



Southwest Power Pool
BOARD OF DIRECTORS MEETING
March 16, 2004
DFW Hyatt – Dallas

• A G E N D A •

10 a.m. – 3 p.m.

1. Administrative Items..... Mr. Al Strecker
2. President's Report.....Mr. Nick Brown
3. Strategic Planning Committee Report..... Mr. Richard Spring
4. Finance Working Group Report..... Mr. Harry Skilton

**Southwest Power Pool
BOARD OF DIRECTORS MEETING
New Orleans Marriott, New Orleans
January 27, 2004**

- Summary of Action Items -

1. Approved minutes of the October 28-29, 2003 meeting.
2. Approved Nominating Task Force nominations to fill three interim positions: Mike Palmer (Empire), Doug Henry (Westar) and Jim Stanton (Calpine).
3. Approved Finance Working Group's recommendation to retain Deloitte & Touche as auditor for the year ending December 31, 2003.
4. Approved Tariff modifications to Schedule 1 and new Schedule 1A, clarification of the network service billing process, revision to the billing and payment section and revision to Attachment P.
5. Approved minor changes to the Criteria Foreword and Criteria 3 and 4.
6. Approved authorization to expend up to \$70,000 for meetings and travel related to the Market Working Group efforts for the first quarter of 2004.
7. Approved Southwest Power Pool organizational groups and rosters.
8. Approved engaging the independent directors per the post-RTO committee structure using the current fee schedule for compensation.

**Southwest Power Pool
BOARD OF DIRECTORS MEETING
New Orleans Marriott, New Orleans
January 27, 2004**

Agenda Item 1 - Administrative Items

SPP Chair Mr. Al Strecker called the meeting to order at 10:04 a.m. and thanked everyone present for attending. He referred to the agenda and stated that presentations for items 3 and 8 would be combined (Agenda – Attachment 1). Mr. Strecker then called for a round of introductions. The following Board members were in attendance or represented by proxy:

- Ms. Phyllis Bernard, independent director,
- Mr. Nick Brown, Southwest Power Pool
- Mr. David Christiano, City Utilities of Springfield, MO,
- Mr. Harry Dawson, Oklahoma Municipal Power Authority,
- Mr. Jim Eckelberger, independent director,
- Ms. Trudy Harper, Tenaska Power Services Company,
- Mr. Quentin Jackson, independent director,
- Mr. Joshua Martin, independent director,
- Mr. Stephen Parr, Kansas Electric Power Coop.,
- Mr. Gary Roulet, Western Farmers Electric Cooperative,
- Mr. Robert Schoenberger, independent director,
- Mr. Jim Sherwood, proxy for Mr. Michael Deihl, Southwestern Power Admin.,
- Mr. Harry Skilton, independent director,
- Mr. Richard Spring, Kansas City Power & Light,
- Mr. Al Strecker, OG+E,
- Mr. Richard Verret, American Electric Power,
- Mr. Gary Voigt, Arkansas Electric Cooperative Corp.,
- Mr. Walt Yeager, Cinergy Services

There were 43 persons in attendance representing 19 members (Attendance List - Attachment 2). Mr. Brown received one proxy statement (Proxies - Attachment 3) and a quorum was declared.

Mr. Strecker referred to draft minutes of the October 28-29, 2003 meeting (10/28-29/03 Meeting Minutes - Attachment 4) and asked for corrections or a motion for approval. Mr. Dawson moved that the minutes be approved as presented. Mr. Skilton seconded the motion, which passed unopposed.

An email vote was requested from the Board of Directors for approval of a FERC filing. The filing was in compliance with Order 2003 required at FERC on January 20. The OPC recommended approval of the filing (Email vote – Attachment 5). The Board of Directors approved for filing with FERC the pro forma interconnection agreement to SPP's regional tariff, as recommended by the Operations Policy Committee. With 16 of 18 directors participating, the 2/3's quorum requirement was met and votes were as follows; 10 in favor, 4 against, and 2 abstentions, with the action approved by receiving 2/3's support of those voting.

Agenda Item 2 – Nominating Task Force Report

Mr. Christiano presented the Nominating Task Force Report (NTF Report – Attachment 6). Mr. Christiano explained that currently there were three vacancies on the Board of Directors due to retirement or resignation. Per SPP's Bylaws, the task force is responsible for nominating to the membership candidates equal in number to board positions to be filled. These would be interim positions until the next Meeting of Members when they would be elected permanently. The NTF recommendation is as follows:

- The Nominating Task Force presents the following slate to the Board of Directors for interim election until the next Meeting of Members: Mike Palmer (Empire) filling Gene Argo's unexpired 1-

year term; Doug Henry (Westar) filling Dick Dixon's unexpired 3-year term; and Jim Stanton (Calpine) filling Michael Gildea's unexpired 2-year term.

Mr. Strecker asked for other nominations. Hearing none, nominations were closed. Mr. Verret moved that the slate be accepted as presented. Mr. Yeager seconded the motion. The slate of nominees was elected unanimously and immediately took their seats as directors.

Agenda Item 4 – RTO Docket

Mr. Brown gave an update on the RTO filing. Mr. Brown stated he had hoped to announce the order for RTO approval had been received but that was not the case. Mr. Brown stated that there are indications the order may be issued notationally prior to the FERC meeting on February 11. Mr. Brown said that when an order is issued the Board of Directors would meet either face to face or by phone depending on the extent of conditions. He had hoped FERC representatives would be in attendance at this meeting to explain that days of delay could cost months due to the seasonal peaks that are the nature of the industry. Weather conditions and not being able to discuss the order prohibited FERC attendance.

Agenda Item 5 – Finance Committee Report

Mr. Skilton presented the Finance Working Group report (FWG Report – Attachment 7). Mr. Skilton stated that the Staff was moving ahead with discussion on financing with the expectation of RTO approval. A task force of members will be formed to aid the FWG to address credit policies in a late February meeting. This meeting is expected to produce a first draft of background and a credit policy.

Mr. Skilton explained that SPP annually engages an auditor for its financial statements and accounting controls. In the past, Deloitte & Touche has performed this task. Due to its history with SPP and its extensive electric energy practice, the FWG elected to retain them for the year ending December 31, 2003. Mr. Skilton moved that this FWG recommendation be approved. Mr. Jackson seconded this motion, which passed unopposed.

Agenda Item 6 – Operations Report/Blackout Update

Mr. Carl Monroe (SPP) gave the Operations Report and an update on the August Blackout (Operations & Blackout Report – Attachment 8). Mr. Monroe presented highlights of SPP operations including: transmission service, scheduling desk, TLR activity and reliability improvements. He then presented a summary of the August 14 Blackout. Mr. Monroe recommended reading the U.S.-Canada Power System Outage Task Force November 11 interim report posted on the NERC website. He stated that NERC offered recommendations and requested comments from SPP allowing only two days to reply. NERC is expected to have a draft acted on by its Board of Trustees in the next couple of weeks, which gives members an opportunity to provide comments directly to NERC. It was pointed out that many recommendations are expensive and time consuming.

Agenda Item 7 – Operations Policy Committee Report

Mr. Mel Perkins (OG+E) presented the Operations Policy Committee Report (OPC Report – Attachment 9). He then presented the following recommendations from OPC and asked for approval:

Regional Tariff Changes (Attachment 10)

1. Modifications to Tariff Schedule 1 and new Schedule 1A.
2. Tariff modifications necessary to clarify the network service billing process.
3. Revision to the billing and payment section of the Tariff.
4. Revisions to Tariff Attachment P.

Mr. Voigt moved to approve Tariff changes as presented. Mr. Dawson seconded this motion, which passed unopposed.

Criteria Changes (Attachment 11)

Mr. Perkins stated that minor changes were made in the Foreword of SPP Criteria and Criteria 3 & 4. Mr. Voigt moved to approve these Criteria changes. Mr. Schoenberger seconded this motion, which passed unopposed.

Market Related Recommendations (Attachment 12)

In order to continue meeting and working on market implementation the Market Working Group requests that SPP be authorized to expend up to \$70,000 for meetings and travel related to the MWG efforts for the first quarter of 2004. The Finance Working Group requires additional approval for budgeted funds on market related items. Ms. Harper moved to approve this expenditure retroactive to January 1, 2004. Mr. Palmer seconded this motion, which passed unopposed.

Mr. Perkins informed the group concerning other OPC issues. The working groups have been asked to review their charters. To date, the Generation Working Group, the Operating Reliability Working Group and the Operator Training Working Group have submitted charter changes for approval. Business Practice changes approved were: a new current hour service, changes in the emergency service, and a new System Impact Study for short-term transmission service. Mr. Perkins reported on the November Regional Planning Summit in Kansas City and stated that a second summit is set for June 8 with location to be announced. Another date to keep in mind is the Participant Funding Symposium in Dallas on March 18, followed the next day by an SPP Regional White Paper Technical Conference hosted by FERC at the same location.

Mr. Perkins reviewed the Independent Market Monitor (IMM) timeline and the intent to select a task force at the Board level to serve as an evaluation team to review bids and select an IMM.

Mr. Monroe addressed future FERC 715 filings and stated that SPP has offered to proactively support member coordination of future filings.

Mr. Monroe pointed out that in order to retain Accenture and move forward with Increment 1 of the Market plan it would require approximately \$170,000 per month. Without direction from the Board, work will stop at the end of January. It was pointed out that this would cause further delay in implementation, the team would be released (and SPP may not be able to get the same people back on the project), and it would probably cost more to wind down and restart. After much discussion pointing out the uncertainty of RTO approval, it was decided that Staff would use their best judgment and keep the BOD informed. It was suggested that MWG look at a possible interim policy between Increments 1 & 3.

Mr. Monroe reported that regarding seams, an MOU with MISO requiring a first draft of a Joint Operating Agreement (JOA) by January 30 is drafted and awaiting signatures (MOU & JOA – Attachment 13). There has been a delay but assuming no substantive changes are requested from MISO, SPP will execute about mid February. Please send any comments to Mr. Lanny Nickell (SPP). SPP/AECI coordination efforts are at a standstill. If no progress is made by using the AWTTTF forum to propose coordination solutions, responding to and working with TVA or resuming discussions with AECI, it is planned to request specific resolution from NERC.

