

October 15, 2010

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: *Southwest Power Pool, Inc.*, Docket No. ER11-\_\_\_\_-000**  
Ministerial Filing to Reflect Tariff Language Accepted in Docket Nos.  
ER09-1050-003, *et al.*, in Electronic Tariff

Dear Secretary Bose:

On February 18, 2010, Southwest Power Pool, Inc. (“SPP”) submitted revisions to its Tariff to comply with Order No. 719<sup>1</sup> and the Commission’s November 20, 2009 order in Docket Nos. ER09-1050-000, *et al.*,<sup>2</sup> proposing a February 18, 2010 effective date.<sup>3</sup>

SPP submitted its electronic baseline Tariff to comply with Order No. 714<sup>4</sup> on July 26, 2010.<sup>5</sup> Because the language in the February 18 Filing was pending before the Commission, SPP did not include the proposed Tariff revisions in its Baseline Filing.

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<sup>1</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, III FERC Stats. & Regs., Regs. Preambles ¶ 31,281 (2008), *as amended*, 126 FERC ¶ 61,261, *order on reh’g*, Order No. 719-A, III FERC Stats. & Regs., Regs. Preambles ¶ 31,292, *reh’g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

<sup>2</sup> *Sw. Power Pool, Inc.*, 129 FERC ¶ 61,163 (2009) (“November 20 Order”).

<sup>3</sup> Compliance Filing Revising Tariff of Southwest Power Pool, Inc., Docket Nos. ER09-1050-003 and ER09-1192-003 (Feb. 18, 2010) (“February 18 Filing”).

<sup>4</sup> *Electronic Tariff Filings*, Order No. 714, III FERC Stats. & Regs., Regs. Preambles ¶ 31,276 (2008).

<sup>5</sup> *See* Baseline Electronic Tariff Filing of Southwest Power Pool, Inc., Docket No. ER10-1960-000 (July 26, 2010) (“Baseline Filing”). SPP’s baseline electronic tariff, FERC Electric Tariff, Sixth Revised Volume No. 1, is currently pending before the Commission.

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The Commission accepted SPP's February 18 Filing on September 16, 2010.<sup>6</sup> Accordingly, SPP submits this ministerial filing to incorporate into its baseline electronic tariff (Sixth Revised Volume No. 1) the revisions accepted in the September 16 Order. This ministerial filing makes no substantive modifications to SPP's Tariff. SPP requests that the ministerial revisions included in this filing be made effective July 26, 2010, the effective date of SPP's baseline electronic tariff.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Matthew J. Binette

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<sup>6</sup> *Sw. Power Pool, Inc.*, 132 FERC ¶ 61,240 (2010) ("September 16 Order").

## **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 Commission Secretary in Docket Nos. ER09-1050-000 and ER09-1192-000.

Dated at Washington, D.C., this 15th day of October, 2010.

*/s/ Matthew J. Binette*  
Matthew J. Binette

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

Southwest Power Pool, Inc.  
Open Access Transmission Tariff  
Sixth Revised Volume No. 1  
Superseding  
Fifth Revised Volume No. 1

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MARKET MONITORING PLAN**

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## **1. Purpose and Objective**

### **1.1 Purpose of the Plan**

This Market Monitoring Plan (the “Plan”) is intended to provide for the monitoring of SPP’s Markets and Services and submissions of recommendations to the FERC and the SPP Board of Directors.

### **1.2 The Market Monitoring Plan**

The Plan shall be developed, implemented and maintained by SPP’s Market Monitor. The Market Monitor has the responsibility for implementing the Plan by (a) continuously monitoring SPP’s Markets and Services, (b) recommending compliance and corrective actions per this Tariff, (c) collecting and retaining the data and information necessary for the performance of the Plan, (d) recommending updates to the monitoring plan contained within Attachment AG to this Tariff, and (e) periodically reporting on SPP’s Markets and Services.

### **1.3 Mission Statement and Objectives of the Market Monitor**

#### **1.3.1 Mission Statement**

The mission of the Market Monitor is to (a) monitor and report on possible abuses of horizontal and vertical market power and gaming in SPP’s Markets and Services by any Market Participant (b) identify market design flaws and recommend any changes in design to improve the operation of SPP’s Markets and Services for the benefit of consumers and Market Participants and (c) monitoring Market Participants’ compliance with market rules.

#### **1.3.2 Objectives**

The Market Monitor will work to ensure that its functions and activities are implemented fairly and consistently, and that it protects and fosters competition while minimizing interference with open and competitive markets. Making recommendations to improve the operation of markets and preventing the exercise of market power in advance rather than punishing offenders afterward shall be the preferred approach.

The Market Monitor will evaluate existing and proposed market rules, Tariff provisions, and market design elements and recommend proposed rules and Tariff

changes to the Transmission Provider, the Commission's Office of Energy Market Regulation (or its successor organization) staff, and other interested entities such as state commissions and Market Participants. The Market Monitor will limit distribution of its identifications and recommendations to the Transmission Provider and the Commission's Office of Energy Market Regulation (or its successor organization) staff in the event that the Market Monitor believes that broader dissemination could lead to exploitation, with an explanation of why further dissemination should be avoided.

The Market Monitor will review the performance of the wholesale market and provide an annual report on the state of the market as provided in Section 7 of this Attachment AG.

The Market Monitor will recognize that entities otherwise identified as having market power may engage in conduct giving the impression of market power but, after analysis by the Market Monitor, may prove to be pro-competitive and efficient. In making this distinction, the Market Monitor will generally focus on an analysis of the identified conduct and associated market impacts, rather than seeking to determine the intent of the Market Participant (e.g., conducting profitability analyses that would require comprehensive information on all the physical and final positions of a participant).

#### **1.4 Independence of the Market Monitor**

The Market Monitor shall be independent from Market Participants to perform those activities necessary to provide impartial and effective market monitoring within the scope of the Plan. Notwithstanding the foregoing, in the normal course the Market Monitor shall verify information with affected Market Participants prior to making recommendations or reports.

#### **1.5 Resolution of Conflicts**

In the event there is a conflict between this Attachment AG and any other provision of this Tariff, this Attachment AG will control.

## **2. Definitions**

For purposes of this Plan, capitalized terms shall have the meanings specified below:

### **2.1 Confidential Information**

The term defined under Attachment AE to this Tariff.

### **2.2 Data and Information**

Writings, documents and records of every type, including audio recordings and electronic files.

### **2.3 FERC Staff**

The responsible office within FERC designated to receive reports submitted by market monitors.

### **2.4 Interested Government Agencies**

The FERC and any state regulatory commission or agency with regulatory oversight responsibilities for SPP Transmission Owners.

### **2.5 Plan**

SPP's Market Monitoring Plan set forth in this Attachment AG.

### **3. Market Monitor**

The Market Monitor is responsible for implementing the Market Monitoring Plan as defined in this Tariff.

#### **3.1 Staffing and Resources**

The Market Monitor shall be an organization within SPP reporting to the Board of Directors, excluding any SPP management representatives serving on the Board of Directors. The Market Monitor shall be comprised of employees of SPP with the necessary experience and qualifications to perform the duties of the Market Monitor. The duties and responsibilities of the Market Monitor shall be assigned by the Board of Directors. However, the Market Monitor's duties and responsibilities will not include purely administrative matters (e.g., enforcement of late fees and the untimely submission of outage reports and meter data). SPP management representatives on the Board of Directors will be excluded from the Board of Directors' oversight of the Market Monitor. SPP shall establish and provide appropriate staffing and/or resources for the Market Monitor and shall ensure that the Market Monitor has such adequate employees, funding and/or other resources, access to required information, and the full cooperation of SPP Staff, Organizational Groups, and other persons, as necessary, for the effective functioning of the Market Monitor and implementation of this Plan. The Market Monitor shall have full responsibility for implementing Attachment AG.

#### **3.2 Relationships and Notifications**

As a general principle, the Market Monitor may obtain input from the SPP, FERC Staff, SPP Staff, the RSC, and affected state regulatory authorities for the purpose of executing its duties. However, in accordance with this Tariff, the Market Monitor shall time bring any instances of market behavior that may require investigation (including, but not limited to, suspected Tariff violations, suspected violations of Commission-approved rules and regulations, suspected market manipulation, and inappropriate dispatch) to the attention of the Board of Directors, the officers of SPP, FERC's Office of Enforcement (or its successor organization) staff, and affected state regulatory authorities, as the Market Monitor may deem necessary or appropriate. After any initial investigation of

market design/policies, the Market Monitor shall also provide notification to the Board of Directors, the President of SPP, and FERC's Office of Enforcement (or its successor organization) staff, and other interested entities such as relevant state regulatory commissions and Market Participants, as soon as practicable in the event it identifies a significant market problem that may require (a) further investigation, (b) a change to this Tariff, or (c) action by FERC. In the event the Market Monitor believes broader dissemination could lead to exploitation, it may limit distribution of its identifications and recommendations to the Board of Directors, the President of SPP, and FERC Staff with an explanation of why further dissemination should be avoided at that time.

