

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Southwest Power Pool, Inc.) Docket No. ER12-2292-00_

PETITION FOR WAIVER OF TARIFF PROVISIONS

I. INTRODUCTION

Pursuant to Rule 207 of the Commission’s Rules of Practice and Procedure,¹ Southwest Power Pool, Inc. (“SPP”) petitions the Commission to grant a limited waiver of the provisions of the SPP Open Access Transmission Tariff (“Tariff”)² accepted by the Commission in its September 20, 2012 order in Docket No. ER12-2292³ implementing systematic curtailment of Non-Dispatchable Resources⁴ that became commercially operable after October 15, 2012. SPP requests that the waiver be effective for the period October 15, 2012 until March 19, 2013. This waiver will permit SPP to file and implement certain curtailment procedures as directed by the Commission in the September 20 Order,

¹ 18 C.F.R. § 385.207.

² Open Access Transmission Tariff For Services Offered By Southwest Power Pool, FERC Electric Tariff Fifth Revised Volume No. 1.

³ *Sw. Power Pool, Inc.*, 140 FERC ¶ 61,225 (2012) (“September 20 Order”).

⁴ Non-Dispatchable Resource is a “Resource meeting any of the following conditions: (a) operating in Shut-Down Mode; (b) operating in Start-up Mode; (c) operating in Testing Mode; (d) operating under Exigent Conditions; (e) is an Intermittent Resource; or (f) is a Qualifying Facility.” Tariff, Attachment AE Definitions N.

and to ensure that SPP's market tools software that is necessary to implement systematic curtailment of Non-Dispatchable Resources are fully functional before implementing the procedures. The effect of the waiver will be to postpone the effective date of the accepted Tariff revisions until March 19, 2013. As discussed below, it is operationally infeasible to implement the changes before that date.

II. BACKGROUND

On July 23, 2012, SPP submitted Tariff revisions to amend Attachment AE of the Tariff to permit the systematic curtailment of Non-Dispatchable Resources in the current SPP Energy Imbalance Market ("EIS Market") during periods of congestion.⁵ The Commission's September 20 Order conditionally accepted the Tariff revisions, subject to a compliance filing. The Commission conditioned acceptance on SPP including in a compliance filing, among other things, the following:

- Revisions to the Tariff to apply automated curtailment to existing Non-Dispatchable Resources (i.e., resources commercially operable prior to October 15, 2012) to be effective October 15, 2013 and reflecting the results of a stakeholder process.⁶
- Either revisions to Tariff that provide that: (i) for point-to-point service, a Non-Dispatchable Resource will receive TLR level 5 priority, up to the amount of firm transmission service that has been reserved for the Non-Dispatchable Resource, regardless of whether the output is scheduled or unscheduled; and (ii) to the extent that a Non-Dispatchable Resource is a designated network resource, it will

⁵ Amendment to Attachment AE of the Tariff of Southwest Power Pool, Inc., Docket No. ER12-2292 (July 23, 2012).

⁶ September 20 Order at PP 47–49.

be assigned TLR level 5 curtailment priority, on an equivalent basis with other firm designated network resources, up to the level of output designated for that resource (provided that the aggregate generation from designated network resources for a particular network load does not exceed the associated network losses); or, in the alternative, an explanation of the reasons why SPP cannot operationally satisfy these requirements.⁷

In accordance with the September 20 Order, SPP established a stakeholder process to address concerns of existing Non-Dispatchable Resources regarding the systematic curtailment of such resources. To facilitate the completion of this stakeholder process, SPP requested, and the Commission granted an extension of time from December 19, 2012 until March 1, 2013 to submit the required compliance filing.⁸

During the stakeholder process, consistent with the directives in the September 20 Order, SPP staff and the stakeholders developed a proposal to address the issues relating to the systematic curtailment of existing Non-Dispatchable Resources,⁹ as well as a mechanism to determine curtailment priorities for Non-Dispatchable Resources with firm transmission service based on transmission service reservations rather than schedules. The Tariff language implementing these proposals was reviewed and approved by the Markets

⁷ *Id.* at P 53.

