

October 15, 2010

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

Re: *Sw. Power Pool, Inc.*, Docket No. ER11-____-000
Compliance Filing Revising Tariff in Docket No. ER09-1050

Dear Secretary Bose:

Pursuant to section 206 of the Federal Power Act, 16 U.S.C. § 824e, Part 35 of the Regulations of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. Part 35, Order No. 719,¹ and the Commission’s September 16 Order² in this proceeding, Southwest Power Pool, Inc. (“SPP”) hereby submits revisions to its Open Access Transmission Tariff³ to comply with the Commission’s requirements established in Order No. 719.

I. BACKGROUND

A. SPP

SPP is a Commission-approved Regional Transmission Organization (“RTO”). It is an Arkansas non-profit corporation with its principal place of business in Little Rock,

¹ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, III FERC Stats. & Regs., Regs. Preambles ¶ 31,281 (2008), *as amended*, 126 FERC ¶ 61,261, *order on reh’g*, Order No. 719-A, III FERC Stats. & Regs., Regs. Preambles ¶ 31,292, *reh’g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

² *Sw. Power Pool, Inc.*, 132 FERC ¶ 61,240 (2010) (“September 16 Order”).

³ Southwest Power Pool, FERC Electric Tariff, Fifth Revised Volume No. 1 (“Tariff”). SPP’s eTariff baseline, Sixth Revised Volume No. 1, is pending before the Commission in Docket No. ER10-1960-000.

Arkansas. SPP currently has 60 Members in nine states and serves more than 6 million households in a 370,000 square-mile area. Its Members include 14 investor-owned utilities, 9 municipal systems, 12 generation and transmission cooperatives, 4 state agencies, 7 independent power producers, 10 power marketers, and 4 independent transmission companies.

As an RTO, SPP is a transmission provider currently administering transmission service over portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. SPP has been administering a centralized Energy Imbalance Service (“EIS”) Market since February 1, 2007. In various orders, the Commission approved the Tariff language for the EIS Market and ultimately certified SPP’s EIS Market for implementation on February 1, 2007.⁴

B. Order No. 719 and SPP Compliance Filings

On October 17, 2008, the Commission issued Order No. 719 to improve the operation of organized wholesale electric markets in the areas of demand response, long-term power contracting, market monitoring, and RTO and Independent System Operator (“ISO”) responsiveness.⁵ Order No. 719 mandated that RTOs and ISOs, in consultation with stakeholders, submit a compliance filing to explain how existing Tariff language and practices comply with the reforms adopted in Order No. 719 or to specify plans to attain compliance.⁶ SPP submitted its filing to comply with Order No. 719 on April 28, 2009.⁷ On July 16, 2009, the Commission issued Order No. 719-A, denying in part and granting in part rehearing and clarification of Order No. 719. On December 17, 2009, the Commission issued Order No. 719-B denying rehearing of Order No. 719-A.

On November 20, 2009, the Commission issued its order addressing SPP’s April 28 Compliance Filing.⁸ The Commission accepted in part and rejected in part SPP’s compliance with the demand response and marketing monitoring requirements of Order No. 719, accepted SPP’s compliance with the long-term power contracting requirement of Order No. 719, and deferred action on SPP’s compliance with the RTO responsiveness

⁴ *Sw. Power Pool, Inc.*, 118 FERC ¶ 61,055 (2007).

⁵ Order No. 719 at P 2.

⁶ *Id.* at P 8.

⁷ Submission of Order No. 719 Compliance Filing Revising Tariff of Southwest Power Pool, Inc., Docket No. ER09-1050-000 (Apr. 28, 2009) (“April 28 Compliance Filing”).

