175 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Neil Chatterjee, James P. Danly,
Allison Clements, and Mark C. Christie.

Southwest Power Pool, Inc. Docket No. ER21-1676-000

ORDER REJECTING TARIFF REVISIONS

(Issued June 11, 2021)

1. On April 14, 2021, pursuant to section 205 of the Federal Power Act (FPA)[1] and section 35.13 of the Commission's regulations,[2] Southwest Power Pool, Inc. (SPP) submitted proposed revisions to Attachment J[3] of its Open Access Transmission Tariff (Tariff) to establish a process through which, on a case-by-case basis, the costs of transmission facilities with voltage levels between 100 kV and 300 kV (Byway facilities) can be fully allocated to the SPP region. As discussed below, we reject SPP's proposed Tariff revisions.

I. Background

2. In 2010, the Commission accepted SPP's proposal to implement its Highway/Byway cost allocation method (Highway/Byway),[4] under which SPP allocates the costs of transmission facilities on a voltage threshold basis.[5] For facilities at 300 kV or above (Highway facilities), SPP allocates 100% of costs on a regional, postage-stamp basis. For facilities between 100 kV and 300 kV (Byway facilities), SPP allocates 33%

[1] 16 U.S.C. § 824d.

[2] 18 C.F.R. § 35.13 (2020).

[3] Recovery of Costs Associated with New Facilities.

[4] *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252 (2010) (Highway/Byway Order), *reh'g denied*, 137 FERC ¶ 61,075 (2011).

[5] Generally, Highway/Byway cost allocation applies to new transmission facilities included in and constructed pursuant to SPP's Transmission Expansion Plan in order to ensure the reliability of SPP's transmission system, certain other qualifying network upgrades, and high priority upgrades. SPP Tariff, Attach. J, § III.A.2 (11.0.0).

of costs on a regional basis and 67% of costs to the SPP pricing zone in which the facilities are located. For facilities at or below 100 kV, SPP allocates costs 100% to the zone in which the facilities are located.[6]

3. In 2011, the Commission accepted SPP's proposal to modify its transmission planning process which included a process under which entities developing a dual-voltage transformer may seek a waiver from the SPP Board of Directors (Board) of the standard Highway/Byway cost allocation, under which a dual-voltage transformer is cost allocated using the lower voltage level (Transformer Waiver Process).[7] Based on the anticipated utilization of the transformer, the entity may seek waiver to cost allocate the transformer based on the transformer's higher voltage level instead of the lower voltage level. The SPP Board then evaluates the request based upon the following general factors, including but not limited to: (i) whether the power flows through the transformer predominantly are from the lower voltage to the higher voltage; (ii) whether the transformer is not necessary for the support of, or does not substantially benefit, the lower voltage system in the host zone to which it is connected.[8]

4. In its order accepting the Highway/Byway cost allocation method, the Commission also accepted SPP's revisions to its unintended consequences review process, which is now known as the Regional Cost Allocation Review (RCAR) process.[9] The RCAR process requires review of the Highway/Byway cost allocation methodology and allocation factors at least every six years; authorizes SPP committees to recommend any adjustments to cost allocations if a review shows an imbalanced cost allocation to one or more pricing zones; and enables member companies that believe they have been allocated an imbalanced portion of costs to seek relief.[10]

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[6] *Id.* § III.A.2.i. For network upgrades associated with designated resources that are wind generation resources where the upgrade is located in a different zone than the point of delivery, the costs of facilities 300 kV and above are allocated 100% to the region and the costs of facilities below 300 kV are allocated 67% to the region and 33% to the transmission customer. *Id.* §§ III.A.3, III.A.4.

[7] *Sw. Power Pool, Inc.*, Docket No. ER10-2244-000, at 1 (Feb. 2, 2011) (delegated order); *see also Sw. Power Pool, Inc.*, 132 FERC ¶ 61,042, at PP 17, 87 (2010), *order denying reh'g and granting clarification*, 136 FERC ¶ 61,050 (2011).

[8] SPP Tariff, Attach. J, § III.

[9] Highway/Byway Order, 131 FERC ¶ 61,252 at P 83.

[10] SPP Tariff, Attach. J, § III.D.

