



Regulatory Update - Activity in Significant Dockets First Quarter 2013

SPP Tariff/Governing Document Revisions		
Docket Number	Short Description	Summary
ER12-959	SPP Submission of Tariff Revisions to Implement a Formula Rate for Transmission Service for Tri-County Electric Cooperative, Inc. ("Tri-County"), a Transmission Owner in the Southwestern Public Service Company ("SPS") Zone	<p>On January 7, 2013, parties filed Initial Post-Hearing Briefs.</p> <p>On January 28, 2013, parties filed Reply Briefs.</p> <p>On February 21, 2013, FERC issued an Order on Rehearing, granting rehearing in part and denying rehearing in part. FERC concluded that the March 30, 2012 Order erred in allowing SPP's rate proposal for Tri-County's Annual Transmission Revenue Requirement ("ATRR") to go into effect April 1, 2012, without a commitment from Tri-County to refund the difference between the as-filed rate and the rate ultimately found to be just and reasonable by the Commission. Consistent with Commission policy in other instances involving non-public utilities, without such a refund commitment, the effective date for Tri-County's ATRR should be the date the Commission makes the ATRR effective in its order approving the ATRR following hearing and settlement judge procedures.</p> <p>FERC denied Xcel Energy Services Inc.'s request to make Tri-County's rates that have been collected to date subject to refund under section 205. However, FERC found that it would not be just and reasonable to allow SPP to continue to pass through Tri-County's proposed rate prior to the Commission's order establishing a just and reasonable rate following hearing and settlement judge proceedings. Therefore, SPP was directed to submit a compliance filing that either:</p> <ol style="list-style-type: none"> 1) removes from SPP's Tariff the tariff sheets under which SPP has been collecting Tri-County's rate and provides that SPP will cease collecting the Tri-County rate effective as of the day after the date of this order and until the Commission issues an order following hearing and settlement judge proceedings; or 2) provides a voluntary commitment by Tri-County to refund the difference between the proposed rate and the rate ultimately determined by the Commission to be just and reasonable, effective as of the day after the date of this order. <p>On March 19, 2013, SPP filed its Compliance Filing pursuant to the February 21, 2013 Order. SPP submitted a copy of a letter dated March 14, 2013 from Jack Perkins, Chief Executive Officer of Tri-County, to Carl Monroe, Executive Vice President and Chief Operating Officer of SPP, stating Tri-County's voluntary commitment to "refund the difference between the proposed rate and the rate ultimately determined by the Commission to be just and reasonable in Docket No. ER12-959, effective as of the day after the date of the February 21 2013 Order." In light of this commitment by Tri-County to pay refunds, SPP is not removing the tariff sheets under which SPP has been collecting Tri-County's rate and will continue to collect the Tri-County rate, unless and until otherwise ordered by the Commission.</p> <p>On March 25, 2013, certain Parties filed a Request for Rehearing and Request for Clarification of the February 21, 2013 Order.</p>



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		<p>On April 9, 2013, SPP filed a Motion for Leave to Answer and Answer in response to the requests for rehearing and clarification filed on March 25, 2013 and the protest of Xcel Energy Services Inc. filed on April 8, 2013. SPP stated:</p> <ol style="list-style-type: none"> 1) the rates at issue in this proceeding are those of Tri-County and not of SPP; 2) the Commission should not order SPP to refund the Tri-County rate collected for the period of April 1, 2012 through February 21, 2013; and 3) the Commission intended for SPP to charge the Tri-County rates through February 21, 2013.
ER12-1179	SPP Submission of Tariff Revisions to Implement SPP Integrated Marketplace	<p>On February 15, 2013, SPP submitted its Compliance Filing pursuant to the October 18, 2012 Order (“October Order”). An effective date of March 1, 2014 was requested.</p> <p>On March 1, 2013, SPP supplemented its February 15, 2013 Compliance Filing to provide information to the Commission, as directed in paragraph 317 of the October Order, regarding a particular transaction under a grandfathered agreement between Nebraska Public Power District and Basin Electric Power Cooperative.</p> <p>Several parties filed comments or protests in response to SPP’s February 15, 2013 Compliance Filing.</p> <p>During the first quarter of 2013, SPP filed two status reports regarding the negotiations concerning grandfathered agreements. SPP committed to file a further status report on May 15, 2013.</p> <p>On March 21, 2013, FERC issued an Order on Rehearing and Clarification, granting in part and denying in part requests for clarification and/or rehearing of the October Order.</p> <p>FERC granted SPP’s request for rehearing regarding Order No. 755. The Commission directed SPP to file tariff revisions to comply with the requirements of Order No. 755 no later than June 30, 2013, which are to be implemented no later than one year following market start-up.</p> <p>FERC granted SPP’s clarification request regarding revising the Tariff to specify that entities that are in any of the other SPP footprints, but that choose not to participate in the Integrated Marketplace, will not be subject to the Integrated Marketplace’s rules and practices. FERC clarified that its directive does not preclude SPP from proposing tariff provisions requiring a party external to SPP that chooses to engage in transactions in the Integrated Marketplace to comply with Integrated Marketplace rules and practices, if applicable to those transactions, even if the external party is not otherwise transacting in the Integrated Marketplace. This includes transactions in the Integrated Marketplace resulting from such party’s participation in reserve sharing arrangements with SPP. Similarly, in the October Order, the Commission did not intend to prejudice whether SPP can recover Integrated Marketplace costs from external entities</p>



