directors will initiate the appropriate actions, including any necessary filings with the Commission, to implement the Regional State Committee recommendations.”).

allocation for compliance with the requirements of section 205 of the FPA, as well as the filed rate doctrine and the rule against retroactive ratemaking. Furthermore, we find it premature to determine that modifications to the cost allocation methodology should only apply to facilities for which Notifications to Construct<sup>116</sup> are issued after June 19, 2010. Such a decision would depend on the circumstances surrounding a filing to modify the cost allocation methodology and would be determined at that time.

85. Joint Protestors and East Texas Cooperatives also raise concerns related to SPP's proposed unintended consequences analysis revisions. They question the reliability of basing benefits on a 40-year analysis as well as including benefits they characterize as subjective in the analysis. However, the fact remains that the lifetime of the facilities in all likelihood will extend beyond even the 40-year benefit horizon and that benefits will accrue over the life of the facility. Joint Protestors are also concerned that the phrase "and other benefit metrics developed by the [Economic Studies Working Group]" in the tariff provision that details what benefits are to be quantified in the benefit study, provides SPP and the RSC the opportunity to include new metrics that have not been properly reviewed and approved.<sup>117</sup> We decline to reject or modify this phrase. We find it to be an adjunct to the more specific metrics already required in order for SPP and its working groups to develop additional metrics as appropriate.

86. Returning to the criteria set forth in Order No. 890 for resolving disputes as to cost allocation proposals, the Commission finds that the Highway/Byway Methodology provides adequate incentives to construct new transmission. In the absence of the Highway/Byway Methodology the host zone of an EHV facility would be responsible for a significant portion of the facility's costs. However, the host zone may not experience sufficient individual benefits to justify construction even if the regional benefits that the facility would provide significantly outweigh its cost. Thus, the regional benefits that the EHV facility would provide may never be realized because the cost allocation method does not allocate enough of the cost of the facility to those that will actually use and benefit from the facility. The Highway/Byway Methodology acknowledges that EHV transmission facilities are used regionally and appropriately assigns these costs to the entire region. We find that by allocating the costs of EHV facilities in a manner that is at least roughly commensurate to the regional benefits they provide, the Highway/Byway Methodology facilitates the development of regionally beneficial new EHV transmission.

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<sup>116</sup> SPP issues Notifications to Construct to entities designated to construct facilities identified in the SPP Transmission Expansion Plan.

<sup>117</sup> "The analysis shall include quantifying the benefits resulting from dispatch savings, loss reductions, . . . , and other benefit metrics developed by the ESWG." SPP Tariff, Attachment O, VI(4)(g)(iii).

87. We disagree with Joint Protestors' argument that the Highway/Byway Methodology will necessarily lead to inefficient generator siting. We recognize there is a tradeoff between the inefficiencies of building EHV facilities in a piecemeal fashion to accommodate individual generator interconnection and transmission service requests and the potential generator siting inefficiencies created by broadly allocating the costs of high voltage lines over an entire region. It is possible that under the Highway/Byway Methodology, members would be better off to propose an EHV line to deliver remote renewable resources, rather than to build generation locally and have local upgrades, even when the latter has a lower total cost, factoring in the costs of the transmission upgrades. As discussed in the following paragraph, we believe that these incentive issues are more appropriately solved by the transmission planning process identifying the appropriate expansions for the region. If necessary, however, SPP and its stakeholders should also identify inefficient generator siting as an unintended consequence of this cost allocation method that could warrant modifications in the future.

88. We also disagree with arguments that, as a result of regional cost allocation, transmission providers will have no incentive to control costs. As an independent RTO, SPP determines through the transmission planning process which facilities are needed. As part of the existing process, SPP and the stakeholders examine each project as well as alternatives to proposed transmission expansions to determine the least cost solution to address reliability issues. For proposed economic upgrades, SPP estimates the cost of the upgrade using information provided by transmission owners. Because the transmission planning process has extensive stakeholder feedback, if any party believes the costs are excessive, the party can raise such objections during the planning process. Thus, the transmission planning process encourages SPP and its stakeholders to keep costs under control. Furthermore, constructing transmission owners have an incentive to control costs to avoid any potential finding of imprudence and disallowance of cost recovery.<sup>118</sup>

89. Finally, the Commission finds that the Highway/Byway Methodology is strongly supported by state authorities and participants across the region.<sup>119</sup> Joint Protestors argue that the stakeholder process was results-oriented to gain approval of the Highway/Byway Methodology, and therefore, the proposal should not be given any of the deference that the Commission often accords to submittals created through stakeholder processes. As

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<sup>118</sup> While costs to the constructing transmission owner may increase above the estimated costs, such increase in costs is not automatically imprudent nor is the increase in costs the result of a regional cost allocation methodology. For example, siting or other regulatory actions may result in a delay in constructing a project which could increase the costs of the project.

