

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

Southwest Power Pool, Inc.) Docket No. ER24-1317-000

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

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ Southwest Power Pool, Inc. (“SPP”) submits this motion for leave to answer and answer² to comments and protests filed in this proceeding by: (1) Sierra Club, Natural Resources Defense Council, and the Sustainable FERC Project (collectively, “Public Interest Organizations”);³ (2) American Clean Power Association, the Solar Energy Industries Association, Advanced Energy United, and the Advanced Power Alliance (collectively, the “Clean Energy Associations”);⁴ (3) the Market

¹ 18 C.F.R. §§ 385.212, 385.213.

² SPP respectfully requests leave to submit this answer to aid the Commission’s decision-making process. The Commission regularly permits answers for good cause shown, and the Commission has held that answers are permitted when they ensure a more accurate and complete record, clarify the issues, or provide useful and relevant information that will assist the Commission in its deliberative process. *See, e.g., City Utils. of Springfield, Mo. v. Sw. Power Pool, Inc.*, 168 FERC ¶ 61,085, at P 51 (2019) (“We accept [the] answers . . . because they have provided information that assisted us in our decision-making process.”), *order on reh’g & clarification*, 170 FERC ¶ 61,024 (2020); *Morgan Stanley Capital Grp., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (2000) (accepting an answer as “helpful in the development of the record”). SPP’s silence regarding statements contained in comments or protests should not be considered agreement or acquiescence to any unaddressed conclusions or statements.

³ Protest of Public Interest Organizations to Southwest Power Pool’s Proposed Accreditation Methodologies for Thermal and Renewable Generators, Docket No. ER24-1317-000 (Mar. 29, 2024) (“PIOs Protest”).

⁴ Protest of the Clean Energy Associations, Docket No. ER24-1317-000 (Mar. 29, 2024) (“CEAs Protest”).

Monitoring Unit (“MMU”) of SPP;⁵ and (4) Golden Spread Electric Cooperative, Inc. (“Golden Spread” together with Clean Energy Associations and Public Interest Organizations, “Protestors”).⁶ For the reasons stated herein, the Commission should reject the arguments against SPP’s filing in this proceeding and find that the proposed capacity accreditation methodologies are just and reasonable.

I. BACKGROUND

On February 23, 2024, SPP, as approved by its Regional State Committee (“RSC”)⁷ and authorized by its independent Board of Directors (“SPP Board”), submitted revisions to Attachment AA of the SPP Open Access Transmission Tariff⁸ to implement: (1) an Effective Load Carrying Capability (“ELCC”) accreditation methodology for wind resources, solar resources, and Electric Storage Resources (“ESRs”); and (2) a performance based accreditation (“PBA”) methodology for thermal and other conventional resources

⁵ Motion to Intervene and Comments of the Market Monitoring Unit of the Southwest Power Pool, Docket No. ER23-1317-000 (Mar. 28, 2024) (“MMU Comments”); *see also* Motion for Leave to Respond and Response of the Southwest Power Pool Market Monitoring Unit, Docket No. ER24-1317-000 (Apr. 12, 2024) (“MMU Response”).

⁶ Comments of Golden Spread Electric Cooperative, Inc., Docket No. ER24-1317-000 (Mar. 29, 2024) (“Golden Spread Comments”).

⁷ Per the SPP Bylaws on file with the Commission, SPP’s RSC is responsible for determining “the approach for resource adequacy across the entire [SPP] region.” Southwest Power Pool, Inc., Bylaws, First Revised Volume No. 4 § 7.2. The RSC is “comprised of one designated commissioner or board member from one state regulatory utility commission or board from each state within the SPP Region where SPP provides services as a regional transmission organization,” and “provide[s] both direction and input on all matters pertinent to the participation of the Members in SPP.” *Id.*

⁸ Southwest Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Volume No. 1 (“Tariff”). All capitalized terms not otherwise defined in this answer shall have the definitions assigned by the Tariff.

using an analysis that considers demand equivalent forced outage rates (“EFORD”) during times resources are needed in the relevant season.⁹

As described in the February 23 Filing, the Commission rejected a previous SPP resource accreditation filing on rehearing based on procedural notice concerns and the Commission’s “rule of reason,” while generally finding SPP’s proposed use of an ELCC method and “historical performance-based capacity accreditation” methods reasonable to “estimate the capacity value of intermittent resources.”¹⁰ The February 23 Filing incorporates solutions to address the Commission’s previous concerns and proposes historical performance based accreditation methods for all resource types in the SPP footprint, with different methods for different resource types that recognize the differing operating characteristics. Additionally, the February 23 Filing proposes adding considerable detail about these methodologies to the Tariff, providing notice to Load Responsible Entities (“LREs”) and Generator Owners as to how their resources will be accredited for resource adequacy purposes, to overcome the “rule of reason” concerns from the prior filing. The February 23 Filing’s proposed revisions, made pursuant to section 205¹¹ of the Federal Power Act (“FPA”), provide a just and reasonable capacity accreditation approach to determining the resource adequacy attributes of different resource types in the SPP region.

⁹ Submission of Tariff Revisions to Implement Effective Load Carrying Capability Methodology and Performance Based Accreditation of Southwest Power Pool, Inc., Docket No. ER24-1317-000 (Feb. 23, 2024) (“February 23 Filing”).

¹⁰ *Sw. Power Pool, Inc.*, 180 FERC ¶ 61,074, at P 23 (2022), *order on reh’g*, 182 FERC ¶ 61,100 (2023).

