April 17, 2015

VIA ELECTRONIC FILING

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

Re: Southwest Power Pool, Inc., Docket No. ER15-____-000
Compliance Filing to Implement a Distribution Mechanism for Penalty
Revenues for Unreserved Use of Non-Firm Point-to-Point Transmission Service

Dear Secretary Bose:

Pursuant to Section 206 of the Federal Power Act, 16 U.S.C. 824e (“FPA”), and Section 35.13 of the Federal Energy Regulatory Commission’s (“Commission”) Regulations, 18 C.F.R. § 35.13, Southwest Power Pool, Inc. (“SPP”) submits revisions to its Open Access Transmission Tariff (“Tariff”)¹ to incorporate a mechanism to distribute penalty revenues collected by SPP for unreserved use of Non-Firm Point-to-Point Transmission Service (“Non-Firm Transmission Service”). As more fully described below, this filing is in compliance with the Commission’s directives from previous

orders. SPP requests an effective date of April 17, 2015 for the language proposed in this compliance filing, which is the date this filing is submitted to the Commission.

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, Arkansas. SPP has 84 Members, including 14 investor-owned utilities, 11 municipal systems, 14 generation and transmission cooperatives, 8 state agencies, 13 independent power producers, 12 power marketers, 11 independent transmission companies, and 1 federal agency. As an RTO, SPP administers open access Transmission Service over approximately 48,930 miles of transmission lines covering portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, across the facilities of SPP’s Transmission Owners, and administers the Integrated Marketplace, a centralized day ahead and real-time energy and operating reserve markets with locational marginal pricing and market-based congestion management.


Order on Compliance at P 32; see infra page 7.


B. The Tariff’s Penalty Rate for Unreserved Use of Non-Firm Transmission Service

The Tariff contains penalty rates to be assessed against Transmission Customers for improper or unreserved use of the transmission system. Section 14.5 of the Tariff provides that a Transmission Customer shall pay a penalty for Non-Firm Transmission Service that it uses, but did not reserve.\(^7\) The penalty rate set by the Tariff is 100% of the Non-Firm Transmission Service charges under Tariff schedules 8 and 11 for the duration of the period for which the unreserved service was used not to exceed one month for the amount in excess of such capacity reservation.\(^8\) Such 100% penalty is in addition to the applicable charges for all of the non-firm capacity actually used by the Transmission Customer.\(^9\)

Notwithstanding the incorporation of this unreserved use penalty for Non-Firm Transmission Service into the Tariff, the Tariff currently does not contain a mechanism to distribute such penalty revenues. The Commission previously accepted language identical to that being proposed for the distribution of penalty revenues associated with unreserved use of Firm Point-to-Point Transmission Service.\(^10\) However, SPP has not yet filed tariff language addressing the distribution of penalty revenues for unreserved use of Non-Firm Transmission Service. Therefore, SPP proposes, in this filing, a distribution mechanism consistent with Commission directives to allow SPP to distribute the revenues in a just and reasonable manner.

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\(^7\) SPP’s unreserved use penalty rate is not at issue in this filing. SPP’s current unreserved use penalty rate contained in Section 14.5 of the Tariff was accepted by the Commission in *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,244, at P 23 (2009) (finding that SPP has complied with the Commission’s directives by revising its unreserved use penalty provisions in Section 13.7 and 14.5 of the Tariff to comply with Order No. 890).

\(^8\) See Tariff at Section 14.5 (“An excess of one hour or less shall be billed at the charge for weekday deliveries, repeated daily use of unreserved capacity within a seven day period shall increase the duration of the period to a weekly duration and multiple instances of unreserved use during more than one seven day period during a calendar month shall increase the duration of the period to a monthly duration”).

\(^9\) Id. at Section 14.5.

C. Commission Directive Regarding Mechanism to Distribute Revenues for Unreserved Use Penalties

Amongst the many reforms implemented by Order No. 890, the Commission required transmission providers to submit a proposed methodology for the distribution of unreserved use penalty revenues to non-offending transmission customers. The Commission clarified in Order No. 890-A that (1) a transmission provider that elects to impose unreserved use penalties must submit to the Commission an FPA Section 205 filing stating the applicable unreserved use penalty rate; and (2) each transmission provider must submit a one-time compliance filing under FPA Section 206 proposing the transmission provider’s methodology for distributing penalty revenues from unreserved use of the transmission system. The Commission further stated that the one-time compliance filing can be submitted at any time prior to the first distribution of penalties.

In October of 2007, SPP submitted its compliance filing to satisfy the requirements of the Commission’s Order No. 890. In its Order No. 890 Compliance Filing, SPP proposed that penalty revenues collected by SPP will be utilized to reduce SPP’s administration charge. SPP argued that such a mechanism is administratively efficient because penalty revenues are minimal compared to SPP’s overall budget; and, as a result, the impacts on SPP’s administration charge for all customers will be small compared to the amount of penalty assessed against any one customer.