Agenda Item 3 and 8 – Strategic Planning Committee Report

Ms. Stacy Duckett (SPP) presented the SPP Organizational Groups and rosters for approval and asked that members review them for balance of member representation (Org Charts & Rosters – Attachment 14). These rosters need to be approved by the Board every two years. Ms. Harper moved that the SPP organization charts and rosters be approved. Mr. Yeager seconded the motion, which passed unopposed.

SPP Board of Directors Minutes
January 27, 2004

Mr. Spring presented the Strategic Planning Committee (SPC) Report (SPC Report and Recommendation – Attachment 15). He stated that SPC had little to discuss at their January 20 –21 meeting due to awaiting the RTO order. Mr. Spring reviewed the post-RTO SPP Organizational Chart pointing out that SPP is moving from a working group structure to a committee structure. Independent directors will be involved in each of the committees, which should be beneficial providing them with a better understanding of SPP activities. Meeting again January 22 after the Board Orientation, SPC decided in order to make a smooth transition, independent directors should begin committee assignments immediately rather than post-RTO and be compensated with the current fee schedule. Ms Harper moved to approve independent director assignments and compensation. Mr. Yeager seconded the motion, which passed unopposed.

Other Business

Mr. Dawson requested the opportunity to make a presentation regarding an OMPA request (OMPA Request – Attachment 16). Following Mr. Dawson's presentation, it was decided that he would send a redline copy of SPP Open Access Tariff Schedule 4A to the Regional Transmission Working Group (RTWG) to determine if a problem exists and if so, how to proceed. RTWG is asked to have an answer for the Board by its April 27, 2004 meeting. It was also decided that if an issue is controversial and email voting is contested, there is to be a vote by phone or in person. When the new SPP Bylaws come into effect, voting will only be allowed by phone or in person.

Adjournment

With no further business, Mr. Strecker thanked everyone for participating and adjourned the open portion of the meeting at 2:18 p.m. asking that the Board of Directors reconvene in executive session.

During executive session, the Board of Directors unanimously elected Mr. Carl Monroe as Chief Operating Officer, Ms. Stacy Duckett as General Counsel and Corporate Secretary, and Mr. Tom Dunn as Chief Financial Officer.

Stacy Duckett, Corporate Secretary

**Southwest Power Pool
STRATEGIC PLANNING COMMITTEE
Report to the Board of Directors
March 16, 2004**

Background

On February 10, 2004, the Federal Energy Regulatory Commission (the "Commission") issued an order in the SPP RTO filing docket (RT04-1) conditionally approving SPP as an RTO. Most, if not all, of the conditions and compliance issues in the order are within SPP's control to meet. Some have interpreted that there are conditions within the order for which SPP can only play a facilitation role (ex: placement of bundled retail load under the regional Tariff). The RTO Summary Report (Attachment 1) lists the compliance conditions and, where appropriate, the timing requirement.

Per the order, SPP is directed to (1) implement its independent Board and modify its governance structure; (2) expand the coverage of SPP's tariff to assure that SPP is the sole transmission provider; (3) obtain clear and sufficient authority to exercise day-to-day operational control over the appropriate transmission facilities within its footprint; (4) have an independent market monitor in place to monitor the competitiveness and efficiency of the market; (5) obtain clear and precise authority to independently and solely determine which projects to include in the regional transmission plan and to prioritize those projects, as discussed herein; and (6) have on file with the Commission a seams agreement with the Midwest Independent Operator, Inc. (Midwest ISO), prior to receiving RTO authorization. SPP must have on file its revised Bylaws and revised Membership Agreement, with changes as required in this order, pursuant to Section 205 of the Federal Power Act (FPA). SPP RTO status will be achieved once these actions are taken. Upon completing these steps, SPP is directed to make a compliance filing demonstrating these outstanding issues were completed. SPP must also file its operating budget, for informational purposes, within ninety (90) days of the date that SPP obtains operational authority over transmission facilities within its footprint.

Additionally, once SPP has achieved RTO status, SPP must address the Commission's remaining requirements identified in this order. SPP must fulfill its commitment to: (1) complete its proposed plan for congestion management and an energy imbalance market; (2) participate in the Joint and Common Market with Midwest ISO and PJM Interconnection, LLC (PJM); and (3) develop and file a transmission cost allocation plan.

The Board of Directors approved the 2004 budget with the requirement that authority to expend funds for items identified in the budget as Imbalance Energy expenditures and Market Monitoring/ Mitigation expenditures be subject to future specific approval of the SPP Board of Directors upon receiving an affirmative RTO order from the Commission.

	<u>Operating</u>	<u>Capital</u>
Imbalance Energy	9,034,497	5,052,455
Market Monitoring/Mitigation	620,629	3,000,000

Upon approval from the Board of Directors to expend the funds necessary to continue the market implementation project, the Finance Working Group and SPP staff were authorized to negotiate with lenders to arrange suitable financing to fund 2004's capital

expenditures. Specific SPP Board of Directors approval will be required prior to executing new long-term borrowing arrangements.

Analysis

It is the Strategic Planning Committee's (SPC) position that SPP should move forward in complying with all conditions/issues because the conditions are deemed consistent with SPP's strategic plan approved by the Board of Directors last year. The conditions are also consistent with requirements placed on previous RTO applicants, meaning that there was nothing unexpected in SPP's order. The SPC is recommending that a compliance filing be made immediately following the April 27 Board of Directors meeting and that it respond to the issues/conditions as follows.

Pre-RTO Recognition

(1) implement its independent Board and modify its governance structure

The Commission was clear in its requirement that SPP transition to the non-stakeholder Board of Directors in advance of receiving RTO recognition. The SPC is recommending that the Board of Directors approve the changes to the SPP Bylaws necessary to accomplish these requirements (Attachment 2). Pursuant to Section 8.0 of the current Bylaws, changes to Section 4.0 of the Bylaws regarding the structure and authorities of the Board of Directors must be approved by the Membership. The SPC recommends that the Board of Directors recommend for approval the changes to Section 4.0 at a special meeting of the Members to be called in conjunction with the April 27 Board of Directors meeting (the Chairman of the Board may call this meeting).

In addition, the Commission directed some expansion of the sectors of the membership for the Members Committee and the Corporate Governance Committee. The SPC reviewed the sectors of other regional organizations, and the sectors included in the Commission's White Paper on Standard Market Design. In considering those and the requirement as stated in SPP's RTO Order, the SPC formulated a structure to comply with the Commission's directive. The revised Bylaws include the recommended changes.

(2) expand the coverage of SPP's tariff to assure that SPP is the sole transmission provider

SPP will expand upon the information provided in the RTO filing to clarify that it is the sole transmission provider as currently reflected in the Tariff. Regulatory counsel has provided information in this regard including proposed modifications to SPP's OATT (Attachment 3).

(3) obtain clear and sufficient authority to exercise day-to-day operational control over the appropriate transmission facilities within its footprint

SPP will expand upon the information provided in the RTO filing to clarify that it has clear and sufficient authority to exercise the requisite control in the footprint. In addition, a schedule for the placement of bundled retail load under the SPP OATT will be provided (Attachment 4).

(4) have an independent market monitor in place to monitor the competitiveness and efficiency of the market

SPP must have an Independent Market Monitor (IMM) in place as a prerequisite to obtain RTO status. Although the IMM would initially have a role limited to monitoring the administration of transmission service and market analysis, the anticipation from the Commission is that this IMM would provide a much-expanded role in the establishment and monitoring of the Imbalance Market and cost-benefit studies for the subsequent markets. SPP organizational groups have been diligently working and have developed and issued a Request For Proposal for an IMM, recognizing the need to involve an IMM in design of procedures and systems implemented in Phase 1 of the markets project. Several vendors have indicated interest in providing this function and an Independent Market Monitor Task Force has been formed reporting to the Board to recommend a vendor at the April 27 meeting.

(5) obtain clear and precise authority to independently and solely determine which projects to include in the regional transmission plan and to prioritize those projects

The order requires a more independent role for SPP in transmission system planning, as expressed in Attachment O of SPP's Tariff. The RTWG is developing the requisite revisions to Attachment O of the tariff for inclusion in the compliance filing. The current draft from staff is included with this report. The final recommendations from the RTWG will undergo Operations Policy Committee review in April (Attachment 5).

(6) have on file with the Commission a seams agreement with the Midwest Independent Operator, Inc.

SPP has executed a Memorandum of Understanding with MISO and will be distributing a detailed Joint Operating Agreement for stakeholder review by mid-March. A report is provided detailing SPP's current status in regard to seams agreements/discussions with the Midwest ISO and other neighboring entities (Attachment 6). Staff will continue to update this up to the date of filing so that the most current status will be included for the Commission's consideration.

Post-RTO Recognition

(1) complete its proposed plan for congestion management and an energy imbalance market

The Commission accepted SPP's commitment for a phased implementation of its Energy Imbalance Market (which satisfies the requirements of Order No. 2000 for Day 1 Operation of an RTO), and to fulfill its commitment to "complete its proposed plan for ... an energy imbalance market". A revised schedule is provided as determined by the Market Working Group (Attachment 7). This schedule reflects the delays in receiving the Commission's order and the release of budgeted funds for the project. The Commission was supportive of SPP's proposed phased implementation approach for market operations, and the revised schedule maintains this approach. Congestion management plans will be developed following a cost-benefit analysis that will be conducted pursuant to discussions with state regulatory agencies.

(2) participate in the Joint and Common Market with Midwest ISO and PJM Interconnection, LLC (PJM)

Staff has conferred with representatives from MISO and PJM regarding this initiative and SPP's participation in it. Given the numerous seams facing MISO and PJM, the initiative has been rolled into the Joint Operating Agreement (JOA) between the organizations. SPP has executed a Memorandum of Understanding with MISO to execute a similar JOA. Details related to the status of this, as well as references to the MISO/PJM joint filings at the Commission would be included in SPP's discussion of this condition in the compliance filing.

(3) develop and file a transmission cost allocation plan

A transmission cost allocation plan for upgrades is under development and a schedule of activities for SPP's organizational groups has been developed showing completion by the end of this year (Attachment 8). Staff will update this report as needed up to the date of filing so that the most current status will be included for the Commission's consideration.