The Market Monitor shall also interface with FERC Staff and other RTO and ISO market monitors in adjacent regions as needed for the purpose of addressing electricity market issues in a comprehensive manner. The Market Monitor shall promptly notify the President of SPP of all such notifications, communications or reports.

### **3.3 Independence and Ethics Standards**

The Market Monitor and its employees shall abide by SPP's Standards of Conduct, which shall be appropriate for establishing the professional and financial independence of the Market Monitor.

Consistent with this requirement, the Market Monitor and its employees shall:

- (a) have no material affiliation with any Market Participant or any affiliate of a Market Participant;
- (b) not serve as an officer, employee, or partner of a Market Participant;
- (c) have no material financial interest in any Market Participant or any affiliate of a Market Participant (allowing for such potential exceptions as mutual funds and non-directed investments);
- (d) not engage in any market transactions other than the performance of their duties under this Tariff;

- (e) not be compensated, other than by SPP, for any expert witness testimony or other commercial services to SPP or to any other party in connection with any legal or regulatory proceeding or commercial transaction relating to SPP;
- (f) not accept anything of value from a Market Participant in excess of a de minimis amount;
- (g) advise their relevant supervisor (or, in the case of the Market Monitoring management, SPP's Board of Directors) in the event they seek employment with a Market Participant, and must disqualify themselves from participating in any matter that would have an effect on the financial interest of such Market Participant.

These restrictions are not exclusive of the other requirements specified in SPP's Standards of Conduct. In the event there is a conflict between this Attachment AG and SPP's Standards of Conduct, this Attachment AG will control.

The Market Monitor shall certify compliance with such policies to the President of SPP. The Market Monitor shall require any external consultants or experts to certify compliance with these policies.

## **4. Market Monitoring**

### **4.1 Markets to be Monitored**

The Market Monitor will monitor SPP's Markets and Services, which are the markets that are operated by, and the services provided by, SPP under this Tariff. The Market Monitor will not monitor bilateral energy, transmission or capacity markets and services not administered, coordinated or facilitated by SPP, except to assess the effect of these markets and services on SPP's Markets and Services, or the effects of SPP's Markets and Services on these unmonitored markets. Similarly, the Market Monitor will not monitor the energy, transmission or capacity markets and services in regions adjacent to the SPP Region except to assess the effect of these markets and services on SPP's Markets and Services, or the effects of SPP's Markets and Services on these adjacent markets.

### **4.2 Market Monitoring Scope**

The Market Monitor will implement the Plan. The markets will require continuous monitoring by the Market Monitor. The Market Monitor will monitor SPP's Markets and Services by reviewing and analyzing market data and information including, but not limited to:

- (a) Resource and Ancillary Services (Capacity) Plans, schedules and Offer Curves submitted for generating units or a portfolio of generating units in or affecting any of SPP's Markets and Services;
- (b) Actual commitment and dispatch of generating units or a portfolio of generating units, including but not limited to generator MW capability and output, MVAR capability and output, status, and outages;
- (c) Locational Imbalance Prices at all Settlement Locations in or affecting any of SPP's Markets and Services;
- (d) Control area data, including but not limited to control area demand, area control error, Net Scheduled Interchange, actual total net interchange, and forecasts of operating reserves and peak demand;

- (e) Conditions or events both inside and outside SPP Region control areas affecting the supply and demand for, and the quantity and price of, products or services sold or to be sold in SPP's Markets and Services;
- (f) Information regarding transmission services and rights, including the estimating and posting of Available Transfer Capability ("ATC") or Available Flowgate Capability ("AFC"), administration of this Tariff, the operation and maintenance of the transmission system, any auctions or other markets for transmission rights, and the reservation and scheduling of transmission service;
- (g) Information regarding the nature and extent of transmission congestion in the region and, to the extent practicable, transmission congestion on any other system that affects SPP's Markets and Services, including but not limited to causes of, costs of and charges for transmission congestion, transmission facility loading, MVA capability, line status and outages;
- (h) Settlement data, including but not limited to hourly integrated Settlement Location MW; and
- (i) Any information regarding collusive or other anticompetitive or inefficient behavior in or affecting any of SPP's Markets and Services.
- (j) Generation resource operating cost data for estimating resource incremental cost, including fuel input costs, heat rates where applicable, start-up fuel requirements, environmental costs and variable operating and maintenance expenses.

#### **4.2.1 Additional Market Monitor Duties**

- (a) In addition to the monitoring of market Data and Information, the Market Monitor may communicate with SPP Staff and Market Participants at any time for the purpose of monitoring and assessing market conditions.
- (b) To monitor the effects of self-dispatch on the depth of the EIS Market, for one year following the EIS Market Effective Date, the Market Monitor shall make monthly informational filings to the Commission that specifically include a measure of the total



megawatts of bids at each node relative to the available megawatts of generation at each node, and detail regarding how congestion and imbalances were resolved, whether through TLR or imbalance market mechanisms.

- (c) The Market Monitor shall evaluate the effectiveness of SPP's Markets and Services in signaling the need for investment in new generation, transmission or demand response infrastructure and report on its findings at least annually.
- (d) The Market Monitor shall verify that Balancing Authorities activate the Reserve Sharing System on a non-discriminatory basis in accordance with Section 6.4.2 of the SPP Criteria.

#### **4.3 Compliance with Market Behavior Rules and SPP Tariff**

- (a) All suppliers with market-based rates are required to comply with the Market Behavior Rules defined in FERC Order No. 670 and the Conditions for Public Utility Market-Based Rate Authorization Holders defined in FERC Order No. 674, as they may be amended from time to time. Market Participants are required to abide by these Market Behavior Rules.
- (b) The Market Monitor shall monitor for violations of these rules or any other Commission-approved rules and regulations or of SPP's Tariff and report any suspected violations by Market Participants or SPP to FERC's Office of Enforcement (or its successor organization) staff in accordance with the FERC's reporting protocols for referrals by market monitors as specified in 18 C.F.R. § 35.28(g)(3)(iv) in a timely manner. Any such reports by the Market Monitor to FERC Staff shall be on a confidential basis, and all information and documents included in such reports will not be released to any other party except to the extent FERC directs or authorizes such release, unless such information and documents are already in the public domain.

#### **4.4 Monitoring for Potential EIS Market Manipulation**

The Market Monitor will monitor the EIS Market for potential instances of market manipulation. Such actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electric products are prohibited. As listed by the FERC, prohibited behavior includes (a) wash trades, (b) submission of false data, (c) actions to cause artificial congestion and (d) collusive acts. The Market Monitor will report any market manipulation in the EIS Market in a timely manner.

#### **4.5 Monitoring for Potential Transmission Market Power Activities**

The Market Monitor shall monitor SPP's Markets and Services for potential transmission market power activities by reviewing and analyzing data and information related to the availability of transmission facilities that impact access to services under this Tariff. The Market Monitor will monitor for activities particularly with respect to the withholding of transmission facilities or transmission capacity, including activities such as but not limited to, the following:

- (a) Physical withholding by Transmission Owners by providing improper information related to the availability of transmission, such as information related to the capability or other modeling data used by SPP for use in system operations;
- (b) Economic withholding by Transmission Owners through the use of methods and data for estimating costs of interconnection and system upgrades that is not comparable for affiliates and non-affiliates;
- (c) Unavailability of transmission facilities through planned and unplanned maintenance outages that routinely exceed historical baselines.

The Market Monitor shall refer any instance(s) of potential transmission market power directly to FERC utilizing the protocols for referrals to the Commission for suspected market violations and perceived market design flaws and recommended Tariff language changes as found in 18 C.F.R. § 35.28(g)(3)(iv). Where

appropriate, the Market Monitor shall also provide the FERC with an estimate of damages equal to (i) the effect on prices multiplied by (ii) the affected energy produced by the Transmission/Generation Owner. The Market Monitor may also request the FERC to impose additional sanctions and penalties, which may consist of a fixed dollar amount based on each instance, or an amount up to (i) the effect on prices multiplied by (ii) the affected energy produced by Market Participants other than the Transmission/Generation Owner. All such referrals by the Market Monitor to FERC will be on a confidential basis, and all information and documents included in such reports will not be released to any other party except to the extent FERC directs or authorizes such release.

For one year following the EIS Market Effective Date, the Market Monitor shall identify over and under-scheduling relative to the Market Participant's Reported Load when congestion occurs, and submit monthly reports to the Commission on the benefits gained by those Market Participants, the Over-Scheduling Charges and Under-Scheduling Charges made to Market Participants, and any other issues the Market Monitor deems relevant to over and under-scheduling. As a component of this reporting, the Market Monitor shall determine, and recommend if needed changes to the Market Protocols to address any significant issues presented by this ongoing review.

#### **4.6 Monitoring for Portfolio Bidding**

The Market Monitor shall monitor SPP's Markets and Services for potential abuse of the following two types of portfolio bidding by reviewing and analyzing relevant Data and Information and reporting potential abuses to the Commission as follows.