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		<p>taking service from SPP.</p> <p>FERC clarified that in the October Order, the Commission did not intend that "all SPP customers" would need to apply for Network Resource Interconnection Service ("NRIS"); rather the Commission's statement was in reference to generators seeking SPP-wide NRIS.</p> <p>FERC denied SPP's request for rehearing that a need for market-to-market coordination has not been demonstrated. The Commission reiterated its finding that SPP is required to negotiate a revised Joint Operating Agreement with the Midwest Independent Transmission System Operator, Inc. that includes a market-to-market mechanism, and that SPP must file it with the Commission by June 30, 2013. However, the Commission clarified that SPP is not required to implement its market-to-market mechanism until one year following market start-up.</p> <p>The Commission clarified that its directive in the October Order requiring that the SPP Market Monitor report on any potential manipulative practices observed in the day-ahead market includes monitoring for and reporting of excessive day-ahead prices. To remove any ambiguity regarding the Commission's expectations, FERC directed SPP to file a compliance filing in 30 days to revise Section 4.4 of Attachment AG of SPP's Tariff to state that "Such actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices (including actions resulting in excessive day-ahead clearing prices), market conditions, or market rules for electric energy or electric products are prohibited."</p> <p>SPP's compliance filing is due on April 22, 2013.</p> <p>On March 25, 2013, SPP filed an Informational Filing attaching its Integrated Marketplace Readiness Metrics and Reversion Plan.</p>
ER12-2292	SPP Submission of Tariff Revisions to Attachment AE to Facilitate the Systematic Rather than Manual Curtailment of Non-Dispatchable Resources in the Energy Imbalance Services Market ("EIS Market") During Period of Congestion	<p>On March 1, 2013, SPP submitted its Compliance Filing pursuant to the September 20, 2012 Order.</p> <p>On March 22, 2013, Acciona Wind Energy USA LLC ("Acciona") filed Comments in response to SPP's March 1, 2013 Compliance Filing. Acciona stated:</p> <ol style="list-style-type: none"> 1) it generally supports clarifications submitted by SPP on applicability of its revised rules on curtailment; and 2) SPP should clarify that manual curtailment in the EIS Market will operate consistently with manual curtailment of non-dispatchable variable energy resources in the Integrated Marketplace. <p>On April 10, 2013, SPP filed a Reply in response to Acciona's March 22, 2013 Comments. SPP provided clarification in response to Acciona's concerns.</p>



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ER13-366 and ER13-367	SPP Submission of Tariff Revisions to Comply with Order No. 1000 Regional Planning and Cost Allocation Requirements SPP Submission of Revisions to its Membership Agreement to Comply with Order No. 1000	On February 19, 2013, SPP filed an answer in response to various comments and protests filed in response to SPP's Order No. 1000 Compliance Filings in Docket Nos. ER13-366 and ER13-367. SPP stated: 1) the Membership Agreement is protected by the Mobile-Sierra Doctrine and the comments and protests provide no basis to override that protection; 2) SPP's conditionally proposed Transmission Owner Selection Process complies with, or is superior to, Order No. 1000, is just and reasonable, and requires no modification; 3) pricing zones consisting of the facilities of more than one Transmission Owner are local and should be treated comparably to single-owner pricing zones; 4) the qualification criteria to become a qualified RFP participant are just and reasonable and require no modification; 5) the process for selecting RFP proposals complies with or is superior to Order No. 1000 and is just and reasonable; 6) SPP has fully complied with Order No. 1000 Public Policy Requirements; 7) Clean Line Energy Partners LLC's criticisms of SPP's Filing raises issues beyond the scope of this proceeding and Order No. 1000; and 8) SPP's proposed effective date ensures that SPP's Order No. 1000 compliance will be implemented as soon as practicable.
ER13-1173	SPP Submission of Tariff Revisions to Modify Certain Aspects of the SPP Integrated Marketplace	On March 28, 2013, SPP submitted revisions to its Tariff to modify certain aspects of the SPP Integrated Marketplace. An effective date of March 1, 2014 was requested.