In the Order on Compliance, the Commission found that SPP’s proposed mechanism to distribute unreserved use penalties as a reduction of the administrative charge for all customers was inconsistent with the requirements of Order No. 890. The Commission stated that SPP’s proposal did not assure that offending customers would not benefit from the reduction of the Schedule 1-A administrative charges. It therefore ordered SPP, consistent with the clarification of Order No. 890-A, to submit a one-time

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11 Order No. 890 at P 861.
12 See supra note 7.
13 Order No. 890-A at P 472.
14 Id.
16 See id. at 7.
17 Id.
18 Order on Compliance at P 34.
compliance filing pursuant to FPA Section 206 proposing a methodology for distributing revenues from unreserved use penalties prior to the distribution of the penalties.19

D. Distribution of Unreserved Use Penalties for Firm Transmission Service

Consistent with the Commission’s Order on Compliance, on December 11, 2013, SPP submitted a compliance filing to implement a distribution mechanism for penalties for unreserved use of Firm Transmission Service.20 The distribution mechanism was included in Section 13.7(c) of the Tariff, which provides the classifications for Firm Transmission Service. At that time, SPP did not file a distribution mechanism for penalties from unreserved use of Non-Firm Transmission Service under Section 14.5 of the Tariff.21 On January 14, 2014 the Commission accepted the December Filing and SPP’s distribution methodology for penalties for unreserved use of Firm Transmission Service.22

The purpose of this filing is to revise the Tariff to provide a mechanism for distribution of revenues from unreserved use penalties for Non-Firm Transmission Service prior to any distribution of such penalty revenues.23 Filing the distribution mechanism at this time is consistent with the requirements of Order No. 890 and the Order on Compliance.

II. DESCRIPTION OF TARIFF REVISIONS AND JUSTIFICATION

SPP proposes to utilize a distribution mechanism for Non-Firm Transmission Service unreserved use penalty revenue that is identical to that accepted by the Commission for Firm Point-to-Point Transmission Service penalties.24 Pursuant to this mechanism, penalties will be distributed to all non-offending Transmission Customers by reducing the Transmission Customer’s Schedule 1-A charges that SPP collects.

19 Id. at P 35.


21 See Tariff at Section 14.5 (“Classification of Non-Firm Point-to-Point Transmission Service”).

22 See January 2014 Order.

23 SPP has not yet received any penalty revenues associated with Non-Firm Transmission Service.

24 See supra note 10.
Offending Transmission Customers that pay a penalty will not receive any Schedule 1-A charge reduction associated with their penalties. To facilitate this approach, SPP proposes to revise Section 14.5 of the Tariff to provide for the distribution of penalty revenues that are in excess of any amounts used to compensate Transmission Owners for Non-Firm Transmission Service.25 These penalty revenues shall be distributed by SPP to non-offending Transmission Customers on a pro-rata basis of its monthly Schedule 1-A charge for the billing cycle that ends at least 15 calendar days after the date SPP collects the penalty revenues from the offending customer. SPP will implement the proposed language for any future penalty revenues received by SPP pursuant to Section 14.5 of the Tariff by allocating the penalty revenues to all non-offending Transmission Customers that paid for service in the calendar year up to the date on which SPP receives the penalty revenues.26

The Commission recognized in Order No. 890 that transmission providers are free to propose mechanisms that involve the crediting of operational penalties against revenue requirements.27 Consistent with this principle, the Commission not only accepted the identical penalty revenue distribution mechanism in Section 13.7(c) of the Tariff for Firm Point-to-Point Transmission Service that is being proposed in this filing for Non-Firm Transmission Service, but it also accepted a similar mechanism for penalty distribution for the Midcontinent Independent System Operator, Inc. (“MISO”) that provides for the distribution of penalty revenues as a reduction of the transmission provider’s costs.28 Analogous to a reduction of transmission provider’s costs, and in the same manner as it does for penalty revenues associated with Firm Point-to-Point Transmission Service, SPP will pass the financial benefit of the penalty revenues for unreserved use of Non-Firm Transmission Service on to transmission customers by way of a reduction to customers’ Schedule 1-A charges, except for the offending customer that will not receive the benefit.

25 Section 14.5 provides that the Transmission Owners shall be compensated for applicable charges for the unreserved firm capacity used (i.e., “100% of the (i) Non-Firm Point-to-Point Transmission Service charge, (ii) Base Plan Zonal Charge and (iii) Region-wide Charge for the period for which they have provided service”).

26 For example, if SPP receives penalty revenues pursuant to Section 14.5 of the Tariff in mid-calendar year 2015, SPP would utilize January-June 2015 receivables to create a pro-rata share for the distribution.