⁸ *Sw. Power Pool, Inc.*, 129 FERC ¶ 61,163 (2009) (“November 20 Order”).

requirements of Order No. 719 pending a future technical conference.⁹ The November 20 Order directed SPP to submit a compliance filing by February 18, 2010¹⁰ and certain reports assessing demand response in the SPP EIS Market by May 20, 2010.¹¹ SPP submitted its filing to comply with the market monitoring requirements of Order No. 719 and the November 20 Order on February 18, 2010.¹²

In its September 16 Order, the Commission accepted the revisions to the SPP Tariff and Bylaws proposed in the February 18 Compliance Filing, and directed SPP to submit a further compliance filing within 30 days to address one issue regarding the reporting of potential market rule violations.¹³

II. DESCRIPTION OF COMPLIANCE FILING

In the September 16 Order, the Commission found that, with one exception, SPP complies with the market monitoring requirements of Order No. 719. The Commission directed SPP to submit a compliance filing within 30 days to modify Tariff language governing the SPP Market Monitor's referrals of suspected market violations. Specifically, the Commission indicated that "referrals of market violations should be made solely to Commission staff, and there is no provision [in Order No. 719] for notifications to persons or entities outside of the Commission."¹⁴ The Commission also indicated that "section 3.2 [of Attachment AG of the SPP Tariff] should limit the internal

⁹ November 20 Order at PP 23-24.

¹⁰ *Id.* at P 23.

¹¹ *Id.* at P 96.

¹² Compliance Filing Revising Tariff of Southwest Power Pool, Inc., Docket Nos. ER09-1050-003 and ER09-1192-003 (Feb. 18, 2010) ("February 18 Compliance Filing"). The Commission granted SPP an extension to submit its compliance filing in response to the demand response-related requirements of the November 20 Order. *Sw. Power Pool, Inc.*, Notice Addressing Motion for Extension of Time, Docket Nos. ER09-1050-000, *et al.* (Dec. 23, 2009). SPP submitted its demand response-related compliance filing on May 19, 2010. Compliance Filing Revising Tariff of Southwest Power Pool, Inc., Docket Nos. ER09-1050-004 and ER09-748-002 (May 19, 2010).

¹³ September 16 Order at P 26.

¹⁴ *Id.* (*citing* Order No. 719 at P 354).

market monitor's referral of suspected market violations, and any notifications pertaining to such referral, only to Commissions staff."¹⁵

Accordingly, SPP has modified Section 3.2 of Attachment AG to comply with the September 16 Order. Specifically, SPP has deleted from Section 3.2 language indicating that SPP will inform "the Board of Directors, the officers of SPP . . . or other affected state regulatory authorities, as the Market Monitor may deem necessary or appropriate" of any instances of market behavior that may require investigation. As a result, when instances of market behavior may require investigation, the Market Monitor will inform only the Commission's Office of Enforcement staff, or any successor organization.

III. EFFECTIVE DATE

SPP requests an effective date of February 18, 2010, for the revisions proposed in this filing, to coincide with the effective date of the February 18 Compliance Filing. However, because this proposed effective date pre-dates SPP's submission of its electronic baseline tariff under Order No. 714,¹⁶ which SPP submitted to the Commission on July 26, 2010,¹⁷ SPP is required¹⁸ to submit both an electronic tariff version and tariff sheets formatted pursuant to Order No. 614 for historical purposes.¹⁹ Accordingly, in addition to the electronic version of the revisions proposed in this filing, SPP submits as Attachment A to this transmittal letter clean and redlined versions of Order No. 614 designated Tariff sheets reflecting a February 18, 2010 effective date in SPP's previous Tariff, Fifth Revised Volume No. 1.

Additionally, in preparation for SPP's filing to comply with the Commission's electronic tariff requirements in Order No. 714, SPP submitted a "clean-up" filing on January 29, 2010 to correct consistency issues, capitalization and spelling mistakes, and

¹⁵ *Id.*

¹⁶ *Electronic Tariff Filings*, Order No. 714, III FERC Stats. & Regs., Regs. Preambles ¶ 31,276 (2008).

¹⁷ *See* Baseline Electronic Tariff Filing of Southwest Power Pool, Inc., Docket No. ER10-1960-000 (July 26, 2010).

¹⁸ *See Electronic Tariff Filings*, Filing Procedures for Electronically Filed Tariffs, Rate Schedules and Jurisdictional Agreements, Docket No. RM01-5-000, at 2 (May 21, 2010).