<sup>119</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557.

noted above, SPP gained the support of its stakeholders and adopted the Highway/Byway Methodology consistent with the stakeholder process outlined in the SPP's Bylaws.<sup>120</sup>

## **2. Miscellaneous Items**

### **a. Other Highway/Byway Methodology Elements**

#### **i. Protests**

90. Joint Protestors assert that while the focus of SPP's proposal is, understandably, on the 100 percent regional cost-sharing component of the Highway/Byway Methodology, other important aspects of the proposal were not supported. Specifically, Joint Protestors contend that SPP provides no explanation either for why it decided to limit its proposal to three voltage-based groupings or for why it drew the lines at the particular voltage levels it did. Similarly, Joint Protestors contend that the SPP's filing provides no basis for the allocation factors assigned to each of the voltage-based groupings of facilities, other than the 100 percent regionalization factor.

91. E.ON argues that SPP offers no justification for its proposal to allocate the cost of certain upgrades (e.g., transformer equipment) that operate at two different voltages based on the lower operating voltage. E.ON contends that allocation should be based on the higher voltage level of the facility unless SPP can demonstrate that the primary function of a particular facility is to step-down the voltage for delivery to a zone.

92. Missouri Public Service Commission Members take issue with SPP's proposal to remove the MW-mile analysis as a method of assigning zonal costs, and they contend that doing so will have the effect of (1) increasing the cost to the host zone (by having it pay the entirety of the zonal rate) and (2) having those zones that benefit from the transmission upgrade pay a portion of the costs that is not proportionate to the benefits seen by those zones. In addition, Missouri Public Service Commission Members note that the Highway/Byway Methodology removes the distinction between economic and reliability projects, and thus, even transmission lines at or above 300 kV intended to solve a reliability violation caused by a local area will be paid for 100 percent by the SPP region as a whole.

#### **ii. Supporting Comments**

93. Contrary to the position of the Missouri Public Service Commission Members, OG&E argues that the MW-mile analysis is not a particularly accurate method for assigning costs based on benefits. OG&E claims that because the MW-mile analysis

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<sup>120</sup> See SPP Filing at 8-12.

examines reductions in line loadings only at one particular point in time, it does not account for the changing benefits that result from changes in the topography of the system (e.g., changes in the lines, generation, and loads that make up the system). In addition, OG&E contends that while this analysis accounts for reduced line loadings, it does not address increased loadings on lines, nor does it consider that reduced loading on a lightly loaded line does not offer meaningful benefits. OG&E asserts that the Highway/Byway Methodology is a simpler method for assigning costs that recognizes the actual benefits that accrue to customers in other zones over the life of transmission facilities.<sup>121</sup>

### iii. Determination

94. We disagree with Joint Protestors that SPP has provided no justification for the other elements of the Highway/Byway Methodology besides the 100 percent regional cost-sharing component. SPP's Transmission Distribution and Injection/Withdrawal Transmission Utilization Analyses described above provide substantial evidence that transmission facilities operating at or below 100 kV primarily support local flows. Furthermore, for facilities operating at 100 kV or less with existing cost allocation, 87 percent of the zonal costs are assigned to the host zone.<sup>122</sup> Thus, we find that allocating 100 percent of the costs associated with facilities below 100 kV to the host zone under the Highway/Byway Methodology is at least roughly commensurate with the distribution of the benefits that they provide. Similarly, the results of the Transmission Distribution Analysis demonstrate that facilities operating above 100 kV and below 300 kV are responsive to inter-zonal flows consistent with the one-third regional, two-thirds zonal cost allocation.<sup>123</sup>

95. Regarding elimination of the MW-mile analysis for allocating zonal costs of facilities that operate above 100 kV and below 300 kV, the testimony SPP provided in its filing indicates that under the existing MW-mile allocation, the host zone receives the vast majority of benefits provided by such facilities.<sup>124</sup> Therefore, we find SPP's

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<sup>121</sup> OG&E Comments at 4-5.