##### **4.6.1 Uneconomic Overproduction**

The Market Monitor will look for cases where Self-Dispatched Resources cause congestion on transmission facilities on the exporting side of the constraint in an uneconomic manner that are not justified by reliability concerns. The specific steps would be to

- (a) determine that the Self Dispatched Resource is causing congestion;
- (b) determine that the Self-Dispatch Resource is uneconomic (i.e. incremental cost exceeds the Resource's Locational Imbalance Price);
- (c) determine that the uneconomic production is not obviously justified by reliability or other operational concerns.

If the determinations in (a) to (c) are made, there would be sufficient credible information for referral to the Commission.

#### **4.6.2 Strategic Withholding**

The Market Monitor will look for cases where commonly owned or controlled Resources on the importing side of a transmission constraint that are required to serve the load and that are not subject to the Offer Cap, are causing the Locational Imbalance Price on the importing side of such transmission constraint to be set at levels above the Offer Cap. The specific steps would be to:

- (a) identify the commonly owned or controlled Resources on the importing side of a transmission constraint that do not meet the criteria set forth under Section 3.2.2 of Attachment AF for imposing the Offer Cap ;
- (b) verify that the Resources identified in Section 4.6.2(a) are pivotal (i.e. are required to serve the load on the importing side of the transmission constraint);
- (c) document, beginning with the EIS Market Effective Date, the Locational Imbalance Prices associated with all pivotal Resources identified under Section 4.6.2(b).

If the documentation in (c) reveals any Locational Imbalance Prices in excess of the Offer Cap, such instances shall be reported to the Commission for consideration.

**4.7 Physical Withholding**

The Market Monitor will monitor participation to determine whether decisions to participate in the EIS Market have a significant adverse impact on market outcomes. If appropriate, the Market Monitor will make a referral to the Commission's Office of Enforcement (or its successor organization).

**4.8 Unavailability of Facilities**

The Market Monitor will monitor for any potential instances of Unavailability of Facilities and, if appropriate, shall refer any such instances to the Commission's Office of Enforcement (or its successor organization).█

**4.9 Maintenance of Monitoring Plan**

At least every three years, after receiving input from the Market Monitor, Market Participants, regulatory authorities, and others, SPP shall evaluate this Plan to determine if changed market conditions have changed its effectiveness and require that it be modified.

## **7. Periodic Reports and Updates to SPP, Government Agencies, and Market Participants**

### **7.1 Reports and Updates to the Board of Directors**

The Market Monitor shall prepare and submit to the Board of Directors periodic reports on an annual basis (and any other reports required by the Board of Directors) relating to its activities. In such reports, the Market Monitor may make recommendations regarding any matter within its purview. The reports to the Board of Directors shall include recommendations as to whether changes are necessary to the Market Monitor, this Plan, this Tariff, the SPP Bylaws, agreements between SPP and its Members, or any other policies, procedures, and standards under the Market Monitor's purview. Any such reports may be subject to confidentiality provisions consistent with Section 8.1.

**7.1.1** The Market Monitor shall also prepare and submit to the Board of Directors updates of the reports, at least quarterly, which will emphasize any issues of concern to the Market Monitor.

**7.1.2** SPP and Market Participants may comment on any reports made pursuant to this section, through the appropriate stakeholder process. The Market Monitor shall be free to disregard suggestions with which it disagrees.

### **7.2 Reports to Government Agencies, the Transmission Provider, and Market Participants**

After an annual review of the performance of the wholesale markets as discussed in Section 1.3.2 of this Attachment AG, the Market Monitor shall provide its annual State of the Market Report to the Commission, the SPP Board of Directors, the Transmission Provider, state commissions, Market Participants, and other interested entities. The Market Monitor shall also make available, as described below, the reports provided to the Board of Directors and other such reports as may be requested by the FERC Staff or such authorities subject to protection of confidential, proprietary and commercially sensitive information and the protection of the confidentiality of ongoing monitoring activities.

**7.2.1** The Market Monitor shall submit such reports to the FERC Staff and other affected regulatory authorities, including the Regional State Committees.

**7.2.2** The Market Monitor reports shall be made available on the SPP Website.

**7.2.3** Conference calls related to the Market Monitor reports may be attended by the Transmission Provider, the Board of Directors, FERC Staff and other affected regulatory authorities, Regional State Committee, and Market Participants regardless of which party initiates the conference call. The Market Monitor shall make one or more of its staff members available for regular conference calls.

**ATTACHMENT AJ  
RESERVED FOR FUTURE USE**



Southwest Power Pool, Inc.  
Open Access Transmission Tariff  
Sixth Revised Volume No. 1  
Superseding  
Fifth Revised Volume No. 1

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**ATTACHMENT AG  
MARKET MONITORING PLAN**

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## **1. Purpose and Objective**

### **1.1 Purpose of the Plan**

This Market Monitoring Plan (the “Plan”) is intended to provide for the monitoring of SPP’s Markets and Services and submissions of recommendations to the FERC and the SPP Board of Directors.

### **1.2 The Market Monitoring Plan**

The Plan shall be developed, implemented and maintained by SPP’s Market Monitor. The Market Monitor has the responsibility for implementing the Plan by (a) continuously monitoring SPP’s Markets and Services, (b) recommending compliance and corrective actions per this Tariff, (c) collecting and retaining the data and information necessary for the performance of the Plan, (d) recommending updates to the monitoring ~~and mitigation~~ plans contained within Attachment AG to this Tariff, and (e) periodically reporting on SPP’s Markets and Services.

### **1.3 Mission Statement and Objectives of the Market Monitor**

#### **1.3.1 Mission Statement**

The mission of the Market Monitor is to (a) monitor and report on possible abuses of horizontal and vertical market power and gaming in SPP’s Markets and Services by any Market Participant (b) identify market design flaws and recommend any changes in design to improve the operation of SPP’s Markets and Services for the benefit of consumers and Market Participants and (c) monitoring Market Participants’ compliance with market rules.

#### **1.3.2 Objectives**

The Market Monitor will work to ensure that its functions and activities are implemented fairly and consistently, and that it protects and fosters competition while minimizing interference with open and competitive markets. Making recommendations to improve the operation of markets and preventing the exercise of market power in advance rather than punishing offenders afterward shall be the preferred approach.

The Market Monitor will evaluate existing and proposed market rules, Tariff provisions, and market design elements and recommend proposed rules and Tariff changes to the Transmission Provider, the Commission's Office of Energy Market Regulation (or its successor organization) staff, and other interested entities such as state commissions and Market Participants. The Market Monitor will limit distribution of its identifications and recommendations to the Transmission Provider and the Commission's Office of Energy Market Regulation (or its successor organization) staff in the event that the Market Monitor believes that broader dissemination could lead to exploitation, with an explanation of why further dissemination should be avoided.

The Market Monitor will review the performance of the wholesale market and provide an annual report on the state of the market as provided in Section 7 of this Attachment AG.

The Market Monitor will recognize that entities otherwise identified as having market power may engage in conduct giving the impression of market power but, after analysis by the Market Monitor, may prove to be pro-competitive and efficient. In making this distinction, the Market Monitor will generally focus on an analysis of the identified conduct and associated market impacts, rather than seeking to determine the intent of the Market Participant (e.g., conducting profitability analyses that would require comprehensive information on all the physical and final positions of a participant).

#### **1.4 Independence of the Market Monitor**

The Market Monitor shall be independent from Market Participants to perform those activities necessary to provide impartial and effective market monitoring within the scope of the Plan. Notwithstanding the foregoing, in the normal course the Market Monitor shall verify information with affected Market Participants prior to making recommendations or reports.

#### **1.5 Resolution of Conflicts**

In the event there is a conflict between this Attachment AG and any other provision of this Tariff, this Attachment AG will control.



## 2. Definitions

For purposes of this Plan, capitalized terms shall have the meanings specified below:

### 2.1 Confidential Information

The term defined under Attachment AE to this Tariff.

### 2.2 Data and Information

Writings, documents and records of every type, including audio recordings and electronic files.

### ~~2.3 External Market Advisor~~

~~The external contractor retained by SPP to perform certain market services as specified in Attachment AJ, its contract with SPP.~~

### 2.43 FERC Staff

The responsible office within FERC designated to receive reports submitted by market monitors.

### 2.54 Interested Government Agencies

The FERC and any state regulatory commission or agency with regulatory oversight responsibilities for SPP Transmission Owners.

### 2.65 Plan

SPP's Market Monitoring Plan set forth in this Attachment AG.

### 3. Market Monitor

The Market Monitor is responsible for implementing the Market Monitoring Plan as defined in this Tariff.