II. SPP Filing

5. SPP states that, in recent years, there has been a significant increase in wind generation throughout the SPP region. SPP points out that the total registered wind nameplate capacity at the end of 2019 was 22,482 MW, an increase of 9% from 2018, and at the end of 2019, 76% of all nameplate wind capacity was dispatchable. SPP claims that wind generation output increased by 15% in 2019 to just over 74,000 GWh produced and that wind resources comprise about 25% of the installed capacity in the SPP market, behind only natural gas with 41% and coal with 26%.[11]

6. SPP explains that, unlike traditional generation sources (i.e., gas or coal), renewable generation in SPP is generally not located close to the load it serves, but rather is remotely located where wind energy resources are abundant. SPP claims that the increase of renewable generation in SPP's region has resulted in some SPP pricing zones, specifically the Oklahoma Gas and Electric Company (OG&E), Midwest Energy, Inc. (Midwest Energy), and Sunflower Electric Power Corporation (Sunflower) pricing zones, having nameplate wind generation capacity in excess of 200% of the peak demand for load inside the zone.[12] SPP explains that this discrepancy in capacity versus demand in these Zones contributes to increased loading on both Highway and Byway facilities inside these Zones.[13]

7. SPP argues that zones with an abundance of wind generation in comparison to that which is needed to serve load can cause a significant risk of misalignment of costs of transmission assets versus benefits received from those transmission assets.[14] For example, SPP explains that in 2011, Sunflower's pricing zone had 550 MW of wind capacity with a 12-coincident peak (CP) load of 900 MW, and nine years later, in 2020, Sunflower had 3,100 MW of wind capacity with still only a 12-CP load of 900 MW. SPP asserts that along with the increase in wind generation in Sunflower's pricing zone since 2011, the zone has also seen a dramatic increase in Schedule 11 (Base Plan Zonal Charge and Region Wide Charge) costs from the Byway facilities being built.[15] SPP states that because 67% of the Byway facilities' cost is allocated to the local zone, load in Sunflower's pricing zone in some cases is paying 67% of the cost for Byway facilities primarily used for exporting wind generation to other zones rather than primarily

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[11] Transmittal at 7 and n.21.

[12] *Id.* at 8, fig. 2.

[13] *Id.* at 7-8.

[14] *Id.* at 8-9.

[15] *Id.* at 9, fig. 3.

supporting local load. SPP contends that in such cases, allocating 67% of the cost of an upgrade may not be roughly commensurate with the benefits received and thus it may be more appropriate that such upgrades be regionally cost allocated.[16]

8. SPP proposes to establish a cost allocation waiver process for Byway facilities, where if SPP grants a requested waiver, a Byway facility's costs would be allocated 100% to the SPP region. SPP states that its proposal would create a narrow review process for entities to demonstrate that certain Byway facilities primarily benefit the SPP region instead of a particular zone.[17]

9. Under the proposed Tariff revisions, entities may submit a request for waiver of the Highway/Byway cost allocation methodology for a Byway facility, along with supporting information and analysis, within 180 days after SPP issues the facility's notice to construct or, for existing facilities, within 180 days after June 14, 2021, the requested effective date of the proposed Tariff revisions.[18] SPP would evaluate the request based upon the following information submitted by an applicant: (1) an analysis showing the percentage of power flows on such transmission facility resulting from resources in the zone where the facility is physically connected that are not affiliated through ownership or contract with utilities serving load in the zone; (2) an analysis of whether such transmission facility is not necessary for the support of, or does not substantially benefit, the zone where it is physically connected; and (3) a review of any other evidence presented in support.[19] Within 90 days of receiving a request, SPP will provide a recommendation on the request to SPP's Regional State Committee (RSC) and Markets and Operations Policy Committee (MOPC), which will then have 120 days to review and provide recommendations on the request. At the first SPP Board meeting following RSC and MOPC's consideration of the request, SPP will present its analysis of the request and RSC and MOPC's recommendations to the Board. The Board will then either approve or deny the request.[20] If the SPP Board approves the request, 100% of the annual transmission revenue requirement associated with that Byway facility's costs eligible for cost allocation shall be allocated prospectively in the same manner as annual transmission revenue requirements allocated for Highway facilities.[21] For an existing Byway facility,

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[16] *Id.* at 9.

[17] *Id.* at 14.

[18] Proposed SPP Tariff, Attach. J, §§ III.E.1 - 2.

[19] *Id.* § III.E.3.

[20] *Id.* §§ III.E.4 - 6.