<sup>122</sup> See Dillahunty Test., Ex. No. SPP-1 at 20.

<sup>123</sup> See *supra* P 23; SPP Filing Exhibit No. SPP-1 at 37 (demonstrating that 115 – 138 kV facilities responded to inter-zonal flows only 38 percent of the time and 69 kV facilities responded only 14 percent of the time).

<sup>124</sup> *Id.* at 20-21, demonstrating that 81 percent of zonal costs are assigned to the host zone.

proposal to allocate the zonal costs of new facilities directly to the host zone, rather than conduct a MW-mile analysis to allocate such costs, maintains a cost allocation that is roughly commensurate with the benefits received. As OG&E points out, the MW-mile analysis suffers from its own shortcomings in regard to allocating costs based on benefits.

96. In regard to E.ON's concerns, we find that determining cost allocation for dual-voltage facilities based on the lower operating voltage is just and reasonable. Transformers with lowside windings below 345 kV could reasonably be expected to be more beneficial to the local zone than EHV transmission lines. Therefore, it is reasonable for SPP to determine a dual voltage transformer's cost allocation methodology based on its lower operating voltage.<sup>125</sup>

97. We also find Missouri Public Service Commission Members' concerns regarding reliability and economic upgrades to be misplaced. Commission policy does not require reliability and economic upgrades to be separately identified for the purposes of cost allocation. Accordingly, we will not require that SPP modify its proposal to identify and provide disparate cost allocation methodologies for reliability and economic upgrades.

**b. Filing Requirements**

**i. Protests**

98. Joint Protestors assert that SPP's filing represents a *de facto* increase in rates, and thus, SPP's filing should be subject to the requirements set forth in section 35.13 of the Commission's regulations.<sup>126</sup> Joint Protestors contend that even if the Commission were to decide that SPP's filing is properly considered under the narrower requirements of

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<sup>125</sup> See *PJM Interconnection, L.L.C.*, Opinion No. 494-A, 122 FERC ¶ 61,082 at P 90 (accepting a similar method for determining whether transformers should be treated as regional facilities).

<sup>126</sup> 18 C.F.R § 35.13(a) (2009).

18 C.F.R. § 35.13(a)(2)(iii),<sup>127</sup> SPP's proposal still falls short of the requisite mark. For instance, Joint Protestors maintain that the Highway/Byway Methodology does not address the effects of the Tariff changes, as specifically required by section 35.13(c).

99. Joint Protestors note that a public utility may petition for waiver of any provision of the Commission's filing regulations, but in doing so, it must "*specifically identify* the requirement that the applicant wishes the Commission to waive."<sup>128</sup> However, Joint Protestors assert that SPP merely includes a blanket request for waiver of "any additional Commission regulations that the Commission may deem applicable."<sup>129</sup> Joint Protestors contend that SPP not only fails to cite the specific regulations it asks to have waived, it also fails to assert or demonstrate good cause for its requested waiver.

100. In addition, Joint Protestors assert that testimony of SPP's witness, Mr. Dillahunty, provides only a high-level summary of the two analyses on which SPP relies, but SPP does not include the studies themselves as part of the filing or explain the methods, assumptions, or data selection processes used in preparing the studies. Similarly, Joint Protestors contend that SPP did not include the studies it references that were conducted by KEMA and the Brattle Group. Joint Protestors assert that the Commission cannot independently determine the validity of the tests and studies without this information.

101. Furthermore, Joint Protestors point out that SPP does not provide the Commission with the information it needs to evaluate the function of each transmission system element considered in the studies, even though the Commission has described that information as "vital" to its evaluation of a Highway/Byway Methodology.<sup>130</sup> Joint

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<sup>127</sup> 18 C.F.R. § 35.13(a)(2)(iii) provides:

*For rate schedule, tariff, or service agreement changes other than rate increases. Any utility that files a rate change that does not provide for a rate increase or that provides for a rate increase that is based solely on a change in delivery points, a change in delivery voltage, or a similar change in service, must submit with its filing only the information required in paragraphs (b) and (c) of this section.*

<sup>128</sup> Joint Protest at 17, citing 18 C.F.R. § 35.13(a) (emphasis supplied).

<sup>129</sup> *Id.*, citing SPP Filing at 29.

<sup>130</sup> Joint Protestors Comments at 15, citing *TRANSLink Transmission Co., L.L.C., et al.*, 99 FERC ¶ 61,106, at 61,467 (2002) (*TRANSLink*) (requiring proponent of

(continued...)