⁸ *Sw. Power Pool, Inc.*, Notice of Extension of Time, Docket No. ER12-2292-000 (Jan. 2, 2013).

⁹ September 20 Order at PP 47–49.

Working Group,¹⁰ the Regional Transmission Working Group,¹¹ the Markets and Operations Policy Committee,¹² and finally the SPP Board of Directors on January 29, 2013.¹³ SPP will include the Tariff changes in its compliance filing on March 1, 2013.

III. NEED FOR WAIVER

SPP requests a waiver of the Tariff provisions that were accepted in the September 20 Order for two reasons: (1) to facilitate SPP's proposal to determine curtailment priorities of Non-Dispatchable Resources with firm transmission service based on reservations rather than schedules consistent with the September 20 Order; and (2) to ensure the software required to implement the systematic curtailment of Non-Dispatchable Resources is fully functional.

¹⁰ See SPP, *MWG Minutes* (January 22-23, 2013), <http://www.spp.org/publications/MWG%201%2022%2023%2013%20Minutes%20&%20Attachments.pdf>.

¹¹ See SPP, *RTWG Minutes* (January 2, 3, and 4, 2013), <http://www.spp.org/publications/Meeting%20Minutes%20and%20Attachments%201-2%20-%204-2013.pdf>.

¹² See SPP, *MOPC Minutes* (January 15-16, 2013), <http://www.spp.org/publications/MOPC%20Minutes%20&%20Background%20Materials%20January%2015-16,%202013.pdf>.

¹³ See SPP, *BOD/MC Minutes* (January 29, 2013), <http://www.spp.org/publications/BOD012913.pdf>. The Operating Reliability Working Group also reviewed and approved Tariff language proposed on January 9, 2013.

A. Implementation of Proposal to Determine Curtailment Priorities for Non-Dispatchable Resources with Firm Transmission Service Based on Reservations Rather Than Schedules

In the September 20 Order, the Commission directed SPP to amend its Tariff to provide that for point-to-point service, a Non-Dispatchable Resource will receive TLR level 5 priority, up to the amount of firm transmission service that has been reserved for the Non-Dispatchable Resource, regardless of whether the output is scheduled or unscheduled, and that to the extent that a Non-Dispatchable Resource is a designated network resource (and therefore has firm transmission service), it will be assigned TLR level 5 curtailment priority on an equivalent basis with other firm designated network resources, up to the level of output designated for that resource. In the alternative, SPP could provide an explanation as to why it cannot operationally satisfy this directive.¹⁴ SPP currently cannot operationally implement this directive, and based on an analysis of SPP's market systems and feedback from stakeholders, several obstacles must be overcome to implement it.

Despite these obstacles, however, SPP and its stakeholders have developed an approach that will enable the determination of curtailment priorities for Non-Dispatchable Resources with long-term firm transmission service based on transmission service reservations rather than schedules, which SPP plans to submit in its compliance filing on March 1, 2013. In brief, SPP will propose a stakeholder approved mechanism whereby (i) both the unscheduled and scheduled

¹⁴ September 20 Order at P 53.

output of Non-Dispatchable Resources with long-term firm transmission service for the full capacity of the Non-Dispatchable Resource, and (ii) Non-Dispatchable Resources with monthly short-term firm transmission service that have pending requests for long-term firm transmission service, will be curtailed equivalent to firm service. The mechanism will result in both the unscheduled and scheduled portions of the output from such resources receiving firm treatment by SPP's Curtailment Adjustment Tool ("CAT").

Because the CAT tool is required to implement the proposed mechanism, for Non-Dispatchable Resources with long-term firm transmission service to be curtailed equivalent to firm service for the entire reserved amount of their output, they must be systematically, not manually, curtailed. Systematic curtailment is required because the Tariff allows transmission customers to buy firm point-to-point transmission service on a daily, weekly, monthly, and yearly basis and/or in combination with non-firm transmission service. As a result, in any given day, there is the potential for the same Resource to be using a different service and the market software and CAT tool depend on the transmission reservations communicated by the transmission customer through the energy schedules to evaluate curtailment priority. Furthermore, any resource in the EIS Market footprint could be in Non-Dispatchable Resource status in any hour. Therefore, because of the transmission service variables involved, communicating curtailment instructions to firm transmission customers must be systematic to be effective. Simply put, because of these dynamic variables, it would be

operationally infeasible to manually curtail Non-Dispatchable Resources with firm transmission service based on reservations rather than schedules, as directed by the September 20 Order.