¹⁹ *Designation of Electric Rate Schedule Sheets*, Order No. 614, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,096 (2000).

other ministerial errors.²⁰ SPP's January 29, 2010 filing became effective on March 31, 2010.²¹ As a result, SPP also submits in this filing as Attachment B clean and redlined Tariff sheets in Fifth Revised Volume No. 1 reflecting a March 31, 2010 effective date, for historical purposes.

IV. ADDITIONAL INFORMATION

A. Information Required by the Commission's Regulations

1. Documents submitted with this filing:

In addition to this transmittal letter, the following materials are included in this filing:

- Attachment A: In accordance with the Filing Procedures For Electronically Filed Tariffs, Rate Schedules and Jurisdictional Agreements issued in Docket No. RM01-5-000 on May 21, 2010, SPP includes clean and redline compliance Tariff sheets designated with an effective date of February 18, 2010 under the Fifth Revised Volume No. 1.
- Attachment B: In accordance with the Filing Procedures For Electronically Filed Tariffs, Rate Schedules and Jurisdictional Agreements issued in Docket No. RM01-5-000 on May 21, 2010, SPP includes clean and redline compliance Tariff sheets designated with an effective date of March 31, 2010 under the Fifth Revised Volume No. 1.
- Clean and redline compliance tariff revisions in electronic format under the Sixth Revised Volume 1, with an effective date of July 26, 2010 (the effective date of SPP's Electronic Baseline Tariff Filing), which amend Section 3.2 of Attachment AG of the SPP Tariff to comply with the September 16 Order in this proceeding.

²⁰ Submission of Changes to SPP Tariff, Docket No. ER10-678-000 (Jan. 29, 2010) ("January 29 Filing").

²¹ *Sw. Power Pool, Inc.*, Letter Order, Docket Nos. ER10-678-000, *et al.* (Mar. 18, 2010).

2. Effective Date:

SPP requests that the Commission accept the proposed revisions to the SPP Tariff effective February 18, 2010, the effective date of the February 18 Compliance Filing.

3. Service:

SPP has served a copy of this filing on all parties on the official service lists compiled in Docket Nos. ER09-1050-000 and ER09-1192-000 and all SPP Members and Customers. A complete copy of this filing will be posted on the SPP web site, www.spp.org, and is also being served on all affected state commissions.

4. Requisite Agreements:

The proposed revisions to the SPP Tariff do not require any agreements.

5. Estimate of transactions and revenues:

Not applicable.

6. Basis of rates:

The basis for the proposed SPP Tariff revisions is explained above.

7. Comparison to rates for similar services:

Not applicable.

8. Specifically assignable facilities installed or modified:

There are none.

B. Communications

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

Heather H. Starnes, J.D.
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Southwest Power Pool, Inc.
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V. CONCLUSION

For all of the foregoing reasons, SPP respectfully requests that the Commission accept the Tariff and Bylaws revisions proposed herein, effective as discussed above, and find that SPP complies with the Commission's directives in Order No. 719 and the September 16 Order. SPP further requests a waiver of any additional Commission regulations that the Commission may deem applicable.

Respectfully submitted,

/s/ Matthew J. Binette
Wendy N. Reed
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**Attorneys for
Southwest Power Pool, Inc.**

cc: Penny Murrell
Michael Donnini
John Rogers
Patrick Clarey
Laura Vallance

ATTACHMENT A

other persons, as necessary, for the effective functioning of the Market Monitor and implementation of this Plan. The Market Monitor shall have full responsibility for implementing Attachment AG.

