

not sink to a valid “Settlement Location”² are not eligible for Auction Revenue Rights (“ARRs”) or Transmission Congestion Right (“TCRs”).³ Based on that determination, SPP explained that it anticipated no further negotiations with OPPD.

OPPD commented on the Second Status Report, arguing that SPP’s proposed treatment of OPPD’s partial path reservations is inequitable and fails to afford OPPD the same treatment as other transmission owners that OPPD erroneously claims are “similarly-situated.”⁴ On that basis, OPPD asked the Commission to direct SPP to allow OPPD to obtain financial rights for its grandfathered partial paths.⁵

SPP answered OPPD’s comments on April 8, 2013,⁶ explaining that the Commission could rule on OPPD’s request for relief based on the undisputed facts presented in the proceeding, and requesting that the Commission summarily confirm that SPP may properly exclude OPPD’s partial paths from SPP’s allocation of ARR.

On May 10, 2013, OPPD filed the OPPD Motion, which restates the same facts stated in OPPD’s comments on the Second Status Report and asks the Commission to

² See Submission of Tariff Revisions to Implement SPP Integrated Marketplace, Docket No. ER12-1179-003, Revised Tariff at Attachment AE § 1.1 (Definition S) (Feb. 15, 2013) (“February 15 Compliance Filing”) (defining “Settlement Location” as a Resource, a Load, a Market Hub, or an External Interface).

³ Second Status Report at 4.

⁴ See Comments of Omaha Public Power District on Second Status Report of Southwest Power Pool, Inc., Docket No. ER12-1179-000, at 5 (Mar. 22, 2013) (“OPPD Comments”).

⁵ *Id.* at 6–7.

⁶ Answer of Southwest Power Pool, Inc. to Comments of Omaha Public Power District, Docket No. ER12-1179-000 (Apr. 8, 2013) (“SPP Answer”).

direct the initiation of settlement judge proceedings to resolve the dispute between OPPD and SPP regarding OPPD's eligibility for ARR and TCRs on its partial paths.

II. DISCUSSION

SPP shares OPPD's interest in timely resolving this matter. To that end, the Commission can and should summarily rule on this issue without initiating settlement judge proceedings. Given the fundamental disagreement between OPPD and SPP regarding the validity of awarding ARR and TCRs to OPPD's partial paths, there is no basis to believe that settlement judge procedures would advance resolution of the dispute. To the contrary, they would only delay the Commission's resolving matters that it needs to address before this fall's ARR allocations and TCR auctions.

Importantly, there are no material facts in dispute, as the history of OPPD's partial path reservations has been recounted in various pleadings already part of the record in this docket. The following key facts are uncontested: (1) the OPPD GFAs in question represent transmission agreements once utilized by OPPD, before it joined SPP, to make sales to SPP members;⁷ (2) the transmission paths under these GFAs originated at resources within OPPD, moved across OPPD's system, and ended at then-existing interfaces, i.e., border points, between OPPD and SPP (these are designated as OPPD.WR (Westar) and OPPD.MPS (Missouri Public Service));⁸ (3) for prior interchange transactions between the OPPD system and the SPP system under the GFAs, OPPD reserved and scheduled transmission capacity on its own system in order to move energy to its border with SPP for delivery and sale to Westar and Missouri Public

⁷ OPPD Comments at 3–5.

⁸ *Id.* at 5.

Service, which then transmitted the energy to their loads using separate SPP transmission service;⁹ (4) under the current framework in which OPPD is now a part of SPP, the former border points OPPD.WR and OPPD.MPS by definition have become internal points within SPP's system, as there is no longer any interface or border between OPPD and SPP;¹⁰ and (5) neither OPPD.WR nor OPPD.MPS functions as a hub, node, load zone, or interface on SPP's system for the purpose of delivering or receiving physical electricity, as there is nothing physically there.¹¹

There is no dispute that, after OPPD joined SPP in 2009, OPPD.WR and OPPD.MPS ceased being delivery points for sales from an external transmission system to SPP. Instead, these former interface delivery points became “internal” to SPP such that OPPD's reserved paths were effectively paths to nowhere, because no energy is delivered, and no load or sink exists, at these interfaces. Customers purchasing power from OPPD now use internal network service under the SPP Tariff,¹² which provides for secondary transmission service from sources within SPP (now including OPPD) to network loads. As OPPD is well aware, under the SPP Tariff, there is no right today to

⁹ SPP Answer at 2. OPPD has never contested this fact in this proceeding, and OPPD's pleadings are consistent with this fact. *See* OPPD Comments at 5 (describing, prior to OPPD's integration into SPP, OPPD's location as a Tier 1 neighboring transmission system that bordered SPP and delivered power to OPPD.WR (connection to Westar, an SPP member) and OPPD.MPS (connection to Missouri Public Service, an SPP member)).