¹¹ 16 U.S.C. § 824d.

In addition to the above-referenced protests and comments, the Kansas Corporation Commission (“KCC”) submitted comments in support of SPP’s filing.¹²

II. ANSWER

In the February 23 Filing, SPP took the guidance previously provided by the Commission and various Commissioners in their separate opinions, and proposed a just and reasonable comprehensive approach to capacity accreditation for all resources in the SPP Region using methodologies that have been accepted by the Commission and used by other Regional Transmission Organizations (“RTO”) for years. While Protestors assert numerous criticisms of SPP’s filing, most amount to nothing more than preferences for alternative accreditation methodologies, while others raise issues that are entirely outside the scope of the proceeding or are otherwise irrelevant in the FPA section 205 context. Thus, the Commission should reject the Protests and find SPP’s proposed accreditation just and reasonable.

Indeed, all of the Protestors (other than Golden Spread, whose Protest is limited to process arguments that are beyond the scope of this proceeding and irrelevant as discussed in more detail below¹³) express agreement that SPP’s proposed accreditation methods are an improvement to SPP’s overall method to ensure resource adequacy across the region. For example, the Clean Energy Associations agree that the use of EFORD-based accreditation is an improvement over SPP’s current method for accrediting thermal

¹² The Kansas Corporation Commission’s Motion to Intervene Out-of-Time and Comments, Docket No. ER24-1317-000 (Apr. 9, 2024) (“KCC Comments”).

¹³ *See infra* Section II.E.

resources.¹⁴ The Public Interest Organizations agree,¹⁵ and further note that they “do not oppose SPP’s proposed Renewable Methodology, which values the wind, solar, and storage fleets based on their specific contribution to improving system reliability.”¹⁶ The MMU characterizes the methods proposed in the February 23 Filing as “marked enhancements relative to SPP’s current process,”¹⁷ explains that they “will begin to shift some of the uncertainty risk away from the region to individual resources,”¹⁸ and “incrementally bridge[] some of the current gap that exists between resource accreditation and availability.”¹⁹

The Commission also should not overlook the strong support from state regulatory commissions for SPP’s proposal. The Commission long ago observed the important jurisdictional authority that state regulatory commissions possess over resource adequacy²⁰

¹⁴ CEAs Protest at 4 (describing the proposal as “an improvement on the status quo”).

¹⁵ PIOs Protest at 1-2 (describing the proposals as “improving on the status quo”).

¹⁶ *Id.* at 32.

¹⁷ MMU Comments at 1.

¹⁸ *Id.* at 1-2; *see id.* at 8 (explaining how the proposed methods shift more of the accountability for regional reliability to individual resources by incorporating outages and historical performance into a resource’s accredited values).

¹⁹ *Id.* at 2; *see also id.* at 8-9 (explaining that the PBA methodology “bridges the current gap that exists between resource accreditation and availability” and “brings resource accreditation levels into closer alignment with actual expected availability,” “gives SPP a better picture of what capacity is likely to be available, on average, at any given time during the resource adequacy season,” which results in “many benefits, including providing better information for the outage approval process”).

²⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,283, at P 52 (2008); *Cal. Indep. Sys. Operator, Corp.*, 116 FERC ¶ 61,274, at P 1112 (2006).

and that resource adequacy lies at “the confluence of state-federal jurisdiction.”²¹ SPP’s RSC voted overwhelmingly to approve the proposed ELCC and PBA constructs.²² Additionally, the KCC recently filed comments in this proceeding praising the proposed accreditation constructs. Specifically, the KCC has stated that the proposal set forth in the February 23 Filing provides an “effective means of enhancing SPP’s resource adequacy construct, improving reliability within the [SPP] footprint, and reducing the costs [LREs] must incur to ensure adequate supplies of power.”²³ The KCC also extolled the justness and reasonableness of the ELCC and PBA methodologies because they are based on historical production data and “use[] granular data to determine each resource’s availability to SPP and contribution to reliability.”²⁴ The KCC also cautioned “the Commission to be wary of alternative proposals offered as ‘better’ by stakeholders with narrow or specific interests.”²⁵

Because SPP has proposed accreditation methodologies that are based on Commission-accepted designs and because Protestors have offered no credible claims to the contrary, the Commission should reject Protestor preferences for alternative methodologies and instead find SPP’s February 23 Filing just and reasonable.

²¹ *Cal. Indep. Sys. Operator*, 116 FERC ¶ 61,274, at P 1112.

²² *See* Southwest Power Pool Regional State Committee, *Summary of Motions and Action Items*, at agenda item 6.A (Oct. 30, 2023), <https://www.spp.org/documents/70490/draft%20rsc%20minutes%20october%202023.pdf>.

²³ KCC Comments at 1.

²⁴ *Id.* at 10.

²⁵ *Id.* at 11.

A. Contrary to Protesters’ Allegations, SPP’s Proposed Accreditation Methodologies Are Just and Reasonable

In their filings, Protestors allege various criticisms of SPP’s proposed accreditation methodologies, particularly for SPP’s proposed PBA, which is based on an EFORD analysis.²⁶ What remains clear is that Protestors would have preferred SPP take a different approach than the one proposed in the February 23 Filing. However, Protestor criticisms and preferences for an alternative approach do not render SPP’s filing unjust and unreasonable or unduly discriminatory or preferential.