In considering the decision to move forward with RTO compliance, questions were raised regarding a member's obligation at withdrawal and how the timing of financial commitments made by SPP impacts that obligation. To that end, the Finance Working Group requested an opinion outlining the issues (Attachment 9).

A timeline of activities necessary to accomplish the measures recommended is attached to this report (Attachment 10).

Recommendation

The SPC recommends the following:

- 1) SPP staff should make a compliance filing in the RTO docket indicating compliance status with the conditions/issues noted by FERC and in accordance with the reports provided, as soon as possible following the April 27 Board of Directors meeting.
- 2) Acceptance of the SPP Bylaws as presented, including an effective date of May 1, 2004.
- 3) Acceptance of the SPP Membership Agreement as filed, including an effective date of May 1, 2004.
- 4) The SPP Board of Directors should recommend for approval to the SPP Membership the revisions to Section 4.0 of the SPP Bylaws required by the compliance filing.
- 5) In accordance with the revised Bylaws, the Corporate Governance Committee should be developed and convene for purposes of preparing:
 - a. Slates of candidates for the committees reporting to the Board of Directors to be nominated to the Board of Directors at its April 27 meeting; and
 - b. A slate of candidates for the Members Committee to be nominated to the Membership at its April 27 meeting.

- Elections would be effective with the revised Bylaws (May 1).
- 6) Release of the budgeted funds required to resume the Energy Imbalance and Market Monitoring/Mitigation components of the market implementation project, including authorization for the officers of the company to obtain proposals for the long-term financing needed to provide those funds.
 - 7) Direct the RTWG to review prior to, but no later than, its April 8 meeting the tariff language suggested by Mike Small to clarify that SPP is the sole transmission provider, and make a recommendation to the OPC for consideration at its April 14-15 meeting, for further recommendation to the Board of Directors at its April 27 meeting.

Approved: Strategic Planning Committee March 9, 2004

Action Requested: Approve the recommendation

Prior to RTO Recognition

Governance Items

<i>Ref</i>	<i>Action Required</i>	<i>Status</i>	<i>Staff</i>
¶ 36	SPP to file revised bylaws incorporating independent board structure and balanced members committee.	Proposed revisions pending approval	
¶ 37	Transition to fully independent board structure	Recommendation to accept revised BOD structure immediately	NB
¶ 38, ¶ 42	Amend SPP's governance structure to provide for balanced stakeholder representation on the Members Committee	Recommendation for changes to Bylaws	TD, SD
¶ 43	Codify and incorporate process for identifying potential board nominees (e.g., independent search firm)	Recommendation for changes to Bylaws	SD
¶ 44	Remove language "restricting" board to meet in presence of member committee	Recommendation for changes to Bylaws	SD
¶ 218	SPP to file revised bylaws reflecting definition of RSC contained in this order.	Recommendation for changes to Bylaws	SD

Regulatory/Operational Authority Issues

¶ 110	Submit in the compliance filing (1) disclosure of the magnitude of load that is proposed to be grandfathered wholesale as well as bundled retail load and indicate what percentage of these loads will be to the total load served under SPP's tariff, and (2) a schedule for converting its GFAs to the SPP OATT, consistent with the guidance provided to the Midwest ISO, to facilitate market operations.	Listing of grandfathered agreements and expiration dates will be included in compliance filing, along with statement of % load represented by "evergreen" agreements (very small)	PB
¶ 188	SPP to file changes in Attachment O indicating SPP has oversight authority with respect to TO-conducted transmission studies.	Recommendation for revisions	PB, W&T
¶ 66	SPP to file its revised membership agreement	Recommendation for revisions pending	SD, PB

¶ 79, ¶ 80	Report demonstrating SPP authority and facilities under its control, including current and proposed responsibilities, consistent with the NERC functional model.	Maps of footprint being compiled; report delineating duties of SPP and its control areas being developed; filing will indicate that SPP Bylaws already require us to adopt any NERC requirements	PB, CM
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Regulatory/Market Issues

¶ 172	SPP must have an IMM in place to oversee safe and reliable operation of transmission system.	IMM Selection Task Force is being compiled; IMM RFP revised to reflect new timetable for selection	NB, CM, RD
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Regulatory/Planning Issues

¶ 187	SPP to file milestones associated with its regional planning cycle.	High-level schedule is being developed, including step to review with states/RSC	LD
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Regulatory/Transmission Provider Issues

¶ 115	SPP to include timetable for addressing Lafayette’s issues regarding new network customers and credit for use of their facilities.	Draft timetable	LD
¶108, ¶109	TOs, on behalf of their entire load including grandfathered wholesale and bundled retail loads, must take service under the non-rate terms and conditions in the SPP OATT as a prerequisite to SPP RTO recognition. SPP will become the sole provider of transmission service, as prescribed by Order No. 2000, and the transmission owners must take all transmission services from SPP.	Begin meetings/discussions with TOs regarding conversion to network service	NB

Seams Issues

¶ 63, ¶ 204	File with the Commission a seams agreement with Midwest ISO and participate in the Joint and Common Market with Midwest ISO and PJM.	MOU with MISO has been executed; JOA draft with MISO is in review with staffs; Jt/Common Mkt	CM, SD
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<p>Provide a timeline to develop and file seams agreements with the other utilities with which SPP's members interconnect, as part of the compliance filing.</p>	<p>Agreement is under review at SPP; timeline for others is being developed</p>	
<p>SPP to report on the nature of (1) seams negotiations with nearby TO's, (2) nature of pro forma seams agreement modifications to deal with interventions, (3) a timetable for filing these seams agreements.</p>		

Post RTO Recognition (To be considered at a later date)

Regulatory/Market Issues

¶ 174	After RTO recognition	IMM to perform cost/benefits analysis, SPP to review costs and benefits of Phase 2.	
¶ 134	After RTO recognition	SPP to file, under FPA Section 205, Day 2 congestion management plan.	
¶ 173	Sixty days prior to Phase 3 (?)	SPP to provide a market monitoring plan which includes appropriate mitigation measures, including periodic reports prepared by IMM.	
¶ 81	2/10/2005 (one year from date of order)	SPP report to FERC on feasibility of a single control area	

Regulatory/Planning Issues

¶ 46	Within 90 days of obtaining operational authority over transmission footprint	SPP will file its operating budget with FERC	
¶ 188	Not later than 12/31/2004	SPP to develop and file a transmission cost allocation plan	

Regulatory/Transmission Provider Issues

¶ 162	4/10/2004 (sixty days from date of order)	SPP to document ATC process with emphases on utilization of CBM	
¶ 156	2/10/2005 (one year from date of order)	SPP to report regarding progress of resolving intervener issues related to reactive power and Schedule 1 rate pancaking.	

Seams Issues

¶ 63	After RTO recognition	SPP to participate in Joint and Common Market effort.	
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SPP Bylaws Revisions March 2004

The following revisions are proposed to meet the compliance requirements/conditions of the Federal Energy Regulatory Commission (the Commission) in SPP's RTO Order. These revisions are to the Bylaws that were filed by SPP, not to the Bylaws currently in effect.

Bylaws Section	Comments	RTO Order Reference
§2.1, p.3 <i>Membership Qualifications</i>	The order requires that SPP expand its membership sectors for the Members Committee and the Corporate Governance Committee. To accomplish this, while still requiring participants to be members of the organization, it is necessary to expand the qualifications for membership in SPP.	¶ 38, ¶ 42
§3.11, p. 6 <i>Staff Independence and Support</i>	The Commission has issued Order 2004 stating the requirements for jurisdictional entities to adhere to a Code of Conduct. While SPP is not currently subject to this order, it will become so. This change is made now to avoid resubmitting the Bylaws.	N/A
§4.6.1, p. 15 <i>Meetings and Notice of Meetings</i> [BOD]	The order notes that the BOD would be required to meet with the Members Committee and the Regional State Committee. The Commission read this to mean that if the Members Committee refused to attend, then to BOD could not meet. The revisions are meant to clarify that the BOD cannot be prohibited from convening/acting, while still requiring that the BOD include the Members Committee and Regional State Committee in its meetings.	¶ 44
§5.1.1.1, p. 16 <i>Composition</i> [Members Committee]	The order requires that the Members Committee include more sectors of market participants to achieve balance. The sectors noted in these revisions are reflective of sectors in other regional organizations, as well as SPP's current membership.	¶ 38, ¶ 42
§5.1.2, p. 17 <i>Term and Election</i> [Members Committee]	To further obtain balance in membership sectors, the Corporate Governance Committee will nominate a slate of representatives to the Members. All Members will vote on each nominee. [The change in 5.1.2(c) corrects a typo; the changes in §5.1.3 and §5.1.4 create consistency with the changes in §5.1.2]	¶ 38, ¶ 42
§6.2, p. 20 <i>Strategic Planning Committee</i>	While still maintaining three positions for independent directors, it is recommended that the President not be required to be a voting representative, nor that directors must serve as chair and vice chair. In addition, to assure balance, the Corporate Governance Committee will be responsible for providing nominees and filling interim vacancies.	¶ 38, ¶ 42

Bylaws Section	Comments	RTO Order Reference
§6.3, p. 21 <i>Human Resources Committee</i>	To assure balance, the Corporate Governance Committee will be responsible for providing nominees and filling interim vacancies. However, to assure independence, a director will be required to serve as chair.	¶ 38, ¶ 42
§6.5, p. 22 <i>Finance Committee</i>	To assure balance, the Corporate Governance Committee will be responsible for providing nominees and filling interim vacancies. However, to assure independence, a director will be required to serve as chair.	¶ 38, ¶ 42
§6.6, p. 23 <i>Corporate Governance Committee</i>	The order requires that representation on the Corporate Governance Committee be more balanced. The revisions noted are reflective of those made in the Members Committee composition.	¶ 38, ¶ 42
§6.6(c), p. 24 <i>Corporate Governance Committee</i>	The order requires more clarity regarding the use of an executive search firm in filling Board vacancies.	¶ 43
§6.6(d), p. 24 <i>Corporate Governance Committee</i>	The membership sectors will elect their respective representatives to the Corporate Governance Committee.	¶ 38, ¶ 42
§7.2, p. 25 <i>Regional State Committee</i>	The order requires that SPP include the language noted in its Bylaws.	¶ 218
§11.0, p. 28 <i>Effective Date and Transition Provisions</i>	An effective date of May 1, 2004 is offered. This allows time for required Board and Membership actions, as well as meeting the requirement in the order that the revisions noted be included in a compliance filing and take effect prior to SPP receiving recognition as an RTO.	¶ 36

Southwest Power Pool, Inc.