¹⁰ OPPD Comments at 3–5.

¹¹ SPP Answer at 3. OPPD has not contested this fact in this proceeding; further, OPPD's pleadings are consistent with it. *See* OPPD Answer at 3 (citing to SPP Answer discussing physical settlement locations and not contesting SPP's assertion that OPPD.WR and OPPD.MPS are not physical sources or sinks.).

¹² Southwest Power Pool, Inc., Open Access Transmission Tariff Sixth Revised Volume No. 1 (“SPP Tariff”).

schedule service on these partial paths – a necessary and logical consequence since any service across these paths would deliver energy to nowhere. Again, these facts are uncontested.

The disagreement involves the import of these uncontested facts in the context of SPP’s market design. OPPD’s position, as reflected in its comments, is that SPP should create “pseudo” or fictional Settlement Locations (corresponding to the former interface or border between OPPD and SPP, which has not existed since 2009) so that OPPD can obtain the financial benefits of ARRs and TCRs in SPP’s Integrated Marketplace.¹³ However, as SPP has communicated to OPPD, explained to the Commission in the Second Status Report and SPP Answer, and explains further below, OPPD’s position is unsound for several reasons. inasmuch

A. Allocating ARRs to Partial Paths Is Contrary to the Purpose of ARRs.

The Commission has long recognized that “[t]he principal purpose of FTRs is to provide their holders with a financial hedge against the uncertain costs of congestion.”¹⁴ Allocating ARRs to OPPD for its partial paths is at odds with this purpose. Market Participants incur costs of congestion when they use a congested transmission service path to serve load. In contrast, Market Participants that do not serve load do not need transmission service and do not have to incur congestion costs along transmission paths. Allocating financial rights in the form of ARRs or TCRs to Market Participants on “partial” transmission paths held over from before OPPD was a member of SPP, and on

¹³ See OPPD Comments at 7.

¹⁴ *Cal. Indep. Sys. Operator Corp.*, 87 FERC ¶ 61,143, at 61,573, *order on reh’g*, 88 FERC ¶ 61,156 (1999), *order on reh’g*, 94 FERC ¶ 61,343 (2001).

which service can no longer be scheduled and load cannot be served, is contrary to the very purpose of ARRs and TCRs, which is to protect service to loads from congestion costs.

Further, the Commission has held that initial financial rights allocations should be administered in a way that protects existing customers and load, and not in a way that provides financial windfalls that are disproportionate to a customer's load risk. The Commission has stated that a primary goal of the financial rights allocation process is "to hold existing transmission customers whole with respect to congestion-related charges under Day-2 operation to the extent possible given the objective of simultaneous feasibility." The Commission also has expressed concern when a proposed allocation method ". . . is not based on historic uses of the system, but rather allows some customers great latitude in nominating Candidate FTRs and thereby access to the most valuable rights."¹⁵ On several occasions, the Commission has emphasized that financial rights should be allocated to reflect load on the relevant transmission system.¹⁶

Although OPPD contends that it holds firm transmission rights to OPPD.WR and OPPD.MPS and that "[t]hese firm transmission rights include transfer capability on some

¹⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 102 FERC ¶ 61,196, at P 64–65, *order on clarification*, 102 FERC ¶ 61,338, *order on reh'g*, 103 FERC ¶ 61,210 (2003).

¹⁶ *Occidental Chem. Corp. v. PJM Interconnection, L.L.C.*, 101 FERC ¶ 61,005, at P 17 (2002) ("We agree that to maximize the benefits of retail competition, FTR allocations should reflect load shifts."); *Midwest Indep. Transmission Sys. Operator, Inc.*, 102 FERC ¶ 61,196, at P 73 (2003) ("[W]e are pleased that the Midwest ISO intends that FTRs should follow load (i.e., when retail or wholesale customers change providers they can take their financial rights with them.").

heavily congested flowgates,”¹⁷ OPPD cannot presently deliver any energy to either of these locations, and it has not flowed any energy solely along these partial paths since it completed its integration into SPP. SPP does not sell partial path transmission service. For example, SPP transmission service to deliver energy from OPPD into Westar is necessarily full path from the OPPD source to the load within the Westar Balancing Authority. The transactions can use the SPP full path network transmission service without consideration of the OPPD partial path GFA. A “firm transmission right” under the SPP Tariff necessarily entails the ability to deliver energy on the path for which the right is claimed, which OPPD cannot do on these partial paths.¹⁸ Because OPPD does not flow energy to or from these former interfaces between OPPD and SPP and performs no load serving functions at these locations, OPPD does not presently incur any congestion costs on these paths. Additionally, OPPD is not serving load using this GFA. Accordingly, allocating ARR or TCRs to OPPD for paths to or from either of these former interface locations – when no OPPD energy flows along these paths – not only undermines the essential purpose and protections of ARRs and TCRs, but does so at the

¹⁷ OPPD Motion at 3.