[21] *Id.* § III.E.1.

the revised cost allocation will become effective on the first day of the calendar month following the SPP Board's approval of the waiver.[22]

10. SPP notes that although the dramatic increase in wind generation within a number of SPP's pricing zones has created the need for the Byway facility cost allocation waiver process, the proposed process is not tied to a specific type of generation. SPP claims that in the future other types of generation may also require a need for use of the proposed process.[23]

11. SPP states that its proposal is similar in design to the existing Transformer Waiver Process.[24] SPP states that under the Transformer Waiver Process, the Tariff does not prescribe the specific data or documentation that needs to be submitted with a request but lists the criteria that will be used to evaluate the waiver request. SPP states that it has only received four requests for waiver under this process, approving three and denying one, and suggests that the criteria used in that process has not resulted in an overwhelming number of waiver requests.[25]

12. As evidence in support of its proposal, SPP provides two analyses that it claims demonstrate the regional benefits provided by sample Byway facilities in the SPP transmission system. Based on a modeling of power flows, SPP identifies a set of five Byway facilities that have 90% of flows from generators not affiliated with load in the same zone where the generator is physically located.[26] SPP states that the first analysis is based on market analytics and looks at the impact of the sample facilities on congestion and the resulting effect on make-whole payments/uplift. SPP identifies 12 days with the highest wind penetration between March 2020 and January 2021 and then assesses the effects of removing the sample facilities from service. SPP concludes that the facilities result in a reduction of regionally allocated make-whole payments of $342,000 for the days studied, which would result in an expected $5.2 million in payments over the lifetime of the facilities.[27] For the second analysis, which uses SPP's

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[22] *Id.* § III.E.7.

[23] Transmittal at 15.

[24] *Id.* at 11 (citing SPP Tariff, Attach. J, § III).

[25] *Id.* at 13.

[26] SPP notes that the 90% threshold is not specified in the proposed Tariff language and was selected to limit the scope of the illustrative analysis. *Id.* at 16.

[27] SPP notes that one of the days studied had extremely high values and excluded the outlier from make-whole payments attributable to the facilities. SPP states that, if

economic transmission planning model to project the change in adjusted production cost attributable to the sample facilities, SPP estimates that the sample facilities result in adjusted production cost savings of $56-$63 million over the remaining life of the facilities. SPP states that 71% of these savings are projected to benefit zones that are not allocated any zonal portion of the cost of the sample facilities. SPP claims that this demonstrates that certain Byway facilities can produce substantial regional benefits and, therefore, regional cost allocation may be appropriate for such Byway facilities.[28]

13. SPP claims that the proposal does not violate the Commission's rule against retroactive ratemaking because any changes in rates relating to the reallocation of costs will apply to future revenue requirements only. SPP explains that the proposal is not changing rates that were on file with the Commission for settlement of past transactions, nor is it trying to change rates going forward to reallocate previous period revenue requirements collected from ratepayers.[29]

14. SPP requests that Commission accept the proposed revisions to become effective June 14, 2021.

III. Notice and Responsive Pleadings

15. Notice of SPP's filing was published in the *Federal Register*, 86 Fed. Reg. 20,488 (Apr. 20, 2021), with interventions and protests due on or before May 5, 2021. The following entities filed timely motions to intervene: Ameren Services Company, on behalf of its affiliates ATX Southwest, LLC, Ameren Illinois Company, and Union Electric Company; American Electric Power Service Corporation, on behalf of its affiliates Public Service Corporation of Oklahoma and Southwestern Electric Company (collectively, AEP); Arkansas Electric Cooperative Corporation (AECC); Basin Electric Power Cooperative (Basin); Evergy Kansas Central, Inc., Evergy Metro, Inc., and Evergy Missouri West, Inc.; GridLiance High Plains LLC (GridLiance); ITC Great Plains LLC (ITC Great Plains); Kansas Electric Power Cooperative, Inc. (Kansas Cooperative); Lincoln Electric System; Midwest Energy; Missouri Joint Municipal Electric Utility Commission (Missouri Municipal); Nebraska Public Power District; OG&E; Omaha Public Power District; Southern Company Services, Inc., on behalf of itself and as agent for Alabama Power Company; Sunflower; Western Farmers Electric Cooperative (Western Farmers); and Xcel Energy Services Inc., on behalf of its affiliate Southwestern

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that day is included, there would be $5 million in make-whole payments over the study period alone. *Id.* at 17.

