

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer to:
Southwest Power Pool, Inc.
Docket No. ER12-894-000

March 22, 2012

Wright & Talisman, P.C.
Attention: Tyler R. Brown, Esquire
1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802

Reference: Revised Network Integration Transmission Service Agreement

Dear Mr. Brown:

On January 25, 2012, you submitted on behalf of Southwest Power Pool, Inc. (SPP) a revised Network Integration Transmission Service Agreement (NITSA) between SPP as Transmission Provider and city of Lindsborg, Kansas (Lindsborg) as Network Customer and a Network Operating Agreement (NOA) among SPP as Transmission Provider, Lindsborg as Network Customer, and Westar Energy, Inc. as Host Transmission Owner (together, Agreement).¹ Pursuant to authority delegated to the Director, Division of Electric Power Regulation – Central, under 18 C.F.R. § 375.307, the submittal in the above referenced docket is accepted for filing effective March 23, 2012.

Notice of the filing was issued with comments, protests, or interventions due on or before February 15, 2012. Under 18 C.F.R. § 385.210, interventions are timely if made within the time prescribed by the Secretary. Under 18 C.F.R. § 385.214, the filing of a timely motion to intervene makes the movant a party to the proceeding, if no answer in opposition is filed within fifteen days. The filing of a

¹ The NITSA and NOA are designated collectively as First Revised Service Agreement No. 2014.

timely notice of intervention makes a State Commission a party to the proceeding. No comments, protests, or motions to intervene were filed.

You state that SPP requests waiver of the Commission's 60-day prior notice requirement to allow the Agreement to become effective December 1, 2011, the same date that changes to the Wholesale Distribution Service Charges are effective. Under 18 C.F.R. § 35(2), service agreements under a tariff must be filed no more than 30 days after electric service has commenced. You filed the Agreement on January 25, 2012, more than 30 days after commencement of service. In the *Central Hudson*² and *Prior Notice*³ orders, the Commission determined that waiver of notice will be granted for extraordinary circumstances. In this case, SPP has not demonstrated extraordinary circumstances. Therefore, waiver of the Commission's prior notice requirement pursuant to 18 C.F.R. § 35.11 is denied and the Agreement is accepted for filing effective March 23, 2012, i.e., 60 days after filing.

In cases where service commences before filing, and where waiver of the 60-day prior notice requirement is denied, the utility must refund the time value of the revenues collected, calculated pursuant to 18 C.F.R. § 35.19a, for the entire period monies were collected without Commission authorization to the date that the utility ultimately issues refunds, with the refunds limited so as not to cause the utility to suffer a loss.⁴ Accordingly, SPP must make time value refunds within 30 days of the date of this letter order and file a refund report with the Commission within 30 days thereafter or demonstrate that the time value refunds would result in a loss to SPP.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed document; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders

² *Central Hudson Gas and Electric Corporation, et al.*, 60 FERC ¶ 61,106 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992) (*Central Hudson*).

³ *Prior Notice and Filing Requirements under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,979 (1993), *order on reh'g* 65 FERC ¶ 61,081 (1993) (*Prior Notice*).

⁴ *See Carolina Power & Light Co.*, 87 FERC ¶ 61,083 (1999). *See also Southern California Edison Co.*, 98 FERC ¶ 61,304 (2002); *Florida Power & Light Co.*, 98 FERC ¶ 61,276 (2002), *reh'g denied*, 99 FERC ¶ 61,320 (2002).

which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central

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