Under FPA section 205, SPP must show only that its Tariff filing is just and reasonable, not that it is the best approach, better than Protestors’ preferred alternatives, nor even better than the current Tariff approach.²⁷ In the FPA section 205 context, the Commission’s role is “essentially passive and reactive” and therefore is limited to “evaluating the confined proposal.”²⁸ Thus, while Protestors would prefer certain alternatives and purport to explain why those alternatives are better, the only legal issue

²⁶ E.g., CEAs Protest at 4-12; PIOs Protest at 9-28.

²⁷ See, e.g., *Petal Gas Storage, LLC v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007) (“[The Commission] is not required to choose the best solution, only a reasonable one.”); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (finding that under the FPA, as long as the Commission finds a methodology to be just and reasonable, that methodology “need not be the only reasonable methodology, or even the most accurate”); *PJM Interconnection, L.L.C.*, 184 FERC ¶ 61,055, at P 107 (2023) (“The Commission limits its evaluation of a utility’s proposed tariff revisions to an inquiry into whether the rates proposed by a utility are reasonable—and does not extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs. The proposed revisions need not be the best or the only reasonable methodology.” (internal quotations and citations omitted)), *granted in part and vacated in part, PJM Power Providers Grp. v. FERC*, 96 F.4th 390 (3d Cir. 2024).

²⁸ *Advanced Energy Mgmt. All. v. FERC*, 860 F.3d 656, 662 (D.C. Cir. 2017) (citing *City of Winnfield v. FERC*, 744 F.2d 871, 875-76 (D.C. Cir. 1984)).

here for the Commission to determine is whether SPP's proposal is just and reasonable. It is and, consistent with its precedent, the Commission should so find.

1. *The Commission Previously Has Accepted EFORd as a Just and Reasonable Approach to Resource Accreditation*

While protesters argue against using EFORd as part of SPP's proposed methodologies, the Commission has not found the use of EFORd to be unjust and unreasonable. Rather, the Commission previously found that EFORd is an appropriate methodology for determining capacity accreditation.²⁹ The Commission has stated that "EFORd is an industry-wide standard measure of outage risk used extensively in markets across the country," and previously found that "EFORd is the best available measure of outage risk, i.e., unavailability, in a given hour, and is therefore appropriate to measure this risk of outage."³⁰ SPP's proposed use of EFORd is not unusual, but rather employs an industry-accepted methodology that the Commission has found to be just and reasonable.

Moreover, the fact that some regions have very recently moved away from EFORd in favor of other methods³¹ is of no moment. First, as the Commission and the courts have long held, there can be more than one just and reasonable rate.³² Second, the Commission

²⁹ See e.g., *ISO New Eng., Inc.*, 119 FERC ¶ 61,045, at P 134, *order on reh'g*, 120 FERC ¶ 61,087 (2007); *ISO New England Inc.*, 111 FERC ¶ 61,185, at P 32 ("EFORd provides the generators with incentives to be available when they are needed. . . . The Commission believes that it is both reasonable and consistent to approve its use here."), *order on reh'g*, 112 FERC ¶ 61,254 (2005), *order on remand*, 112 FERC ¶ 61,144 (2008); *N.Y. Indep. Sys. Operator, Inc.*, 96 FERC ¶ 61,251, at 61,993 (2001) ("If a generator can improve its EFORd, it will have additional capacity and additional energy to sell, which serves as an incentive to generators to improve reliability.").

³⁰ *ISO New Eng., Inc.*, 119 FERC ¶ 61,045, at P 134.

³¹ PIOs Protest at 21-24; CEAs Protest at 6-7, 9.

³² See *supra* note 27.

has long respected regional differences and allowed for different regions to adopt different approaches tailored to their unique regional characteristics or preferences.³³ Here, SPP’s stakeholders, state regulatory commissions, and independent board of directors opted to adopt an EFORD-based approach to capacity accreditation of conventional resources. The fact that other regions have modified or discontinued their use of EFORD in favor of other approaches does not render that decision unjust or unreasonable.

2. *SPP’s Resource Accreditation Proposals Are Appropriately Tailored For its Region*

SPP has proposed resource adequacy accreditation methods that are appropriate for its region. Importantly, while SPP enforces regional requirements for resource adequacy, including establishing a Planning Reserve Margin (“PRM”) and determining individual resource accreditation, SPP does not run a centralized capacity market or otherwise centrally procure capacity resources to fulfill resource adequacy requirements. Instead, under SPP’s Tariff, LREs are individually responsible for maintaining adequate capacity

³³ See, e.g., *Sw. Power Pool, Inc.*, 158 FERC ¶ 61,063, at P 13 (2017) (“We note that market rules need not be identical among the regions to be just and reasonable, and there can be more than one just and reasonable rate.”); *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, 137 FERC ¶ 61,064, at P 75 (2011) (declining to mandate standardized market rules, instead allowing RTOs “flexibility to design market rules that accommodate their markets”), *reh’g denied*, Order No. 755-A, 138 FERC ¶ 61,123 (2012); *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071, at PP 59, 86, 160 (2008) (declining to mandate that RTOs develop standardized procedures for demand response), *as amended*, 126 FERC ¶ 61,261, *order on reh’g*, Order No. 719-A, 128 FERC ¶ 61,059, *reh’g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009); *PJM Interconnection, L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063, at P 39 (2007) (stating that “the Commission has permitted different just and reasonable rate designs *reflective of particular system characteristics and stakeholder input*” (emphasis added)) (subsequent history omitted).

to meet their Resource Adequacy Requirement to enable the SPP Balancing Authority Area to serve its peak demand reliably.³⁴

That means that LREs alone are responsible for determining the appropriate resource mix to satisfy both their Resource Adequacy Requirement and their obligations to serve their load. While SPP's resource accreditation processes are designed to determine the level of capacity that is needed to satisfy the LRE's Resource Adequacy Requirement, an individual resource's accreditation relative to other resources or other resource types is only one of many factors an LRE may consider in deciding in which resources and resource types to invest. Thus, concerns that SPP's proposed accreditation methods send the wrong price signals are unavailing.