[28] *Id.* at 18.

[29] *Id.* at 20.

Public Service Company (collectively, Xcel). The Louisiana Public Service Commission and the Missouri Public Service Commission filed notices of intervention.

16. City Utilities of Springfield, Missouri and Empire District Electric Company filed a joint motion to intervene and filed a joint protest with AECC and Missouri Municipal (collectively, Indicated Utilities). AEP, Xcel, and OG&E (collectively, Indicated Transmission Owners) filed a joint protest. Sunflower, Basin, Midwest Energy, GridLiance, and Kansas Cooperative filed joint comments (collectively, Supporting Parties). The Kansas Corporation Commission (Kansas Commission) filed a notice of intervention and comments. Western Farmers filed comments.

17. On April 23, 2021, AEP and Xcel filed a motion to extend the comment period to May 14, 2021.[30] On April 27, 2021, OG&E filed an answer supporting the motion to extend the comment date. On April 29, 2021, a notice was issued denying the requested extension of comment date.[31]

18. On May 12, 2021, East Texas Electric Cooperative, Inc. and Northeast Texas Electric Cooperative, Inc. filed a motion to intervene out of time.

19. On May 20, 2021, Indicated Transmission Owners, ITC Great Plains, SPP, and Supporting Parties filed answers.

A. Comments and Protests

20. Indicated Transmission Owners and Indicated Utilities argue that SPP's proposal should be rejected. Indicated Transmission Owners assert that just and reasonable cost allocation requires certainty and transparent rules and that the proposed waiver process will result in ad hoc determinations. Indicated Transmission Owners contend that these determinations may be significant and note that SPP has made no estimate of the ratepayer impacts of the proposal.[32] Indicated Transmission Owners assert that the Transformer Waiver Process that SPP relies on to justify the filing is distinguishable

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[30] AEP, Motion for Extension of Time, Docket No. ER21-1676-000 (filed Apr. 23, 2021).

[31] *Sw. Power Pool, Inc.*, Notice Denying Extension of Time, Docket No. ER21-1676-000 (Apr. 29, 2021).

[32] Indicated Transmission Owners Protest at 21-22.

because it applies to a discrete portion of a transmission upgrade and the associated costs and rate impacts are likely far less than the those of an entire transmission project.[33]

21. Indicated Transmission Owners also warn that, although SPP has presented this filing as a narrow exemption to established cost allocation rules, the filing threatens to create a significant disruption if transmission owners attempt to assign a higher proportion of their costs to other SPP zones.[34] Indicated Transmission Owners assert that the filing lacks sufficient support for two reasons. First, they assert SPP has not supported its theory that there is a disconnect between transmission costs and benefits in the wind-rich zones because SPP ignores offsetting benefits. Indicated Transmission Owners state that an increase in wind generation and rates associated with Byway facilities that outpace increases in load do not alone indicate that there is a cost misalignment because benefits also accrue to those same zones. Indicated Transmission Owners state that the most recent RCAR process reveals that SPP's example of the Sunflower zone had the highest benefit-cost ratio in SPP, which demonstrates zonal benefits well in excess of costs.[35] Second, Indicated Transmission Owners assert that the five-facility study supplied by SPP is not sufficient to justify the filing because SPP did not provide sufficient supporting details for interested commenters to evaluate SPP's analysis.[36] Indicated Transmission Owners argue that the study also does not provide sufficient justification for regional cost allocation because the study shows 71% of the benefits occur outside the zone without justifying that 100% of the costs should be allocated regionally.[37]

22. Indicated Transmission Owners argue that the filing contains an absence of objective standards by which SPP will evaluate requests and that without those standards the Commission cannot find that the proposal will result in allocation of costs that are roughly commensurate with quantifiable benefits.[38] Indicated Transmission Owners also allege that the proposed Tariff language does not specify who can request a waiver or whether the process can be initiated by any SPP member, market participant, or SPP itself. Additionally, Indicated Transmission Owners argue that the proposed Tariff

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[33] *Id.* at 23.

[34] *Id.* at 10 (noting that the 100-300kV system is over half of the existing transmission miles in SPP).

[35] *Id.* at 11-12.

[36] *Id.* at 12-13.

[37] *Id.* at 13.

