

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

Southwest Power Pool, Inc.)

Docket No. ER14-591-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
SOUTHWEST POWER POOL, INC.**

Pursuant to Rule 213 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.213, Southwest Power Pool, Inc. ("SPP") files this Answer¹ to the protest submitted in this proceeding.²

I. BACKGROUND

On December 10, 2013,³ SPP submitted an unexecuted Generator Interconnection Agreement ("GIA")⁴ among SPP as Transmission Provider and Lincoln Electric System ("LES") as both the Transmission Owner and Interconnection Customer ("LES GIA") to the Commission. SPP submitted the LES GIA because LES declined to execute the LES GIA because it included SPP's *pro forma* GIA language in Article 18.3.4.

¹ SPP seeks leave to submit this Answer to assist the Commission's decision-making process and clarify the issues. The Commission regularly allows answers for such purposes. *See, e.g., Sw. Power Pool, Inc.*, 135 FERC ¶ 61,223, at P 27 (2011) (accepting answers that aided the Commission's decision-making); *Sw. Power Pool, Inc.*, 132 FERC ¶ 61,042, at P 28 (2010) (same), *reh'g denied*, 136 FERC ¶ 61,050 (2011); *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252, at P 19 (2010) (same), *reh'g denied*, 137 FERC ¶ 61,075 (2011); *Sw. Power Pool, Inc.*, 128 FERC ¶ 61,018, at P 15 (2009) (same); *Sw. Power Pool, Inc.*, 126 FERC ¶ 61,153, at P 18 (2009) (same).

² SPP's silence in this Answer on any issue or argument addressed in any comment should not be construed as SPP's agreement with any such issue or argument.

³ Submission of Generator Interconnection Agreement of Southwest Power Pool, Inc., Docket No. ER14-591-000 (Dec. 10, 2013) ("December 10 Filing").

⁴ *See* Southwest Power Pool, Inc., FERC Electric Tariff, Sixth Revised Volume No. 1 ("Tariff") at Attachment V, Appendix 6 ("*pro forma* GIA").

On December 31, 2013, LES filed a motion to intervene and protest in response to the December 10 Filing.⁵ In the Protest, LES states that Article 18.3.4 of the SPP GIA is in excess of LES's maximum potential liability under Nebraska state law and inconsistent with the Commission's *pro forma* Small Generator Interconnection Agreement ("SGIA").⁶ To ensure a full and accurate record, SPP submits this Answer to respond to these concerns and aid the Commission's decision-making.

II. ANSWER

In the Protest, LES states that Article 18.3.4 of the LES GIA⁷ is inconsistent with the *pro forma* SGIA. However, LES' reliance on the *pro forma* SGIA is misplaced. On January 29, 2010, in Docket No. ER10-681-000,⁸ SPP filed revisions to its Tariff to incorporate interconnection procedures for small generators into Attachment V by integrating the procedures for small generators into its existing interconnection procedures for large generators in Attachment V of the Tariff. As stated in the January 2010 Filing, merging the procedures for interconnecting large and small generators into a single attachment, Attachment V, was consistent with, and would better facilitate, SPP's

⁵ See Motion to Intervene and Protest of Lincoln Electric System, Docket No. ER14-591-000 (Dec. 31, 2013) ("Protest").

⁶ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 FR 34190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005) ("Order No. 2006"), *order on reh'g*, Order No. 2006-A, 70 FR 71760 (Nov. 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005), *order on clarification*, Order No. 2006-B, 71 FR 42587 (July 27, 2006), FERC Stats. & Regs. ¶ 31,221 (2006).

⁷ Article 18.3.4 of the LES GIA is identical to Article 18.3.4 of the *pro forma* GIA.

⁸ Submission of Revisions to Open Access Transmission Tariff to Incorporate Interconnection Procedures for Small Generators into Attachment V of Southwest Power Pool, Inc., Docket No. ER10-681-000 (Jan. 29, 2010) ("January 2010 Filing").

current practice of processing interconnection requests in the same queues, regardless of size.⁹ As part of the January 2010 Filing, SPP also proposed to use one agreement, the GIA, for all generator interconnections.¹⁰ The Commission accepted the January 2010 Filing on March 26, 2010.¹¹

As stated above, the January 2010 Filing integrated the procedures for interconnecting small generators into SPP's existing interconnection procedures for large generators in Attachment V of the Tariff. Thus, SPP's reliance on the *pro forma* Large Generator Interconnection Agreement ("LGIA")¹² in the December 10 Filing is appropriate because SPP's *pro forma* GIA is based upon the *pro forma* LGIA. Additionally, with the exception of study deposit requirements, the current Generator

⁹ See January 2010 Filing at 2-3; see also Order No. 2006 at P 179 ("we are requiring a Transmission Provider to use a single queue for all Generating Facilities, regardless of size.").