B Y L A W S

**Southwest Power Pool Bylaws
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BYLAWS
of
Southwest Power Pool, Inc.

PREAMBLE

The values and principles upon which SPP is incorporated and formed include: a relationship-based organization; member-driven processes; independence through diversity of Organizational Group membership; recognition that reliability and economic/equity issues are inseparable; and, deliberate evolutionary, as opposed to revolutionary, implementation of new concepts. These values and principles should guide those serving this organization. The Board of Directors will endeavor to ensure equity to all Members while also assuring the continuous adaptation to controlling conditions within these stated values and principles.

1.0 DEFINITIONS

1.1 Affiliate Relationships

Affiliate Relationships are relationships between SPP Members that have one or more of the following attributes in common:

- a. are subsidiaries of the same company;
- b. one Member is a subsidiary of another Member;
- c. have, through an agency agreement, turned control of a majority of their generation facilities over to another Member;
- d. have, through an agency agreement, turned control of a majority of their transmission system over to another Member, except to the extent that the facilities are turned over to an independent transmission company recognized by FERC
- e. have an exclusive marketing alliance between Members; or
- f. ownership by one Member of ten percent or greater of another Member.

1.2 Articles of Incorporation

SPP's articles of incorporation as filed with the state of Arkansas.

1.3 Board of Directors

The Board of Directors of SPP, which shall manage the general business of SPP pursuant to these Bylaws.

1.4 Bylaws

These bylaws.

1.5 Criteria

Planning and operating standards and procedures as approved by the Board of Directors.

1.6 Member

An entity that has met the requirements of Section 2.2 of these Bylaws.

1.7 Membership

The collective Members of SPP.

1.8 Membership Agreement

The contract, that specifies the rights and obligations of the parties, executed between SPP and an entity seeking to become an SPP member.

1.9 NERC

The North American Electric Reliability Council or successor organizations.

1.10 Net Energy for Load

The electrical energy requirements of an electric system are defined as system net generation plus energy received from others, less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities.

1.11 Officers

The officers of SPP as elected by the Board of Directors. The Officers consist of the President and the Corporate Secretary, at a minimum. Any Officer must be independent of any Member organization.

1.12 Organizational Group

A group, other than the Board of Directors, comprising a committee or working group that is charged with specific responsibilities toward accomplishing SPP's mission.

1.13 SPP

Southwest Power Pool, Inc

1.14 Staff

The technical and administrative staff of SPP as hired by the Officers to accomplish SPP's mission.

1.15 Transmission Owning Member

A Member that has placed more than 500 miles of non-radial facilities operated at or above 60 kV under the independent administration of SPP for the provision of regional transmission service as set forth in the Membership Agreement.

1.16 Transmission Using Member

A Member that does not meet the definition of a Transmission Owning Member.

2.0 MEMBERSHIP

2.1 Qualifications

Membership in SPP is voluntary and is open to any electric utility, Federal power marketing agency, transmission service provider, ~~and~~ any entity engaged in the business of producing, selling and/or purchasing electric energy for resale, [and any entity willing to meet the membership requirements, including execution of the Membership Agreement](#). Membership also is open to any entity eligible to take service under the SPP Open Access Transmission Tariff (OATT). These entities desire the greater efficiency and service reliability gained through better coordination by voluntary association in SPP as constituted herein and in the SPP Articles of Incorporation. Members recognize that such association has a significant effect upon the availability and reliability of the bulk electric power supply of the region, and thereby affects the reliability of the nation's electric power supply.

2.2 Applications

Membership by an entity shall be obtained upon meeting the following requirements:

- a. Meeting membership qualifications;
- b. Providing an application for membership to the SPP President; and
- c. Executing the Membership Agreement and delivering a signed copy to the President.

The President shall review applications, approve those meeting membership qualifications and promptly give written notice of the new Member to all other Members. The Board of Directors will review any disputes arising as to the qualifications of the new Member. Membership will commence at the beginning of the next calendar month following completion of these requirements.

2.3 Member Responsibilities and Obligations

Members recognize that SPP exists and operates for the benefit of the bulk electric transmission system and to ensure the reliability of the nation's power supply. As such, Members are required to act to further these goals by participating in projects, and complying with regulatory requirements. Failure to comply with these provisions will be considered a violation of these Bylaws and the Member may be removed in accordance with the provisions for *Removal of Members* in the Membership Agreement.

2.4 Termination, Removal and Reinstatement

The Board of Directors may terminate the membership of any Member in accordance with the Membership Agreement. The President shall promptly give written notice of the removal to all other

Members. Any former Member seeking to rejoin SPP shall apply to the Board of Directors for reinstatement. In its application for reinstatement, the former Member shall:

- a. provide evidence that it has fully paid any accrued financial obligation to SPP;
- b. demonstrate it has corrected the reason for its removal;
- c. establish that it will be in compliance with SPP membership requirements; and
- d. deliver an executed Membership Agreement to the President.

3.0 ORGANIZATIONAL ADMINISTRATION

3.1 Structure

Member input on decision-making shall be accomplished primarily through Membership participation in Organizational Groups. Members are expected to provide representation to Organizational Groups as requested. Working group representation will be appointed by the Board of Directors, who shall consider the various types and expertise of Members and their geographic locations, to achieve a widespread and effective representation of the Membership. The Chair of any Organizational Group may appoint any ad hoc task forces as necessary to fulfill its mission. Task force appointments shall be made with due consideration of the various types and expertise of Members and their geographic locations. Participation in certain sessions of Organizational Group meetings where market sensitive issues are discussed may be restricted to persons representing entities that have executed NERC's Confidentiality Agreement. Representatives on all Organizational Groups will be documented in the SPP directory maintained by the Staff. Organizational Group vacancies will be filled on an interim basis by appointment of the President unless otherwise provided for in these Bylaws.

3.2 Proxy

If a Member's designated representative is unable to attend an Organizational Group meeting, it may in writing appoint a substitute representative who shall have such rights to participate and vote as the Member specifies.

3.3 Leadership

3.3.1 Appointment

The Chair of all Organizational Groups shall be nominated by the Corporate Governance Committee for consideration and appointment by the Board of Directors. A Vice Chair shall be elected by the members of an Organizational Group, unless provided otherwise in these Bylaws. A Vice Chair shall act for a Chair:

- a. at the request of the Chair;
- b. if the Chair becomes incapacitated and unable to discharge the functions of the position; or
- c. if the position of the Chair becomes vacant, until a new Chair takes office.

3.3.2 Terms

The terms of the Chair and Vice Chair of all Organizational Groups shall coincide with the two-year term of the Chair of the Board of Directors. Working Group representation will be reviewed for appropriateness by the Corporate Governance Committee.

3.3.3 Vacancies

Should any individual having been appointed as a Chair of any Organizational Group be unable to serve for the term specified, or be unable to serve on a NERC Organizational Group under provisions of these Bylaws, a replacement shall be appointed by the Chair of the Board of Directors for the unexpired term of office.

3.4 Executive Authority

The Officers shall carry out the rights, duties, and obligations of SPP pursuant to the authority granted by the Board of Directors. Officers will execute the SPP Standards of Conduct upon employment. The Standards of Conduct outline the independence requirements for all employees of SPP. The Officers shall be empowered to:

- a. employ qualified technical and administrative employees;
- b. engage office space;
- c. employ outside technical and special service organizations;
- d. execute contracts;
- e. provide for independent regional reliability coordination and transmission service administration;
- f. serve as SPP's representative before regulatory bodies, NERC, and in other public forums;
- g. incur reasonable expenses; and
- h. make Staff resources available to individual Members or groups of Members on a non-firm, non-priority, first-come-first-serve basis so as not to interfere with current or future needs and priorities established by SPP.

3.5 Meetings

Organizational Groups shall meet as necessary. SPP meetings shall be open, however, any Organizational Group may limit attendance at a meeting by an affirmative vote of the Organizational Group as necessary to safeguard confidentiality of sensitive information, included but not limited to Order 889 Code of Conduct requirements, personnel, financial, or legal matters. Representatives shall be given at least fifteen days written notice of the date, time, place and purpose of each regular or special meeting. Telephone conference meetings may be called as appropriate by the Chair of any Organizational Group with at least one-day prior notice.

3.6 Order of Business

The latest edition of Robert's Rules of Order will generally govern all SPP meetings on any point not specifically covered in these Bylaws.

3.7 Expenses

The expenses of a representative participating in the activities of SPP Organizational Groups and task forces shall be borne by that representative.

3.8 Quorum

The quorum for a meeting of the Markets and Operations Policy Committee or the Membership shall be those Members present. The quorum for any other Organizational Group or task force shall be one-half of the membership thereof, but not less than three members; provided, that a lesser number may adjourn the meeting to a later time.

3.9 Voting

Each participant in an Organizational Group shall have one vote. Upon joining, Members shall be assigned to one of two Membership sectors for the sole purpose of voting: Transmission Owning Members, or Transmission Using Members. Markets and Operations Policy Committee and Membership actions are taken in the following process. Each sector votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. Then the action is approved if the average of these two percentages is at least sixty-six percent. If no Members are present within a sector, the single present sector-voting ratio will determine approval. A simple majority of participants present or represented by proxy and voting shall be required for all other Organizational Group and task force action.

3.10 Appeal

Should any Member or group of Members disagree on an action taken or recommended by any Organizational Group, such Member(s) may, in writing, appeal and submit an alternate recommendation to the Board of Directors prior to the meeting at which consideration of the action by the Board of Directors is scheduled.