There are many features of the SPP region that justify SPP's proposed approaches. As an initial matter, SPP operates in a region with no centralized capacity market and where retail service remains regulated and LREs maintain the obligation to serve load. Also, as noted in the February 23 Filing,³⁵ SPP is experiencing a dramatic shift in the resource mix with growing retirements of aging conventional resources and their replacement with a large influx of variable renewable resources, including experiencing overall increases in the percentage of total energy production from wind resources growing from 3% in 2008 to 38% in 2022, at the same time as the share of total energy production from coal resources

³⁴ Tariff, Attachment AA § 1.0; *see* Southwest Power Pool, Inc., *2023 SPP Resource Adequacy Report*, at 1 (June 15, 2023), <https://www.spp.org/documents/69529/2023%20spp%20june%20resource%20adequacy%20report.pdf>.

³⁵ February 23 Filing at 7-8.

declining from 64% traditionally to 33% in 2022.³⁶ SPP’s methodologies are tailored to address these regional features.

First, as SPP noted in the February 23 Filing³⁷ and no Protestor disputes, variable energy resources such as wind and solar with correlated output profiles bring declining resource adequacy value to the system as their penetration increases, meriting an approach that considers this declining value. While Protestors criticize SPP’s resource accreditation approaches for not focusing *exclusively* on the highest risk hours of the year, the diminishing capacity value of variable energy resources is a phenomenon with a potential to occur during *all* hours, even lower risk hours, when the wind is not blowing or the sun is not shining. In contrast, adding more thermal resources to the grid does not create the same diminishing returns. Thus, in a region with dramatically increasing penetration of variable energy resources, an ELCC approach focused only on those resource types is appropriate,³⁸ and an ELCC approach for all resource types is unnecessary.³⁹

³⁶ See Southwest Power Pool Market Monitoring Unit, *State of the Market 2022*, 2-5 (May 15, 2023), <https://www.spp.org/documents/69330/2022%20annual%20state%20of%20the%20market%20report.pdf>.

³⁷ February 23 Filing at 3, 15-20.

³⁸ *Midcontinent Indep. Sys. Operator, Inc.*, 182 FERC ¶ 61,096, at P 36 (2023) (“[R]esources with correlated output profiles, like wind and solar, bring declining resource adequacy value to the system as their penetration increases, such that any difference in accreditation is a consequence of the operating characteristics of such resources and is not the result of undue preference or discrimination.” (citations omitted)); see also *PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,056, at P 70 (2021) (finding that “the capacity value of ELCC Resources depends on the expected resource mix, the expected load shape, and how the hourly output of ELCC Resources aligns with hourly load,” and that “ELCC Resource classes that produce energy during the same hours may provide diminishing capacity value as incremental [megawatts] of that resource class are added to the system”).

³⁹ February 23 Filing at 38-42.

Second, the EFORD-based PBA measures performance of resources across all periods for which they are needed, allowing LREs with an obligation to serve a metric to assess the relative value of different resources to meet that service obligation throughout the year. While SPP is considering some modifications to its PBA methodology (beyond EFORD) to target a more limited number of operating hours,⁴⁰ the fact that SPP's current PBA proposal focuses more broadly on individual resource performance across the season in and of itself does not render SPP's proposed PBA unjust and unreasonable, particularly where it provides additional information for LREs to make informed choices on how best to meet their Resource Adequacy Requirement throughout the year based on characteristics of the load they are required to serve.

Third, contrary to Protestors' arguments that using EFORD will "ignore[] or marginalize[] resource performance" during highest risk hours,⁴¹ EFORD necessarily captures outages during high risk periods, because it specifically decrements an individual resource's accreditation to account for outages during *all* periods in which the resource is needed. SPP's EFORD approach focuses on performance during hours when the resource was actually called upon to serve load. Many natural gas, coal, and nuclear resources are called upon to serve load throughout the year, not just during high risk events such as weather emergencies, and their performance during those hours is appropriately credited to their overall capacity accreditation. Moreover, to the extent they fail to perform during high risk events, those failures will be accounted for in the calculation of their

⁴⁰ CEAs Protest at 13-14; PIOs Protest at 37-38; *see also* PIOs Protest at 26 (noting that SPP stakeholders are currently entertaining changes).

⁴¹ PIOs Protest at 9-17; CEAs Protest at 9-12.

accreditation. Resources that are called upon less frequently (which likely coincides with times of highest need) *and* fail to perform will observe larger decreases in their accreditation value. While SPP’s EFORd method does not focus entirely on performance during highest risk periods as Protestors would prefer, that does not render the proposal unjust and unreasonable because performance during all periods, *including high risk periods*, will be reflected in the EFORd calculation.⁴²

Fourth, while Protestors criticize that the ELCC methodology and its use of tiers to accredit capacity focuses on individual LREs’ times of need rather than the region’s time of need,⁴³ this argument ignores that it is the individual LREs, and not SPP, that are required to procure resources to satisfy the Resource Adequacy Requirement. As SPP explained in the February 23 Filing, using tiers and allocating capacity first to Tier 1 allows SPP first to provide accreditation values for resources that are procured and used primarily by LREs to serve load.⁴⁴ As stated in the February 23 Filing, LREs are required under Attachment AA of the Tariff to have firm transmission service to qualify any resource as Firm Capacity or Firm Power to meet its Resource Adequacy Requirement, and it is important that these resources that have firm transmission service are not impacted by those resources that are not tied to firm transmission service.⁴⁵ With this proposed tier structure, LREs are able to decide how to prioritize their ELCC resources into tiers, consistent with

⁴² Cf. *PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,080, at P 78 (“[W]e note that any potential capacity accreditation errors under PJM’s proposed marginal ELCC framework will likely be dwarfed by the known limitations of its existing accreditation frameworks.”), *reh’g denied*, 186 FERC ¶ 62,168 (2024).

