

February 12, 2010

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: *Southwest Power Pool, Inc.*, Docket No. ER10-_____
Submission of Meter Agent Services Agreement

Dear Secretary Bose:

In accordance with the terms of Southwest Power Pool, Inc.'s ("SPP") Open Access Transmission Tariff ("SPP Tariff"), SPP encloses for filing an executed Meter Agent Services Agreement ("Meter Agent Agreement") between Kansas Power Pool ("KPP") as Market Participant and Sunflower Electric Power Corporation ("Sunflower") as Meter Agent.¹ SPP is submitting this filing on behalf of KPP and Sunflower because the KPP Agreement includes terms and conditions that do not conform to the standard form of Meter Agent Agreement that is in the SPP Tariff.² SPP requests that the Federal Energy Regulatory Commission ("Commission") accept the KPP Agreement with an effective date of April 1, 2008.

Background

KPP is a municipal energy agency, authorized by Kansas statutes. KPP currently has 44 members, and provides power services to 29 municipal utilities in Kansas with a total load of approximately 368 MW. Sunflower is a regional wholesale power supplier that operates a 1,257 MW system of wind, gas, and coal-based generating plants and a 2,300-mile transmission system for the needs of its six member cooperatives who serve more than 400,000 customers living in central and western Kansas. Sunflower has served as KPP's Meter Agent for all of the Market Participant resources and load within the Mid-Kansas Electric Company, LLC's ("MKEC") zone since April 1, 2008.³

¹ The Meter Agent Agreement submitted herein is known as the "KPP Agreement," and KPP and Sunflower are collectively "the Parties."

² See SPP Tariff at Attachment AM (hereinafter the "*pro forma* Meter Agent Agreement").

³ See KPP Agreement at Article 2.1.

KPP serves several of its member cities within the MKEC zone through a Service Agreement for Network Integration Transmission Service (“NITSA”) between SPP and KPP (“KPP NITSA”). On November 23, 2009, SPP filed the KPP NITSA with the Commission in Docket No. ER09-1562-001 (“November Filing”), which the Commission accepted on January 20, 2010.⁴ Furthermore, because additional transmission facilities that are not controlled by SPP were required to deliver KPP’s resources to its load for certain cities within the MKEC zone, KPP, SPP, MKEC, and Sunflower entered into a Service Agreement for Local Delivery Transmission Service (“LDSA”), which provides for Network Integration Transmission Service on MKEC transmission facilities not covered by the SPP Tariff. KPP, MKEC, and Sunflower also entered into a corresponding Local Delivery Operating Agreement (“LDOA”) to facilitate delivery of KPP’s network resources to network load. Both the LDSA and the LDOA were included as Attachment B to the KPP NITSA, which was accepted by the Commission in the January Letter Order.⁵

As discussed below, the Parties required certain non-conforming terms and provisions to be included in the KPP Agreement. These non-conforming terms were added by KPP and Sunflower to provide specificity to the KPP Agreement, as well as to accommodate certain applicable terms and conditions from the LDOA and LDSA.

Description and Justification for Non-Conforming Provisions in the KPP Agreement

The KPP Agreement, which is attached as Exhibit I to this submittal, is similar in all material respects to the *pro forma* Meter Agent Agreement, except for the language described below.⁶

First, the Parties add several “Whereas” clauses to the beginning of the KPP Agreement to provide background on the various agreements between KPP, MKEC, SPP, and Sunflower, as discussed above. Specifically, the Whereas clauses clarify that KPP serves certain member cities, as listed in Exhibit A of the KPP Agreement, that are located within and connected to the MKEC transmission system, and the list of member cities may be amended from time to time with approval of the Parties. The Parties also add Whereas clauses to account for the LDOA and the LDSA and to indicate that the KPP member cities have executed interconnection agreements with MKEC.

⁴ See *Sw. Power Pool, Inc.*, Letter Order, Docket Nos. ER09-1562-000 and -001 (Jan. 20, 2010) (“January Letter Order”).

⁵ See *id.*

⁶ SPP has included redlined pages illustrating the differences between the KPP Agreement and the *pro forma* Meter Agent Agreement in Exhibit II.

Second, language is added to Article 1.1, paragraph 1, to provide that, in the event of a conflict between the SPP Tariff and the KPP Agreement, the KPP Agreement shall govern. Similar language is added to Article 1.2, paragraph 1. KPP requested that this language be included in the KPP Agreement.