#### 3.1 Staffing and Resources

The Market Monitor shall be an organization within SPP reporting to the Board of Directors, excluding any SPP management representatives serving on the Board of Directors. The Market Monitor shall be comprised of employees of SPP with the necessary experience and qualifications to perform the duties of the Market Monitor. The duties and responsibilities of the Market Monitor shall be assigned by the Board of Directors. However, the Market Monitor's duties and responsibilities will not include purely administrative matters (e.g., enforcement of late fees and the untimely submission of outage reports and meter data). SPP management representatives on the Board of Directors will be excluded from the Board of Directors' oversight of the Market Monitor. SPP shall establish and provide appropriate staffing and/or resources for the Market Monitor and shall ensure that the Market Monitor has such adequate employees, funding and/or other resources, access to required information, and the full cooperation of SPP Staff, Organizational Groups, and other persons, as necessary, for the effective functioning of the Market Monitor and implementation of this Plan. The Market Monitor shall have full responsibility for implementing Attachment AG. ~~The SPP Board of Directors may delegate certain responsibilities pursuant to a contract with an External Market Advisor. SPP shall file such contract with the Commission.~~

#### 3.2 Relationships and Notifications

As a general principle, the Market Monitor may obtain input from the SPP, FERC Staff, SPP Staff, the RSC, and affected state regulatory authorities for the purpose of executing its duties. However, in accordance with this Tariff, the Market Monitor ~~may at any~~shall time bring any ~~matter~~instances of market behavior that may require investigation (including, but not limited to, suspected Tariff violations, suspected violations of Commission-approved rules and regulations, suspected market manipulation, and inappropriate dispatch) to the attention of the

Board of Directors, the officers of SPP, FERC's Office of Enforcement (or its successor organization) staff, ~~or other and~~ affected state regulatory authorities, as the Market Monitor may deem necessary or appropriate. After any initial investigation of market design/policies, the Market Monitor shall also provide notification to the Board of Directors, the President of SPP, and FERC's Office of Enforcement (or its successor organization) Staff, and other interested entities such as relevant state regulatory commissions and Market Participants, as soon as practicable in the event it identifies a significant market problem that may require (a) further investigation, (b) a change to this Tariff, or (c) action by FERC. In the event the Market Monitor believes broader dissemination could lead to exploitation, it may limit distribution of its identifications and recommendations to the Board of Directors, the President of SPP, and FERC Staff with an explanation of why further dissemination should be avoided at that time.

The Market Monitor shall also interface with FERC Staff and other RTO and ISO market monitors in adjacent regions as needed for the purpose of addressing electricity market issues in a comprehensive manner. The Market Monitor shall promptly notify the President of SPP of all such notifications, communications or reports.

### **3.3 Independence and Ethics Standards**

The Market Monitor and its employees shall abide by SPP's Standards of Conduct, which shall be appropriate for establishing the professional and financial independence of the Market Monitor.

Consistent with this requirement, the Market Monitor and its employees shall:

- (a) have no material affiliation with any Market Participant or any affiliate of a Market Participant;
- (b) not serve as an officer, employee, or partner of a Market Participant;
- (c) have no material financial interest in any Market Participant or any affiliate of a Market Participant (allowing for such potential exceptions as mutual funds and non-directed investments);

- (d) not engage in any market transactions other than the performance of their duties under this Tariff;
- (e) not be compensated, other than by SPP, for any expert witness testimony or other commercial services to SPP or to any other party in connection with any legal or regulatory proceeding or commercial transaction relating to SPP;
- (f) not accept anything of value from a Market Participant in excess of a de minimis amount;
- (g) advise their relevant supervisor (or, in the case of the Market Monitoring management, SPP's Board of Directors) in the event they seek employment with a Market Participant, and must disqualify themselves from participating in any matter that would have an effect on the financial interest of such Market Participant.

These restrictions are not exclusive of the other requirements specified in SPP's Standards of Conduct. In the event there is a conflict between this Attachment AG and SPP's Standards of Conduct, this Attachment AG will control.

The Market Monitor shall certify compliance with such policies to the President of SPP. The Market Monitor shall require any external consultants or experts to certify compliance with these policies.

## **4. Market Monitoring**

### **4.1 Markets to be Monitored**

The Market Monitor will monitor SPP's Markets and Services, which are the markets that are operated by, and the services provided by, SPP under this Tariff. The Market Monitor will not monitor bilateral energy, transmission or capacity markets and services not administered, coordinated or facilitated by SPP, except to assess the effect of these markets and services on SPP's Markets and Services, or the effects of SPP's Markets and Services on these unmonitored markets. Similarly, the Market Monitor will not monitor the energy, transmission or capacity markets and services in regions adjacent to the SPP Region except to assess the effect of these markets and services on SPP's Markets and Services, or the effects of SPP's Markets and Services on these adjacent markets.

### **4.2 Market Monitoring Scope**

The Market Monitor will implement the Plan. The markets will require continuous monitoring by the Market Monitor. The Market Monitor will monitor SPP's Markets and Services by reviewing and analyzing market data and information including, but not limited to:

- (a) Resource and Ancillary Services (Capacity) Plans, schedules and Offer Curves submitted for generating units or a portfolio of generating units in or affecting any of SPP's Markets and Services;
- (b) Actual commitment and dispatch of generating units or a portfolio of generating units, including but not limited to generator MW capability and output, MVAR capability and output, status, and outages;
- (c) Locational Imbalance Prices at all Settlement Locations in or affecting any of SPP's Markets and Services;
- (d) Control area data, including but not limited to control area demand, area control error, Net Scheduled Interchange, actual total net interchange, and forecasts of operating reserves and peak demand;

- (e) Conditions or events both inside and outside SPP Region control areas affecting the supply and demand for, and the quantity and price of, products or services sold or to be sold in SPP's Markets and Services;
- (f) Information regarding transmission services and rights, including the estimating and posting of Available Transfer Capability ("ATC") or Available Flowgate Capability ("AFC"), administration of this Tariff, the operation and maintenance of the transmission system, any auctions or other markets for transmission rights, and the reservation and scheduling of transmission service;
- (g) Information regarding the nature and extent of transmission congestion in the region and, to the extent practicable, transmission congestion on any other system that affects SPP's Markets and Services, including but not limited to causes of, costs of and charges for transmission congestion, transmission facility loading, MVA capability, line status and outages;
- (h) Settlement data, including but not limited to hourly integrated Settlement Location MW; and
- (i) Any information regarding collusive or other anticompetitive or inefficient behavior in or affecting any of SPP's Markets and Services.
- (j) Generation resource operating cost data for estimating resource incremental cost, including fuel input costs, heat rates where applicable, start-up fuel requirements, environmental costs and variable operating and maintenance expenses.

#### **4.2.1 Additional Market Monitor Duties**

- (a) In addition to the monitoring of market Data and Information, the Market Monitor may communicate with SPP Staff and Market Participants at any time for the purpose of monitoring and assessing market conditions.
- (b) To monitor the effects of self-dispatch on the depth of the EIS Market, for one year following the EIS Market Effective Date, the Market Monitor shall make monthly informational filings to the Commission that specifically include a measure of the total

megawatts of bids at each node relative to the available megawatts of generation at each node, and detail regarding how congestion and imbalances were resolved, whether through TLR or imbalance market mechanisms.

- (c) The Market Monitor shall evaluate the effectiveness of SPP's Markets and Services in signaling the need for investment in new generation, transmission or demand response infrastructure and report on its findings at least annually.
- (d) The Market Monitor shall verify that Balancing Authorities activate the Reserve Sharing System on a non-discriminatory basis in accordance with Section 6.4.2 of the SPP Criteria.

#### **4.3 Compliance with Market Behavior Rules and SPP Tariff**

- (a) All suppliers with market-based rates are required to comply with the Market Behavior Rules defined in FERC Order No. 670 and the Conditions for Public Utility Market-Based Rate Authorization Holders defined in FERC Order No. 674, as they may be amended from time to time. Market Participants are required to abide by these Market Behavior Rules.
- (b) The Market Monitor shall monitor for violations of these rules or any other Commission-approved rules and regulations or of SPP's Tariff and report any suspected violations by Market Participants or SPP to FERC's Office of Enforcement (or its successor organization) Staff in accordance with the FERC's reporting protocols for referrals by market monitors as specified in 18 C.F.R. § 35.28(g)(3)(iv) in a timely manner. Any such reports by the Market Monitor to FERC Staff shall be on a confidential basis, and all information and documents included in such reports will not be released to any other party except to the extent FERC directs or authorizes such release, unless such information and documents are already in the public domain.

#### **4.4 Monitoring for Potential EIS Market Manipulation**

The Market Monitor will monitor the EIS Market for potential instances of market manipulation. Such actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electric products are prohibited. As listed by the FERC, prohibited behavior includes (a) wash trades, (b) submission of false data, (c) actions to cause artificial congestion and (d) collusive acts. The Market Monitor will report any market manipulation in the EIS Market in a timely manner.

#### **4.5 Monitoring for Potential Transmission Market Power Activities**

The Market Monitor shall monitor SPP's Markets and Services for potential transmission market power activities by reviewing and analyzing data and information related to the availability of transmission facilities that impact access to services under this Tariff. The Market Monitor will monitor for activities particularly with respect to the withholding of transmission facilities or transmission capacity, including activities such as but not limited to, the following:

- (a) Physical withholding by Transmission Owners by providing improper information related to the availability of transmission, such as information related to the capability or other modeling data used by SPP for use in system operations;
- (b) Economic withholding by Transmission Owners through the use of methods and data for estimating costs of interconnection and system upgrades that is not comparable for affiliates and non-affiliates;
- (c) Unavailability of transmission facilities through planned and unplanned maintenance outages that routinely exceed historical baselines.