⁴³ CEAs Protest at 23-27.

⁴⁴ February 23 Filing at 21-25 & n.35, 38-40.

⁴⁵ *See id.* at 23.

the LRE-centric approach to resource adequacy within SPP. With each LRE procuring sufficient capacity to serve their load and Resource Adequacy Requirements, regional reliability is enhanced even if the ELCC method focuses on LRE needs.

While the protests express concerns that SPP's proposed accreditation methodologies do not adequately address system reliability,⁴⁶ the proposed ELCC and PBA methodologies provide a more reliable and cost-effective approach to resource adequacy than today's existing accreditation construct, given the significantly increasing penetration of wind, solar, and storage resources in SPP and the need to provide for accurate accreditation of all resource types, including conventional thermal resources. As required by section 205 of the FPA, SPP has shown that the consensus-based proposal is just and reasonable.

3. *Other Criticisms Do Not Show the February 23 Filing to Be Unjust or Unreasonable*

The Protestors claim that EFORd does not address correlated outages such as during gas shortages in the winter or lack of cooling water for thermal plants in the summer or during droughts.⁴⁷ These arguments miss the mark. Under the PBA methodology using EFORd, failure to perform during high risk hours during the seven-year historical study period will be factored into the resource's accreditation.

Additionally, while the Clean Energy Associations argue that SPP's proposal increases reliance on natural gas in the region,⁴⁸ SPP's proposal has no such purpose. SPP's proposed PBA process will actually improve the accreditation for conventional

⁴⁶ See CEAs Protest at 9-11; PIOs Protest at 17-25.

⁴⁷ CEAs Protest at 5-9; PIOs Protest at 17-25.

⁴⁸ CEAs Protest at 5.

resources, which works to mitigate the impact of certain operational and performance shortcomings of thermal resources. The reforms proposed with the PBA methodology incent development of higher performing resources, benefitting individual LREs, Generation Owners, Market Participants, and the region as a whole.

Likewise, SPP’s proposal does not “concentrate the system’s reliance upon a single resource class that demonstrably does experience correlated outages,”⁴⁹ contrary to the Clean Energy Associations’ claim. Rather, SPP’s filing proposes accreditation methodologies that better align with resource classes. By allowing for the introduction of new natural gas resources, SPP’s proposal merely allows for the same treatment—i.e., the ability to enter its market and receive accreditation—as is provided to any other resource type. Given that, SPP’s PBA, which uses a modified EFORd in tandem with a resource’s demonstrated net generating capability, is a just and reasonable approach.

B. SPP’s Proposal Improves All Resources’ Accreditation Without Undue Discrimination Against Inverter-Based Resources

Protesters argue that SPP’s proposal discriminates against inverter-based resources by employing different accreditation methodologies between them and conventional resources,⁵⁰ but, crucially, SPP proposed these methodologies because these two resource types fundamentally function differently, and are thus not similarly situated resources.⁵¹

⁴⁹ *Id.* at 8.

⁵⁰ *Id.* at 14-17; PIOs Protest at 29-36.

⁵¹ *ISO New Eng. Inc.*, 174 FERC ¶ 61,252, at P 27 (2021) (“The FPA does not prohibit all discrimination, only undue discrimination. The determination as to whether a Commission-regulated rate or practice that provides different treatment to different classes of entities is unduly discriminatory is fact-based, and turns on whether those classes of entities are similarly situated.”) (citations omitted); *ISO New England Inc.*, 150 FERC ¶ 61,065, at P 26 (2015) (“[T]he [Federal Power Act] does not forbid preferences, advantages, and prejudices per se. Rather, [it] prohibits ‘undue’

Protesters also argue that SPP applies this different treatment without basing it on a difference in the characteristics of the resource or its reliability to the system,⁵² which is incorrect.

Specifically, Public Interest Organizations argue that the proposed methodologies are unduly discriminatory because they do not treat “similarly situated resources” comparably.⁵³ But variable and conventional resources are not similarly situated. As SPP explained in the February 23 Filing, the resource adequacy contributions of variable energy resources diminish as penetration increases in a way that the contributions of conventional resources do not, justifying different treatment for these differently-situated resource types.

Moreover, the Commission recently highlighted that ELCC may be a better standard for intermittent resources given their operating characteristics, while another accreditation methodology may be better for other types of resources, noting “it is often the case that the operating characteristics of different resource classes require various different accreditation frameworks.”⁵⁴ The Commission explained that “in approving

preferences, advantages and prejudices.”) (citation omitted); *see also Ark. Elec. Energy Consumers v. FERC*, 290 F.3d 362, 367 (D.C.Cir.2002) (“A rate is not unduly preferential or unreasonably discriminatory if the utility can justify the disparate effect” (citation omitted) (internal quotation marks omitted)); *Town of Norwood v. FERC*, 202 F.3d 392, 402 (1st Cir. 2000) (“[D]ifferential treatment does not necessarily amount to undue preference where the difference in treatment can be explained by some factor deemed acceptable by the regulators (and the courts).”); *N.Y. Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,124, at P 10 (2018) (“To say that entities are similarly situated does not mean that there are no differences between them; rather, it means that there are no differences that are material to the inquiry at hand.”).