Third, the Parties include language throughout the KPP Agreement to reference provisions from the LDOA. Specifically, the following Articles are added to the KPP Agreement: Article 1.1, paragraph 8;⁷ Article 1.1, paragraph 9;⁸ and Article 1.2, paragraph 8.⁹ Language referencing provisions of the LDOA also is added to Article 1.1, paragraph 2 and Article 1.2, paragraph 4. Each of these new Articles and the additional language provide that Parties will act in accordance with certain provisions of the LDOA. The Parties have added this language to accommodate applicable terms and conditions of the LDOA. For example, Section 8.0 of the LDOA pertains to metering, Section 9.2 of the LDOA pertains to telemetry, and Section 11.0 of the LDOA pertains to communications links with respect to metering.¹⁰ These sections will allow Sunflower to obtain necessary metering information in order to serve as KPP's Meter Agent.

Fourth, the Parties revise Article 2 to specify that the initial term of the KPP Agreement is from April 1, 2008 until March 31, 2009. Article 2 further provides that if either Sunflower or KPP desires to terminate the KPP Agreement after the initial term, the Party desiring termination must give at least sixty days written notice to the other Party. The Parties add minor non-conforming language to Article 2 to clarify how the KPP Agreement can be terminated. The Parties made these changes to Article 2 to provide greater specificity on how the KPP Agreement can be terminated.

Fifth, the Parties add Article 3 to detail the compensation paid from KPP to Sunflower. Specifically, Article 3 provides that: (i) service under the KPP Agreement will be subject to charges listed in Article 3; (ii) the billing and payment between KPP and Sunflower will be in the format and using the same time periods as provided for in the SPP Tariff; and (iii) the charge for services under the KPP Agreement is \$1,000 per

⁷ “The Market participant and the Cities shall have the rights, responsibilities and act in accordance with Section 8.0 of the LDOA as it pertains to the cost, maintenance and testing of metering facilities.” *See* KPP Agreement at Article 1.1 ¶ 8.

⁸ “Market Participant shall provide to the Meter Agent all metered information listed in Section 9.2 of the LDOA.” *See id.* at Article 1.1 ¶ 9.

⁹ “Meter Agent shall provide metering services in accordance with Section 8.0 of the LDOA between the Market Participant and Meter Agent.” *See id.* at Article 1.2 ¶ 8.

¹⁰ *See* November Filing at Attachment B.

month for the Initial Term of this agreement. Article 2 further provides that Sunflower will have the right to increase this monthly charge on an annual basis during the extended term of the KPP Agreement. SPP understands from Sunflower that the compensation provisions were added to Article 3 because Sunflower does not recover the costs of metering agent services through its revenue requirement. Sunflower is not obligated to provide such service, and therefore, Sunflower added the compensation provisions to recoup costs for such services rendered to KPP. Sunflower will bill KPP directly for services pursuant to the KPP Agreement, and has been doing so since April 1, 2008.

Finally, the Parties remove language from Article 1.1, paragraph 6(c) and Article 4.2 pertaining to hold harmless provisions and indemnification of equipment malfunction provisions, respectively.¹¹ Sunflower removed the language from Article 1.1, paragraph 6(c) because it desires to be held harmless as to the accuracy of estimate meter data. Similarly, Sunflower removed the language from Article 4.2 language because it does not want to be held responsible for equipment malfunctions.

The revisions to the *pro forma* Meter Agent Agreement provide additional clarity and specificity to the KPP Agreement. The revisions also account for applicable terms from the LDSA and LDOA that are necessary to help Sunflower serve as KPP's Meter Agent. The Parties agreed to the additional terms, and thus, KPP and Sunflower believe the KPP Agreement is just and reasonable and warrants approval by the Commission. SPP is serving a copy of this filing on Sunflower and KPP.

Effective Date and Waiver

On behalf of Sunflower and KPP, SPP requests an effective date of April 1, 2008 for the KPP Agreement. Pursuant to section 35.11 of the Commission's rules and regulations, 18 C.F.R. § 35.11, SPP requests a waiver of the Commission's 60-day notice requirement set forth at 18 C.F.R. § 35.3. Waiver is appropriate as the Parties consent to the April 1, 2008 effective date, and Sunflower has served as KPP's Meter Agent since April 1, 2008. Therefore, the Commission should grant a waiver of the 60-day notice requirement and allow the KPP Agreement to be effective April 1, 2008.

¹¹ The removed language stated, "For example, the provisions of this section [4].2 could apply in circumstances where equipment malfunction (or other inadvertent error not involving gross negligence or intentional wrongdoing) causes imbalance information to be inaccurately reported, resulting in billing errors." See KPP Agreement at Article 4.2.