¹⁸ SPP Tariff §§ I.1.F and I.1.P defines the following terms: (1) “Firm Point-To-Point Transmission” as “Transmission Service under this Tariff that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of this Tariff;” (2) “Point(s) of Receipt” as “Point(s) of interconnection on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider by the Delivering Party under Part II of the Tariff;” and (3) “Point(s) of Delivery” as “Point(s) on the Transmission Provider's Transmission System where capacity and energy transmitted by the Transmission Provider will be made available to the Receiving Party under Part II of the Tariff”). Because capacity and energy have not been and cannot be made available to anyone at OPPD.WR or OPPD.MPS since OPPD’s integration into SPP, neither OPPD.WR nor OPPD.MPS constitutes a valid Point of Receipt or Point of Delivery.

expense of other holders of firm transmission rights.¹⁹ The Commission should therefore reject OPPD’s arguments and decline to award windfall congestion rights and revenues for OPPD’s former paths to OPPD-SPP interfaces.

B. Other Jurisdictional Markets Prohibit Partial Path Financial Rights.

The market rules of other organized markets within the Commission’s jurisdiction would not support granting financial rights for OPPD’s partial paths. In the PJM, Midcontinent ISO, California ISO, ISO New England, and New York ISO markets, the market rules only recognize financial rights for transmission paths that begin and end at valid receipt and delivery points on or external to the system.²⁰ Making an exception for

¹⁹ As discussed in Part C, *infra*, this is because any financial rights awarded to OPPD’s partial paths would necessarily be unavailable for allocation to other firm transmission customers holding reservations across the same path that sink to a valid Settlement Location used to serve load.

²⁰ Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. §§ 7.1A.5, 7.2.2 (“Eligible receipt and delivery points in long-term Financial Transmission Rights Auctions shall be limited to the posted available hubs, Zones, aggregates, generators, and Interface Pricing Points,” and “Auction bids for annual Financial Transmission Rights Options may specify as receipt and delivery points such combination of available hubs, Zones, aggregates, generators, and Interface Pricing Points as the Office of the Interconnection shall allow from time to time”); Midcontinent Independent System Operator – FERC Electric Tariff § 42.3 (“The FTR Receipt Point and FTR Delivery Point specified in a given FTR (Obligation or Option) may be any one of the following: Node for the relevant Generation Resource. Hub. Load Zone. Interface.”); California Independent System Operator Corp. Fifth Replacement Electric Tariff § 36.2 (The tariff provides that each congestion revenue right must be specified by its CRR Source and CRR Sink; the tariff further provides that each CRR Source or CRR Sink must be: (1) a single network node where a physical injection or withdrawal is modeled; (2) a subset of network nodes where a physical injection or withdrawal is modeled; or (3) a trading hub, and that a CRR Source is a point of receipt for a congestion revenue right, while a CRR Sink is a point of withdrawal for a congestion revenue right.); ISO New England Inc. Transmission, Markets, and Services Tariff §§ III.2, III.7.2.2 (The ISO shall calculate the price of energy at Nodes, Load Zones and Hubs in the New England Control Area and at External Nodes on the basis of Locational Marginal Prices . . .” and, “Auction bids for
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OPPD's partial paths specifically, or partial paths within SPP generally, would be at odds with the orderly and consistent operation of the organized electricity markets in the U.S.

C. Allocating ARR to Partial Paths Harms Load-Serving Entities.

If SPP were to allocate ARRs to OPPD's partial paths, that allocation would necessarily curtail the availability of ARRs to qualified Market Participants with full-path, load-bearing transmission service. Indeed, inasmuch as ARRs are intended to function as hedges against congestion costs, OPPD's claimed entitlement to financial rights for its non-schedulable partial paths is not merely overreaching, but nonsensical. Allocating ARRs to OPPD's non-load bearing partial paths would occupy resources that would otherwise be allocated to other SPP stakeholders with real load who have a real, quantifiable need to hedge against actual congestion costs. OPPD cannot credibly demand financial protection for former and now un-used reservations that pose no possibility of financial exposure.

D. Industry Standards Support Not Allocating ARRs to Partial Paths.

OPPD's partial paths also do not satisfy the North American Energy Standards Board's ("NAESB") standards for coordinating interchange transactions. Specifically,

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FTRs may specify any combination of receipt and delivery locations represented in the State Estimator model for which the ISO calculates and posts Locational Marginal Prices“); New York Independent System Operator Open Access Transmission Tariff §§ 1.16, 1.20 (defining “Transmission Congestion Contracts” as “[t]he right to collect or obligation to pay Congestion Rents in the Day-Ahead Market for Energy associated with a single MW of transmission between a specified POI and POW,” defining “Point of Injection (“POI”) as the “point(s) on the NYS Transmission System where Energy and Ancillary Services will be made available to the ISO by the Customer or Transmission Customer under the ISO Tariffs,” and defining “Point of Withdrawal” (“POW”) as the “point(s) on the NYS Transmission System where Energy will be made available to the Transmission Customer or Customer under the ISO Tariffs.”)