3.11 Staff Independence and Support

SPP Staff members will be required to execute the SPP Standards of Conduct upon employment [and annually thereafter](#). The Standards of Conduct outline the independence requirements for employees of SPP. The President shall assign to each Organizational Group an SPP Staff member, who shall attend all meetings and act as secretary to the Organizational Group and any ad hoc task forces of that group. Staff secretaries of all Organizational Groups and task forces shall be non-voting. Minutes shall be kept of

pertinent discussion, business transacted, decisions reached, and actions taken at each meeting of SPP Organizational Groups or task forces by the secretary. Minutes shall be considered published documents upon their approval by the Organizational Group or task force.

3.12 Publications and Data Bases

SPP shall publish and distribute printed reports as necessary to fulfill the SPP mission. SPP shall also develop and maintain electronic databases of relevant technical information as approved by the Board of Directors. The release of information in databases containing member-specific technical data considered proprietary in nature will be governed by the Membership Agreement and related Criteria and administered by the Staff. In the event member specific non-proprietary technical data is being distributed, SPP will provide written notice of the specific data submitted, to whom it is being submitted and the purpose of such submittal to the respective Member at the same time the data is provided to the requesting party. Publications and technical data will be made available at no charge to Members, other regional councils and their members, and federal and state agencies. Other parties requesting SPP publications or technical data will be charged an amount equivalent to production, handling and delivery costs.

3.13 Dispute Resolution

These procedures are established for the equitable, efficient and expeditious resolution of disputes. These procedures are intended to cover disputes between any two or more Members, between Members and consenting non-members or between SPP and any Member(s) or consenting non-member(s). SPP and Members are strongly encouraged to take part in the complete process herein described prior to litigation or the utilization of other dispute resolution processes. SPP administrative involvement in the proceeding is to coordinate assembly of a non-biased and independent dispute resolution panel to facilitate the resolution of the dispute and to provide meeting coordination and facilities. If SPP is a party to the dispute, its administrative duties shall be turned over to a contracted facilitator mutually selected by the disputing parties. These procedures do not apply to disputes that are covered by the dispute resolution procedures of the SPP OATT.

3.13.1 Instigation

Any Member may begin these dispute resolution procedures by making a request in writing to the President. The President will forward copies of this request to the Board of Directors. This written request must contain the authorized signatures of all parties to the dispute. The request must contain:

- a. a statement of the issues in dispute;
- b. the positions of each of the parties relating to each of the issues;
- c. the specific dispute resolution procedure desired; and
- d. any agreed-upon modifications or specific additions to the proceedings described in these Bylaws

by which the dispute may be resolved.

3.13.2 Dispute Resolution Panel

The President shall immediately provide to each party to the dispute a list of candidates to be used in forming a three-person dispute resolution panel. This list shall be maintained by SPP and can be added to at any time by any Member. This list shall contain at least seven persons meeting the requirements for directors. The President shall then call a telephone conference meeting. During this meeting, each party shall alternate striking names from the list until those remaining constitute the dispute resolution panel. This panel shall select a chair from its membership. Should any candidate decline to serve or resign from a current appointment for any reason, the candidate whose name was last struck from the list shall automatically be contacted to serve. The President shall assign a Staff representative to assist the panel as secretary. The President shall manage the panel selection process to ensure its completion within one week from receipt of the request.

3.13.3 Resolution Procedures

The types of proceedings available for the resolution of disputes are:

- a. An Advisory Proceeding to assist each party through discussion and advice, on a separate and individual basis without active participation in the joint discussions and negotiations, to resolve the dispute informally by mutual agreement;
- b. A Mediation Proceeding to assist the parties through active participation in the joint discussions and negotiations (including specific recommendations of the issues in dispute) through which the parties indirectly attempt to resolve the dispute informally by mutual agreement;
- c. A non-binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue specific written recommendations for resolution of each issue in dispute.
- d. A binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue directives and awards for resolution of each issue in dispute.

The panel chair shall determine meeting arrangements and format necessary to efficiently expedite the resolution of the dispute, and the Staff secretary shall notify the parties of these details. Each party to the dispute must have at least one representative present at all related meetings with full authority to resolve the dispute. Upon conclusion of this process, the panel chair shall notify the President of its outcome. After consultation with the parties to the dispute and the panel chair to determine the completion of the process as described herein, and/or as modified by the parties, the President shall discharge the panel, and notify the Board of Directors of the results. The parties to the dispute agree to complete the process within 90 days from selection of the panel. The Staff secretary shall maintain minutes of the panel meetings, which shall become part of SPP's historical records.

3.13.4 Expenses

The parties to the dispute shall share equally all reasonable charges for the meeting location, administrative costs, and related travel expenses of panel members. The parties to the dispute shall also share equally all reasonable compensation for time and service of panel members and related incremental expenses of the SPP Staff. The President shall determine reasonableness of time and service costs for panel members prior to process implementation. The SPP Staff secretary shall account for these expenses. Each party to the dispute shall be responsible for their respective associated expenses.

3.13.5 Liability

The parties to any dispute which is the subject of these dispute resolution procedures shall hold harmless SPP, its Members, Organizational Groups and each of their directors, officers, agents, employees or other representatives, and the panel members from any liabilities, claims, or damages resulting from any agreement or lack of agreement as a result of the dispute resolution proceedings. The foregoing hold harmless right shall not be extended to the parties to any given dispute or to their directors, officers, agents, employees or other representatives.

3.14 Meeting of Members

The Chair of the Board of Directors shall convene and preside over meetings of Members for the purpose of electing directors to positions becoming vacant in the ensuing year, and any other necessary business. The Membership shall meet at least once per calendar year.

3.15 Liability, Insurance and Indemnification

For purposes of this section "SPP" refers to SPP and its officers, directors, employees or agents, and "Member" refers to the Members of SPP as defined in these Bylaws. None of the provisions of this section, including the waiver of liability in Section 3.15.1 below, absolving SPP or its Members, directors, officer, agents, employees or other representatives of liability or any provisions for insurance or indemnification apply to actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct.

3.15.1 Waiver of Liability

- a. SPP shall not be liable to any Member for damages arising out of or related to any directive, order, procedure, action, or requirement of SPP, under the then effective Bylaws and Criteria.
- b. No Member shall be liable to any other Member or to SPP for damages arising out of or related to any action by the Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria
- c. Each Member waives any future claim it might have against SPP or other Members arising out of

or resulting from any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.

- d. SPP waives any future claim it might have against any Member arising out of or resulting from any actions taken by a Member pursuant to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria.

3.15.2 Insurance

The President is authorized to procure insurance to protect SPP, its directors, officers, agents, employees, or other representatives against damages arising out of or related to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria or pursuant to the OATT.

3.15.3 Indemnification of Directors, Officers, Agents and Employees

Except for actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct, SPP shall indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, officer, agent, employee, or other representative of SPP shall be indemnified by SPP against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which the incumbent may be made a party by reason of acting or having acted in official capacity as a director, officer, agent, employee, or representative of SPP, or in any other capacity which the incumbent may hold at the request of SPP, as its representative in any other organization, subject to the following conditions:

- a. Such director, officer, agent, employee, or other representative must have acted in good faith and, in the case of criminal proceedings, must have had no reasonable cause to believe that conduct was unlawful; provided, that SPP shall not provide indemnification of any conduct judged unlawful in criminal proceedings. When acting in official capacity, the incumbent must have reasonably believed that conduct was in the best interests of SPP, and, when acting in any other capacity, must have reasonably believed that conduct was at least not opposed to the best interests of SPP.
- b. If the proceeding was brought by or on behalf of SPP, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, officer, agent, employee, or other representative shall have been adjudged liable to SPP.
- c. In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, officer, agent, employee, or other representative and where liability is imposed on the basis of the receipt of such improper personal benefit.
- d. In order for any director, agent, employee, or other representative to receive indemnification under

this provision, the person shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered herein which are reasonable and legally available and shall fully cooperate with SPP or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of SPP.

- e. No indemnification shall be made in any specific instance until it has been determined by SPP that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the Board of Directors consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full Board of Directors, including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of SPP.
- f. Any reasonable expenses, as shall be determined above, that have been incurred by a director, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full Board of Directors, including those who may be a party to the same proceeding. However, such director, officer, agent, employee, or other representative shall have provided SPP with (i) a written affirmation under oath that the incumbent, in good faith, believes the conditions of indemnification herein have been met; and (ii) a written undertaking that the incumbent shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that such conditions are not met.

3.15.4 Limitations

The provisions of this section 3.15 are subject to applicable state and federal laws, if any, which limit the ability of a Member to waive liability or enter into agreements of indemnity. Any benefits under this Section 3.15 shall not extend to any Member so limited by state or federal law in complying with the provisions thereof.

3.16 Compliance Monitoring

Compliance monitoring of Members and Staff shall be performed to ensure compliance with all requirements of Membership. SPP compliance monitoring functions shall be performed in concert with related NERC programs. Compliance monitoring shall be an after-the-fact investigative and assessment function. Compliance monitoring functions shall be provided by SPP Staff, independent and separate from reliability coordination and tariff administration functions.

Compliance monitoring functions shall include but are not limited to:

- a. Investigation of all reports or discoveries of non-compliance with approved Bylaws, Criteria, OATT, agreements between SPP and its Members, and NERC policies and standards;

- b. Obtaining all information needed to investigate all facets of possible non-compliance;
- c. Performance of in-depth reviews of operations upon approval from the Compliance Committee;
- d. Comprehensive compliance audits when recurring issues covering a broad spectrum of violations are determined and documented;
- e. Imposition of financial penalties and/or sanctions for non-compliance pursuant to approved standards, policies and/or Criteria;
- f. Ensure that SPP is conforming to its own Criteria, OATT, business practices, and reliability operations in a manner that does not stifle the efficiency of the energy markets;
- g. Utilization of dispute resolution procedures as necessary to resolve conflicts; and
- h. Coordination of policy modifications to clearly define requirements, standards, and penalties in order to objectively monitor compliance.

3.17 Market Monitoring

SPP shall establish and provide appropriate support to a market monitoring function through an independent contractor possessing the requisite experience and qualifications. Market monitoring functions shall be carried out in a manner consistent with the safe and reliable operation of the SPP transmission system, the operation of a robust, competitive and non-discriminatory electric power market, and the principle that a Member or group of Members shall not have undue influence or impact.

