

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

Grid Reliability and Resilience Pricing )

Docket No. RM18-1-000

**COMMENTS OF SOUTHWEST POWER POOL, INC.**

Southwest Power Pool, Inc. (“SPP”) submits these comments<sup>1</sup> in response to the Federal Energy Regulatory Commission’s (“Commission”) October 2, 2017 Notice Inviting Comments,<sup>2</sup> the September 28, 2017 Notice of Proposed Rulemaking by the United States Department of Energy,<sup>3</sup> and the Commission’s Office of Energy Policy and Innovation’s October 4, 2017 request for information.<sup>4</sup>

SPP is a Commission-approved Regional Transmission Organization (“RTO”) and an Arkansas non-profit corporation with its principal place of business in Little Rock, Arkansas. With a service territory of approximately 546,000 square miles covering portions of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, SPP administers open access transmission service over approximately 65,000 miles of transmission lines across the facilities of SPP’s transmission owners pursuant to the SPP Tariff.

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<sup>1</sup> SPP respectfully submits these comments individually and in addition to the Comments of the ISO/RTO Council (“IRC Comments”) in which SPP joins.

<sup>2</sup> *Grid Reliability and Resilience Pricing*, Notice Inviting Comments, Docket No. RM18-1-000 (Oct. 2, 2017) (“Comment Notice”).

<sup>3</sup> *Grid Resiliency Pricing Rule*, 82 Fed. Reg. 46,940 (published Oct. 10, 2017) (“NOPR”).

<sup>4</sup> *Grid Reliability and Resilience Pricing*, Letter Requesting Information, Docket No. RM18-1-000 (Oct. 4, 2017) (“OEPI Letter”).

SPP believes the NOPR's goal of ensuring a resilient electric grid is an important one. SPP agrees that the nation's grid must be strong enough to withstand and recover quickly from events ranging from extreme weather to cyber-security attacks. SPP also appreciates the considerations raised in the NOPR about ensuring that markets properly compensate certain generators – particularly in restructured or deregulated regions of our country. Indeed, SPP notes that the issuance of the NOPR has spurred increased dialogue on some important energy market topics that the Commission is currently addressing in existing proceedings.<sup>5</sup> However, SPP respectfully submits this important goal should be addressed over a longer period of time and in a more deliberate manner that does not unduly disrupt any competition-fostering and market development aspects of significant Commission initiatives from the last several decades.<sup>6</sup> As discussed further in these comments, SPP does not believe the current comment deadline provides sufficient time to fully analyze the potentially significant impacts this NOPR could have on such Commission actions.

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<sup>5</sup> See, e.g., *Price Formation in Organized Wholesale Electricity Markets* (Docket No. AD14-14-000); *Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators* (Docket No. RM15-24-000); *Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators*, (Docket No. RM17-2-000); *Fast-Start Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators* (Docket No. RM17-3-000).

<sup>6</sup> See, e.g., *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007); *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (2000); *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996); FERC Stats. & Regs. 31,036 (1996).

As the only RTO or Independent System Operator (“ISO”) with a region consisting entirely of vertically integrated states or areas of states, SPP believes it is not completely clear at this point whether the language of the proposed rule impacts or even applies to SPP to the same extent it may for other regions. Consequently, SPP takes this opportunity to comment individually on the proposed rule in order to address some of the issues arising from unique characteristics of SPP’s region, its market design, and its regulatory environment.

## **I. COMMENTS**

The NOPR and its proposed rule could have a broad and substantial impact on complex competitive market designs, yet the proposed rule set forth is remarkably vague and overly simple. As indicated by the numerous issues raised and questions presented in the OEPI Letter, the NOPR has raised more practical and policy-related questions than it begins to answer. In addition to joining the IRC Comments in this docket, SPP submits these separate comments with an eye toward specific aspects of SPP’s market design and regional footprint and how this rule’s vague language could impact the SPP region.

### **A. The scope of the proposed rule’s “physically located” requirement is unclear.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(i)(A) refers to eligible grid reliability and resiliency resources as being “[p]hysically located within a Commission-approved independent system operator or regional transmission organization.” This language prompts several questions for SPP. SPP has 19 pseudo-tied generators representing 1.1 gigawatts (“GW”) of energy that participate in the SPP markets. Some of these pseudo-tied generators may be located in the physical footprint of a different ISO/RTO, while others may not be located within the footprint of any ISO/RTO. In addition,

approximately three generators are in SPP's physical footprint but are pseudo-tied out and not part of the SPP markets. It is unclear based on the language used in the proposed rule whether generators in these foregoing examples would qualify as grid reliability and resiliency resources for SPP's region. Furthermore, SPP has 38 facilities representing 3.8 GW of energy that have been retired or "mothballed." It is unclear whether the owner(s) of such a facility could bring it back online for purposes of qualifying as a grid reliability and resiliency resource under the proposed rule. Finally, it is not clear whether generation that is not part of the organized markets<sup>7</sup> but is physically located within the SPP footprint would be eligible for compensation under this NOPR.