Protestors also contend that SPP should have provided information similar to the information that the Commission directed PJM to provide on remand of the *Illinois Commerce Commission* decision.<sup>131</sup>

102. Finally, Joint Protestors assert that SPP was obligated to submit, but did not, materials that would allow the Commission to evaluate the effect of SPP's Highway/Byway Methodology on SPP's zones. Joint Protestors contend that without such information, the Commission cannot make a finding based on substantial evidence about whether the proposed changes are just and reasonable, and not unduly discriminatory.<sup>132</sup>

103. For these reasons, Joint Protestors assert that the Commission has ample reason to reject the filing. Furthermore, Joint Protestors contend that the Commission should advise SPP that if it chooses to refile its proposal, it must include adequate detail and supporting information, or the factual basis for SPP's claims necessarily will have to be developed by means of protracted discovery before a hearing on SPP's application.

**ii. Answers**

104. SPP and Sunflower contend in their answers that the Highway/Byway Methodology is a cost allocation filing, not a rate increase necessitating the detailed cost support required by section 35.13. SPP argues that it will collect the same revenue under the Highway/Byway Methodology that it would collect if the existing cost allocation methodologies were left unchanged, but under the Highway/Byway Methodology costs will be allocated to zones on a different basis than under current cost allocation

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Highway/Byway cost allocation method to submit additional information about the power flow studies used to classify facilities as "highway" or "byway"). Upon consideration of TRANSLink's further submittals, the Commission determined that the power flow analyses used to classify facilities as "highway" or "byway" relied on "numerous simplifying assumptions," and it therefore set for hearing "the reasonableness of that analysis and the resulting designations." *TRANSLink Development Co., L.L.C.*, 101 FERC ¶ 61,316, at P 29 (2002).

<sup>131</sup> Joint Protest at 15, citing *PJM Interconnection L.L.C.*, 130 FERC ¶ 61,052, at P 10-11 (2010), *order on reh'g*, *PJM Interconnection L.L.C.*, 130 FERC ¶ 61,233 (2010).

<sup>132</sup> Joint Protest at 16, citing *e.g.*, *Northern Maine Indep. Serv. Adm'r, Inc.*, 119 FERC ¶ 61,231, at P 17 (2007) (rejecting proposed tariff revisions because filing entity "has not provided the Commission with sufficient information to determine the effects of its proposed revisions.").

methodologies. SPP states that because the proposed cost allocation methodology is revenue neutral compared to the existing cost allocation methodologies, the proposal is not a rate increase requiring the extensive cost support as claimed by the Joint Protesters.

105. SPP notes that the Commission has distinguished between cost allocation and rate increase filings, finding that the “myriad requirements of part 35 [of the Commission’s regulations] are not relevant” where cost allocation, rather than revenue level is involved.<sup>133</sup> SPP argues that Joint Protesters’ position that some zones will pay more and others pay less under the Highway/Byway Methodology than they would under existing cost allocation methodologies is also without merit. SPP states that the Commission has rejected arguments that a rate increase exists where rate design of cost allocation results in some customers paying more than they did under a previous methodology, but where the overall level of revenue remains unchanged.<sup>134</sup> Moreover, SPP states that it was not required to file the detailed cost support when it submitted any of the existing cost allocation methodologies<sup>135</sup> and other RTOs were not required to file the detailed cost support when they filed their cost allocation methodologies.<sup>136</sup>

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<sup>133</sup> See SPP Answer at 21, citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,174, at P 143 (2010) (*2010 SECA Order*); *Midwest Indep. Transmission Sys. Operator, Inc.*, 105 FERC ¶ 61,212, at P 49 (2003), *order on reh’g*, 131 FERC ¶ 61,174 (2010) (“[I]t is not necessary to require the filing of updated cost-of-service studies. We have previously accepted the existing rates of these companies as just and reasonable and our actions in this proceeding will maintain the revenues produced by these rates.”).

<sup>134</sup> *Id.* at 22, citing *2010 SECA Order*, 131 FERC ¶ 61,174 at P 102 (“Because the SECA maintains the revenue levels of the prior through-and-out rates, the SECA does not depart from cost-based considerations; it merely alters the rate design under which the existing revenue levels are collected.”).