Other Filings of Interest		
Docket Number	Short Description	Summary
EL11-34 and 12-1158 (U.S. Court of Appeals)	Midwest Independent Transmission System Operator, Inc. ("MISO") Petition for Declaratory Order Seeking Commission Confirmation Regarding Section 5.2 of the Joint Operating Agreement ("JOA") between MISO and SPP Southwest Power Pool, Inc. v. Federal Energy Regulatory Commission ("FERC")	<p>On February 5, 2013, Intervenor for Petitioner filed their Final Joint Reply Brief in U.S. Court of Appeals Case No. 12-1158. The Parties stated they respectfully support SPP's request that the Court vacate and remand the challenged FERC Orders.</p> <p>On February 5, 2013, SPP filed its Final Reply Brief before the U.S. Court of Appeals. SPP stated:</p> <ol style="list-style-type: none"> 1) there are no standing or ripeness impediments to SPP's Petition; 2) having determined Section 5.2 to be ambiguous, the Agency cannot defend its refusal to consider probative extrinsic evidence offered by SPP; 3) the evidence that the FERC selectively considered does not support, and in fact undercuts, the Agency's interpretation of Section 5.2; and 4) the FERC was required to initiate formal proceedings to investigate and develop a record on the issue of contractual intent. <p>On February 5, 2013, the Parties filed Final Briefs before the U.S. Court of Appeals.</p> <p>On February 5, 2013, SPP filed its Final Brief before the U.S. Court of Appeals. SPP stated:</p> <ol style="list-style-type: none"> 1) having resorted to extrinsic evidence to ascertain the meaning of Section 5.2, the FERC was compelled to support its interpretation with substantial evidence and to consider all relevant evidence, not merely evidence that the FERC perceived to be consistent with its interpretation; 2) proper consideration of SPP's proffered evidence would have demonstrated the error in the Commission's interpretation of Section 5.2; 3) the FERC's "contextual" analysis of Section 5.2 does not support and, in fact, undercuts FERC's conclusion; and 4) the FERC's straw-man argument regarding inferred intentions is based on a fundamental misunderstanding of the contract.
EL13-15 and EL13-35	Southwestern Public Service Company ("SPS") Complaint Seeking a Finding that the Rates in SPP Zone 11 are Unjust and Unreasonable due to the Inclusion of the Costs of Facilities of Tri-County Electric Cooperative, Inc. ("Tri-County") Southwestern Public Service	<p>On February 21, 2013, FERC issued an Order on Complaint and Establishing Hearing and Settlement Judge Procedures in Docket No. EL13-15. The Commission stated its preliminary analysis indicated that SPP's inclusion of Tri-County's facilities in its Zone 11 rates has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, the Commission found that the issues should be addressed in hearing and settlement judge procedures.</p> <p>On February 21, 2013, FERC issued an Order on Complaint and Establishing Hearing and Settlement Judge Procedures in Docket No. EL13-35. The Commission stated its preliminary analysis indicated that SPP's implementation of its annual update has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, the</p>



