

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

Southwest Power Pool, Inc.) Docket No. ER08-1419-000

ANSWER OF SOUTHWEST POWER POOL, INC.

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,¹ Southwest Power Pool, Inc, (“SPP”) submits this answer to protests filed with regard to SPP’s compliance filing submitted on December 15, 2008 in this proceeding.²

I. BACKGROUND

On August 15, 2008, SPP filed amendments to its Open Access Transmission Tariff³ to establish a process for including a “Balanced Portfolio” of economic upgrades into the SPP Transmission Expansion Plan (“STEP”) and a regional postage stamp rate design for recovery of costs of such upgrades.⁴ By order dated October 16, 2008, the

¹ 18 C.F.R. § 385.213 (2008).

² SPP seeks leave to answer the comments filed in this case, to assist the Commission’s decision-making process and clarify the issues. The Commission regularly allows answers for such purpose. *See, e.g., Cal. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,007, at P 9, *order on reh’g*, 111 FERC ¶ 61,074 (2005) (answer assisted the Commission’s decision-making process); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,031, at P 10 (2003) (accepting answers because “it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will insure a complete record upon which the Commission may act”).

³ Open Access Transmission Tariff For Services Offered By Southwest Power Pool, FERC Electric Tariff, Fifth Revised Volume No. 1 (“SPP Tariff”).

⁴ SPP Submission of Revisions to Open Access Transmission Tariff to Add “Balanced Portfolio” Cost Allocation Process for Economic Planning Upgrades, Docket No. ER08-1419-000 (Aug. 15, 2008) (“August 15 Filing”).

Commission accepted SPP's proposed tariff revisions subject to a compliance filing.⁵ Specifically, the Commission directed SPP to modify its tariff to: (1) ensure that "system design software results needed for stakeholders to verify the application of the assumptions in creating the adjusted production cost-benefit metrics will be made available," and (2) clarify "that costs incurred by transmission owners or zones due to third-party impacts are included among the factors affecting the revenue requirement associated with the economic upgrade."⁶

In response to the October 16 Order, SPP submitted two filings. First, on November 17, 2008, SPP filed a motion for clarification or in the alternative rehearing requesting that the Commission clarify that existing SPP Tariff provisions comply with the directive in the October 16 Order to provide a mechanism that allows for market participants to review the analysis of Balanced Portfolios and that no further modifications to the SPP Tariff are necessary.⁷ Second, on December 15, 2008, SPP submitted a compliance filing addressing the Commission's directives in the October 16 Order. As part of the compliance filing, SPP noted its Motion for Clarification, but also amended the SPP Tariff to provide a new section that specifically applies reporting requirements to the Balanced Portfolio procedures that are consistent with similar requirements already contained in Attachment O of the SPP Tariff for "High Priority Studies," including providing study input assumptions. SPP also further clarified that the

⁵ *Southwest Power Pool, Inc.*, 125 FERC ¶ 61,054 (2008) ("October 16 Order").

⁶ October 16 Order, at ordering para. (B).

⁷ Request For Clarification Or, In The Alternative, Rehearing Of Southwest Power Pool, Inc., Docket No. ER08-1419-001 (Nov. 17, 2008) ("Motion for Clarification"). On December 17, 2008, the Commission granted rehearing for further consideration.

Commission-approved procedures for treating confidential information would apply to the Balanced Portfolio reports.⁸ Finally, SPP added a new subsection IV.6(c)(v) of Attachment O to the SPP Tariff, which in accordance with the October 16 Order, specifically provides that the costs of third party impacts will be included in the revenue requirements used in the cost-benefit analysis to evaluate proposed Balanced Portfolios.⁹

II. THE EXISTING SPP TARIFF AND SPP'S COMPLIANCE AMENDMENTS SATISFY THE COMMISSION'S MANDATE TO ENSURE THAT SYSTEM DESIGN SOFTWARE RESULTS NEEDED TO VERIFY THE APPLICATION OF THE ASSUMPTIONS USED IN THE BALANCED PORTFOLIO PRODUCTION COST-BENEFIT METRICS ARE AVAILABLE

Contrary to the positions advanced by three protesters,¹⁰ the existing SPP Tariff and the SPP Tariff as amended by the Compliance Filing, comply with the Commission's directive to ensure that that system design software results needed for stakeholders to verify the application of the assumptions in creating the adjusted production cost-benefit metrics will be made available. Protesters assert that the Compliance Filing is deficient because the Balanced Portfolio reports "will not provide the level of detail necessary to replicate the analyses."¹¹ This assertion ignores existing provisions of the SPP Tariff.