3.2 Relationships and Notifications

As a general principle, the Market Monitor may obtain input from the SPP, FERC Staff, SPP Staff, the RSC, and affected state regulatory authorities for the purpose of executing its duties. However, in accordance with this Tariff, the Market Monitor shall bring any instances of market behavior that may require investigation (including, but not limited to, suspected Tariff violations, suspected violations of Commission-approved rules and regulations, suspected market manipulation, and inappropriate dispatch) to the attention of FERC's Office of Enforcement (or its successor organization) staff. After any initial investigation of market design/policies, the Market Monitor shall also provide notification to the Board of Directors, the President of SPP, and FERC's Office of Enforcement (or its successor organization) staff, and other interested entities such as relevant state regulatory commissions and Market Participants, as soon as practicable in the event it identifies a significant market problem that may require (a) further investigation, (b) a change to this Tariff, or (c) action by FERC. In the event the Market Monitor believes broader dissemination could lead to exploitation, it may limit distribution of its identifications and recommendations to the Board of Directors, the President of SPP, and FERC Staff with an explanation of why further dissemination should be avoided at that time.

The Market Monitor shall also interface with FERC Staff and other

other persons, as necessary, for the effective functioning of the Market Monitor and implementation of this Plan. The Market Monitor shall have full responsibility for implementing Attachment AG.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Commission Secretary in Docket Nos. ER09-1050-000 and ER09-1192-000.

Dated at Washington, D.C., this 15th day of October, 2010.

/s/ Matthew J. Binette _____

Matthew J. Binette

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

3. Market Monitor

The Market Monitor is responsible for implementing the Market Monitoring Plan as defined in this Tariff.

3.1 Staffing and Resources

The Market Monitor shall be an organization within SPP reporting to the Board of Directors, excluding any SPP management representatives serving on the Board of Directors. The Market Monitor shall be comprised of employees of SPP with the necessary experience and qualifications to perform the duties of the Market Monitor. The duties and responsibilities of the Market Monitor shall be assigned by the Board of Directors. However, the Market Monitor's duties and responsibilities will not include purely administrative matters (e.g., enforcement of late fees and the untimely submission of outage reports and meter data). SPP management representatives on the Board of Directors will be excluded from the Board of Directors' oversight of the Market Monitor. SPP shall establish and provide appropriate staffing and/or resources for the Market Monitor and shall ensure that the Market Monitor has such adequate employees, funding and/or other resources, access to required information, and the full cooperation of SPP Staff, Organizational Groups, and other persons, as necessary, for the effective functioning of the Market Monitor and implementation of this Plan. The Market Monitor shall have full responsibility for implementing Attachment AG.

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The Market Monitor shall also interface with FERC Staff and other RTO and ISO market monitors in adjacent regions as needed for the purpose of addressing electricity market issues in a comprehensive manner. The Market Monitor shall promptly notify the President of SPP of all such notifications, communications or reports.

3.3 Independence and Ethics Standards

The Market Monitor and its employees shall abide by SPP's Standards of Conduct, which shall be appropriate for establishing the professional and financial independence of the Market Monitor.

Consistent with this requirement, the Market Monitor and its employees shall:

- (a) have no material affiliation with any Market Participant or any affiliate of a Market Participant;
- (b) not serve as an officer, employee, or partner of a Market Participant;
- (c) have no material financial interest in any Market Participant or any affiliate of a Market Participant (allowing for such potential exceptions as mutual funds and non-directed investments);
- (d) not engage in any market transactions other than the performance of their duties under this Tariff;
- (e) not be compensated, other than by SPP, for any expert witness testimony or other commercial services to SPP or to any other party in connection

with any legal or regulatory proceeding or commercial transaction relating to SPP;

- (f) not accept anything of value from a Market Participant in excess of a de minimis amount;
- (g) advise their relevant supervisor (or, in the case of the Market Monitoring management, SPP's Board of Directors) in the event they seek employment with a Market Participant, and must disqualify themselves from participating in any matter that would have an effect on the financial interest of such Market Participant.

These restrictions are not exclusive of the other requirements specified in SPP's Standards of Conduct. In the event there is a conflict between this Attachment AG and SPP's Standards of Conduct, this Attachment AG will control.

The Market Monitor shall certify compliance with such policies to the President of SPP. The Market Monitor shall require any external consultants or experts to certify compliance with these policies.

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The Market Monitor is responsible for implementing the Market Monitoring Plan as defined in this Tariff.

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