The September 20 Order, however, held that all Non-Dispatchable Resources that became commercially operable before October 15, 2012 are not subject to systematic curtailment until a year later on October 15, 2013.¹⁵ Therefore, SPP will propose in its compliance filing to implement the new mechanism for Non-Dispatchable Resources with long-term firm transmission service or with short-term firm service with pending requests for long-term firm transmission service that became commercially operable after October 15, 2012, as soon as the necessary system changes are complete, but will continue to manually curtail similar resources that were commercially operable before October 15, 2012 until October 15, 2013.

SPP's original proposal for systematic curtailment of Non-Dispatchable Resources did not include determining curtailment priorities for Non-Dispatchable Resources with firm transmission service based on transmission service reservations rather than schedules. Consequently, in developing its market tools software, SPP did not provide for this capability. Therefore, SPP must modify its market tools to accommodate the new mechanism. As a result, SPP is not able to implement the new mechanism for systematically curtailing any Non-Dispatchable

¹⁵ September 20 Order at P 47.

Resources with firm transmission service until the appropriate system changes are complete and functional. SPP anticipates that these changes will be fully functional by March 19, 2013.

To permit SPP to complete the necessary system changes and to submit its proposal in the March 1, 2013 compliance filing, SPP requests a waiver of the Tariff provisions accepted in the September 20 Order as they pertain to the systematic curtailment of Non-Dispatchable Resources with long-term firm transmission service or with short-term service that have pending requests for long-term firm transmission service that were commercially operable after October 15, 2012, for the period from October 15, 2012¹⁶ until March 19, 2013. In effect, the waiver will postpone the effective date of these provisions to March 19, 2013.

B. Delay Related To Current Market Tools

SPP developed the market tools software to enable its proposal for the systematic curtailment of Non-Dispatchable Resources with a planned effective date of October 15, 2012. However, when SPP attempted to activate the tools, implementation issues arose. The software did not work as expected in production and was turned off as soon as the issue was discovered. SPP worked diligently to address the issue and has solved the problem. However, as explained above, when SPP developed the market tools software, it did not provide for the capability to

¹⁶ October 15, 2012 is the effective date of the Tariff provisions accepted in the September 20 Order.

curtail Resources with firm transmission service based on transmission service reservations rather than schedules. Therefore, the SPP stakeholders approved a delay in activating the market tools to systematically curtail all Non-Dispatchable Resources until the new logic to implement curtailment of Non-Dispatchable Resources with firm transmission service could be activated. The stakeholders believed this to be the best solution because, without the new logic, the Non-Dispatchable Resources with firm transmission service subject to systematic curtailment might be curtailed prior to a TLR 5, which would violate the Commission's directive in the September 20 Order. By delaying the overall implementation, all similarly situated Non-Dispatchable Resources with firm transmission service will be treated similarly. During the stakeholder process no stakeholder objected to the delay in implementing the systematic curtailment rules for all Non-Dispatchable Resources. Consequently, SPP requests a waiver of the Tariff provisions accepted in the September 20 Order for the period October 15, 2012 until March 19, 2013, postponing the effectiveness to this date.¹⁷

IV. SPP'S REQUEST MEETS THE STANDARD FOR GRANTING A WAIVER

“Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, the Commission has found that a one-time waiver [of tariff provisions] is

¹⁷ During the period of the waiver, SPP shall continue manually to curtail all Non-Dispatchable Resources in the same manner as it has prior to the filing of the new systematic curtailment rules.

appropriate.”¹⁸ SPP’s waiver request meets this standard and is in the public interest.