The Market Monitor shall refer any instance(s) of potential transmission market power directly to FERC utilizing the protocols for referrals to the Commission for suspected market violations and perceived market design flaws and recommended Tariff language changes as found in 18 C.F.R. § 35.28(g)(3)(iv). Where



appropriate, the Market Monitor shall also provide the FERC with an estimate of damages equal to (i) the effect on prices multiplied by (ii) the affected energy produced by the Transmission/Generation Owner. The Market Monitor may also request the FERC to impose additional sanctions and penalties, which may consist of a fixed dollar amount based on each instance, or an amount up to (i) the effect on prices multiplied by (ii) the affected energy produced by Market Participants other than the Transmission/Generation Owner. All such referrals by the Market Monitor to FERC will be on a confidential basis, and all information and documents included in such reports will not be released to any other party except to the extent FERC directs or authorizes such release.

For one year following the EIS Market Effective Date, the Market Monitor shall identify over and under-scheduling relative to the Market Participant's Reported Load when congestion occurs, and submit monthly reports to the Commission on the benefits gained by those Market Participants, the Over-Scheduling Charges and Under-Scheduling Charges made to Market Participants, and any other issues the Market Monitor deems relevant to over and under-scheduling. As a component of this reporting, the Market Monitor shall determine, and recommend if needed changes to the Market Protocols to address any significant issues presented by this ongoing review.

#### **4.6 Monitoring for Portfolio Bidding**

The Market Monitor shall monitor SPP's Markets and Services for potential abuse of the following two types of portfolio bidding by reviewing and analyzing relevant Data and Information and reporting potential abuses to the Commission as follows.

##### **4.6.1 Uneconomic Overproduction**

The Market Monitor will look for cases where Self-Dispatched Resources cause congestion on transmission facilities on the exporting side of the constraint in an uneconomic manner that are not justified by reliability concerns. The specific steps would be to

- (a) determine that the Self Dispatched Resource is causing congestion;
- (b) determine that the Self-Dispatch Resource is uneconomic (i.e. incremental cost exceeds the Resource's Locational Imbalance Price);
- (c) determine that the uneconomic production is not obviously justified by reliability or other operational concerns.

If the determinations in (a) to (c) are made, there would be sufficient credible information for referral to the Commission.

#### **4.6.2 Strategic Withholding**

The Market Monitor will look for cases where commonly owned or controlled Resources on the importing side of a transmission constraint that are required to serve the load and that are not subject to the Offer Cap, are causing the Locational Imbalance Price on the importing side of such transmission constraint to be set at levels above the Offer Cap. The specific steps would be to:

- (a) identify the commonly owned or controlled Resources on the importing side of a transmission constraint that do not meet the criteria set forth under Section 3.2.2 of Attachment AF for imposing the Offer Cap ;
- (b) verify that the Resources identified in Section 4.6.2(a) are pivotal (i.e. are required to serve the load on the importing side of the transmission constraint);
- (c) document, beginning with the EIS Market Effective Date, the Locational Imbalance Prices associated with all pivotal Resources identified under Section 4.6.2(b).

If the documentation in (c) reveals any Locational Imbalance Prices in excess of the Offer Cap, such instances shall be reported to the Commission for consideration.

#### **4.7 Physical Withholding**

The Market Monitor will monitor participation to determine whether decisions to participate in the EIS Market have a significant adverse impact on market outcomes. If appropriate, the Market Monitor will make a referral to the Commission's Office of Enforcement (or its successor organization).

#### **4.8 Unavailability of Facilities**

The Market Monitor will monitor for any potential instances of Unavailability of Facilities and, if appropriate, shall refer any such instances to the Commission's Office of Enforcement (or its successor organization).

#### **4.79 Maintenance of Monitoring Plan**

At least every three years, after receiving input from the Market Monitor, Market Participants, regulatory authorities, and others, SPP shall evaluate this Plan to determine if changed market conditions have changed its effectiveness and require that it be modified.

## 7. Periodic Reports and Updates to SPP, Government Agencies, and Market Participants

### 7.1 Reports and Updates to the Board of Directors

The Market Monitor shall prepare and submit to the Board of Directors periodic reports on an annual basis (and any other reports required by the Board of Directors) relating to its activities. In such reports, the Market Monitor may make recommendations regarding any matter within its purview. The reports to the Board of Directors shall include recommendations as to whether changes are necessary to the Market Monitor, this Plan, this Tariff, the SPP Bylaws, agreements between SPP and its Members, or any other policies, procedures, and standards under the Market Monitor's purview. Any such reports may be subject to confidentiality provisions consistent with Section 8.1.

**7.1.1** The Market Monitor shall also prepare and submit to the Board of Directors updates of the reports, at least quarterly, which will emphasize any issues of concern to the Market Monitor.

**7.1.2** SPP and Market Participants may comment on any reports made pursuant to this section, through the appropriate stakeholder process. The Market Monitor shall be free to disregard suggestions with which it disagrees.

### 7.2 Reports to Government Agencies, the Transmission Provider, and Market Participants

After an annual review of the performance of the wholesale markets as discussed in Section 1.3.2 of this Attachment AG, the Market Monitor shall provide its annual State of the Market Report to the Commission, the SPP Board of Directors, the Transmission Provider, state commissions, Market Participants, and other interested entities. The Market Monitor shall also make available, as described below, the reports provided to the Board of Directors and other such reports as may be requested by the FERC Staff or such authorities subject to protection of confidential, proprietary and commercially sensitive information and the protection of the confidentiality of ongoing monitoring activities.

**7.2.1** The Market Monitor shall submit such reports to the FERC Staff and other affected regulatory authorities, including the Regional State Committees.

**7.2.2** The Market Monitor reports shall be made available on the SPP Website.

**7.2.3** Conference calls ~~held by the Market Monitor~~ related to the Market Monitor reports may be attended by ~~SPP~~the Transmission Provider, the Board of Directors, FERC Staff and other affected regulatory authorities, Regional State Committee, and Market Participants regardless of which party initiates the conference call. The Market Monitor shall make one or more of its staff members available for regular conference calls.

**ATTACHMENT AJ**

**EXTERNAL MARKET ADVISOR (EMA) SERVICES AGREEMENT RESERVED FOR  
FUTURE USE**

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~~ATTACHMENT AJ~~

~~EXTERNAL MARKET ADVISOR (EMA)  
SERVICES AGREEMENT~~

~~Pursuant to Section 3.1 of Attachment AG, SPP may delegate certain responsibilities pursuant to a contract with an External Market Advisor. Any such effective contract or contracts shall be included in this Attachment AJ.~~



Attachment AJ-1  
Contract with External Market Advisor

~~EXTERNAL MARKET ADVISOR SERVICES AGREEMENT~~

~~This External Market Advisor Services Agreement (“Agreement”) is made by and between Southwest Power Pool, Inc. (“SPP”), an Arkansas corporation, and Boston Pacific Company, Inc. (the “EMA”), a District of Columbia corporation. (SPP and the EMA shall be referred to individually herein as a “Party” and collectively as the “Parties.”) All references in this Agreement (including any exhibits or attachments) to the SPP Board of Directors here includes the Oversight Committee or other governing body designated with responsibility for the Market Monitoring function. Capitalized terms here refer to terms defined in the Tariff (including revisions proposed as part of the energy imbalance tariff proposal, though after Commission action the definitions shall be as accepted by the Commission) or as otherwise defined in this Agreement.~~

~~1. — Engagement of Services. SPP hereby retains the EMA to assume the responsibilities listed in Exhibit A and to perform the individual tasks (“Tasks”) identified in Exhibit B attached hereto. The aggregation of all Tasks shall be identified herein as the “Services.” The Services may be modified from time to time upon mutual agreement of the Parties. If such modifications necessitate an increase or decrease in either (a) the amount due or (b) the time required for performance, such matters shall be agreed upon in writing prior to proceeding with the change. No payment shall be made by SPP for any modification not so directed or authorized prior to proceeding with the modification.~~

~~2. — Compensation. SPP shall pay the EMA for the Services as identified in Exhibit C attached hereto. SPP shall also pay the EMA’s reasonable expenses in accordance with the procedures identified in Exhibit C. SPP reserves the right to audit and to examine any cost, payment, settlement or supporting documentation resulting from the provision of any Services. Any such audit(s) shall be undertaken by SPP or its representative from a certified public accounting firm at reasonable times and in conformance with generally accepted auditing standards. The EMA agrees to fully cooperate with any such audit(s).~~

~~3. — Monthly Charges. The total monthly charges for Services and expenses shall be referred to herein as the Monthly Charges. The EMA shall submit an invoice on a monthly basis for the Monthly Charges and SPP shall pay the EMA as described in Exhibit C for all undisputed amounts, provided that the EMA provides documents with reasonable receipts or other documentation of expenses as SPP might request, including copies of time records. If SPP disputes any amount of the Monthly Charges, then SPP shall identify in writing the reason for challenging such portion of the Monthly Charges, and the Parties shall attempt to resolve such dispute.~~