⁵² CEAs Protest at 15-17.

⁵³ PIOs Protest at 29-36.

⁵⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 182 FERC ¶ 61,096, at P 36 (citations omitted).

ELCC methodologies for intermittent resources in other RTOs, the Commission has found that *it need not extend that methodology to other classes of resources* to support a finding that the ELCC methodology is just and reasonable and not unduly discriminatory.”⁵⁵

Likewise, the Commission highlighted the benefits of an ELCC methodology for variable resources. It has stated that ELCC is a “just and reasonable and not unduly discriminatory” method for accrediting variable resources as “resources with correlated output profiles, like wind and solar, bring declining resource adequacy value to the system as their penetration increases, such that any difference in accreditation is *a consequence of the operating characteristics of such resources and is not the result of undue preference or discrimination.*”⁵⁶

The accreditation methodologies proposed in the February 23 Filing do just that: provide for historical performance based accreditation for various resource types in the SPP footprint, with the different methods for different resource types that recognize the operating characteristics of different resource types. To account better for the operational characteristics of conventional resources, SPP’s EFORd-based PBA method will consider the relative contribution of conventional resources to system reliability and resource adequacy by accounting for historical performance and availability of such resources

⁵⁵ *Id.* (citations omitted) (emphasis added).

⁵⁶ *Id.* (citations omitted) (emphasis added); *see also PJM Interconnection, L.L.C.*, 176 FERC ¶ 61,056, at P 70 (finding that “the capacity value of ELCC Resources depends on the expected resource mix, the expected load shape, and how the hourly output of ELCC Resources aligns with hourly load,” and that “ELCC Resource classes that produce energy during the same hours may provide diminishing capacity value as incremental [megawatts] of that resource class are added to the system”).

during times in which those resources are called upon (and therefore are needed to maintain reliability).

It is important to recognize, as the MMU noted, that “[t]he fundamental differences between the PBA and ELCC methodologies reflect real, measurable differences in the reliability contributions of the different resource types.”⁵⁷ Given the intermittent operation of variable energy resources, the ELCC methodology is a measure of how such resources shift the reliability risk to different hours (e.g., when the sun is not shining or the wind is not blowing), and not necessarily a measure of the contribution those resources have only during system risk periods. In other words, the ELCC methodology does not focus exclusively on high risk events, as Protestors seem to suggest. Instead, ELCC is designed to reflect the fact that increases in penetration of renewable resources blunts the reliability contribution of individual resources (which SPP characterized as the “diminishing capacity contributions” or “diminishing reliability returns” in the February 23 Filing⁵⁸). And, as noted above, EFORd compares resource performance to the hours the resource was called upon to run, which includes high risk hours, and also more heavily impacts those resources that are called upon to perform less frequently (which, for these less-frequently called upon resources typically coincides with hours of greatest reliability need) and fail to perform. With the integration of more renewable resources, EFORd allows for flexibility in this system evolution as the need for conventional resources can shift to hours when renewable resources are unavailable due to their general operating characteristics. The less hours a conventional resource runs, the more critical it is for that resource to be prepared to run

⁵⁷ MMU Comments at 9.

⁵⁸ See, e.g., February 23 Filing at 5, 14.

(i.e., not be on forced outage) when called upon, and EFORd will capture any such failures. The increase in variable energy resources would drive the future hours where conventional resources are most needed, and their performance in those hours will be emphasized in the EFORd analysis.

The proper objective is not uniformity, since these resources have different characteristics, but rather it is to ensure that each resource's capacity supply obligation will be met.⁵⁹ Both of these methods consider the historical performance of resources and their relative contributions to system reliability. Both are improvements on SPP's current accreditation methodologies. The Commission should find the proposal just and reasonable because the ELCC and PBA methodologies proposed will allow SPP to have a more accurate expectation of which resources will be available in real-time based on their historical performance.

Finally, Protestors argue that ELCC, and specifically the tiered approach, undervalues the contributions of inverter-based resources, and point to evidence from SPP's own post-event analyses showing that wind resource performed at or above their accredited values during recent winter weather events.⁶⁰ What is missing from Protestors' argument, however, is the acknowledgment that these analyses were performed based on SPP's *existing* methodology for accrediting variable energy resources. ELCC is designed

⁵⁹ *PJM Interconnection, L.L.C.*, 175 FERC ¶ 61,084, at P 109 (2021) (“Clean Energy Associations rely on the false premise that PJM’s markets must ensure ‘comparable’ outcomes for ELCC Resources and Unlimited Resources, despite the fact that these resources have different physical characteristics. The proper objective therefore is not comparability, but rather is to ensure that each resource’s capacity supply obligation does not exceed its expected contribution to system reliability.”).