<sup>135</sup> *Id.*, citing *Southwest Power Pool, Inc.*, 111 FERC ¶ 61,118, *order on reh’g*, 112 FERC ¶ 61,319 (2005) (accepting SPP’s cost allocation methodology for Base Plan Upgrades); *Southwest Power Pool, Inc.*, 125 FERC ¶ 61,054 (2008), *reh’g denied*, 127 FERC ¶ 61,272 (2009) (accepting SPP’s Balanced Portfolio cost allocation methodology); *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,283 (2009) (accepting SPP’s cost allocation methodology for upgrades associated with wind generators.)

<sup>136</sup> *Id.* at 23, citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209, *order on reh’g*, 120 FERC ¶ 61,080 (2007) (accepting RTO cost allocation methodology for upgrades associated with generation interconnections).

106. Sunflower also argues that requiring SPP to file the studies and litigating their assumptions would be useless. Sunflower asserts there simply is no reliable way to calculate (with the precision Protestors demand) the costs and benefits of projects that have yet to be built. According to Sunflower, this is particularly so when dealing with new EHV transmission in SPP's fairly compact region. Sunflower states that these EHV facilities have half-century or more useful lives and will transport energy under conditions that cannot possibly be forecasted with accuracy beyond a few years.<sup>137</sup> Therefore, Sunflower asserts there is no point to spending copious amount of time and millions of stakeholder dollars examining study after study seeking to calculate how future EHV projects will affect individual pricing zones' revenue requirements and offsetting "savings."

107. Additionally, Sunflower argues that SPP is not PJM and that this filing does not require the volumes of data Protestors seek. Sunflower also contends that here, unlike in the PJM proceeding, there is no expectation that EHV lines will be built solely in some, but not all parts of SPP.

**iii. Determination**

108. SPP states that it is submitting the filing under Part 35 of the Commission's regulations. Contrary to the claims of protestors, we find that SPP's filing is not procedurally subject to the requirements set forth in 18 C.F.R § 35.13(a) which pertain to rate increases. As SPP notes, the Commission makes a distinction between cost allocation filings and rate increase filings and SPP's filing in this proceeding is a cost allocation filing. Therefore, SPP's filing is not subject to the filing requirements for rate increases outlined in those subsections of section 35.13(a)(2). Instead, the Commission views the filing as having been made under the narrower requirements of section 35.13(a)(2)(iii), which pertains to tariff changes other than rate increases.

109. We disagree with Joint Protesters that the filing is deficient with respect to the filing requirements under section 35.13(a)(2)(iii). The Commission's regulations in section 35.13(a)(2)(iii) require that companies file general information in section 35.13(b)<sup>138</sup> and information relating to the effect of the rate change in section 35.13(c).<sup>139</sup>

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<sup>137</sup> Sunflower Answer at 3.

<sup>138</sup> The general information required under section 35.13(b) includes a list of documents submitted, the effective date, list of recipients of the filing, brief description of the filing, statement for filing, a showing of requisite agreement to the filing, and a statement that there were no illegal, duplicative, or unnecessary costs that are the result of discriminatory employment practices.

SPP has filed the information required under section 35.13(b) as explained in its transmittal letter.<sup>140</sup> SPP states that the requirements of section 35.13(c) are not applicable and there are no specifically assignable facilities. Because the rate comparison is for only the twelve months before and after the rate change, and the facilities at issue have not yet been built, the rate comparison in section 35.13(c) would not produce relevant information.<sup>141</sup> Thus, the Joint Protesters are incorrect that the filing is deficient even under the narrower filing requirements of section 35.13(a)(2)(iii), because we find that SPP has either complied with the requirements or we find that SPP merited waiver of inapplicable regulations.<sup>142</sup>

110. With regard to providing the studies, as more fully described above, SPP explains the studies in detail in its filing and attached witness testimony and makes the links to internet sites available. Thus, under these circumstances, we find that SPP's filing is not procedurally deficient for not including a copy of the studies.

111. The Joint Protesters' remaining arguments boil down to whether or not the Commission has sufficient evidence to accept the proposal. We find that SPP has provided sufficient support for us to find that the proposed Highway/Byway Methodology is just and reasonable and not unduly discriminatory. While the Commission requested more information in *TRANSLink* concerning the power flow models used to differentiate highway from byway facilities, in *TRANSLink* the applicants proposed to reallocate the cost of all transmission facilities, including existing

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<sup>139</sup> Specifically, the information relating to the effect of the rate change includes a comparison of revenues from services under the rate schedule before the rate change and after the rate change, a comparison of the rate change and the utility's other rates for similar transmission services and an appropriate map showing any specifically assignable facilities that will be installed or modified in order to provide service.