[38] *Id.* at 14.

language does not identify what supporting information and analysis is sufficient to be granted a waiver, and assert that this lack of guidance will result in litigation regarding whether an entity has provided sufficient supporting information and analysis.[39] Indicated Transmission Owners further assert that the lack of objective criteria means that the proposal vests too much authority in the SPP Board and gives the SPP Board authority to waive the Tariff.

23. Indicated Transmission Owners state that the filing fails to address or distinguish the RCAR process, instead favoring a waiver process that avoids holistic and meaningful review of cost allocation.[40] They assert that the RCAR is the appropriate forum to derive any cost reallocation to address increased wind generation throughout the region.[41]

24. Indicated Utilities argue that SPP's proposal should be rejected for four main reasons. First, they contend that the filing inappropriately seeks to vest the Commission's FPA section 205 authority to change cost allocations with the SPP Board.[42] Second, Indicated Utilities claim that SPP does not provide sufficient evidence to justify the filing, especially considering the most recent RCAR shows that that the "wind rich" zones have some of the highest benefit-to-cost ratios.[43] Third, Indicated Utilities assert that the filing violates Order No. 1000[44] because it would allow for ad hoc disputes and relitigation of particular cost principle applications, specifically that "costs must be allocated roughly commensurately with benefits, that those entities that receive no benefit must not be involuntarily allocated costs, and that the allocation method(s) for the costs of a regional facility must assign costs within the transmission planning region unless entities outside the region voluntarily assume them,"[45] which, they argue, would

[39] *Id.* at 15-16.

[40] *Id.* at 17.

[41] *Id.* at 17-20.

[42] Indicated Utilities Protest at 9-10.

[43] *Id*. at 11.

[44] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[45] Indicated Utilities Protest at 12 (quoting *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41, 83 (D.C. Cir. 2014)).

undermine the stability and predictability of cost allocation determinations that Order No. 1000 sought to promote.[46] Fourth, Indicated Utilities contend that the RCAR process and an FPA section 205 filing with the Commission are the appropriate measures to address situations in which any zones can be shown to face a genuinely inequitable allocation of zonal transmission costs. Indicated Utilities explain that RCAR was developed to address unintended consequences, including the ones SPP described.[47]

25. Supporting Parties, the Kansas Commission, and Western Farmers argue that SPP's proposal should be accepted. Supporting Parties assert that SPP's proposal is a mechanism to correct what they claim is the unreasonable and disproportionate allocation of costs of transmission facilities associated with renewable resources to the zones the transmission facilities are located in. Supporting Parties argue that SPP's proposal would more fairly assign costs among beneficiaries of the transmission facilities and those who cause the costs to be incurred, consistent with the cost causation principle.[48] Supporting Parties argue that changes in the SPP region have led the Highway/Byway methodology to result in disproportionate cost allocations for a few transmission upgrades and believe that the proposal is warranted to alleviate this unreasonable result. For example, Supporting Parties point to the Sunflower zone, where they assert wind generation capacity is 347% in excess of the peak zonal demand and there are the highest zonal rates in SPP.[49] Supporting Parties also state that SPP's existing cost allocation processes are insufficient to remedy the unreasonable and discriminatory impact on customers in wind rich zones. Supporting Parties argue that transmission upgrades that benefit the entire region should be able to receive regional cost allocation since costs must be allocated in a manner that is roughly commensurate with benefits.[50] Supporting Parties also contend that the RCAR process is not an effective review process for evaluating the cost allocation issues raised by the filing because it is a global review process, is based on historical periods, and is performed only every six years.[51]

26. The Kansas Commission argues that SPP's proposal will more fairly allocate costs. The Kansas Commission states that Kansas has two of the three SPP-identified

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[46] *Id*. at 13-14.

[47] *Id*. at 14.

[48] Supporting Parties Comments at 13.

[49] *Id.* at 6-7.

[50] *Id.* at 9-10 (citing Order No. 1000, 136 FERC ¶ 61,051 at PP 10, 502; and *New England Power Pool*, 109 FERC ¶ 61,252, at P 7 (2004)).