⁸ SPP Compliance Filing, Docket No. ER08-1419-001, at 3-4 (Dec. 15, 2008) ("Compliance Filing").

⁹ Compliance Filing at 5-6. SPP also amended other sections of Attachment O to accommodate the addition of subsection IV.6(c)(v). *See id.*

¹⁰ *See* Protest Of Xcel Energy Services Inc. On Behalf Of Southwestern Public Service Company, Docket No. ER08-1419-002, at 4 (Jan. 5, 2009) ("XES Protest"); Protest Of Golden Spread Electric Cooperative, Inc., Docket No. ER08-1419-002, at 2-3 (Jan. 5, 2009, corrected Jan. 6, 2009) ("Golden Spread Protest"); Motion To Intervene And Protest Of Occidental Permian Ltd. And Occidental Power Marketing, L.P., Docket No. ER08-1419-002, at 5-7 (Jan. 5, 2009) ("Occidental Protest").

¹¹ XES Protest at 8; *see also* Golden Spread Protest at 2-3; Occidental Protest at 6.

The requirement to replicate the study results comes from Order No. 890.¹² As SPP pointed out in the Motion For Clarification, as a result of SPP's filing to comply with Order No. 890,¹³ the SPP Tariff already contains provisions that enable stakeholders access to data in order to replicate the results of the transmission planning studies, including balanced portfolio studies.¹⁴ Specifically section VI.6(b) of Attachment O of the SPP Tariff includes the following provision:

The related study results, criteria, assumptions and data underlying the studies used to develop the list of upgrades within proposed Balanced Portfolios and proposed reliability upgrades shall be posted on the SPP website, with password protected access if required to preserve the confidentiality of information in accordance with the provisions of the Tariff and the SPP Membership Agreement and to address CEII requirements. The CEII compliant redacted version of the SPP Transmission Expansion Plan shall be posted on the SPP website. The redacted version shall include instructions for acquiring the complete version of the SPP Transmission Expansion Plan.¹⁵

The Commission originally accepted this provision on July 11, 2008 as part of SPP's Order No. 890 compliance filing.¹⁶ In the July 11 Order, the Commission also accepted section X.7 (now section IX.7) of Attachment O to maintain the confidentiality of certain

¹² See October 16 Order at P 37.

¹³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,241, *order on reh'g*, Order No. 890-A, 2006-2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

¹⁴ See Motion For Clarification at 3.

¹⁵ This section was amended in the August 15 Filing to apply to "upgrades within proposed Balanced Portfolios."

¹⁶ See *Southwest Power Pool, Inc.* 124 FERC ¶ 61,028 (2008) ("July 11 Order").

data consistent with the Commission’s informational exchange requirements in Order No. 890. Section IX.7 specifies in part that, for those entities that have executed a confidentiality agreement, SPP will provide password protected access to confidential information related to the SPP Transmission Expansion Plan and the underlying studies and models via the SPP website. This section further provides that SPP may not make publicly available resource specific data that has been designated confidential by the data provider or if the data can be used to: (i) determine security constrained unit commitment or economic dispatch for resources; or (ii) perform an economic evaluation of costs and benefits. Indeed, SPP has a duty to keep such information confidential.¹⁷

In accepting SPP’s Order No. 890 compliance filing, including sections VI.6(b) and X.7 (now section IX.7) of Attachment O, the Commission specifically stated:

Attachment O also adequately describes the methodology that SPP will use to disclose the criteria, assumptions, and data that underlie its transmission system plans and information regarding the status of upgrades that are identified in its plan. Specifically, section VI.6 (b) provides that the related study results, criteria, assumptions and underlying data shall be posted on the SPP website, with password protected access, if required to preserve the confidentiality of the information.^[18]

We find that SPP complies with the Information Exchange principle because SPP’s Attachment O provides clear

¹⁷ See *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,283, at P 87 (2008) (“In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information.”) (emphasis added); *U.S. Dept. of Energy – Bonneville Power Admin.*, 124 FERC ¶ 61,054, at P 38 (2008) (same); *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,165, at P 30 (2008) (same).