¹⁰ Using the same interconnection agreement for both large and small generator interconnections is consistent with Commission-accepted approach taken by other Regional Transmission Organizations. See, e.g., PJM Interconnection, L.L.C., FERC Electric Tariff, Sixth Revised Volume No. 1, Section 110.5 (requiring interconnections of 20 MW or less to use the same Interconnection Service Agreement as for interconnections of more than 20 MW); Midwest ISO, FERC Electric Tariff, Fourth Revised Volume No. 1, Attachment X (all interconnection requests must employ the same interconnection agreement, except for certain certified inverter-based Small Generating Facilities no larger than 10 kW).

¹¹ See *Sw. Power Pool, Inc.*, Letter Order, Docket No. ER10-681-000 (Mar. 26, 2010).

¹² See Article 18.3.4 of the SPP *pro forma* GIA. See also *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 FR 49846 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146, at Appendix C (2003), *order on reh'g*, Order No. 2003-A, 69 FR 15932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 FR 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, 70 FR 37661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Utils. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007) (emphasis added).

Interconnection Procedures in Attachment V, which includes the SPP *pro forma* GIA, apply to all generating facilities greater than 2 MW. Since the LES generating facility is 4.8 MW, the current Generator Interconnection Procedures in Attachment V clearly apply to LES.

As stated in the December 10 Filing, SPP declined to alter that language in Article 18.3.4 because SPP did not view LES' position that the requirements in Article 18.3.4 were "excessive" as being the type of necessary change that would warrant a deviation from the Commission approved *pro forma* GIA language in Article 18.3.4.¹³ In addition, the Commission has previously rejected similar requests by Interconnection Customers to modify insurance provisions.¹⁴ The Commission found that while a provision may have some benefit, in order to ensure all similarly situated Interconnection Customers are treated on a consistent and fair basis, the benefits should be made available to all Interconnection Customers in a transparent, non-discriminatory manner so that the Transmission Provider cannot favor one Interconnection Customer over another.¹⁵ In this

¹³ The Commission has explained that it "may accept deviations from *pro forma* interconnection agreements as 'may be necessary for a small number of interconnection with specific reliability concerns, novel legal issues or other unique factors'" and that "a transmission provider seeking such deviations 'bears a high burden to justify and explain that its changes are not merely 'consistent with or superior to' the *pro forma* agreement but are necessary changes.'" See *N.Y. Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,180, at P 9 (2012) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,421, at PP 11-12 (2005); *Sw. Power Pool, Inc.*, 132 FERC ¶ 61,062, at P 3 (2010)); see also *PJM Interconnection, LLC*, 111 FERC ¶ 61,163, at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005) (same).

¹⁴ See *Southern Co. Services, Inc.*, 116 FERC ¶ 61,231 at P 15 (2006); *MidAmerican Energy Co.*, 116 FERC ¶ 61,018 at P 12 (2006); and *Midwest Indep. Transmission Sys. Operator, Inc.*, 115 FERC ¶ 61,257 at PP 23-24 (2006).

¹⁵ *Id.*

instance, SPP is applying the requirements of its Generator Interconnection Procedures and *pro forma* GIA to LES, as it would with any Interconnection Customer with a generating facility greater than 2 MW. If an Interconnection Customer makes an Interconnection Request in which LES would be the Transmission Owner, LES would also be subject to the same requirements for excess liability insurance in Article 18.3.4 of the *pro forma* GIA as a Transmission Owner.

III. CONCLUSION

For the reasons set forth above and in the December 10 Filing, SPP requests that the Commission accept SPP's December 10 Filing as just and reasonable as proposed.

Respectfully submitted,

/s/ Tessie Kentner

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January 20, 2014

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 Little Rock, Arkansas, this 20th day of January, 2014.

/s/ Tessie Kentner

Tessie Kentner

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