27 As referenced in the Order on Compliance at P 33. See also Order No. 890 at P 862.

28 Open Access Transmission, Energy and Operating Reserve Markets Tariff of the Midcontinent Independent System Operator, Inc. (“MISO Tariff”) §§ 13.7(e) & 14.5. The MISO Tariff provides “[t]hese penalty revenues shall reduce the Transmission Provider’s costs (for other than the penalized Transmission Customer) to be recovered under Schedule 10.” Id.
of the reduced administrative charge. Simply put, the mechanism to distribute penalty revenues from unreserved use of Non-Firm Transmission Service through a reduction of the non-offending Transmission Customers’ administrative charges is consistent with the Commission’s requirements described in Order No. 890 and is an equitable means to distribute the benefit of such revenues to SPP’s customers.

III. EFFECTIVE DATE

SPP respectfully requests an effective date of April 17, 2015 for this filing, which is the date of the submission of this filing to the Commission. This is consistent with the Order on Compliance, in which the Commission affirmed that transmission providers should request an effective date for any distribution mechanism to be coincident to the date of the distribution mechanism’s filing.29

IV. ADDITIONAL INFORMATION

A. Documents Submitted with this Filing

In addition to this transmittal letter, the following documents are included with this filing:

Clean and Redline Tariff revisions under the Sixth Revised Volume No. 1

B. Service

SPP has electronically served a copy of this filing on all its Members, Customers, and Market Participants. A complete copy of this filing will be posted on the SPP website, www.spp.org, and is also being served on all affected state commissions.

C. Requisite Agreement

These revisions to the Tariff do not require any contracts or agreements to implement.

D. Section 35.13 Cost of Service Support

To the extent necessary, SPP requests waiver of any provisions of Section 35.13 of the Commission’s regulations that may be deemed to require information relating to the effect of the rate change or cost support in the form of cost-of-service statements for the enclosed revisions. SPP notes that the enclosed revisions do not provide for a rate increase.

29 Order on Compliance at P 32.
E. 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:

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V. CONCLUSION

For all of the foregoing reasons, SPP respectfully requests that the Commission accept the Tariff revisions proposed herein as just and reasonable, with the effective date of April 17, 2015.

Respectfully submitted,

/s/ Carrie L. Bumgarner
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Attorneys for
Southwest Power Pool, Inc.
14.5 **Classification of Non-Firm Point-To-Point Transmission Service:**

Non-Firm Point-To-Point Transmission Service shall be offered under terms and conditions contained in Part II of the Tariff. The Transmission Provider and Transmission Owners undertake no obligation under the Tariff to plan the Transmission System in order to have sufficient capacity for Non-Firm Point-To-Point Transmission Service. Parties requesting Non-Firm Point-To-Point Transmission Service for the transmission of firm power do so with the full realization that such service is subject to availability and to Curtailment or Interruption under the terms of the Tariff. The Transmission Customer will be billed for its Reserved Capacity under the terms of Schedules 8 and 11. In the event that a Transmission Customer (including third-party sales by a Transmission Owner) exceeds its non-firm capacity reservation, the Transmission Customer shall pay the following penalty (in addition to the charges for all of the non-firm capacity used): 100% of the Non-Firm Point-To-Point Transmission Service charges under Schedules 8 and 11 for the duration of the period when the additional service was used as specified below not to exceed one month for the amount in excess of such capacity reservation. An excess of one hour or less shall be billed at the charge for weekday deliveries, repeated daily use of unreserved capacity within a seven day period shall increase the duration of the period to a weekly duration and multiple instances of unreserved use during more than one seven day period during a calendar month shall increase the duration of the period to a monthly duration. The Transmission Provider shall compensate the Transmission Owners for 100% of the (i) Non-Firm Point-To-Point Transmission Service charge, (ii) Base Plan Zonal Charge and (iii) Region-wide Charge for the period for which they have provided service. The penalty revenues in excess of the amount distributed to Transmission Owners shall be used to reduce the Schedule 1-A charges collected by the Transmission Provider from the Transmission Customers. All Transmission Customers, except the penalized Transmission Customer, shall receive a reduction of Schedule 1-A charges pursuant to this section. Such penalty revenues shall be distributed by the Transmission Provider to Transmission Customers on a pro-rata basis of each Transmission Customer’s monthly Schedule 1-A charge, except for the penalized Transmission Customer, for the next billing period ending at least 15 calendar days after the date the Transmission Provider collects the penalty revenues from the penalized Transmission Customer. For the
amounts exceeding the non-firm capacity reservation, the Transmission Customer must purchase losses as required by this Tariff. Non-Firm Point-To-Point Transmission Service shall include transmission of energy on an hourly basis and transmission of scheduled short-term capacity and energy on a daily, weekly or monthly basis, but not to exceed one month's reservation for any one Application, under Schedules 8 and 11.
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