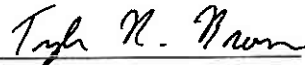
Communications

Correspondence and communications with respect to this filing should be sent to, and SPP requests that the Secretary include on the official service list, the following:

Heather H. Starnes, J.D.
Manager, Regulatory Policy
Southwest Power Pool, Inc.
415 North McKinley, #140 Plaza West
Little Rock, AR 72205
Telephone: (501) 614-3380
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1200 G Street, N.W., Suite 600
Washington, DC 20005-3802
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Respectfully submitted,



Barry S. Spector
Carrie L. Bumgarner
Tyler R. Brown

**Attorneys for Southwest Power
Pool, Inc.**

Exhibit I

ATTACHMENT AM

METER AGENT SERVICES AGREEMENT

FOR

SPP MARKET

BETWEEN

MARKET PARTICIPANT

AND

THEIR DESIGNATED METER AGENT

Meter Agent Service Agreement
Kansas Power Pool

This Agreement made and entered this 17 day of December, 2009 is between Kansas Power Pool ("KPP" or "Market Participant") and Sunflower Electric Power Corporation ("Sunflower" or "Meter Agent"). Market Participant and Meter Agent are each sometimes referred to in the Agreement as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Sunflower as the Balancing Authority is willing to act as the Meter Agent for all of the Market Participant's resources and load within the Mid-Kansas Electric Company, LLC ("Mid-Kansas" or "Transmission Owner") zone, and

WHEREAS, Market Participant and Meter Agent are registered entities of the Southwest Power Pool Market ("SPP"), and

WHEREAS, Market Participant serves the Kansas ("Cities") listed on Exhibit A as may be amended from time to time with approval of the Parties and that are located within and connected to the Mid-Kansas transmission system, and

WHEREAS, the each of the Cities have executed Interconnection Agreements ("IA") with Mid-Kansas, and

WHEREAS, the Market Participant has executed a Local Delivery Operating Agreement ("LDOA") and a Service Agreement for Local Delivery Transmission Service ("LDSA") to provide for Network Integration Transmission Service on Mid-Kansas transmission facilities not covered by SPP Open Access Transmission Tariff ("SPP OATT"),

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements hereinafter set forth, the parties hereto mutually agree as follows: **ARTICLE I**

Responsibilities of the Parties

1.1 Market Participant Responsibilities:

1. **Governing Documents:** In addition to this Agreement, Market Participant agrees that it will comply with the provisions of the SPP OATT and Market Protocols as they may be amended from time to time which relate to implementation of this Agreement. In the event there is a conflict between this agreement and the SPP OATT, this Agreement shall govern. The Market Participant also agrees to comply with the provisions of the Mid-Kansas OATT, the LDOA, the LDSA and the individual IAs, as they may be amended from time to time, which relate to the implementation of this Agreement and

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to the portion of the Mid-Kansas system that is not governed by the SPP OATT.

2. **Data Communications:** Market Participant shall provide or arrange for communication of meter data in accordance with Section 11.0 of the LDOA and in a format acceptable to the Meter Agent.
3. **Settlement Location Definition:** Exhibit A defines the meter(s) and calculations associated with each Settlement Location ("SL").
4. **Notice of Meter Changes:** Market Participant shall inform the Meter Agent of any additions, deletions, and modifications of metering that will impact the market data.
 - a. Market Participant shall provide full details of the meter information to the Meter Agent a minimum of 60 days prior to the implementation of the change, except when the meter equipment is changed or replaced due to equipment failure in which case notice of change will be provided as soon as possible. This information to be provided shall include the following:
 1. Information relating to retrieval of the meter data from the data source. This includes the method of doing so, communications, and full description of the meter.
 2. Information relating to the data and the processing of such data that will be applied for the new or modified SL and the impact to other existing SL or NAI calculations.
 3. Documentation that the required SPP Market registration has been completed, which includes real-time data exchange and modeling coordination with SPP.
 4. Updating of Exhibit A.
 - b. In addition, Market Participant shall be responsible for developing and testing a complete system for submission of data under this Agreement.
 - c. Market Participant shall notify Meter Agent of any significant metering issues related to the data provided to the Meter Agent within 24 hours after the issue is identified. This includes change out of a meter, meter failures, real-time data failures, etc.
5. **Settlement Location Notification:** Market Participant shall notify any other entity affected by a change in the SL (i.e. Other Market Participant, Balancing Authority) at least seven days prior to the change.