NAESB requires that all e-tag interchange transactions contain specific physical information on “load” and “sink.”²¹ As described above, the former border points in OPPD’s partial path GFAs designated by OPPD.WR and OPPD.MPS are now internal to SPP and do not represent physical or contractual locations where energy sinks or is consumed. OPPD cannot schedule transmission service on those paths, and, therefore, they cannot serve as the basis for receiving ARR or TCR in SPP’s Integrated Marketplace.

In designing its Integrated Marketplace, SPP incorporated physical load and sink requirements similar to NAESB’s e-tag interchange standards. Thus, for example, SPP’s market design requires that Market Participants’ Bids and Offers for ARRs or TCRs include information on specific source to sink pairs.²² Under these rules, a source and sink must be tied to a valid candidate “Settlement Location,” defined as a Resource, a Load, a Market Hub, or an External Interface.²³ OPPD’s partial path GFAs do not deliver

²¹ See NAESB’s Wholesale Electric Quadrant Coordinate Interchange Standards (WEQ-004), Appendix C, 2.1.3 and 2.1.3.1 (defining “load” as a “set of data describing the physical and contractual characteristics of the energy sink” and defining “sink” as a “physical point at which energy is being consumed”).

²² See Submission of Tariff Revisions to Implement SPP Integrated Marketplace, Docket No. ER12-1179-000, Attachment AE § 7.2.1 (Feb. 29, 2012) (referring to ARRs); February 15 Compliance Filing, Revised Tariff at Attachment AE § 7.4.1 (referring to TCRs).

²³ See February 15 Compliance Filing, Revised Tariff at Attachment AE § 1.1 (Definition S).

power to a valid sink or load and therefore do not satisfy the requirement that a GFA “have a source and sink that map to a valid SPP Settlement Location.”²⁴

Thus, in the context of Commission precedent, other organized markets’ tariff standards, NAESB standards, and SPP Tariff requirements, OPPD cannot show that it is “similarly-situated” to full-path firm transmission customers. To the contrary, only full path reservations that sink to a valid Settlement Location can schedule transmission. This is a critical distinction, and highlights the financial implications of awarding ARRs to partial paths. As already noted, the allocation of ARRs is designed to provide congestion protection corresponding to the cumulative firm transmission rights held by customers across the SPP footprint. Because OPPD’s points OPPD.WR and OPPD.MPS do not constitute valid sink or source points on SPP’s system, and because OPPD does not schedule service on the GFA paths or serve load using them, it does not incur the risk of congestion along the paths. The partial paths do not represent “firm transmission rights” comparable to reservations on which a customer is entitled to schedule service to serve load. Accordingly, the Commission should reject OPPD’s arguments.

E. No Purpose Would be Served by a Settlement Judge.

Because of the fundamental dispute between OPPD and SPP described above, there would be little purpose served by appointing a settlement judge, as OPPD requests. The issues at hand are legal and policy issues, not factual disputes, which the Commission is going to have to resolve. SPP is in no position to negotiate away the

²⁴ OPPD Comments, Exhibit B at 1 (GFA Registration Packet: TCR Market). SPP requires that a GFA “. . . must represent transmission service across a full firm path or be combined with supplemental GFAs (or SPP transmission service) that collectively represent a full firm path.” *Id.*

valuable congestion rights to which the rest of SPP's customers are entitled. Appointing a settlement judge would only delay the resolution of this matter, which both OPPD and SPP agree the Commission must resolve expeditiously. Currently, SPP is planning to require all Market Participants to input into OASIS, by September 18, 2013, any service that Market Participants want to be included as a candidate ARR. SPP will then verify such data from October 18, 2013 through October 31, 2013. The first allocation process will begin on November 1, 2013. Commission resolution of this dispute must occur in advance of these dates in order for SPP to administer the TCR auction process. Settlement judge proceedings at this stage would hinder, not advance, the resolution of this dispute.

III. CONCLUSION

For the foregoing reasons, the Commission should reject OPPD's request to initiate settlement judge proceedings and confirm that SPP may properly exclude OPPD's partial GFA paths in the allocation of ARRs.

Respectfully submitted,

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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 Secretary in this proceeding.

Dated at Washington, D.C., this 28th day of May, 2013.

/s/ Jeffrey G. DiSciullo
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