The market monitoring entity shall be selected by and report to the Board of Directors. Any reports submitted shall be concurrently provided to the Board of Directors and the appropriate regulatory body or bodies. The President shall ensure that the market monitoring entity has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of its duties.

Market monitoring functions shall include but are not limited to:

- a. Monitoring and reporting on compliance and market power issues relating to transmission services, including compliance and market power issues involving congestion management and ancillary services and the potential of any market participant(s) to exercise market power within the region by affecting available transmission capacity;
- b. Evaluation and recommendation of any required modifications to the OATT, standards or Criteria;
- c. Ensuring that the monitoring program is conducted in an independent and objective manner;
- d. Development of reporting procedures to inform governmental agencies and others concerning market monitoring activities;
- e. Monitoring the behavior of market participants to determine whether there is any behavior that hinders the reliable, efficient and non-discriminatory provision of transmission service by SPP;
- f. Ensuring that SPP's involvement in markets does not discriminate in favor of any market participant or its own interests; and

- g. Developing plans for mitigating market power, subject to appropriate regulatory approval.

4.0 BOARD OF DIRECTORS

4.1 Duties

The Board of Directors shall at all times act in the best interest of SPP in its management, control and direction of the general business of SPP. The Board of Directors shall solicit and consider a straw vote from the Members Committee as an indication of the level of consensus among Members in advance of taking any actions other than those occurring in executive session. Its duties shall include, but are not limited to the following:

- a. Direct activities of all SPP Organizational Groups;
- b. Serve on SPP Organizational Groups;
- c. Remove Members, and approve the re-entry of Members that have been removed;
- d. Authorize all major contracts and debt instruments;
- e. Select and review the performance of Officers, who shall serve at the pleasure of the Board of Directors;
- f. Determine positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Staff;
- g. Review, approve, disapprove or recommend revision to the actions of any Organizational Group;
- h. Act on appeals pursuant to Section 3.10;
- i. Approve or revise the operating and capital budgets and any additional expenditures;
- j. Convene a meeting of Members at least annually;
- k. Approve amendments to these Bylaws;
- l. Approve amendments to the Membership Agreement;
- m. Approve Criteria pertaining to planning and operating standards and policies and penalties for non-compliance with such Criteria; and
- n. Authorize filings with regulatory bodies.

4.2 Composition and Qualifications

4.2.1 Composition

The Board of Directors shall consist of seven persons. The seven directors shall be independent of any Member; one director shall be the President of SPP. A Director shall not be limited in the number of terms he/she may serve. The President shall be excluded from voting on business related to the office of President or the incumbent of that office. No other Staff member shall be permitted to serve as a director.

4.2.2 Qualifications

Directors shall have recent and relevant senior management expertise and experience in one or more of the following disciplines: finance, accounting, electric transmission or generation planning or operation,

law and regulation, commercial markets, and trading and associated risk management.

4.2.3 Conflicts of Interest

Directors shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member or customer of services provided by SPP. Directors may indirectly own securities through a mutual fund or similar arrangement (other than a fund or arrangement specifically targeted toward the electric industry or any segments thereof) under which the director does not control the purchase or sale of such securities. Participation in a pension plan of a Member or customer shall not be deemed to be a direct financial benefit if the Member's or customer's financial performance has no material effect on such pension plan.

4.3 Term and Election

Except for the President, a director shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. Initial staggering of terms will be decided by lottery with two directors' terms to expire in the first year, two in the second year, and two in the third year. The election process shall be as follows:

- a. At least three months prior to the meeting of Members when election of new directors is required, the Corporate Governance Committee shall commence the process to nominate persons equal in number to the directors to be elected;
- b. At least one month prior to the meeting of Members, the Corporate Governance Committee shall notify the President in writing of the persons it nominates for election as directors, specifying the nominee for any vacancy to be filled. The President shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the meeting of Members;
- c. For purposes of electing or removing directors only, each group of Members with Affiliate Relationships shall be considered a single Member;
- d. At the meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded by Members; and
- e. At the meeting of Members, the required number of directors shall be elected by written ballot. Each sector of the Membership votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. Each Member shall be entitled to cast a number of votes equal to the number of directors to be elected. A Member may not cumulate votes. The candidates receiving the highest percent of the average of approving vote ratios within each Membership sector will fill vacancies.

4.4 Resignation and Removal of Directors

Any director may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a director with cause by the vote of a majority of each Membership sector at a meeting of Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A director who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

4.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present to the Board of Directors for consideration and election an interim director to serve until a replacement director is elected and takes office. A special election shall be held at the next meeting of Members to fill the vacancy for the unexpired term. The replacement director shall take office immediately following the election.

4.6 Functioning of the Board of Directors

In reaching any decision and in considering the recommendations of any Organizational Group or task force, the Board of Directors shall abide by the principles in these Bylaws.

4.6.1 Meetings and Notice of Meetings

The Board of Directors shall meet at least three times per calendar year and additionally upon the call of the Chair or upon concurrence of at least four directors. At least fifteen days' written notice shall be given [by the President](#) to each director, [the Members Committee, and the Regional State Committee](#) ~~by the President~~ of the date, time, place and purpose of a meeting of the Board of Directors, unless such notice is waived by the Board of Directors. Telephone conference meetings may be called as appropriate by the Chair with at least one-day prior notice. Board of Directors' meetings shall include the Members Committee and a representative from the Regional State Committee (as defined in Section 5.2) for all meetings except when in executive session; [provided however, the failure of representatives of the Members Committee and/or of the Regional State Committee to attend, in whole or in part, shall not prevent the Board of Directors from convening and conducting business.](#) The Chair shall grant any Member's request to address the Board of Directors.

4.6.2 Chair and Vice Chair; Election and Terms

The Board of Directors shall elect from its membership a Chair and Vice Chair for two-year terms commencing upon election and continuing until their duly elected successors take office or until their term as a director expires without re-election. The President of SPP may not serve as the Chairman of the Board of Directors. The Vice Chair shall act for the Chair:

- a. at the request of the Chair;
- b. in the event the Chair should become incapacitated and unable to discharge the functions of the office; or
- c. if the office of Chair becomes vacant, until the next regularly scheduled meeting of the Board of Directors, at which meeting a new Chair shall be elected by the Board of Directors to fill the vacancy. The Chair shall appoint a director to fill a vacant Vice Chair position until the next meeting of the Board of Directors, at which meeting a new Vice Chair shall be elected by the Board of Directors to fill the vacancy.

4.6.3 Quorum and Voting

Five of the directors shall constitute a quorum of the Board of Directors; provided, that a lesser number may adjourn the meeting to a later time. Decisions of the Board of Directors shall be by simple majority vote of the directors present and voting. Directors must be present at a meeting to vote; no votes by proxy are permitted. Voting will be by secret ballot. The Secretary will collect and tally the ballots, and announce the results of a vote. Only voting results will be announced and recorded in the minutes; individual votes will not be announced or recorded.

4.6.4 Compensation of Directors

Directors shall receive compensation as recommended by the Human Resources Committee, and approved by the Membership, and shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

4.6.5 Executive Session

Executive sessions (open only to directors and to parties invited by the Chair) shall be held as necessary upon agreement of the Board of Directors to safeguard confidentiality of sensitive information regarding employee, financial, or legal matters.

5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS

5.1 Members Committee

The Members Committee shall work with the Board of Directors to manage and direct the general business of SPP. Its duties shall include, but are not limited to the following:

- a. Provide individual and collective input to the Board of Directors, including but not limited to a straw vote from the Members Committee representatives as an indication of the level of consensus among Members, on all actions pending before the Board of Directors; and
- b. Serve on committees reporting to the Board of Directors as appointed by the Board of Directors.

5.1.1 Composition and Qualifications

5.1.1.1 Composition

Provided that Membership is sufficient to accommodate these provisions, the Members Committee shall consist of ~~14 up to 16~~ persons. ~~Four~~ representatives shall be ~~representatives of and elected by investor owned utilities Members~~; ~~four~~ representatives shall be ~~representatives of and elected by cooperatives Members~~; ~~two~~ representatives shall be ~~municipals Members (including municipal joint action agencies)~~; ~~three~~ representatives shall be ~~independent power producers/marketers Members~~; ~~one~~ representative shall be ~~a state/federal power agencies Member~~; and ~~two~~ representatives shall be ~~retail/alternative power/public interest Members~~. ~~Representatives will be elected in accordance with Section 5.1.2 of these Bylaws. Within the Transmission Owning Member sector, at least two representatives shall be representatives of non-investor owned utilities. Within the Transmission Using Member sector, two representatives shall be representatives of municipal Members (including municipal joint action agencies), two representatives shall be representatives of cooperative Members, and three representatives shall be representatives of marketer and/or independent power producer and/or other Members. If Membership is insufficient to accommodate these provisions the Corporate Governance Committee shall make appropriate recommendations to the Membership; provided, that in no instance shall the number of representatives in the categories be unequal.~~

5.1.1.2 Qualifications

A representative shall be an officer or employee of a Member with decision-making responsibility over SPP related activities, and must be the Member's representative to the Membership.

5.1.2 Term and Election

Representatives shall be ~~nominated by the Corporate Governance Committee and~~ elected each year at the meeting of Members to staggered three-year terms commencing upon election and continuing until their duly elected successors take office. Initial staggering of terms will be decided by lottery. The election process shall be as follows:

- a. At least three months prior to the meeting of Members at which election of new representatives is required, the Corporate Governance Committee shall nominate persons equal in number to the representatives to be elected;
- b. At least one month prior to the meeting of Members, the Corporate Governance Committee shall notify the President in writing of the persons it nominates for election as representatives, specifying the nominee for any vacancy to be filled. The President shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the meeting of Members;
- c. For purposes of electing and removing ~~directors~~ ~~representatives~~ only, each group of Members

- with Affiliate Relationships shall be considered a single vote;
- d. At the meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded ~~from within the Membership sector~~ to add such nominee or nominees; and
 - e. At the meeting of Members, the required number of representatives shall be elected by written ballot. ~~Members will vote only in their designated membership sectors and each~~ A Member shall be entitled to cast a number of votes equal to the number of representatives to be elected ~~in the Member's Membership sector~~. A Member may not cumulate votes. The candidates in each ~~Membership~~ sector receiving the greatest number of votes will fill vacancies.