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Other Filings of Interest		
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(consolidated)	Company ("SPS") Complaint Requesting Establishment of a January 1, 2013 Refund Effective Date and a Finding from the Commission that SPP has Violated the Federal Power Act by Implementing a 40% Increase in the Tri-County Electric Cooperative, Inc. ("Tri-County") Annual Transmission Revenue Requirement	<p>Commission found that the issues should be addressed in hearing and settlement judge procedures.</p> <p>The refund effective date is February 22, 2013.</p> <p>On March 12, 2013, FERC issued an Order of Chief Judge Ruling on Consolidation Requests, consolidating Docket Nos. EL13-15 and EL13-35, but not ER12-959. In deliberations on the consolidated compliant proceedings, the Chief Judge urged the parties to consider a global settlement that would include Docket No. ER12-959.</p> <p>A Settlement Conference was held on March 19, 2013.</p> <p>On March 25, 2013, SPP filed a Request for Clarification or, in the Alternative, Rehearing of the February 21, 2013 Orders in Docket Nos. EL13-15 and EL13-35. SPP requested that the Commission clarify that the hearing and settlement judge procedures established in the Orders on Complaint are intended solely to determine the amount, if any, of potential refunds due to SPP Zone 11 ratepayers from February 22, 2013 forward, and not before that date.</p> <p>On March 25, 2013, Xcel Energy Services Inc. filed a Request for Rehearing of the February 21, 2013 Order.</p> <p>On March 25, 2013, Occidental and the New Mexico Cooperatives filed a Request for Rehearing and Clarification of the February 21, 2013 Order.</p> <p>On April 9, 2013, SPP filed a Motion for Leave to Answer and Answer in response to requests for rehearing and clarification filed on March 25, 2013. SPP stated:</p> <ol style="list-style-type: none"> 1) the rates at issue in this consolidated proceeding are those of Tri-County and not SPP; 2) the Commission should not order SPP to refund the Tri-County rate collected for the period of April 1, 2012 through February 21, 2013; and 3) the Commission intended for SPP to charge the Tri-County rates through February 21, 2013. <p>A settlement conference is scheduled for May 2, 2013.</p>

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State Cases		
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Arkansas 10-011-U	In the Matter of a Show Cause Order Directed to Entergy Arkansas, Inc. ("EAI") Regarding Its Continued Membership in the Current Entergy System Agreement, or Any Successor Agreement Thereto, and Regarding the Future Operation and Control of Its Transmission Assets	<p>On January 7, 2013, the Midwest Independent Transmission System Operator, Inc. ("MISO") filed a Motion for Finding of Compliance with the Requirements of Order No. 74. MISO stated that on January 4, 2013, MISO and a majority of its Transmission Owners jointly filed with FERC, in Docket No. ER13-708, revisions to Appendix K of the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (Transmission Owners Agreement) as a result of a settlement among MISO and a majority of its Transmission Owners to incorporate the terms of the Governance Proposal into the Transmission Owners Agreement.</p> <p>Also on January 7, Clair Moeller filed Compliance Testimony on behalf of MISO, in order to provide additional evidence of MISO's compliance with Commission Order Nos. 72 and 74.</p> <p>On January 23, 2013, EAI filed a Motion to Discontinue Activities Necessary to Operate as a True Stand-Alone Electric Utility. Hugh McDonald filed Supplemental Direct Testimony in support of the motion. Kurtis Castleberry filed Supplemental Direct Testimony in order to certify that the Commission's conditions have been met and request that the Commission grant EAI's Motion to Discontinue Activities Necessary to Operate as a True Stand-Alone Electric Utility. Tom Reagan filed Supplemental Direct Testimony in order to support the report titled "MISO Integration Risk Evaluation Report."</p> <p>On February 4, 2013, APSC General Staff filed its Response to EAI's Motion to Discontinue Activities Necessary to Operate as a True Stand-Alone Electric Utility. Staff stated that EAI's request to discontinue the stand-alone option should only be granted upon the APSC issuing a final order granting EAI's request to transfer functional control of its transmission facilities to MISO.</p> <p>On March 18, 2013, the APSC issued Order No. 75. The APSC directed Hugh McDonald to file Supplemental Compliance Testimony no later than March 27, 2013 explaining in detail how EAI's transmission pricing proposal in FERC Docket No. ER13-948 is not inconsistent with Condition No. 8, addressing each of the fourteen apparent differences, as listed in this Order, between the rate in the proposed FERC Attachment O template and EAI's retail bundled transmission rate as set by the APSC, and reaffirming its previously stated intention to comply fully with said Condition.</p> <p>On March 27, 2013, Hugh McDonald filed Supplemental Compliance Testimony on behalf of EAI in response to Order No. 75.</p> <p>On March 29, 2013, Richard Doying filed Compliance Testimony on behalf of MISO in order to describe the Bundled Load Exemption and its application under the MISO Tariff and Transmission Owners</p>