~~4. — Monthly Charges. Monthly Charges are described in Exhibit C.~~

~~5. — Independent Contractor Relationship. The EMA’s relationship with SPP is that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to,~~

~~create a partnership, agency, joint venture or employment relationship; provided, however, the EMA is to act consistent with the terms of this contract which make it subject to oversight by SPP's Board of Directors and which requires coordination with the SPP Market Monitor. The EMA shall not be entitled to any of the benefits which SPP may make available to its employees, including, but not limited to, group health or life insurance, profit sharing or retirement benefits.~~

~~The EMA is not authorized to make any representation, contract or commitment on behalf of SPP unless specifically requested or authorized in writing to do so by SPP. The EMA is solely responsible for, and shall file, on a timely basis, all tax returns and payments required to be filed with, or made to, any federal, state or local tax authority with respect to the performance of services and receipt of fees under this Agreement. The EMA is solely responsible for, and must maintain adequate records of, expenses incurred in the course of performing services under this Agreement. No part of the EMA's compensation shall be subject to withholding by SPP for the payment of any social security, federal, state or any other employee payroll taxes. SPP shall have no responsibility for any of the EMA's debts, liabilities or other obligations, or for the intentional, reckless or negligent acts or omissions of the EMA or EMA's employees or agents.~~

#### ~~6. — Ownership of Intellectual Property.~~

~~6.1 — Any idea, invention, work of authorship, drawing, design, formula, algorithm, utility, tool, pattern, compilation, program, device, method, technique, process, improvement, development or discovery (hereinafter, collectively, "Inventions"), whether or not patentable, or copyrightable, or entitled to legal protection as a trade secret or otherwise, that the EMA may conceive, make, develop, create, reduce to practice, in the course of performing work under this Agreement shall be owned by the EMA. The EMA hereby grants to SPP an irrevocable, assignable, nonexclusive royalty free unrestricted license to use, copy, distribute and make derivatives of any proprietary rights or specialized knowledge of the EMA that are part of any work product furnished by the EMA to SPP under this Agreement for SPP's and its affiliates', members', and regulators' internal use.~~

~~6.2 — All documents, including but not limited to, drawings, specifications, and computer software prepared by the EMA pursuant to this Agreement are instruments of service in respect to the Services. They are not intended or represented to be suitable for reuse by SPP or others on extensions of the Services or on any other project. Any reuse without prior written verification or adaptation by the EMA for the specific purpose intended will be at SPP's sole risk and without liability or legal exposure to the EMA. SPP shall defend, indemnify, and hold harmless the EMA against all claims, losses, damages, injuries, and expenses, including attorneys' fees arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle the EMA to additional compensation at rates to be agreed upon by SPP and the EMA.~~

~~7. — Intellectual Property Rights. The EMA expressly warrants that there has been no violation, misappropriation or infringement of any trade secret, patent, trademark, copyright, or other third party property right (including without limitation, any violation of a third party license) in any way connected with or arising out of performing the work specified in this Agreement.~~

~~8.— Confidential and Non-Public Information. The EMA agrees to hold SPP's and Market Participant's Confidential and Non-Public Information in strict confidence and not to disclose such Confidential and Non-Public Information to any third parties, or to use such Confidential and Non-Public Information, except for purposes relating to the EMA's responsibilities as SPP's EMA. The EMA shall comply with the provisions of Section 7 of Attachment AE of the SPP Tariff with regard to the use and disclosure of such Confidential and Non-Public Information. Upon termination of this Agreement by either party for any reason, the EMA agrees to promptly deliver to SPP the original and any copies of the Confidential and Non-Public Information. The EMA agrees to certify in writing that the EMA has so returned all such Confidential and Non-Public Information.~~

~~9.— Conflicts of Interest. The EMA warrants that there is no conflict of interest (as defined in the terms of Exhibit D) between the EMA's other agreements, if any, and the activities to be performed hereunder. The EMA shall advise SPP if a potential conflict of interest arises, as required by Exhibit D.~~

~~10.— Insurance. Before commencing the work, the EMA shall procure and maintain at its own expense the following minimum insurance in forms and with insurance companies acceptable to SPP:~~

~~10.1— Workers' Compensation insurance for statutory obligations imposed by Workers Compensation, Occupational Disease, or other similar laws, including, where applicable, the United States Longshore and Harbor Workers' Act, the Federal Employees Act, and the Jones Act. Employers' liability insurance shall be provided with a minimum umbrella limit of \$1,000,000 per occurrence.~~

~~10.2— Business automobile liability insurance with the following minimum limit of liability:  
\$1,000,000 combined single limit per occurrence.~~

~~This insurance is to apply to all owned, non-owned, hired, and leased vehicles used by the EMA in the performance of the work.~~

~~10.3— Business general liability insurance including contractual liability insurance covering all operations required to complete the project with the following minimum limit of liability:  
\$1,000,000 combined single limit per occurrence.~~

~~The contractual liability insurance coverage shall insure the performance of the contractual obligations assumed by the EMA under this Agreement.~~

~~The commercial general liability insurance coverage shall name SPP as an additional insured and shall include a cross liability clause.~~

~~10.4— Professional liability (errors & omissions) insurance, where applicable, covering the professional services being delivered by the EMA with the following minimum limit of liability:~~

\$5,000,000 per wrongful act.

~~11. — Term and Termination. The term of this Agreement shall be from January 1, 2009 through December 31, 2009. The Parties recognize that the SPP Board of Directors before the end of this term will determine whether to extend, revise, or not renew this contract. In addition, the Board of Directors may initiate termination of this Agreement, with or without cause, at any time upon thirty (30) days prior written notice to the EMA. Any termination of this Agreement by SPP is subject to approval by the Federal Energy Regulatory Commission. The EMA may terminate this Agreement, with or without cause, at any time upon sixty (60) days prior written notice to SPP. Upon termination of this Agreement, SPP shall pay the EMA's wind down costs, and the EMA shall use best efforts to minimize all additional charges to SPP as needed to wind down the Services. SPP shall be responsible for submitting all filings necessary to reflect this termination.~~

~~12. — Noninterference with Business. For a period of two years immediately following the conclusion of the EMA's work hereunder, the EMA agrees not to solicit or induce any employee or independent contractor of SPP to terminate or breach an employment, contractual or other relationship with SPP. SPP agrees to the same terms regarding employees of and subcontractors to the EMA.~~

~~13. — Survival. The rights and obligations contained in Sections 2 ("Compensation"), 6 ("Ownership of Intellectual Property"), 7 ("Intellectual Property Rights"), 8 ("Confidential Information"), 11 ("Term and Termination"), 13 ("Noninterference with Business"), 10 ("Insurance to the extent of wind down activities"), and 22 ("Liability and Indemnification") shall survive any termination or expiration of this Agreement.~~

~~14. — Successors and Assigns. The EMA may not subcontract or otherwise delegate its obligations under this Agreement, without SPP's prior written consent, except it is acknowledged that such approval is provided herein for the EMA's named subcontractors in Exhibit B. Subject to the foregoing, this Agreement shall be for the benefit of SPP's successors and assigns, and shall be binding on the EMA's assignees.~~

~~15. — Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to as set forth below or such other address as either party may specify in writing.~~

If to SPP:

Southwest Power Pool, Inc.  
415 North McKinley  
140 Plaza West

Little Rock, AR 72205  
Attn: Ms. Stacy Duckett  
Phone: (501) 614 3296  
Fax: (501) 664 9553  
Email: sduckett@spp.org

If to the EMA:

~~Boston Pacific Company, Inc.  
1100 New York Avenue, NW  
Suite 490 East  
Washington, DC 20005  
Attn: Mr. Craig R. Roach  
Phone: (202) 296 5520  
Fax: (202) 296 5531  
Email: croach@bostonpacific.com~~

16. ~~Governing Law. This Agreement shall be governed in all respects by the laws of the United States of America and by the laws of the State of Arkansas.~~
17. ~~Severability. Should any provisions of this Agreement be held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.~~
18. ~~Waiver. The waiver by SPP of a breach of any provision of this Agreement by the EMA shall not operate or be construed as a waiver of any other or subsequent breach by the EMA.~~
19. ~~Injunctive Relief for Breach. The EMA's obligations under this Agreement are of a unique character that gives them particular value; breach of any of such obligations shall result in irreparable and continuing damage to SPP for which there shall be no adequate remedy at law; and, in the event of such breach, SPP shall be entitled to injunctive relief and/or a decree for specific performance, and such other and further relief as may be proper (including monetary damages if appropriate).~~
20. ~~Disputes. In the event of a dispute regarding this Agreement, the Parties will use good faith effort to resolve the matter through negotiation. If the Parties fail to resolve the matter through negotiation, the Parties agree to resolve the dispute through mediation. The cost of any mediation will be equally shared by the Parties, except each Party will be responsible for its own direct expenses. In the event mediation fails, either Party may pursue any legal remedies available. In the event of any litigation to enforce or interpret any terms or conditions of this Agreement, the parties agree that such action will be brought in the Circuit Court of Pulaski County, Arkansas (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the District of Columbia), and the parties hereby submit to the exclusive jurisdiction of said court. In any action in litigation to enforce or interpret any of the terms or conditions of this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses (including expert testimony) and reasonable attorneys'~~