The requested waiver is narrow in scope and purpose. SPP is requesting waiver of only a limited number of Tariff modifications accepted in Docket No. ER12-2292-000, namely: (i) definitions of “Exigent Conditions,” “Manual Dispatch Instruction,” “Non-Dispatchable Resource;” “Shut Down-mode” and “Start-up Mode;” and (ii) sections 4.1(d) & (e), 4.3(b), (g) & (i); and 5.5 of Attachment AE. As explained above, the purpose of the waiver is to enable SPP to complete development of its market tools software to enable full implementation of systematic curtailment of Non-Dispatchable Resources and to comply with the September 20 Order to determine curtailment priorities for Non-Dispatchable Resources with firm transmission service based on transmission service reservations rather than schedules. Furthermore, the waiver is for a short, finite period of time, October 15, 2012 until March 19, 2013.

The benefits of the waiver are evident. The waiver will permit SPP to comply with the September 20 Order and fully implement systematic curtailment of Non-Dispatchable Resources with the proper tools in place. Furthermore, SPP stakeholders were apprised of these issues and SPP's intent to file this waiver

¹⁸ *Cal. Indep. Sys. Operator*, 124 FERC ¶ 61,031, at P 19 (2008) (“*CAISO Order*”); *see also Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226 at P 24, *order on clarification*, 120 FERC ¶ 61,180 (2007).

request in the stakeholder process and did not object to the delay in implementation. There is good cause to grant the waiver.¹⁹

V. REQUEST FOR EXPEDITED ACTION

SPP respectfully requests that the Commission expeditiously issue an order in response to this waiver petition to alleviate any confusion as to the timing of the implementation of SPP's Non-Dispatchable Resource systematic curtailment rules. Absent the waiver, SPP would be required to implement these curtailment rules without the proper market tools in place, which is infeasible. Furthermore, until SPP files its compliance filing on March 1, 2013 and the market tools are activated on March 19, 2013, SPP is unable to comply with the September 20 Order's directive regarding Non-Dispatchable Resources with firm transmission service. Prompt action on this waiver petition will alleviate any uncertainty as to SPP's responsibilities under the Tariff to implement its Non-Dispatchable Resource systematic curtailment rules before March 19, 2013. Accordingly, SPP requests that the Commission issue an order on this waiver petition within 30 days from the date of this filing. SPP is aware that Rule 213(d)²⁰ of the Commission's rules generally allows a 30-day comment response period for petitions, but requests that

¹⁹ The Commission has found good cause for similar waivers and deferrals of effective dates for previously-accepted tariff revisions to permit additional time to "fully test and prepare" required software and because of "problems implementing needed computer software." *N.Y. Indep. Sys. Operator, Inc.*, 135 FERC ¶ 61,256, at P 3, 4 (2011).

²⁰ 18 C.F.R. § 385.213(d).

the Commission shorten that period pursuant to its authority under Rule 101(e)²¹ to waive any procedure, so that expedited action by the Commission can be accommodated. As the stakeholders already have been informed regarding the filing of this waiver, no party should be prejudiced by a shortened comment period.²²

VI. 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:

Nicole Wagner
Manager, Regulatory Policy
Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, AR 72223
Telephone: (501) 614-3380
Fax: (501) 664-9553
jwagner@spp.org

Barry S. Spector
Carrie L. Bumgarner
Wright & Talisman, P.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005
(202) 393-1200 (phone)
(202) 393-1240 (fax)
spector@wrightlaw.com
bumgarner@wrightlaw.com

VII. SERVICE

SPP has served a copy of this filing on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in Docket No. ER12-2292-000.

²¹ *Id.* § 385.101(e).

²² *See CAISO Order* at P 33.

VIII. CONCLUSION

For all of the foregoing reasons, SPP respectfully requests that the Commission grant the waiver requested in this petition.

Respectfully submitted,

/s/ Carrie L. Bumgarner

Barry S. Spector

Carrie L. Bumgarner

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

K:\SPP\PRR211-240\tariff waiver app (final).docx

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 Secretary in this proceeding.

Dated at Washington, D.C., this 13th day of February, 2013.

A handwritten signature in cursive script, reading "Carrie L. Bumgarner". The signature is written in black ink and has a fluid, connected style.

Carrie L. Bumgarner