[51] *Id.* at 11.

wind rich zones that consistently generate wind in excess of 200% of the peak demand for load inside the zone.[52] The Kansas Commission argues that the Highway/Byway cost allocation methodology did not anticipate the significant increase in renewables development and that SPP's proposal will better reflect cost causation principles.[53]

27. Western Farmers claims the customers in its zone are negatively impacted by the current cost allocation because of the unprecedented increase in renewable generation in its zone. Western Farmers asserts that the proposal provides an opportunity to correct the unreasonable and disproportionate allocation of costs for particular Byway facilities while continuing to encourage the development of renewable resources.[54]

B. Answers

28. SPP reiterates that the discrepancy in wind generation capacity versus local demand has created a misalignment of costs of transmission assets versus benefits received.[55] SPP asserts that protesters' arguments that the proposal is not comparable to the Transformer Waiver Process because the latter is more limited in scope are incorrect. SPP states that the Transformer Waiver Process does not prescribe what specific data or documentation needs to be included in a transformer waiver request but, rather, it lists the evaluation criteria that will be utilized to review the waiver request.[56] SPP asserts that like the Transformer Waiver Process, the factors to be used in evaluating requests under the instant proposal are specific enough to inform stakeholders how their request for a waiver will be evaluated by SPP and also broad enough as to not exclude specific information that may be submitted to support a waiver request.[57] SPP asserts that it believes that only a small number of transmission facilities in the SPP footprint would qualify for regional cost allocation under the proposed waiver process.[58] SPP argues that

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[52] Kansas Commission Comments at 5.

[53] *Id*. at 8.

[54] Western Farmers Comments at 1-2.

[55] SPP Answer at 4.

[56] *Id.* at 6-7.

[57] *Id.* at 7-8.

[58] *Id.* at 9.

any approval of a requested waiver would be based on evidence supporting regional rather than zonal allocation of cost.[59]

29. SPP asserts that protesters fundamentally misunderstand the purpose and limitations of the RCAR process and ignore the specific and narrow issue that is being addressed by the proposal. SPP explains that the RCAR is informative for SPP stakeholder review of the effectiveness of SPP's cost allocation methodology in promoting cost beneficial transmission development across the SPP region, but is not itself determinative of whether actual imbalances exist. SPP further states that due to limitations in the analysis, RCAR studies are not intended, and cannot reliably serve, to show whether a particular cost allocation of a specific upgrade is just and reasonable.[60]

30. SPP asserts that arguments that the proposal vests too much authority with the SPP Board ignore previous Commission orders that grant the SPP Board authority to make cost allocation determinations under certain defined conditions. First, SPP explains that the Commission approved similar provisions as part of SPP's original regional cost allocation process whereby a transmission customer may seek waiver from SPP so that the costs of a network upgrade may be classified in whole or in part as base plan upgrade costs even if the relevant designated resource or the associated upgrade does not meet one or more of the conditions established under the Tariff for such classification.[61] SPP notes that the Commission stated that it "believe[s] that SPP must have some degree of flexibility in making cost allocation determinations and that therefore, the existence of a waiver process is appropriate."[62] Second, SPP states that the Commission approved the Transformer Waiver Process and asserts that the instant proposal also does not grant the SPP Board too much discretion.[63]

31. SPP states that, under its proposal, the obligation is on the entity requesting the waiver to demonstrate that the Byway facilities are being used to benefit primarily the SPP region instead of the zone where those facilities are located.[64] Finally, SPP argues that its sample analysis was provided as an example of the kind of analysis that an entity

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[59] *Id.* at 10.

[60] *Id.* at 11-13.

[61] *Id.* at 16 (stating Tariff Attach. J, section III.C contains a non-exhaustive list of factors considered in granting these waiver requests).

[62] *Id.* (quoting *Sw. Power Pool, Inc.*, 111 FERC ¶ 61,118, at P 57 (2005)).

[63] *Id.* at 16-17.

[64] *Id.* at 18.

might provide to justify the reallocation of costs. SPP states that the analysis is clear that certain Byway facilities can provide substantial regional benefits, and therefore, regional cost allocation may be appropriate for such facilities.[65]

32. ITC Great Plains states that it agrees with Supporting Parties and believes that SPP's proposal will result in a more accurate allocation of the costs of transmission facilities to their beneficiaries. ITC Great Plains asserts that it would be unfair for SPP transmission zones containing a substantial and growing excess of generation capacity far beyond their peak demands to shoulder the majority costs for the associated reliability upgrades, many of which qualify as Byway facilities, when these zones are not the primary beneficiaries.[66]