**B. It is unclear how to determine whether a generator will have 90-days of fuel on site.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(i)(C) refers to a facility that "has a 90-day fuel supply on site enabling it to operate during an emergency, extreme weather conditions, or a natural or man-made disaster." As noted in the OEPI Letter, it is unclear how fuel would be measured for purposes of the proposed rule's 90-day requirement. For example, assuming a method of measuring the duration of fuel supply is ultimately identified, the proposed rule should specify whether the generator would lose its status as an "eligible grid reliability and resiliency resource" if its fuel supply falls below 90 days' worth at any point in time. Other important details include whether a grace period would apply in such circumstances and who would be responsible for measuring, regulating, and enforcing the qualification status of the resource's fuel supply.

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<sup>7</sup> At SPP, for example, generators that are behind-the-meter and generate less than ten megawatts per unit are not required to be registered as resources available for control by SPP.

SPP has 71 hydro facilities in its footprint contributing 3.4 GW of energy and is unsure how to determine, under the proposed rule, whether a hydro facility qualifies as having a 90-day supply of water on site for generation. SPP also has 61 oil-fired generators in its footprint contributing 1.6 GW of energy. SPP would have to identify how much oil such a resource would need to have on site for purposes of qualifying for compensation under the proposed rule.

In fact, the scope of the term “on site” is unclear in the context of the proposed rule. With 366 natural gas-fired resources in its footprint contributing 36.3 GW of energy, SPP is interested in learning whether there is any degree of proximity to a gas wellhead (or, for oil-fired generators, perhaps an oil storage facility) that would qualify a generator as having 90 days of fuel on site. For that matter, were a gas-fired generator to locate at or near a gas-producing landfill, it would be necessary to know whether that generator could meet the “on site” criterion for purposes of qualifying its fuel supply.

**C. The proposed criterion of compliance with environmental regulations requires clarification.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(i)(D) provides a grid reliability and resiliency resource must be “compliant with all applicable federal, state, and local environmental laws, rules, and regulations.” As noted in the OEPI Letter, that requirement gives rise to several logistical questions. It is unclear what would happen, for example, if a generator is determined to be an eligible grid reliability and resiliency resource but is later found to be noncompliant with applicable environmental regulations. It is unclear whether the generator would immediately lose its designation as a grid reliability and resiliency resource. Moreover, the proposed rule should specify whether the generator would have to refund such compensation if it is determined to have been

noncompliant while receiving compensation related to its grid reliability and resiliency status.

The proposed rule's reference to "all" applicable environmental regulations leaves unclear whether a technical or arguably minor regulatory violation would require disgorgement of the compensation called for under this proposed rule. It would be important to know who will be responsible under the proposed rule for certifying or auditing to establish that a facility is compliant with *all* federal, state, and local environmental laws, rules, and regulations.

**D. The proposed criterion regarding "cost of service rate regulation" requires clarification.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(i)(E) provides that a generator would not be eligible to be a grid reliability and resiliency resource if it is "subject to cost of service rate regulation by any state or local regulatory authority." As an RTO with a large number of members subject to cost-of-service rate regulation, SPP believes this requirement raises a number of questions. First, in some facilities in SPP, one part of a plant may be subject to cost-of-service regulations while other portions operate as a merchant generator that is not subject to such state or local authority. This presents issues of (1) whether such facilities would be entitled to qualify as partial reliability and resiliency resources and, (2) if so, how compensation would be apportioned.

SPP has a number of members subject to differing regulatory and rate-development circumstances that may not fit cleanly with the proposed rule's language. It is unclear, for example, whether generators in the following circumstances would be considered under the proposed rule to be "subject to cost of service rate regulations by any state or local regulatory authority:" (1) cooperatives in different states in SPP with

differing legal regulatory constructs, (2) state agency members that own generation but may not be establishing rates via a “cost of service” regulatory framework, (3) generators whose costs are recovered not in traditional base rates but instead via a “rider” (e.g. fuel adjustment rider) approved by a state or local regulatory authority, and (4) a wholesale marketing entity that owns a generator and also operates as an integrated utility.

Finally, SPP is the only ISO/RTO with a Federal Power Marketing Administration (“FPMA”) (specifically, Western Area Power Administration – Upper Great Plains Region) as a member. Under the proposed rule, it is unclear whether a FPMA’s status as a federal agency created and regulated by federal law (i.e., not subject to state or local cost of service regulation) means that federal hydro facilities could qualify for compensation as grid reliability and resiliency resources.