<sup>140</sup> See SPP Filing. The description of the filing and reason for the filing are throughout the transmittal letter. Also, as discussed above, SPP has submitted sufficient information to demonstrate that its proposal is just and reasonable and not unduly discriminatory.

<sup>141</sup> While there may be some costs in the regional rate during the first twelve months of construction, the overall rate impact would be insignificant during the first twelve months after the effective date.

<sup>142</sup> *Pacific Gas & Elec. Co.*, 99 FERC ¶ 61,045, at P 5 & n.8 (2002) ("It is however well established that, with or without explicit provision to that effect, an agency may waive its regulation in appropriate cases.").

transmission facilities, by voltage level. The Highway/Byway Methodology does not apply to existing facilities. Thus, the additional information on power flow studies is not necessary.<sup>143</sup> SPP has provided significant evidence that the voltage level of a proposed transmission facility is a reasonable indicator of whether it will support primarily regional power flows or serve local needs. SPP's analysis includes a study of existing EHV facilities. In addition, SPP has demonstrated that transmission facilities that support regional flows provide benefits to the entire SPP footprint. Thus, we find that it is just and reasonable and not unduly discriminatory that the proposed Highway/Byway Methodology allocates costs based on the voltage level of the transmission facilities.

**c. Bifurcation of the Highway/Byway and the ITP Proposals**

**i. Protests**

112. Joint Protestors and East Texas Cooperatives assert that initially, it was contemplated that SPP would file a single integrated set of Tariff changes for the Highway/Byway Methodology and the ITP proposal. However, Joint Protestors contend that because of the extensive Tariff revisions needed to implement the ITP, the RSC and SPP Board of Directors adopted a bifurcated approach so that the Highway/Byway Methodology would apply to the Priority Projects, shifting most of the \$1.14 billion costs of the Priority Projects to other SPP zones.<sup>144</sup> Joint Protestors maintain that by filing the cost allocation revisions on a stand-alone basis, SPP presents its Highway/Byway Methodology in isolation from the planning process that will identify projects to which the new cost allocation methodology applies.<sup>145</sup> Joint Protestors and East Texas Cooperatives contend that this makes it difficult for the Commission and intervenors to understand all of the implications of the proposed change in the cost allocation method. Joint Protestors argue that if the Commission cannot fully evaluate the effects of the Highway/Byway Methodology, the Commission cannot make a finding as to its justness and reasonableness supported by substantial evidence.<sup>146</sup>

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<sup>143</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106, at P 44 (2006) (The Commission accepted the use of voltage-based cost allocation for upgrades without requiring the filing of detailed power flow studies.).

<sup>144</sup> Joint Protest at 20, 23.

<sup>145</sup> *Id.* at 21, n.29.

<sup>146</sup> Joint Protestors Supplement at 4, citing *Jersey Central Power & Light Co. v. FERC*, 810 F.2d 1168, 1176 (D.C. Cir. 1987) (stating that, consistent with the “end result” test adopted in *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944), application of

(continued...)

113. Joint Protestors state that the interdependency of the Highway/Byway Methodology and the ITP is demonstrated by the fact that: (1) the two long-term assessments of the ITP are synchronized with the voltage classification of the Highway/Byway Methodology; (2) the ITP filing includes a waiver process of the Highway/Byway Methodology's provision that dual voltage transmission facilities would be allocated based on the low-side voltage; (3) the ITP filing further modifies the unintended consequences provision; and (4) the ITP filing modifies language proposed or modified by the Highway/Byway Methodology.

114. Joint Protestors contend that because the Commission has not acted on SPP's Highway/Byway Methodology, section 35.17(b) of the Commission's regulations requires that the SPP's filing be tolled with the ITP filing, to the extent that SPP submits the ITP filing before the Highway/Byway Methodology is effective.<sup>147</sup> Therefore, Joint Protestors assert that the notice period for the Highway/Byway Methodology filing then would be tolled so that it corresponds with the later notice period applicable to the combined filing, and the Highway/Byway Methodology would become effective on whatever date the Commission or the regulations permit for the combined filing.

115. East Texas Cooperatives argue that the Commission should postpone action and consolidate this proceeding with SPP's impending ITP filing to allow interested parties to evaluate SPP's cost allocation and transmission planning processes as a comprehensive package.