33. Supporting Parties argue that the protests do not disprove SPP's demonstration that the existing Highway/Byway cost allocation methodology is unreasonable, for certain projects and that protesters' claims the proposal is boundless and will lead to an influx of requests are incorrect. Supporting Parties state that the proposal would not undermine the Highway/Byway cost allocation methodology but would provide a narrow provision to address SPP's significant changes in the past decade since the implementation of the Highway/Byway cost allocation methodology.[67] Supporting Parties contend that sufficient evidence has been provided to show that, in certain circumstances, the Byway Facility cost allocation can lead to greatly inequitable results.[68] Supporting Parties state that the SPP Board's discretion would not be as large as protesters claim because waiver requests would undergo review from SPP staff, stakeholders, RSC, and MOPC. Supporting Parties also assert that most of SPP's Byway facilities would be ineligible for a waiver under the proposed criteria, nullifying protesters' assertions that the proposal will lead to an influx of waiver requests.[69] Supporting Parties argue that the RCAR process is insufficient to address the identified cost allocation issues because the RCAR process is intended to be a theoretical review, not a ratemaking mechanism and does not provide solutions to the issues it identifies.

34. Indicated Transmission Owners argue that the commenters in support are incorrect in their assertions that wind generation expansion in SPP is a recent or unexpected phenomenon, and state that the region has seen and anticipated wind development since

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[65] *Id.* at 19-20.

[66] ITC Great Plains Answer at 1-2.

[67] Supporting Parties Answer at 3.

[68] *Id*. at 5.

[69] *Id.* at 11-12.

before the Highway/Byway cost allocation methodology was adopted.[70] Indicated Transmission Owners assert that the proposal is a request to grant SPP the discretion to depart from the settled cost allocation rules in the Tariff without asking the Commission for authority to do so. Indicated Transmission Owners state that there are no objective criteria for SPP's review of a request and no way for the Commission to determine whether SPP exercised its discretion reasonably.[71] Indicated Transmission Owners assert that the criticisms of the RCAR process are unfounded and that any changes to cost allocation should be considered on a system-wide basis rather than one-off decisions as contemplated by the proposal.[72]

IV. Discussion

A. Procedural Matters

35. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

36. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant East Texas Electric Cooperative, Inc.'s and Northeast Texas Electric Cooperative, Inc.'s late-filed motion to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

37. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept Indicated Transmission Owners', ITC Great Plains', SPP's, and Supporting Parties' answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

38. We recognize and encourage SPP's efforts to proactively address transmission cost allocation issues associated with the increasing amount of renewable generation in the SPP region. However, we find that SPP has not demonstrated that its proposal will

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[70] Indicated Transmission Owners Answer at 4.

[71] *Id.* at 5-6.

[72] *Id.* at 8-9.

result in rates that are just and reasonable and not unduly discriminatory or preferential and, therefore, reject it.

39. We find that SPP's proposal grants the SPP Board too much discretion in allocating the costs of Byway facilities without clear standards for how its cost allocation decisions will be made. Specifically, SPP's proposed Tariff language contains no objective standards, criteria, or thresholds for the SPP Board's decision whether to approve or deny a waiver.[73] The proposed Tariff language states that SPP will evaluate requests based on an analysis of the percentage of power flows on the transmission facility resulting from resources in the zone and whether they are affiliated with utilities serving load in the zone, an analysis of whether the transmission facility supports or substantially benefits the zone, and any other evidence presented.[74] The proposal does not contain specific criteria about the percentage of power flows or the amount of benefits to other zones that would be considered sufficient evidence that the waiver should be approved and the transmission facility's costs should be allocated entirely to the region. Without clear standards limiting the circumstances under which the SPP Board will approve waiver requests, the proposed process creates a risk that the SPP Board may approve cost allocation waivers where there are limited power flows or benefits to other zones, or may reach different cost allocation outcomes on waiver requests that demonstrate similar power flows or benefits to other zones. We find that this lack of clear criteria gives the SPP Board too much discretion to make decisions with significant cost and rate implications, without assurance that the cost allocation decisions will result in rates that are just and reasonable and not unduly discriminatory or preferential.

40. Moreover, we find that the proposed waiver process lacks transparency because the proposed Tariff provisions do not indicate that SPP would document and provide an explanation about how SPP, the relevant committees, and the SPP Board would evaluate the information provided by applicants and reach their conclusions about whether to approve (or recommend approving) a request.[75] We are concerned that this lack of

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[73] *See PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,244, at P 26 (2020) (finding that a process should be more clearly defined in the tariff and that though there may need to be some amount of discretion it should be transparent and clearly defined).