5.1.3 Resignation and Removal of Members Committee Representatives

Any representative may resign by written notice to the President noting the effective date of the resignation. A ~~Membership sector may remove any~~ representative ~~may be removed of its sector~~, with cause, by the affirmative vote of a majority of the ~~Membership~~ ~~Members sector~~ at a meeting of Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members ~~within the relevant Membership sector~~. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A representative who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

5.1.4 Vacancies

If a vacancy occurs the ~~Members~~ ~~Corporate Governance~~ Committee may elect an interim representative from the same sector to serve until a replacement representative from the same sector is elected and takes office. A special election shall be held at the next meeting of Members to fill the vacancy for the unexpired term. The replacement representative shall take office immediately following the election.

5.1.5 Meetings

The Members Committee shall meet only with the Board of Directors.

6.0 COMMITTEES REPORTING TO THE BOARD OF DIRECTORS

This section describes the general scopes and responsibilities of the Organizational Groups reporting directly to the Board of Directors. Nothing in this section is meant to limit these responsibilities or activities in the effort to fulfill SPP's mission.

6.1 Markets and Operations Policy Committee

Each SPP Member shall appoint a representative to the Markets and Operations Policy Committee (MOPC) at the regular meeting of the Board of Directors immediately following each annual meeting of

Members. Each representative designated shall be an officer or employee of the Member. The Board of Directors will appoint the Chair and Vice Chair of the MOPC. Each member of the MOPC may continue to be a member thereof until the appropriate Member appoints a successor.

The MOPC shall meet at least three times per calendar year, and additionally as needed. The MOPC shall report to the Board of Directors following each MOPC meeting with respect to its activities and with such recommendations, as the MOPC deems necessary.

The responsibilities of the Markets and Operations Policy Committee shall include:

- a. Recommend practices for system design, planning, adequacy, regional transmission service tariff, interconnections, operation, reliability, market designs and efficiency, and market power mitigation that will help to assure efficient and reliable power supply among the systems in SPP and SPP transmission customers;
- b. Continue coordination of its efforts with the efforts of NERC, including periodic review of NERC Policies and Standards and their applicability to SPP and its Members;
- c. Review Member operating plans and problems that are pertinent to SPP planning and operation;
- d. Maintain an annual series of load flow and short circuit models and associated stability data bases representing the current and planned electric network of the region, and maintain a data base of all transmission, generation, and supporting facilities within SPP;
- e. Review and assess the current and planned electric system of the region;
- f. Make use of studies available from other regions;
- g. Recommend to the Board of Directors criteria for planning, operations, and to assist in the efficiency and vitality of the wholesale electricity market;
- h. Coordinate inter-regional and intra-regional plans and facilitate planning, information exchange, and operations between inter-regional and intra-regional groups;
- i. Develop a coordinated plan for intra-regional transmission for greater efficiency and reliability of electric power supply;
- j. Recommend to the Board of Directors and Members individual or joint action to improve the operation of the systems comprising SPP;
- k. Respond to activities as requested by the Strategic Planning Committee and the Board of Directors;
- l. Monitor the current state and evolution of the electric energy supply industry and proactively recommend commercial practices that meet industry needs and promote commerce;
- m. Work with all SPP Organizational Groups to promote a high standard of operational reliability;
- n. Continue coordination of its efforts with the efforts of North American Energy Standards Board (NAESB) and the ISO/RTO Council (IRC), including periodic review of NAESB business practices and IRC policies and their applicability to SPP and its Members;
- o. Complete a self-assessment annually to determine how effectively the MOPC is meeting its

- responsibilities; and
- p. Perform such other functions as the Board of Directors may delegate or direct.

6.2 Strategic Planning Committee

The Strategic Planning Committee (SPC) shall be comprised of eleven members. ~~Two~~ Three representatives shall be from the Board of Directors, ~~one of whom will serve as the Chair, and the other as Vice Chair; the President of SPP~~; four representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee ~~selected by that sector of the Members Committee~~; and four representatives from the ~~Non~~-Transmission Using Member sector as nominated by the Corporate Governance Committee ~~selected by that sector of the Members Committee~~.

The Board of Directors ~~and the Members Committee~~ shall appoint the representatives of the SPC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the SPC shall continue to be a representative thereof until the Board of Directors ~~or the Members Committee, as appropriate~~, appoints his/her successor. Where a vacancy occurs, the ~~representatives from the appropriate sector~~ Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

The SPC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The SPC shall report to the Board of Directors following each SPC meeting with respect to its activities and with such recommendations, as the SPC deems necessary.

The responsibilities of the Strategic Planning Committee shall include:

- a. Gather information from SPP Members, customers, Staff, regulatory jurisdictions, market monitors, and legislative bodies on industry trends, forecasts and directions;
- b. Assess the industry environment in which SPP will be operating;
- c. Assess SPP's capabilities and competencies against the industry environment, including coordination with neighboring entities;
- d. Develop and recommend to the Board of Directors a mission and vision statement and accompanying goals and objectives;
- e. Formulate strategies to ensure achievement of SPP's mission statement, goals, objectives, and responsibilities, and recommend necessary modifications to SPP processes to carry out these strategies;
- f. Work with other Organizational Groups in developing related action plans, schedules and budgets;
- g. Review annually the structure of the Organizational Groups, and together with the Organizational Group Chairs, the charters of each Organizational Group, and recommend changes to the Board of Directors, as appropriate;

- h. Review the self-assessments of the Organizational Groups to assure that they are being done on a consistent basis;
- i. Complete a self-assessment annually to determine how effectively the SPC is meeting its responsibilities; and
- j. Perform such other functions as the Board of Directors may delegate or direct.

6.3 Human Resources Committee

The Human Resources Committee (HRC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee~~selected by that sector of the Members Committee~~; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee~~selected by that sector of the Members Committee~~.

The Board of Directors ~~and the Members Committee~~ shall appoint the representatives of the HRC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the HRC shall continue to be a representative thereof until the Board of Directors ~~or the Members Committee, as appropriate,~~ appoints his/her successor. Where a vacancy occurs ~~with respect to a representative of a Membership sector, the representatives from the appropriate sector of the Members Committee~~the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

The HRC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The HRC shall report to the Board of Directors following each HRC meeting with respect to its activities and with such recommendations, as the HRC deems necessary.

The responsibilities of the Human Resources Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to the oversight of:

- a. The development and administration of employee benefit programs;
- b. The effectiveness of SPP's compensation plan for employees and directors
- c. The activities of investment managers charged with managing employee benefit assets, including evaluation of performance;
- d. Approve and monitor SPP staffing structure to ensure it accomplishes organizational mission;
- e. Maintain current job description for the President and conduct annual performance evaluation;
- f. Other duties and responsibilities detailed in the Human Resources Committee charter; and
- g. Perform such other functions as the Board of Directors may delegate or direct.

6.4 Compliance Committee

The Compliance Committee (CC) shall be comprised of three members from the Board of Directors.

The Board of Directors shall appoint the representatives of the CC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the CC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs, the Board of Directors will fill the vacancy.

The CC shall meet as needed, provided that a quorum, as defined in these Bylaws, is present. The CC shall report to the Board of Directors following each CC meeting with respect to its activities and with such recommendations, as the CC deems necessary.

The responsibilities of the Compliance Committee shall include:

- a. Oversee the process of monitoring compliance to SPP and NERC policies;
- b. Independently review activities of the Staff;
- c. Hear and rule on appeals from Members regarding penalty assessment or fine distribution prior to dispute resolution proceedings;
- d. Recommend Criteria changes necessary for enforcement of mandatory compliance and in response to unclear enforcement provisions of Criteria;
- e. Grant specific additional authority to the Staff responsible for the compliance monitoring function when needed to perform challenging investigations;
- f. Complete a self-assessment annually to determine how effectively the CC is meeting its responsibilities; and
- g. Perform such other functions as the Board of Directors may delegate or direct.

6.5 Finance Committee

The Finance Committee (FC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee~~selected by that sector of the Members Committee~~; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee~~selected by that sector of the Members Committee~~.

The Board of Directors ~~and the Members Committee~~ shall appoint the representatives of the FC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the FC shall continue to be a representative thereof until the Board of Directors ~~or the Members Committee, as appropriate,~~ appoints his/her successor. Where a vacancy occurs ~~with respect to a representative of a Membership sector, the representatives from the appropriate sector of the Members Committee~~the Corporate Governance Committee will fill the vacancy on an interim basis until the next

[meeting of the Board of Directors.](#)

The FC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The FC shall report to the Board of Directors following each FC meeting with respect to its activities and with such recommendations, as the FC deems necessary.

The responsibilities of the Finance Committee shall include assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to its oversight of:

- a. The quality and integrity of SPP's financial statements;
- b. SPP's compliance with financially-based legal and regulatory requirements;
- c. The independent auditor's qualifications, selection, and independence;
- d. The performance of SPP's internal audit function and independent auditors;
- e. The development and implementation of annual and long-term operating and capital budgets;
- f. The management of risk;
- g. Develop policies for management of debt financing and for long-term contracting;
- h. Monitoring methodology for cost recovery to ensure continuing equity for Members;
- i. Other duties and responsibilities detailed in the Finance Committee charter; and
- j. Perform such other functions as the Board of Directors may delegate or direct.

6.6 Corporate Governance Committee

[To the extent that the membership allows, ~~The~~ the](#) Corporate Governance Committee (CGC) shall be comprised of eight members. One representative shall be the President of SPP who will serve as the Chair; the Chairman of the Board, unless his/her position is under consideration, in which case the Vice Chairman of the Board; [one representative shall be representative of and selected by investor owned utilities Members; one representative shall be representative of and selected by co-operatives Members; one representative shall be representative of and selected by municipals Members; one representative shall be representative of and selected by independent power producers/marketers Members; one representative shall be representative of and selected by state/federal power agencies Members; and one representative shall be representative of and selected by retail/alternative power/public interest Members.](#) ~~Representatives from the Membership will be nominated by the Corporate Governance Committee and elected by the Membership.~~

~~The Board of Directors and the Members Committee shall appoint the representatives of the CGC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the CGC shall continue to be a representative thereof until the Board of Directors or the Members Committee, as appropriate, appoints his/her successor.~~ Where a vacancy occurs with respect to a representative of a ~~Membership~~ sector, the representatives from the appropriate sector ~~of the Members Committee~~ will fill the vacancy ~~on an interim basis until the next meeting of Members.~~

The CGC shall meet at least once per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The CGC shall report to the Board of Directors following each CGC meeting with respect to its activities and with such recommendations, as the CGC deems necessary.