¹⁸ July 11 Order at P 25.

guidelines and schedules for submittal of customer information as required by Order No. 890. Specifically, section X (subsections 1-8) provides detailed data requirements and procedures for all entities.¹⁹

Additionally, in the August 15 Filing, SPP specified that Balanced Portfolios are considered “High Priority Studies” for which SPP will issue a report and post the report and related studies and the criteria, assumptions and data on the SPP website, with password protected access if required to preserve the confidentiality of information.²⁰ Thus, even before SPP’s Compliance Filing, the provisions of the SPP Tariff provided appropriate mechanisms that enable stakeholders access to data and assumptions regarding the Balanced Portfolio studies. To further comply with the Commission’s directive, however, in the Compliance Filing, SPP added a new subsection (f) to section IV.6 of Attachment O to specify that SPP would publish a report that would contain, among other things, the study input assumptions for the Balanced Portfolio studies. This

¹⁹ July 11 Order at P 32.

²⁰ See August 15 Filing, Attachment II, [First Revised Sheet No. 300C and Original Sheet No. 300C.01]. New section IV(3)(g) of Attachment O of the Tariff states:

For each high priority study the Transmission Provider shall publish a report, including but not limited to, the study input assumptions, the estimated cost of the upgrades included in the high priority study, the expected economic benefits of the upgrades, and identify reliability impacts, if any, of the upgrades. The report and related studies and the criteria, assumptions and data underlying the report shall be posted on the SPP website, with password protected access if required to preserve the confidentiality of information in accordance with the provisions of the Tariff and the SPP Membership Agreement and to address Critical Energy Infrastructure Information (CEII) requirements. The CEII compliant redacted version of the report shall be posted on the SPP website. The redacted version shall include instructions for acquiring the complete version of the report.

additional section clarifies that the Commission-approved procedures for treating confidential information shall apply to the Balanced Portfolio reports. Stated simply, the existing SPP Tariff provisions (including as modified by the Compliance Filing) satisfy the Order No. 890 transparency requirements and the Commission's directives in the October 16 Order.

Furthermore, it is important to note that SPP has provided to the stakeholders significant information regarding the Balanced Portfolio studies. In addition to the report appended to the Golden Spread Protest, SPP has posted on its password protected TrueShare website data relating to the Balanced Portfolio analyses and cost information for items considered in the Balanced Portfolio. SPP also has provided monthly updates to the Cost Allocation Working Group ("CAWG"), since February 2008. For example, among other types of information, SPP has presented the results of firm wind sensitivity analyses on potential Balanced Portfolios, impacts of market-based wind, benefit to cost breakdowns for the different proposed portfolios, zonal annual transmission revenue requirements necessary to achieve a "balanced" portfolio, and PROMOD Congestion Reports for SPP.²¹

The information made accessible to stakeholders regarding the Balanced Portfolio analyses is essentially the same type and level of detail of information SPP provides with regard to the STEP, in accordance with the transparency principles of Order No. 890. The fact that, under section IX.7 of Attachment O of its tariff, SPP is not permitted to

²¹ See, e.g., CAWG materials available at: <http://www.spp.org/publications/CAWG%20Meeting%20Agenda%20-%2008-27-08.zip>; <http://www.spp.org/publications/CAWG%20Agenda%20&%20Background%20Material%20-%20002272008.pdf>.

disclose resource specific data that has been designated confidential by the data provider or if the data can be used to: (i) determine security constrained unit commitment or economic dispatch for resources; or (ii) perform an economic evaluation of costs and benefits, does not render SPP non-compliant with the Commission's directives in the October 16 Order, as the Occidental Protest suggests.²² This limitation has been accepted by the Commission in compliance with Order No. 890 and the duty to keep such information confidential is consistent with prior Commission precedent.²³ Moreover, interested parties can closely replicate the Balanced Portfolio studies by using any of their own generation data and available generic generation data.

III. THE COMPLIANCE FILING TARIFF PROVISIONS ARE NOT DEFICIENT BECAUSE THEY CONTAIN NO SPECIFIC TIMEFRAMES FOR REVIEW OF BALANCED PORTFOLIO STUDY INFORMATION

Protesters' contentions that the Compliance Filing is deficient because the revised tariff provisions contain no specific timeframe for market participant review of Balanced Portfolio information and that SPP should be required to amend its tariff to specify such timeframes for review prior to SPP Board of Directors consideration of a proposed Balanced Portfolio miss the mark.²⁴

First, in the October 16 Order, the Commission directed that, in its compliance filing, SPP provide tariff sheets "with provisions ensuring that system design software results needed for stakeholders to verify the application of the assumptions in creating the

²² See Occidental Protest at 6.