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Kansas Power Pool

6. **Data Exchange and Data Quality:** Market Participant shall provide meter data for each Meter identified in Exhibit A to the Meter Agent in a timely manner.
 - a. Data shall be provided to the Meter Agent at least one full business day prior to SPP's deadline for submission of meter data, as specified in Appendix E of the Market Protocols.
 - b. Upon notification to or upon discovery by the Market Participant that the data exchange has failed or data quality is questionable, the Market Participant will resolve the issue at its source.
 - c. In the absence of actual values for data required for settlement, it is the Market Participant's responsibility to provide estimated values for such data to the Meter Agent; however, if the Market Participant fails to provide the actual or estimated meter data in a timely manner, the Meter Agent will estimate the data for submission to SPP by the appropriate deadline. The Meter Agent will be held harmless as to the accuracy of such estimated data.
7. **Submission Failures:** If the Meter Agent fails to submit the meter data or NAI data by the Final Settlement Statement data cutoff, the Market Participant is responsible for initiating and pursuing the SPP OATT dispute process. The Meter Agent must provide to SPP any data it has available to help resolve the dispute.
8. The Market Participant and the Cities shall have the rights, responsibilities and act in accordance with Section 8.0 of the LDOA as it pertains to the cost, maintenance and testing of metering facilities.
9. Market Participant shall provide to the Meter Agent all metered information listed in Section 9.2 of the LDOA.

1.2 **Meter Agent Responsibilities:**

1. **Governing Documents:** In addition to complying with this Agreement, Meter Agent shall provide services on behalf of the Market Participant in accordance with SPP's OATT and Market Protocols as they may be amended from time to time related to implementation of this Agreement. In the event there is a conflict between this agreement and the SPP OATT, this Agreement shall govern. The Meter Agent also agrees to comply with the provisions of the LDOA, LOSA and IA as these agreements relate to the portion of the Mid-Kansas system that is not governed by the SPP OATT.

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Kansas Power Pool

2. **Meter Agent Registration:** Meter Agent shall be a registered Meter Agent with the SPP Market.
3. **Settlement Location Development:** Meter Agent shall provide all settlement data required for the SLs designated by the Market Participant in Exhibit A.
4. **Data Communications:** Meter Agent and the Market Participant shall conclude a mutually agreeable format and method of exchange of settlement data required to be provided by the Market Participant. Meter Agent shall work with the Market Participant in accordance with Section 11 of LDOA to establish the communication links for electronic data exchange of meter data.

5. **Settlement Location Values**

Meter Agent shall determine the meter value for each of the Settlement Locations identified in Exhibit A by applying all parameters as identified therein.

6. **Data Issue Notifications:**

- a. Meter Agent will notify the Market Participant, as soon as practicable, of any data exchange issues with the meter data source.
 - b. Upon failure to receive meter data from the Market Participant by the data submission deadline, the Meter Agent will notify the Market Participant as soon as practicable and, if necessary, the Meter Agent will estimate the data pursuant to 1.1 6. c. of this agreement.
7. **Data Submission:** Meter Agent shall submit Settlement Location meter values to SPP and the appropriate Balancing Authority by the deadlines outlined in Appendix E of the Market Protocols.
 8. Meter Agent shall provide metering services in accordance with Section 8.0 of the LDOA between the Market Participant and Meter Agent.

ARTICLE II

Term and Termination

- 2.1 **Initial Term:** The Initial Term of this Agreement shall be from April 1, 2008 until March 31, 2009.

Meter Agent Service Agreement
Kansas Power Pool

- 2.2 **Extended Term:** This Agreement shall continue on a year to year basis at the conclusion of its Initial Term ("Extended Term"), unless terminated in accordance with Section 2.3 below.
- 2.3 **Termination:** This Agreement may be terminated at any time by mutual agreement of the Market Participant and Meter Agent. Either the Market Participant or the Meter Agent may terminate this Agreement, for an effective date occurring after the Initial Term, upon giving at least 60 days written notice to the other Party.

ARTICLE III
Compensation

- 3.1 Service under this Agreement will be subject to charges listed in Article 3.1 below for the services provided by the Meter Agent.
- 3.2 Billing and payment shall be in the format and using the same time periods as provided in the SPP OATT.
- 3.3 The charge for the services provided to the Market Participant by the Meter Agent shall be \$1,000 per month for the Initial Term of this agreement. The Meter Agent shall have the right to increase this monthly charge on an annual basis for any Extended Term(s).

ARTICLE IV
Miscellaneous

- 4.1 **Force Majeure:** An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Party will not be considered in default as to any obligation under this Agreement to the extent such Party is prevented or delayed from fulfilling such obligation due to the effect of Force Majeure. A Party whose performance under this Agreement is prevented or delayed by Force Majeure shall make all reasonable efforts to perform its obligations under this Agreement, and shall take all reasonable steps to eliminate the cause; however, neither Party shall be required to settle or resolve labor disturbances or strikes, or to accept or agree to governmental or regulatory orders or conditions without objection or contest except on any basis agreeable to such Party in its sole discretion. The affected Party, as soon as reasonably possible, shall give notice of Force Majeure.