## ii. Determination

116. As discussed above, we find SPP's proposed Highway/Byway Methodology is just and reasonable and not unduly discriminatory independent of any modifications to SPP's current regional transmission planning process, which the Commission has already determined to be just and reasonable and not unduly discriminatory.<sup>148</sup> SPP has provided significant quantitative and qualitative evidence that the voltage level of a proposed transmission facility is a reasonable indicator of whether it will support primarily regional power flows or serve local needs. Moreover, the ITP is not before us in this proceeding. Whether or not the ITP is a just and reasonable framework for determining what

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the FPA's "just and reasonable" standard requires review of the "entirety" and "total effect" of a Commission rate order and such order's "consequences").

<sup>147</sup> Joint Protest at 30.

<sup>148</sup> *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,171 (2009).

facilities' costs will be allocated according to the Highway/Byway Methodology will be determined in the ITP proceeding.

117. Additionally, as noted by Joint Protestors, the Highway/Byway Methodology will be applicable to the Priority Projects, which were not developed under the ITP process, but rather through the existing Tariff provisions for high priority studies.<sup>149</sup> Thus, SPP has moved forward under its existing planning provisions to determine upgrades that will create a more robust and flexible EHV transmission system beyond what is necessary to meet reliability standards, rather than waiting for the ITP to be in place to adopt such upgrades in its plan. We find that SPP's proactive use of the high priority studies provisions to plan the Priority Projects further illustrates that the ITP provisions are not necessary to determine that the application of the Highway/Byway Methodology is just and reasonable. Furthermore, a transmission service provider such as SPP has discretion under section 205 of the FPA to determine what to propose in its filing and when to submit such filing.<sup>150</sup>

**d. Generator Interconnection**

**i. Protests**

118. Novus and Novus II contend that Novus II is being disproportionately harmed in the transition to the Highway/Byway Methodology because SPP refused to include a provision in the interconnection agreement with Novus II providing that SPP will perform a restudy to take into account the significant changes in the transmission planning and cost allocation procedures for EHV upgrades as a result of the Highway/Byway Methodology. Thus, Novus and Novus II request that Commission require SPP to restudy generator interconnections where all of the following conditions exist: (1) EHV facilities are included in the customer's interconnection agreement; (2) no authorization to proceed has been issued by the customer pursuant to terms of its interconnection agreement prior to June 19, 2009; and (3) identical or similar EHV facilities are included as Base Plan Upgrades.

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<sup>149</sup> SPP Tariff at Attachment O section IV.3.

<sup>150</sup> See *Western Massachusetts Electric Co.*, 23 FERC ¶ 61,025 (1983), *aff'd sub nom. Commonwealth of Massachusetts v. FERC*, 729 F.2d 886 (1<sup>st</sup> Cir. 1984) (indicating that under section 205, public utilities have the discretion to choose whether or not to file).

119. E.ON requests that the Commission require SPP to revise its proposal to provide that interconnection upgrades will be recovered pursuant to the Highway/Byway Methodology.

120. Missouri Public Service Commission Members contend that without some portion of the cost of transmission upgrades allocated to generators, and that portion passed on to load associated with those generators, it becomes increasingly unlikely that cost causers and beneficiaries will pay the appropriate portion of the cost of transmission upgrades. Thus, the Missouri Public Service Commission Members suggest that a portion of the costs of transmission upgrades should be allocated to generators.

**ii. Comments**

121. NextEra contends that SPP's proposal is just and reasonable because, among other things, it is consistent with the established cost allocation principle of requiring load to pay for transmission infrastructure. ITC Companies assert that because the Highway/Byway Methodology does not allocate transmission costs to generators, there will be no pricing discrimination between different types of generation.<sup>151</sup> CPV Renewable states that by not allocating the cost of regional transmission facilities to generation resources, the Highway/Byway Methodology helps to ensure both that existing generators are optimally utilized and that new renewable resources are developed.<sup>152</sup>

**iii. Determination**

122. The Commission denies Novus and Novus II's request to require SPP to restudy generator interconnections if certain conditions exist. We note that Novus and Novus II's request stems from SPP's refusal to include such a provision in an unexecuted generation interconnection agreement it filed among SPP, Novus II, and Southwestern Public Service Company.<sup>153</sup> Accordingly, we find Novus II's concerns to be more appropriately raised in the Interconnection Proceeding rather than in the context of SPP's broadly applicable Highway/Byway Methodology proceeding.