²³ See n.15 *supra*. Notably, Xcel Energy Services Inc. states that "SPP's December 15 Compliance Filing clarifies that SPP will use the Commission-approved procedures for disclosure of confidential information and XES does not dispute this clarification." XES Protest at 8.

²⁴ See, e.g., XES Protest at 9; Golden Spread Protest at 2-3; Occidental Protest at 7.

adjusted production cost-benefit metrics will be made available” subject to the signing of “confidentiality agreements or other needed arrangements to protect sensitive information.”²⁵ As SPP has explained, the SPP Tariff contains such provisions.²⁶ Moreover, the directive does not require that the SPP Tariff specify a timeframe for market review and challenge of the information prior to SPP Board of Director consideration of a proposed Balanced Portfolio. Such amendments are beyond the scope of the Compliance Filing.

Second, and most importantly, SPP has provided market participants with substantial information throughout the Balanced Portfolio study process. Since February 2008, SPP has provided the CAWG with information regarding potential Balanced Portfolios being considered and analyzed. SPP also has scheduled a “webinar” for January 22, 2009 to provide a current economic planning primer on data, modeling techniques and assumptions to participants. In addition, this month SPP staff will be working with the Economic Modeling And Methods Task Force to coordinate and verify modeling updates. The final Balanced Portfolio analysis will be presented at a Balanced Portfolio summit scheduled for March 24, 2009. The Balanced Portfolio recommendations then will be presented again to the CAWG, the Markets and Operations Policy Committee (“MOPC”) and then to the Regional State Committee (“RSC”) and the SPP Board of Directors for approval hopefully by April 2009 meeting cycle. SPP notes, however, that because the Balanced Portfolio study process is complex and involves significant amounts of information, this timeline may need to be extended. Clearly this

²⁵ October 16 Order at ordering para (B), *see also id.* at P 37.

²⁶ *See, e.g.*, Motion For Clarification at 3-8, and discussion in section II *supra*.

process provides market participants with ample opportunity to ask questions and discuss the Balanced Portfolio studies, before any recommendations are made to the SPP Board of Directors. In light of the information provided to stakeholders throughout the Balanced Portfolio process and the opportunities for review of the information, protesters' request to add yet another layer of review of up to 105 days prior to consideration by the SPP Board of Directors²⁷ is unnecessary and would needlessly delay the implementation of the Balanced Portfolios, without a corresponding benefit.

Furthermore, the flexibility that is provided by the stakeholder process should permit more meaningful review than set timeframes prescribed in the tariff. For example, because of the complexity of the first Balanced Portfolio, the stakeholder process is taking longer than originally expected to provide stakeholders with adequate opportunity to review and understand the Balanced Portfolio analyses and recommendations. A tariff-specified timeframe would not lend itself to accommodating such a circumstance, as the process deadlines would be prescribed by the tariff and any variation would require a waiver.

IV. A TECHNICAL CONFERENCE IS UNNECESSARY

A technical conference as requested by Golden Spread Electric Cooperative, Inc. ("Golden Spread") and Occidental Permian Ltd. And Occidental Power Marketing, L.P. ("Occidental") is unnecessary. In conjunction with its assertion that further tariff revisions are required, Golden Spread suggests that a technical conference "may contribute to a better understanding of the SPP analytical process and the development of

²⁷ XES Protest at 9 (15 days for SPP to provide data after publishing Balanced Portfolio and no less than 90 days for transmission owners to review, verify and challenge results prior to a vote by the SPP Board of Directors); Occidental Protest at 7 (proposes 90 day review period).

tariff language acceptable to all stakeholders.”²⁸ Similarly, Occidental requests a technical conference to address issues regarding verification of SPP’s “cost-benefit modeling.”²⁹ Both Golden Spread’s and Occidental’s concerns are being addressed in SPP’s existing stakeholder process and therefore an additional technical conference would be duplicative and is unwarranted.

First, as explained above, SPP has fully complied with the directives in the October 16 Order and therefore no further tariff revisions are required. In the event, however, that the Commission determines that additional tariff revisions are necessary, those tariff revisions, like the revisions submitted in the December 15 Filing, would be vetted through the stakeholder process. Thus, stakeholders would have the opportunity for input in the development of such tariff revisions. Second, as described above, SPP already has provided and will continue to provide extensive information regarding the Balanced Portfolio analyses. SPP expects that the information provided through the existing stakeholder mechanisms (stakeholder committee meetings, Balanced Portfolio summit, and the webinar) likely would be the same type of information that would be presented at a technical conference.