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- 4.2 **Indemnification:** Each Party hereto shall indemnify and hold harmless the other Party (in such case, the "Indemnified Party"), its officers, directors, agents and employees from and against any and all claims for death or injury to persons or destruction of or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorneys fees, and all other obligations by or to third parties (collectively "liabilities"), arising out of or resulting directly or indirectly from such Party's performance of its obligations under this Agreement on behalf of the Indemnified Party, except to the extent any such liability arises, directly or indirectly, from the Indemnified Party's gross negligence or intentional wrongdoing.
- 4.3 **Successors and Assignment:** This Agreement shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assignable by either Party except with the prior written consent of the other Party which shall not be unreasonably withheld.
- 4.4 **Good Utility Practices:** The Parties shall conduct their affairs under this Agreement in accordance with Good Utility Practices. Good Utility Practices shall mean any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result as a reasonable cost consistent with good business practices, safety, and expedition. Good Utility Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts, generally accepted by the region.
- 4.5 **No third party beneficiaries.** There shall be no third party beneficiaries to this Agreement.

ARTICLE IV

Notices

- 4.1 **Agreement Notices:** Any notice, demand or request required or authorized by this Agreement shall be deemed properly made, given to, or served on the party to whom it is directed when sent by United States Mail addressed as follows:

Market Participant:
General Manager
Kansas Power Pool
200 West Douglas, Suite 601
Wichita, KS 67202

Meter Agent:
Vice President Trans. Services and Engineering,
Sunflower Electric Power Corporation
PO Box 1020
Hays, KS 67601

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Notice of change in the above addresses shall be given in the manner specified above.

ARTICLE V

Complete Agreement

5.1 **Complete Agreement:** This Agreement represents the Parties' final and mutual understanding concerning its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by either Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and attested by their duly authorized officers as of the day and year first above stated.

Market Participant:

Meter Agent:

KANSAS POWER POOL

✓ Sunflower Electric Power Corporation

By: *Colin White*

By: *Noman Williams*
Noman Williams

Title: *CEO/General Manager*
Engineering

Title: VP, Transmission Services &

Attest: *Vickie Matney*

Attest: *William A. Shaw*

Title: *Office Manager*

Title: _____

Exhibit A - Sunflower Electric Power Corporation, Mid-Kansas Electric Company Transmission System Section
 Market Participant Settlement Location Definitions
 MP: Kansas Power Pool with MA: Sunflower Electric Power Corp, Mid-Kansas Electric Co. (Transmission Services)
 Revisions Effective (January 1, 2010)

Sunflower Electric Power Corporation, Mid-Kansas Electric Company Transmission System Only

Resource Settlement Locations:

#	Settlement Location Name	Meter	Physical Location	Voltage Level	Losses	Operand
1	MKEC_KPP_GBURG	SPECo Greensburg Wind Farm	Wind Farm interconnect	34.5	1.71%	5.03%+

Residual Load Settlement Locations:

#	Settlement Location Name	Meter				Operand
	KPP has no Residual Load					-

Assumes sign of other SL data used is in polarity required for submission to SPP Market.

Net Acutal Interchange for Settlement Area:

#	NAI Name	Meter				Operand
	KPP is not a SA					-

Load Settlement Locations: (net metering unless stated otherwise)

#	Settlement Location	Meter	Physical Location	Voltage Level	Distribution Losses	Transmission Losses	Operand
1	MKEC KPP	WECl City of Attica	High side of 34.5 tsf.	34.5	2.55%	5.03%	+
	MKEC KPP	WECl City of Kingman	Kingman	34.5	2.55%	5.03%	+
	MKEC KPP	SPECo City of Kingman	Cunningham	34.5	1.71%	5.03%	+
2	MKEC KPP PTP	SPECo City of Greensburg	High side of 34.5 tsf.	34.5	1.71%	5.03%	+
	MKEC KPP	WECA City of Lucas	High side of 34.5 tsf.	34.5	1.88%	5.03%	+
	MKEC KPP	WECA City of Luray	High side of 34.5 tsf.	34.5	1.88%	5.03%	+

Exhibit II

ATTACHMENT AM

METER AGENT SERVICES AGREEMENT

FOR

SPP MARKET

BETWEEN

MARKET PARTICIPANT

AND

THEIR DESIGNATED METER AGENT

AUGUST 1, 2006

Issued by: Heather H. Starnes, Manager, Regulatory Policy

Issued: February 12, 2010

Effective: April 1, 2008