⁶⁰ CEAs Protest at 10; PIOs Protest at 31-34.

to improve upon the existing methodology, so data that shows that any resource performed above its accredited capacity value during a few discrete hours of the year under SPP's extant methodology is not reflective of the appropriateness of SPP's proposed methodology. Moreover, during the events in question, SPP was calling on every MW possible, including energy-only resources that are not firm network resources that LREs rely upon to serve their load. The tiered approach values these resources (in Tier 2), but to a lesser extent than the firm resources that LREs rely upon to satisfy their obligation to serve their load (i.e., Tier 1) during the vast majority of the hours of the year. Energy-only wind and solar resources in SPP are currently not accredited under the resource adequacy construct if they are not dedicated or contracted to serve an LRE's Resource Adequacy Requirement.⁶¹

C. SPP's Proposal Will Not Increase Costs to Consumers or Disincentivize Resource Improvements

SPP's proposed methodologies will not "increase [] costs to all customers," as Clean Energy Associations claim.⁶² Rather, as Clean Energy Associations also acknowledge, the proposed accreditation methodologies are improvements over the status quo and will allow for more accurate accreditation in the region, which will result in the ability to establish lower PRMs than would be necessary for LREs to meet the Resource Adequacy Requirement under less accurate approaches, which will in turn reduce costs to consumers.

⁶¹ As noted above and as the Commission is well aware, SPP's resource adequacy program imposes the Resource Adequacy Requirement and obligation to procure sufficient resources directly on LREs, as opposed to the centralized capacity markets in other RTOs. *See supra* Section II.

⁶² CEAs Protest at 9-11.

While SPP’s existing accreditation methodologies for various resource types have served the region sufficiently, SPP’s February 23 Filing represents a significant enhancement that will benefit all Market Participants and customers within the SPP region by enhancing reliability through more accurate reflection of likely resource performance (based on historical performance as reflected in the ELCC and PBA methods) in accreditation and potentially lowering costs for LREs, both through more accurate accreditation of all resources and establishment of the Accredited Capacity PRM.

Customers will not pay for “higher capacity needs caused by the increase in the PRM value,”⁶³ or “consistently overvalue[] underperforming thermal resources,”⁶⁴ but will pay for a more reliable and accurate capacity level, as a result of the PRM changes. As described in the February 23 Filing, the Accredited Capacity PRM and associated PBA methodology will give an incentive to LREs with lower performing resources to improve the performance of those resources. As the performance of all resources in the SPP Balancing Authority Area improves, the improvement in forced outage rates will be realized in the Loss of Load Expectation Study, resulting in a decrease of the Base PRM as well.

Finally, contrary to Protestors’ claims, generators will not be less likely to “invest in improvements”⁶⁵ based on SPP’s proposed capacity accreditation methodologies. As an initial matter, it is important to understand the starting point from which this criticism arises—i.e., generators will be less likely to invest in improvements as compared to what?

⁶³ *Id.* at 11.

⁶⁴ PIOs Protest at 26, 34-35.

⁶⁵ CEAs Protest at 11.

As noted above, SPP's proposed accreditation methods represent an enhancement to the status quo because the proposed accreditation methodologies will allow the region to account better for the capacity value of all resources in the region based on each resource's historical performance. The proposed reforms incent development of higher performing resources, benefitting individual LREs, Generation Owners, Market Participants, and the region as a whole. Moreover, using the EFORd equation as the method to determine performance based accreditation for conventional resources is a straightforward approach that will incentivize Generator Owners to perform adequate and timely maintenance on their units as well as encourage firm fuel supply arrangements.

D. SPP's Proposal Fully Complies with the Commission's Rule of Reason

Protestors' claims that the February 23 Filing violates the Commission's rule of reason based solely on potential future initiatives SPP is considering⁶⁶ wholly lack merit and should be rejected.

As explained above⁶⁷ and in more depth in the February 23 Filing,⁶⁸ SPP's proposal provides "considerable detail in the Tariff" in order to avoid the Commission's previous finding of a violation of the rule of reason. These details include intricacies of the methodologies proposed and the notice provisions to LREs and Generator Owners as to how their resources will be accredited for resource adequacy purposes. Specifically, the proposal provides significant details for LREs to know expressly how the ELCC

⁶⁶ *Id.* at 12-14; PIOs Protest at 37-38.

⁶⁷ *See supra* Section II.

⁶⁸ February 23 Filing at 3-4.

methodology and PBA methodology will accredit resources for the LREs' Resource Adequacy Requirements.⁶⁹

Clean Energy Associations point to SPP stakeholder meeting materials addressing future potential resource adequacy and accreditation-related initiatives that may eventually become formal proposals, and claims that the February 23 Filing omits “key information that will significantly affect rates, terms, and conditions of service.”⁷⁰ Likewise, the Public Interest Organizations criticize the February 23 Filing as a “partial draft” that is “already out of date.”⁷¹ These criticisms lack merit and the Commission should reject them.

As noted above, in this FPA section 205 proceeding, the Commission's review is limited to the “confined proposal,”⁷² and not future enhancements that SPP or stakeholders may be considering for future submission to the Commission. Moreover, the fact that a methodology can be refined (or is in the process of being considered for refinement) does not mean that it is unjust and unreasonable or “incomplete.”⁷³

⁶⁹ See *id.* at 42-51; *id.*, Proposed Tariff at Attachment AA § 15 (describing and adding detail about the proposed ELCC and PBA methods).

⁷⁰ CEAs Protest at 13-14; *id.* at Exhibit B at 67-70. Notably, the presentation that Clean Energy Associations attach to their protest is labeled for “SPP Internal Only” and does not represent any formal proposal from SPP nor should it impact the Commission's decision-making about the proposal at issue.

⁷¹ PIOs Protest at 37; see also Golden Spread Protest at 7-10.