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<sup>151</sup> ITC Companies Comments at 21.

<sup>152</sup> CPV Renewable Comments at 4.

<sup>153</sup> See Southwest Power Pool, Inc., *Submission of Large Generator Interconnection Agreement*, Docket No. ER10-1233-000 (May 12, 2010) (Interconnection Proceeding).

123. Similarly, we find E.ON's request to require SPP to apply the Highway/Byway Methodology to generator interconnection upgrade costs to be beyond the scope of this proceeding. In developing the Highway/Byway Methodology, SPP did not consider, nor has SPP proposed, any modifications to its cost allocation methodology for the costs associated with generator interconnection upgrades, which is separate from the current Base Plan Funding methodology.

124. We reject Missouri Public Service Commission Members' suggestion that the Commission require a portion of the costs of transmission upgrades be allocated to generators. For the reasons discussed above, we find SPP's proposal to be just and reasonable. Accordingly, having found SPP's proposal just and reasonable, we need not address the merits of the alternative proposal.<sup>154</sup>

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<sup>154</sup> See *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Circuit 1995) (finding that under the Federal Power Act, as long as the Commission finds a methodology to be just and reasonable, that methodology "need not be the only reasonable methodology, or even the most accurate one"); cf. *City of Bethany v. FERC*, 727 F.2d 1131, 1136, 234 U.S. App. D.C. 32 (D.C. Cir. 1984) (when determining whether a proposed rate was just and reasonable, the Commission properly did not consider "whether a proposed rate schedule is more or less reasonable than alternative rate designs"). See also *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 31 (2009) (finding that because the Commission found the ISO's proposal to be just and reasonable, it need not assess the justness and reasonableness of an alternative proposal); *Louisville Gas & Electric Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (finding that "the just and reasonable standard under the FPA is not so rigid as to limit rates to a 'best rate' or 'most efficient rate' standard. Rather, a range of alternative approaches often may be just and reasonable.").

The Commission orders:

SPP's revised tariff sheets are accepted for filing effective June 19, 2010, as requested.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## **Appendix**

### **Notices of Intervention**

Arkansas Public Service Commission  
Massachusetts Department of Public Utilities  
Missouri Public Service Commission  
Oklahoma Corporation Commission  
Public Utility Commission of Texas

### **Motions to Intervene**

American Electric Power Service Corp.  
American Wind Energy Association and the Wind Coalition  
Arkansas Electric Cooperative Corporation  
Calpine Corporation  
City of Alexandria, Louisiana  
City Utilities of Springfield, Missouri  
CPV Renewable Energy Company, LLC  
Designated FirstEnergy Affiliates  
Dogwood Energy, LLC  
Duke Energy Corporation  
E.ON Climate & Renewables North America LLC  
East Texas Electric Cooperative, Inc.; Northeast Texas Electric Cooperative, Inc.; and  
Tex-La Electric Cooperative of Texas, Inc.  
Electric Transmission America, LLC  
Exelon Corporation  
GDF SUEZ Energy Marketing NA, Inc.  
Golden Spread Electric Cooperative, Inc.  
Horizon Wind Energy LLC  
Iberdrola Renewables, Inc.  
ITC Great Plains LLC and ITC Companies  
Invenergy Wind Development LLC  
Kansas City Power & Light Company and KCP&L Greater Missouri Operations  
Company  
Kansas Corporation Commission  
Kansas Electric Transmission Authority  
Lafayette Utilities System  
Lincoln Electric System  
Louisiana Energy and Power Authority  
Mid-Kansas Electric Company, LLC  
Midwest Independent Transmission System Operator, Inc.

Midwest ISO Transmission Owners  
Nebraska Power Review Board  
Nebraska Public Power District  
NextEra Energy Resources, LLC  
Novus Windpower, LLC and Novus Wind II, LLC  
NRG Companies  
Occidental Permian Ltd. and Occidental Power Marketing, L.P.  
Oklahoma Gas and Electric Company  
Omaha Public Power District  
Organization of MISO States  
Public Service Commission of the City of Yazoo City, Mississippi  
Public Service Gas and Electric Company  
Renewable Energy Systems Americas Inc.  
Sunflower Electric Power Corporation  
The Empire District Electric Company  
Westar Energy, Inc. and Kansas Gas and Electric Company  
Western Farmers Electric Cooperative  
Xcel Energy Services Inc.