Additionally, a technical conference is not required to explore what information SPP “believes that it cannot provide to parties, even under appropriate confidentiality protections,” as Occidental suggests.³⁰ The existing SPP Tariff is unambiguous in this regard. Section IX.7(d) of Attachment O clearly states that:

²⁸ Golden Spread Protest at 5.

²⁹ Occidental Protest at 10.

³⁰ *Id.*

- d) Resource specific data shall not be made available by the Transmission Provider if the data has been designated confidential by the data provider or if the data can be used to:
 - i) Determine security constrained unit commitment or economic dispatch for resources; or
 - ii) Perform an economic evaluation of costs and benefits.

Accordingly, SPP cannot disclose specific generator data to any member or market participant, other than to the entity that provided the data, which it uses in the Balanced Portfolio studies. Moreover, treating such information as confidential is consistent with Commission precedent and with the SPP Membership Agreement.³¹

For the above reasons, a technical conference is unnecessary. However, should the Commission desire a technical conference, SPP suggests that such a conference be combined with SPP's existing stakeholder process events, for example with the Balanced Portfolio summit or a scheduled CAWG meeting. This would avoid duplication and keep the Balanced Portfolio process moving forward without further delay.³²

V. THE DECEMBER 15 FILING COMPLIES WITH THE COMMISSION'S DIRECTIVES REGARDING INCLUDING THIRD PARTY IMPACTS IN THE BALANCED PORTFOLIO COST-BENEFIT ANALYSIS

In the October 16 Order, the Commission directed SPP to amend the SPP Tariff to clarify that costs incurred by a transmission owner or zone due to third party impacts are included in the Balanced Portfolio cost-benefit analysis.³³ In response to this directive,

³¹ See n.15 *supra*; Southwest Power Pool, Inc. Membership Agreement, Original Volume No. 3 § 2.1.4(a) (requiring SPP to keep planned generating unit maintenance schedules confidential) and § 3.5 (SPP must treat information provided by members for planning and operational purposes as confidential when so designated).

³² SPP notes that market participants and Commission staff are welcome to participate at any stakeholder meeting, including the Balanced Portfolio summit and webinar.

³³ October 16 Order at P 25.

SPP added section IV.6(c)(v) to Attachment O, which provides that the determination of the net present value of revenue requirements for each Zone for a proposed Balanced Portfolio “shall include any specific costs that are projected to be incurred by the Transmission Provider or a Zone(s) as a result of third party impacts due to one or more upgrades within a proposed Balanced Portfolio.” This amendment clearly complies with the December 16 Order. TDU Intervenors, however, assert that this section is insufficient and “should make clear that any third-party-impact costs to be included in the revenue requirements for purposes of developing a balanced portfolio must be net of any prospective reimbursement from the third party(ies).”³⁴ SPP clarifies that any projection of costs to be incurred as a result of third-party impacts that are included in the Balanced Portfolio cost-benefit analysis by necessity would be net of any prospective reimbursements, otherwise an appropriate representation of “costs” would not be included in the analysis.

TDU Intervenors further assert that, for the purposes of this section IV.6(c)(vi), greater specificity with regard to what constitutes a third-party is required.³⁵ SPP clarifies that third parties are non-tariff first tier utilities, which include, among others, Entergy, CLECO Power, and the Southwestern Power Administration.

With these clarifications, the TDU Intervenors’ concerns should be addressed, without the need for further tariff amendments.

³⁴ Protest Of TDU Intervenors, Docket No. ER08-1419-002, at 3 (Jan. 5, 2009).

³⁵ *Id.* at 3.

VI. CONCLUSION

For the reasons stated above and in the Compliance Filing, the Commission should accept, without condition, the tariff amendments filed in the Compliance Filing and permit SPP to implement the Balanced Portfolio program without delay.³⁶

Respectfully submitted,



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³⁶ Specifically, Occidental's requests that the Commission "(1) reject SPP's December 15 compliance filing and (2) direct SPP not to implement the balanced portfolio tariff provisions . . . until SPP has filed and the Commission has accepted, a fully responsive compliance filing" (Occidental Protest at 8) should be denied.

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, D.C., this 21st day of January, 2008.

A handwritten signature in cursive script, reading "Carrie L. Bumgarner". The signature is written in black ink and features a long, sweeping horizontal stroke at the end.

Carrie L. Bumgarner