⁷² See *supra* note 27 and accompanying text.

⁷³ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,185, at P 25 (2010) (“[T]he mere fact that the methodology can be refined does not undercut [the Commission's] conclusion that [a proposed] method affords a just and reasonable rate for transmission customers. As the court noted . . . ‘reasonableness is a zone, not a pinpoint.’” (citation omitted)).

As support for this argument, the Public Interest Organizations point to a case where the Commission rejected the California Independent System Operator, Corp.’s (“CAISO”) proposed tariff revisions regarding generator power management requirements because “significant issues related to the implementation and utilization of the CAISO’s proposed power management tariff revisions remain to be determined through the course of an upcoming stakeholder process.”⁷⁴ In contrast to that, the implementation or utilization of SPP’s proposed package is not contingent on forthcoming stakeholder processes. While SPP and its stakeholders are working on additional future reforms, the package introduced here is complete as filed. Given that, the Commission should not delay implementation of needed, consensus-driven reforms to improve regional reliability and accuracy with accreditation while additional enhancements are further considered and developed.

E. Golden Spread’s Process Arguments Are Irrelevant and Beyond the Scope of This Proceeding

Rather than address the merits of the February 23 Filing, Golden Spread opted instead to attack the process that was used to develop the proposal. Such process concerns lack merit, are irrelevant, and are beyond the scope of this proceeding.

First, Golden Spread criticizes that SPP’s resource adequacy framework has been put forward in various steps.⁷⁵ However, Golden Spread points to no FPA requirement or Commission policy that SPP’s incremental approach to resource adequacy would violate,

⁷⁴ *Cal. Indep. Sys., Operator Corp.*, 132 FERC ¶ 61,196, at P 87 (2010).

⁷⁵ Golden Spread Protest at 2.

and therefore such concerns are irrelevant and unsupported in this FPA section 205 proceeding.

Golden Spread also argues that decisions by SPP staff and stakeholders “can be overridden at the very last moment” by the RSC and Board of Directors.⁷⁶ However, the stakeholders’ *advisory* role and the RSC’s and Board of Directors’ *decisional* role has been long established under the SPP Bylaws,⁷⁷ and criticisms of that division of responsibility are beyond the scope of this proceeding. As the MMU points out, Golden Spread “mischaracterizes the [RSC’s] role within the broader stakeholder process given the RSC’s responsibility delegated in the SPP Bylaws which empower the RSC to direct SPP’s approach for resource adequacy across the entire region [because the] RSC is not bound by stakeholder recommendations.”⁷⁸ Moreover, as the MMU also notes, “the RSC’s decision to reduce the historic review period from 10 to 7 years reflected input from the Resource and Energy Adequacy Leadership (REAL) team, the Supply Adequacy Working Group (SAWG), and the MMU.”⁷⁹ To suggest that the RSC improperly made changes in a vacuum in spite of stakeholder recommendations is inaccurate and inapplicable.

Golden Spread further criticizes a recent increase in the PRM and rehashes arguments involving a PRM-related complaint and subsequent compliance filing,⁸⁰ but does not tie any of its arguments to any aspect of the February 23 Filing, which does not

⁷⁶ *Id.* at 2, 5-7.

⁷⁷ Southwest Power Pool, Inc., Bylaws, First Revised Volume No. 4 § 7.2.

⁷⁸ MMU Response at 2.

⁷⁹ *Id.*

⁸⁰ Golden Spread Protest at 3.

address the process for setting or changing the PRM. Such arguments, therefore, are beyond the scope of this proceeding and, to the extent they challenge determinations that the Commission has made in those other proceedings, such criticisms are improper collateral attacks that should be rejected.⁸¹

SPP and its stakeholders have been considering capacity accreditation of various resource types for many years. A significant amount of time and energy has been invested by all interested parties in crafting this important holistic approach to resource adequacy within SPP, as detailed in the February 23 Filing.⁸² These changes represent an important advancement for reliability and economic efficiencies. The fact that other changes to other aspects of SPP's resource adequacy construct either pre-date the February 23 Filing's proposed changes or are under active consideration does not undermine the validity of the February 23 Filing, render it "piecemeal,"⁸³ or cause it to be unjust or unreasonable.

⁸¹ See, e.g., *ISO New Eng. Inc.*, 178 FERC ¶ 61,115, at P 66 ("Providing new arguments on an issue as to which the Commission has previously ruled, based on previously submitted evidence, is a collateral attack."), *order on reh'g*, 179 FERC ¶ 61,186 (2022); *NSTAR Elec. Co. v. ISO New Eng., Inc.*, 120 FERC ¶ 61,261, at P 33 (2007) (dismissing complaint as a collateral attack on the prior Commission order where the party had the opportunity to raise its concern in its prior filing); *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,240, at P 13 (2007) (dismissing protests that could have been raised in an earlier proceeding as an untimely collateral attack); *Entergy Nuclear Operations, Inc. v. Consol. Edison of N.Y., Inc.*, 112 FERC ¶ 61,117, at PP 12, 45 (2005) (finding that arguments raised were a collateral attack on prior Commission orders where the same positions were raised, addressed, and rejected by the Commission).

⁸² February 23 Filing at 59.

⁸³ Golden Spread Protest at 10.

III. CONCLUSION

SPP respectfully requests that the Commission accept this answer to assist the Commission in its decision-making process, and issue an order finding that the February 23 Filing and its proposed capacity accreditation methodologies are just and reasonable.

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April 19, 2024

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, DC, this 19th day of April, 2024.

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