~~fees incurred therein by the prevailing party. In no event shall the litigation of any controversy or the settlement thereof delay the performance of this Agreement.~~

~~21. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter. The terms of this Agreement shall govern the Services undertaken by the EMA for SPP. While this Agreement presently constitutes the entire relationship between the parties, the provisions of any subsequent market monitoring plan that obtains FERC approval are to be given deference in the case of a conflict with this Agreement. This Agreement may only be changed by mutual agreement of authorized representatives of the parties in writing. Licensing, Intellectual Property Rights and Ownership, and other issues specific to the hardware and software to be produced under a supplemental scope of work will be addressed at the time of such supplemental scope of work.~~

~~22. Liability and Indemnification. The EMA shall not be liable to SPP for any matter, act or omission under this Agreement, including, but not limited to financial loss or damages of any kind resulting from any act or omission under this Agreement, unless the EMA is found to have been grossly negligent or engaged in willful misconduct by a court of competent jurisdiction.~~

~~SPP shall indemnify and hold harmless the EMA from any and all actions, claims, demands, costs and liabilities to third parties relating to the implementation of this Agreement, except to the extent that such action, claim, demand, cost or liability results from the gross negligence or willful misconduct of the EMA.~~

~~IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.~~

~~Southwest Power Pool, Inc. Boston Pacific Company, Inc.~~  
By: Nicholas A. Brown By: Craig R. Roach

~~Name: Nick Brown Name: Craig R. Roach~~

~~Title: President Title: President~~

~~Date: January 20, 2009 Date: January 13, 2009~~

~~EXHIBIT A  
RESPONSIBILITIES, RIGHTS, AND OBLIGATIONS~~

~~Under Section 3.1 of Attachment AG, the Market Monitor which is the SPP entity with market monitoring responsibilities has the full responsibility for market monitoring under this Tariff. However, SPP may delegate some of those responsibilities by contract to an External Market Advisor (EMA). The following explains that delegation as well as certain other rights and obligations.~~

~~DELEGATION OF RESPONSIBILITIES~~

~~The External Market Advisor is responsible for specific tasks as described below. All other market monitoring functions will be provided by the Market Monitor.~~

- ~~1. Annual Report—prepare the 2008 Annual State of the Market Report according to the schedule detailed in Exhibit B.~~
- ~~2. Defined Studies—prepare two or three Defined Studies as approved by the Oversight Committee and as detailed in Exhibit B.~~
- ~~3. Advise on the Final Design and Implementation of Future Markets—As requested by the Board and MMU, the EMA will advise the Board and MMU on design and development issues regarding future markets as detailed in Exhibit B.~~
- ~~4. Participate in Oversight Committee (OC) meetings and in Board of Directors (BOD) meetings as requested—the EMA will prepare for and attend all OC meetings at which it has activity to report under this contract. The EMA will prepare for and attend BOD meetings as requested, but at least once per year to present the Annual State of the Market Report.~~
- ~~5. Advise the SPP Board of Directors—The BOD may ask the EMA for advice on any topic in any form—questions, presentations, written reports, etc.~~
- ~~6. Conduct Inquiry Requests—Any Market Participant or Interested Government Agency may raise any issue with the Market Monitor and request in writing that the EMA consider the issue in its monitoring and reporting. The EMA will keep Board of Directors informed.~~

~~Within this context, (a) if the Market Participant or Interested Government Agency states its preference in writing that the EMA consider the issue in its monitoring and reporting or (b) if the Market Monitor states such a preference, the EMA will respond upon approval by the Board of Directors which approval will not be unreasonably withheld. All of the EMA's responses will be coordinated with the Market Monitor.~~
- ~~7. Other Reports/Metrics—prepare other reports and/or metrics assessments as requested and directed by the Oversight Committee of the Board of Directors.~~

## ~~RIGHTS AND OBLIGATIONS~~

- ~~1. The EMA shall be retained by and report to the SPP Board of Directors. All EMA activities must be communicated to and approved by the Board of Directors in a manner defined by the Board of Directors. The independence of the EMA is derived from the independence of the Board of Directors~~
- ~~2. The EMA shall coordinate its activities with the Market Monitor including all communications with FERC Staff, state regulators, the Commission, and the RSC, and shall notify the Market Monitor of those communications prior to their taking place to the extent feasible. The EMA shall seek the advice of the Market Monitor where appropriate.~~
- ~~3. The EMA recognizes that it is a contractor of SPP and has a good faith duty to carry out the terms of this contract. SPP has a good faith duty to carry out the terms of this contract.~~
- ~~4. The EMA will submit draft reports to SPP for review prior to publication and give full consideration to SPP feedback on such drafts. However, SPP may not screen, alter, delete or delay the EMA's findings, conclusions and recommendations.~~
- ~~5. Any Market Participant or Interested Government Agency may raise any issue with the Market Monitor and request that the EMA consider the issue. The EMA will respond upon approval by the Board of Directors which approval will not be unreasonably withheld. All of the EMA's responses will be coordinated with the Market Monitor.~~
- ~~6. As a general principle, the EMA may obtain input from the Market Monitor, Market Working Group, FERC Staff, SPP Staff, SPP Regional State Committee, and any other SPP Organizational Group for the purpose of executing its duties so long as it coordinates with the Market Monitor as provided in this Agreement.~~
- ~~7. The EMA shall coordinate its reporting discussed above with the Market Monitor before submitting those reports. Any report will include or be accompanied by a statement from the Market Monitor indicating its review of the report and its agreement/disagreement with the content.~~
- ~~8. The EMA shall abide by the conflicts of interest and code of ethics policies contained in its EMA Services Agreement with SPP, which shall be appropriate for establishing the professional and financial independence of the EMA from all Market Participants.~~
- ~~9. The EMA will assure that any of its subcontractors abide by the conflicts of interest and code of ethics policies contained in its EMA Services Agreement with SPP.~~
- ~~10. As requested by the EMA, the Market Monitor will provide the EMA with data gathered or generated by SPP in the course of its operations to the extent relevant to the EMA's tasks assigned by this Agreement.~~



~~11. SPP shall aid the EMA in obtaining the data relevant to its tasks from Market Participants as provided in the Tariff.~~

~~12. The EMA may at any time bring any matter to the attention of the Board of Directors, subject to any coordination required above.~~

#### ~~SUBCONTRACTORS~~

~~The EMA's approved subcontractors are Professor Ross Baldick and Professor Ken Hendricks.~~

~~———— EXHIBIT B  
STATEMENT OF WORK~~

~~TIME PERIOD COVERED BY THE STATEMENT OF WORK~~

~~This Statement of Work covers the period from January 1, 2009 through December 31, 2009. The purpose of the Statement of Work is to provide more detail on the focus and prioritization of the EMA's work in 2009.~~

~~STATEMENT OF WORK~~

~~Work pursuant to these tasks will be performed at the direction and approval of the SPP Board of Directors and in coordination with the SPP Market Monitor. For purposes of Exhibit B, the term Board of Directors is synonymous with Oversight Committee of the Board of Directors. To the extent of a conflict between this Exhibit B and Exhibit A, Exhibit A shall control.~~

~~The following tasks are explicitly delegated to the EMA.~~

~~Task One: Research and produce the 2008 State of the Market Report~~

~~The EMA will complete the 2008 State of the Market Report (SOM Report). To ensure compliance with regulatory reporting requirements and Committee and Board of Directors meeting schedules, the SOM Report will be developed and presented in accordance with the following project schedule:~~

~~Discuss with the MMU additional topics or enhanced metrics that should be added to this year's report.~~

~~Provide an initial outline of SOM Report to the MMU for review no later than January 29, 2009. The EMA will provide a key points outline of the SOM Report to the MMU no later than March 19, 2009. The key points outline will include most of the tables and figures that will be included in the SOM Report.~~

~~The EMA will present the key points outline to the Oversight Committee at its regular quarterly meeting on March 26, 2009.~~

~~5. The EMA will provide a first draft of the SOM Report to the MMU no later than April 10, 2009.~~

~~6. The MMU will respond to the initial draft of the SOM Report no later than April 17, 2009.~~

~~7. Unless otherwise directed by the Oversight Committee, the EMA will present the SOM Report to the Board of Directors/Members Committee at its regular quarterly meeting on April 28, 2009.~~

~~8. The final 2008 State of the Market Report will be published by May 5, 2009.~~

~~9. The MMU and EMA will provide a joint presentation to FERC in May, as required and scheduled by FERC.~~