**E. It is unclear whether the proposed rule applies to SPP, which has no capacity market.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(ii) states the rule will apply to “Commission-approved independent system operators or regional transmission organizations with energy and capacity markets and a tariff that contains a day-ahead and a real-time market or the functional equivalent.” SPP has no capacity market and has never proposed such a market to its stakeholders or the Commission. Typically operating at approximately 2.5 times its planning reserve margin (29% actual compared to 12% requirement), SPP has an abundance of capacity. Moreover, current projections indicate SPP will continue to experience resource adequacy sufficient to exceed its reserve margin and meet the needs of end users for years to come.<sup>8</sup> SPP respectfully requests

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<sup>8</sup> In the 2017 NERC Long Term Reliability Assessment, the SPP Balancing Authority Area forecasts that the Balancing Authority Planning Reserve Margin will remain above the required 12% Planning Reserve Margin in the ten-year horizon.

clarification of whether the specific eligibility requirement of capacity markets *in addition to* the listed tariff and energy market requirements renders the rule inapplicable to the SPP RTO region.

**F. The proposed rule’s language regarding the “reliability and resiliency rate” requires clarification.**

Proposed 18 C.F.R. 35.28 subpart (g)(10)(iii) describes a “reliability and resiliency rate” of compensation as follows:

Reliability and resiliency rate. (A) Each Commission-approved independent system operator or regional transmission organization shall establish a tariff that provides a just and reasonable rate for the (1) purchase of electric energy from an eligible reliability and resiliency resource; and (2) recovery of costs and a return on equity for such resource dispatched during grid operations. (B) The just and reasonable rate shall include pricing to ensure that each eligible resource is fully compensated for the benefits and services it provides to grid operations, including reliability, resiliency, and on-site fuel assurance, and that each eligible resource recovers its fully allocated costs and a fair return on equity.

Under the proposed rule, it is unclear whether otherwise qualifying reliability and resiliency resources would be entitled to compensation only if they provide energy or other services (i.e., are “dispatched during grid operations”). It is also not clear how an outage would be treated for compensation purposes under the proposed rule.<sup>9</sup>

SPP shares the questions raised in the OEPI Letter regarding cost allocation. The proposed rule has given rise to questions of (1) how the reliability and resiliency rate would be recovered within the ISO/RTO; (2) whether the costs would be assessed across all load in the ISO/RTO, the load within a local transmission zone, or across both load

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<sup>9</sup> As a related matter, it is also unclear whether proposed 18 C.F.R. 35.28 subpart (g)(10)(i)(B)’s language regarding a generator’s capability of providing “essential energy and ancillary reliability services,” refers to a technically possible capability or actual, demonstrated generation capability.



and generation; and (3) whether these costs would be considered to be contract costs and part of a transmission charge. As noted in the OEPI Letter, the proposed 18 C.F.R. 35.28 subpart (g)(10)(iv) also states that “[c]ompensable costs shall include, but not be limited to, operating and fuel expenses, costs of capital and debt, and a fair return on equity and investment.” Under this proposed language, it is unclear who, among the Commission, the ISO/RTO, the qualifying generator, or other party, would verify the generator’s costs and otherwise determine: (1) whether the generator’s operating and fuel expenses are prudent, (2) whether the generator’s cost of capital and debt are prudent, and (3) what is a “fair rate of return” on equity and investment. If a generator recovers costs from the market in excess of “its fully allocated costs and a fair return on equity,” it is important to know whether the proposed rule would require such excess funds to be returned to the market participants who paid the generator in the market.

Finally, SPP believes the proposed rule leaves unclear details such as whether a generator’s costs are to be included in market offers or considered to be an out-of-market compensation. If the costs are to be considered in market offers, for example, it is not clear whether an otherwise qualifying generator could be disqualified from compensatory payments if lower-cost generation is offered by a different generator and cleared in the market. If, on the other hand, the proposed rule contemplates an out-of-market compensation design, it would be important to know whether there will be certain requirements for market offers that will prevent further devaluation of market prices and other generation revenues.

**G. The comment and compliance timeline proposed in the NOPR is unreasonable.**

The NOPR's proposed timeframes for ISOs/RTOs to analyze, comment on, and implement the requirements of the proposed rule are not reasonable—particularly in light of the breadth and complexity of the issues surrounding the NOPR. While raising more questions than it answers, the proposed rule calls for substantial changes to existing competitive market design elements. A compliance requirement of 45 days after the NOPR's publication (i.e., fifteen days after the effective date of the final rule) is not practicable. That timeframe would provide nowhere near enough time in which to analyze, develop, and test changes to market structures and to develop and submit any necessary governing document revisions—much less to hold meaningful stakeholder discussions.

**II. CONCLUSION**

SPP appreciates the opportunity to identify issues and seek clarification with respect to the feasibility, logistics, market impacts, reliability considerations, and regulatory implications of the proposals contained in the NOPR. As indicated above, SPP submits these comments with an eye toward specific aspects of SPP's market design and regional footprint. The omission of discussion with respect to any of the issues or questions identified in the OEPI Letter should in no way be construed as an indication that SPP deems such question or issue unimportant as the Commission considers the potential impact of the NOPR.

Respectfully submitted,

/s/ Paul Suskie

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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 Little Rock, Arkansas, this 23rd day of October, 2017.

*/s/ Michelle Harris*  
Michelle Harris