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		<p>Agreement.</p> <p>On April 8, 2013, the APSC issued Order No. 76, granting EAI's Application to Transfer Functional Control of its Electric Transmission Facilities to the Midwest Independent Transmission System Operator, Inc. Regional Transmission Organization, conditioned upon full and continued compliance by EAI and MISO with each of the Order No. 68 Conditions.</p> <p>The APSC also granted EAI's Motion to Discontinue Activities Necessary to Operate as a True Stand-Alone Electric Utility.</p> <p>EAI's request for approval to defer its MISO transition costs, without the addition of carrying costs, was granted subject to EAI compliance with the five ratepayer protection provisions as recommended by Staff witness Hilton and as set forth in the Order.</p> <p>EAI and MISO were directed to file in this Docket on the first business day of each month, beginning on May 1, 2013, Supplemental Testimony providing monthly updates regarding the progress of the integration of EAI into MISO process; critical developments in the various Entergy/MISO related proceedings pending before FERC and Entergy's other retail regulators; and ongoing compliance with the Order No. 68 Conditions.</p> <p>By subsequent Order the Commission will establish a procedural schedule for the consideration of MISO's Application for a Certificate of Convenience and Necessity in Docket No. 11-165-U.</p>
Arkansas 10-074-U	In the Matter of the Application of Southwestern Electric Power Company ("SWEPCO") for a Certificate of Environmental Compatibility and Public Need for the Construction, Ownership, Operation and Maintenance of the Proposed Flint Creek to Shipe Road Project and Associated Facilities to be Located in Benton County, Arkansas	<p>On January 14, 2013, Intervenors and Staff filed Direct Testimony.</p> <p>On January 24, 2013, Brian Johnson filed Rebuttal Testimony on behalf of SWEPCO.</p> <p>On January 31, 2013, Lewis Wiles, P.E. filed Surrebuttal Testimony on behalf of Twelve Stones, LLC.</p> <p>On February 7, 2013, Brian Johnson filed Sur-surrebuttal Testimony on behalf of SWEPCO.</p> <p>A hearing was held on February 21, 2013.</p>
Missouri EO-2012-0135	In the Matter of the Application of Kansas City Power & Light Company ("KCPL") for	On January 17, 2013, the MoPSC issued an Order Granting Motion to Consolidate and Setting Jointly Proposed Procedural Schedule. Case Nos. EO-2012-0135 and EO-2012-0136 were consolidated and a Procedural Schedule was established.



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State Cases		
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<p>and</p> <p>EO-2012-0136</p> <p>(consolidated)</p>	<p>Authority to Extend the Transfer of Functional Control of Certain Transmission Assets to the Southwest Power Pool, Inc.</p> <p>In the Matter of the Application of KCP&L Greater Missouri Operations Company (“KCPL-GMO”) for Authority to Extend the Transfer of Functional Control of Certain Transmission Assets to the Southwest Power Pool, Inc.</p>	<p>On March 7, 2013, MoPSC Staff and the Office of Public Counsel filed Rebuttal Testimony.</p> <p>The remainder of the Procedural Schedule is as follows: April 25, 2013 - Surrebuttal and Cross-Surrebuttal Testimony; May 13, 2013 - Settlement Conference Call; May 16, 2013 - Last day to serve discovery; May 21, 2013 - List of Issues, Order of Issues/Witnesses; May 23, 2013 - Joint Stipulation of Facts; May 28, 2013 - Position Statements; June 5-7, 2013 - Evidentiary Hearing; June 12, 2013 - Transcript expedited; July 10, 2013 - Post-Hearing Briefs; July 31, 2013 - Reply Briefs; August 2, 2013 - Proposed Findings of Fact and Conclusions of Law.</p>
<p>New Mexico</p> <p>13-00031-UT</p>	<p>In the Matter of Southwestern Public Service Company’s (“SPS”) Interim Report on its Participation in the Southwest Power Pool Regional Transmission Organization (“RTO”)</p>	<p>On February 4, 2013, SPS filed its Interim Report and Request for Permanent Approval to Participate in the Southwest Power Pool Regional Transmission Organization and Motion to Establish an Up-to-Date Official Service List.</p> <p>On February 8, 2013, SPP filed a Motion for Leave to Intervene and Request for Discovery. SPP also included a copy of the Direct Testimony of Carl Monroe in order to provide information about SPP, its services and stakeholder process that may be helpful in evaluating the SPS Interim Report.</p> <p>On March 20, 2013, the Attorney General of the State of New Mexico filed a Motion for Leave to Intervene, Request for Discovery, and Notice of Objection to Permanent Participation in RTO. The Attorney General objects to participation by SPS in the SPP RTO that is not limited by the New Mexico Public Regulation Commission.</p>