~~Task Two: Defined Studies~~

~~As requested, the EMA will complete two or three defined studies as approved by the Oversight Committee. These will be one-time assessments of major issues in SPP. The topics for these reports may arise from SOM recommendations, future events, MMU suggestions, or OC requests. The EMA plans to bring a proposed topic for the first study to the OC during its March meeting, for its approval.~~

~~Task Three: Advise on the Final Design and Implementation of Future Markets~~

~~As requested by the Board, the EMA will advise the Board and MMU on design and development issues regarding future markets. We presume that in 2009, the focus will be on the technical design issues of the market rather than preparing filings to gain FERC approval. However, if FERC filings are needed in 2009, we will be available, as needed, to assist with filing materials and testimony to win approval.~~

- ~~1. Advise on technical design issues as requested by the MMU or OC~~
- ~~2. Begin development of the Market Power Mitigation Plan and the Market Monitoring Plan in collaboration with the MMU.~~
- ~~3. Participate (one person) in select Market Working Group phone calls to stay up to date on the status and concerns associated with the new market's design.~~

~~Task Four: The EMA will prepare for and participate in Oversight Committee meetings and in Board of Directors meeting as requested.~~

~~The EMA will prepare for and attend all Oversight Committee meetings at which it has activity to report under this contract. The EMA will prepare for and attend Board of Directors meetings as requested, but at least once per year to present the Annual State of the Market Report. Note that the fees for preparing for and attending the March Oversight Committee meeting and April Board of Directors meeting will be included in Task One's budget. The fees for the other three Oversight Committee meetings will be included under the budget cap for either Task Two or Three as relevant. Meetings beyond these five will be as requested and thus on a time and materials basis.~~

~~Task Five: Advise the Board of Directors as requested.~~

~~The Board of Directors may ask the EMA for advice on any topic and in any form — answers to questions, presentations, written reports, etc. If the request requires research/study, such request will be made in writing by, or on behalf of, the Chairman of the Oversight Committee and delineate the scope of the work requested.~~

~~Task Six: Conduct Inquiries when requested and as approved by the Board of Directors.~~

~~The existing, Board-approved inquiry process remains in place so that an interested party (Market Participant, Interested Government Agency, etc.) may request that the EMA conduct an inquiry. If approved by the Board of Directors, which approval will not be unreasonably withheld, the EMA will conduct such inquiries in accordance with that process.~~

~~Task Seven: Prepare other reports and/or metric assessments~~

~~The EMA will prepare other reports and/or metrics assessments as requested and directed by the Oversight Committee of the Board of Directors. The scope of the report/assessment will be determined and mutually agreed upon at the time of the request, with, or on behalf of, the Chairman of the Oversight Committee acting on behalf of the Board of Directors.~~

EXHIBIT C

COMPENSATION AND PAYMENT

SPP shall compensate the EMA for the tasks described in the Statement of Work in accordance with Table below. Additional compensation outside the scope of the Agreement may be requested from and must be approved by the SPP Board of Directors in advance in order to qualify for payment.

Table: Task Budget

TASK	BRIEF DESCRIPTION	BUDGET
One	Research and produce the 2008 State of the Market Report	\$ [REDACTED]
Two	Defined Studies	\$ [REDACTED]
Three	Advise on the Final Design and Implementation of Future Markets	As requested
Four	The EMA will prepare for and participate in all Oversight Committee meetings and in Board of Directors meeting as requested <sup>1</sup>	As requested
Five	Advise the Board of Directors as requested	As requested
Six	Conduct Inquiries when requested and as approved by the Board of Directors	As requested
Seven	Prepare other reports and/or metric assessments	As requested
Overall Cap		\$ [REDACTED]

Note: This is an overall Cap, not a Cap by Task.

Note: Expenses are billed at cost as incurred, but will not exceed \$ [REDACTED].

Reimbursement of Direct Expenses

SPP shall reimburse the EMA for direct expenses (relating to tasks in the Statement of Work) such as travel and communication for a total amount not to exceed \$ [REDACTED]. Additional expenses may be requested from and must be approved by the SPP Board of Directors in advance in order to qualify for payment.

Direct expenses will be billed at cost as incurred.

Project Billing Period

<sup>1</sup> Note that the fees for preparing for and attending the March Oversight Committee meeting and April Board of Directors meeting will be included in the budget cap for Task One's budget. The fees for the other three Oversight Committee meetings will be included under the budget cap for either Task Two or Three as relevant. Meetings beyond these five will be as requested and thus on a time and materials basis.

~~The EMA shall prepare monthly invoices for work performed in the prior month based on the EMA's standard hourly rates. Invoices unpaid for 90 days will include a 2% per month interest charge for all time after 30 days.~~

~~The EMA's standard hourly rates are as follows for 2009:~~

<u>Labor Category</u>	<u>Hourly Rate</u>
Principal <sup>2</sup>	\$ [REDACTED]
Managing Director	\$ [REDACTED]
Project Director	\$ [REDACTED]
Project Manager	\$ [REDACTED]
Senior Consultant	\$ [REDACTED]
Consultant	\$ [REDACTED]
Research Analyst	\$ [REDACTED]
Administrative	\$ [REDACTED]

~~Project Billing Controls~~

~~The EMA shall establish project billing codes for each task set forth in this Statement of Work such that costs per task can be tracked.~~

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<sup>2</sup> Subcontracts will be billed at the Principal rate.

## EXHIBIT D CONFLICTS OF INTEREST

### Prohibited Engagements

~~————The EMA shall not advise any client on SPP matters including, but not limited to, SPP's market(s), transmission system, or market rules, and shall not be engaged by any client in any litigation, open regulatory docket, alternative dispute resolution procedure, or arbitration with SPP.~~

~~————The EMA will not appear for or against a SPP Member before a state regulatory commission within the SPP footprint in any new engagement in the electricity business (after the date of signature) except as required by its role as the SPP EMA or as requested by the state regulatory commission. [The term "footprint" refers to the area covered by the transmission system for which SPP is the transmission provider.]~~

~~————The EMA will not appear for or against a SPP Member before the Federal Energy Regulatory Commission (FERC) on any matter within the SPP footprint in any new engagement in the electricity business (after the date of signature) except as required by its role as the SPP EMA or as requested by FERC.~~

### Engagements to Clear

~~Before the EMA accepts any engagement that involves clients with SPP-related business interests or clients with business interests in markets inextricably connected to SPP, it must inform the SPP Board of Directors of such potential engagement and obtain the Board's determination that such engagement would not present a conflict of interest or result in the material appearance of conflict before accepting such engagement.~~

### No Direct Financial Interests

~~Persons of the EMA assisting in this Statement of Work shall not have a direct equity or other financial interest in a SPP Member(s) or affiliate of a SPP Member that is involved in the electricity business. (The term "direct" is meant to exclude investments such as mutual funds in which a person has no direct control.)~~

### Code of Ethics

~~All employees of the EMA and its subcontractors (retained for the purpose of fulfilling this agreement) will sign the attached Code of Ethics. (Please see Attachment D-1)~~

**ATTACHMENT D-1**  
**CODE OF ETHICS**  
**FOR THE SPP-EMA ENGAGEMENT**

It is understood that credibility is crucial to the success of any independent market advisor (EMA) and that, to be credible, the EMA must be impartial in its investigations, findings, and recommendations. That is, the EMA must not favor one SPP Member over another or be influenced improperly by any SPP Member. The purpose of this code of ethics is to reinforce the commitment to impartiality. Therefore, while an employee of (or subcontractor for) Boston Pacific Company, Inc, I will adhere to the following standards:

1. I will abide by all provisions of the SPP-EMA Services Agreement and this Code of Ethics throughout the term of the SPP-EMA Services Agreement;
2. I will not advise anyone about whether or how to participate in any SPP market(s) for energy, capacity, or ancillary services or on whether and how to secure transmission service within the SPP footprint, other than as required in my role as the SPP-EMA;
3. I will not work on any engagement related to the electricity business within the SPP footprint without the approval of the SPP Board of Directors or its delegate;
4. I will not appear for or against a SPP Member before a state regulatory commission within the SPP footprint in any new engagement in the electricity business except as required by my role as the SPP-EMA or as requested by the state regulatory commission;
5. I will not appear for or against a SPP Member before the Federal Energy Regulatory Commission (FERC) on any matter within the SPP footprint in any new engagement in the electricity business except as required by my role as the SPP-EMA or as requested by the FERC;
6. I will be impartial in my evaluation of the conduct of each SPP Member and each market rule. That is, I will weigh all points of view and all available evidence when coming to a decision, and will not show preferential treatment to any one SPP Member over another in any work done as the SPP-EMA;
7. I will not willfully divulge to any unauthorized person any confidential information obtained in my work as the SPP-EMA;
8. I will not allow any engagement or personal and/or professional relationship to impair my impartiality as the SPP-EMA;
9. Any engagement with a SPP Member outside the SPP footprint will be done at my firm's standard rates and terms; and
10. I will not hold a direct financial interest in any SPP Member or affiliate of a SPP Member that is involved in the electricity business.



Acknowledged and Agreed:

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Employee Name (or Subcontractor)

Date