[74] Proposed SPP Tariff, Attach. J, § III.E.3.

[75] *See* Order No. 1000, 136 FERC ¶ 61,051 at PP 668-669 ("The cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.").

transparency and documentation does not provide predictable guidance as to which requests will be approved and on what grounds.

41. SPP claims that its proposal does not provide the SPP Board too much discretion because it is similar to two existing SPP cost allocation waiver processes, the Base Plan Upgrade waiver process and the Transformer Waiver Process.[76] We find that even though both of these existing waiver processes provide SPP with some degree of flexibility and discretion, they are not comparable to the proposed Byway facility waiver process. The Base Plan Upgrade waiver process, under which transmission customers may seek waiver so that network upgrade costs may be classified as Base Plan Upgrade costs,[77] is limited in scope because only network upgrades identified under SPP's Aggregate Transmission Service Study[78] process that do not otherwise meet the thresholds for Base Plan Upgrades under that process are eligible. Likewise, the Transformer Waiver Process narrowly pertains to dual-voltage facilities that interconnect lower voltage systems to higher voltage systems, and the decision the SPP Board must make is by its nature relatively binary: whether the power flows through the transformer predominantly are from the lower to the higher voltage and whether the transformer is not necessary for the support and benefit of the lower voltage system. The facilities eligible for cost allocation waivers under the Transformer Waiver Process are necessarily limited to discrete facilities that only occur at certain interconnections. This physical limitation places significant constraints on the scope of the waiver process, and as SPP notes, it has only received four requests for waiver under Transformer Waiver Process.[79] In contrast, the proposed waiver process in the instant proceeding would make all transmission projects that are designated as Byway facilities eligible to request a waiver. The number of transmission facilities and amount of costs eligible for Byway facility cost allocation waivers would be notably more expansive under SPP's proposal. The lack of clear standards makes it difficult to determine the amount of transmission facility costs that would be allocated to the entire SPP region. However, because Byway facilities in general would be eligible for a waiver request, the waiver process could potentially be far-reaching in scope. For these reasons, we do not believe SPP has demonstrated that the instant proposal should be considered comparable to the Base Plan Upgrade waiver process or the Transformer Waiver Process.

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[76] SPP Answer at 17.

[77] SPP Tariff, Attach. J, § III.C.1.

[78] The Aggregate Transmission Service Study process is SPP's process for evaluating long-term transmission service requests.

[79] Transmittal at 13.

42. Although we are rejecting SPP's proposed Tariff revisions for the reasons discussed herein, we note that our rejection is without prejudice to SPP filing a revised proposal that remedies the identified deficiencies, and encourage SPP's continued efforts to proactively address these issues.

<u>The Commission orders</u>:

SPP's proposed Tariff revisions are hereby rejected, as discussed in the body of this order.

By the Commission. Commissioner Christie is concurring with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southwest Power Pool, Inc.   Docket No. ER21-1676-000

(Issued June 11, 2021)

CHRISTIE, Commissioner, *concurring*:

1. I concur with today's order, which is appropriately without prejudice. I write separately to add the following.

2. SPP's application provides insufficient detail with respect to the specific roles the Regional State Committee, individual states, and load-serving entities (LSEs) would play in the review of a request to waive the existing cost-allocation formula on an *ad hoc* basis.[1] Since approval of a cost-allocation waiver would result in costs being re-allocated to consumers in states and to LSEs that would not otherwise bear those costs under SPP's existing Highway/Byway methodology, it would be helpful and relevant to know whether any such waiver process ensures that states and LSEs whose consumers would be re-designated as "beneficiaries" have an opportunity to review and consent/dissent affirmatively to the re-designation and to the new costs that go along with it. Such relevant information on the process was missing from this application.

For these reasons, I respectfully concur.

____
Mark C. Christie
Commissioner

[1] For example, while SPP's proposal provides a process for the RSC to review and provide a recommendation to the Board with respect to a request for waiver, there is little to no information explaining if and how individual states or other entities, such as LSEs, impacted by a specific waiver request may participate in the process or consent or object. Additionally, it is not clear whether and to what extent the Board must articulate its consideration of any RSC or other relevant committee recommendation.

Document Content(s)