The responsibilities of the Corporate Governance Committee shall include:

- a. Seek input from the Board of Directors and the Members Committee as to the skills needed to fill any vacancy under consideration;
- b. [In the event of a vacancy or the replacement of an existing director, provide candidates identified by an independent executive search firm for consideration](#) ~~Recommend~~ to the Members ~~candidates~~ for election to the Board of Directors;
- c. Monitor the composition of the Board of Directors to ensure balance, independence, maintenance of qualifications under any applicable laws, avoidance of conflict of interest, and periodic review of the criteria for independence set out in the Bylaws and appropriate regulatory bodies, recommending changes, as appropriate;
- d. Recommend to the Board of Directors the appointment of Organizational Group representatives and leadership except for the [Corporate Governance Committee](#), the Members Committee, whose representatives are elected by the Members, and the [Market and Operations Policy Committee](#), whose representatives are appointed by the Members;
- e. Develop criteria governing the overall composition of the Board of Directors for recommendation to the Board of Directors;
- f. Coordinate an annual review and assessment of the effectiveness of the Board of Directors, its structure, and process;
- g. Develop recommendations for the Board of Directors regarding a director succession policy;
- h. Complete a self-assessment annually to determine how effectively the CGC is meeting its responsibilities; and
- i. Perform such other functions as the Board of Directors may delegate or direct.

7.0 REGULATORY INVOLVEMENT AND REGIONAL STATE COMMITTEE

Any regulatory agency having utility rates or services jurisdiction over a Member may participate fully in all SPP activities, including participation at the SPP Board of Directors meetings. These representatives shall have all the same rights as Members except the right to vote. Participation includes the designation of representatives by each of the regulatory jurisdictions to participate in any type of committee, working group, task force, and Board of Directors meetings.

7.1 Retention of State Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish existing state regulatory jurisdiction and authority. Each state regulatory

agency is expressly reserved the right to exercise all lawful means available to protect its existing jurisdiction and authority.

7.2 Regional State Committee

An RSC, to be comprised of one designated commissioner from each state regulatory commission having jurisdiction over an SPP Member, shall be established to provide both direction and input on all matters pertinent to the participation of the Members in SPP. This direction and input shall be provided within the context of SPP's organizational group meetings as well as Board of Directors meetings. The SPP Staff will assist the RSC in its collective responsibilities and requests by providing information and analysis. SPP will fund the costs of the RSC pursuant to an annual budget developed by the RSC and submitted to SPP as part of its budgeting process, which budget must ultimately be approved by the Board of Directors.

The RSC has primary responsibility for determining regional proposals and the transition process in the following areas:

- a. whether and to what extent participant funding will be used for transmission enhancements;
- b. whether license plate or postage stamp rates will be used for the regional access charge;
- c. FTR allocation, where a locational price methodology is used; and
- d. the transition mechanism to be used to assure that existing firm customers receive FTRs equivalent to the customers' existing firm rights.

The RSC will also determine the approach for resource adequacy across the entire region. In addition, with respect to transmission planning, the RSC will determine whether transmission upgrades for remote resources will be included in the regional transmission planning process and the role of transmission owners in proposing transmission upgrades in the regional planning process.

As the RSC reaches decisions on the methodology that will be used to address any of these issues, SPP will file this methodology pursuant to Section 205 of the Federal Power Act. However, nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act.

7.3 Retention of Other Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish the jurisdiction or authority of any other regulatory body. Any regulatory agency having utility rates or services jurisdiction over a Member or the regional transmission organization reserves the right to exercise all lawful means available to protect its existing jurisdiction and authority.

8.0 FISCAL ADMINISTRATION

The fiscal year shall coincide with the calendar year.

8.1 Operating Budget

SPP Staff and the Finance Committee will prepare an annual budget of expenditures for the next fiscal year and an estimate for an additional two years. The proposed budget shall be submitted to the Board of Directors not less than two weeks prior to the meeting at which the budget is to be considered for approval. Once approved by the Board of Directors, the budget shall constitute the authority required by the Officers for expenditures for the ensuing year. Modifications to the budget during the fiscal year must be recommended to the Board of Directors by the Finance Committee. The President shall have the authority to approve unbudgeted expenditures of up to \$250,000 individually or in the aggregate during the fiscal year. The President may approve unbudgeted expenditures in excess of \$250,000 but less than \$1,000,000 with the concurrence of the Finance Committee. Unbudgeted expenditures in excess of \$1,000,000 require prior approval of the Board of Directors.

8.2 Annual Membership Fee

All SPP Members will be subject to an annual membership fee to recover the costs incurred by SPP related to maintaining reliability criteria and related compliance. Members without "Net Energy for Load" within SPP will pay an annual membership fee of \$6,000, or other amount established by the Board of Directors. The Board of Directors shall determine the annual membership fee for the upcoming year in advance of the last meeting of Members in a calendar year. Those Members serving load will be subject to a fee based on their annual Net Energy for Load within SPP for the preceding year. Membership fees are not subject to refund.

8.3 NERC Assessment

The NERC assessment is to be a direct pass-through and will be charged to Members per the assessment formula outlined below at the time SPP is invoiced by NERC:

$$A = [0.25(1/N) + 0.75(B/C)] X$$

Where: A = Member's share of NERC assessment
 N = Total number of Members
 B = The Member's previous year Net Energy for Load within SPP
 C = Total of factor B for all Members
 X = Actual NERC assessment to SPP

8.4 Monthly Assessments

SPP will assess certain Members described herein on a monthly basis all costs not otherwise collected. Costs recovered under the assessment will include but are not limited to all operating costs, financing costs, debt repayment, and capital expenditures associated with the performance of SPP's functions as

assigned by the Board of Directors. Significant among these are costs associated with regional reliability coordination and the provision of transmission service. SPP shall determine the assessment rate based on its annual budgeted net expenditures divided by estimated annual Schedule 1 billing units for service sold under SPP's OATT and Member load eligible to take, but not taking, Network Integration Transmission Service under SPP's OATT. The Board of Directors may review the assumptions used in determining the assessment rate at any time and may adjust the assessment rate appropriately should conditions warrant. Each load-serving Member shall then be assessed the monthly assessment rate applied to its load eligible to take Network Integration Transmission Service under the SPP OATT. Further, each load-serving Member shall receive a credit against the monthly assessment for that month's Schedule 1 fees paid for Network Integration Transmission Service and for Point-to-Point Transmission Service that had a delivery point within the SPP region, under the SPP OATT.

8.5 Fiscal Agent

The President shall serve as the fiscal agent of SPP. The President shall keep an up-to-date record of receipts and disbursements and furnish reports to the Board of Directors and the Finance Committee.

8.6 Auditors

The Board of Directors shall annually engage an independent certified public accounting firm to perform an annual audit of SPP's financial records and prepare a report on the financial condition of SPP. The Finance Committee shall present the audit report to the Board of Directors upon completion.

8.7 Financial Obligation of Withdrawing Members

For purposes of computing the "existing obligations" of any withdrawing or terminated Member in accordance with the Membership Agreement, such "Member's share" is a percentage calculated as follows:

$$A = 100 [0.25(1/N) + 0.75(B/C)]$$

Where: A = Member's share (expressed as a percentage)
 N = Total number of Members
 B = The Member's previous year Net Energy for Load within SPP
 C = Total of factor B for all Members

The Finance Committee shall have the discretion to reduce the "existing obligations" of any withdrawing or terminated Member, to reflect any SPP costs or expenses that may be mitigated in connection with such Member's withdrawal or termination.

9.0 NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL

SPP participates as a regional reliability organization in NERC activities. The Board of Directors shall appoint representatives to NERC organizational groups as necessary. SPP may pay associated travel

expenses of these representatives upon receipt by the President of an expense report as normally filed within the representative's system.

10.0 AMENDMENTS TO THESE BYLAWS, THE ARTICLES OF INCORPORATION, AND MEMBERSHIP AGREEMENT

Except for modifications to Section 4.0 BOARD OF DIRECTORS, Section 5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS, and Section 9.0 AMENDMENTS, these Bylaws may be amended, repealed, or added to by the Board of Directors only upon 30 days written notice to the Membership of the proposed modification(s). Approval of amendments to the Bylaws by the Board of Directors must be by an affirmative vote of at least five directors. Sections 4.0, 5.0, and 9.0 of these Bylaws and the Articles of Incorporation may be amended, repealed, or added to only by approval of the Membership. All amendments are subject to the requisite regulatory approval(s).

11.0 EFFECTIVE DATE AND TRANSITION PROVISIONS

These Bylaws shall become effective ~~{DATE}~~ [May 1, 2004](#) and remain in force thereafter as may be amended. These Bylaws hereby cancel and supersede SPP Bylaws dated June 24, 2003; provided, that these Bylaws do not relieve any Member from any financial obligation incurred thereunder. Binding obligations entered into by authority of Officers or the Board of Directors under these Bylaws are hereby assumed and confirmed as obligations of SPP under these Bylaws.

March 9, 2004

MEMORANDUM TO: Nick Brown

FROM: Michael E. Small

You asked us to address aspects of the issue of Southwest Power Pool, Inc. (“SPP”) subjecting bundled loads to the non-rate provisions of its open access transmission tariff (“OATT”), as required by the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) recent order granting SPP regional transmission organization (“RTO”) status. Southwest Power Pool, Inc., 106 FERC ¶ 61,110 (2004) (“SPP RTO Order”). First, the Commission’s requirement on this was not a surprise given its past similar requirements involving other RTO’s/ISO’s. Other RTO’s/ISO’s have implemented agreements and tariff provisions which put transmission owners bundled loads under a regional tariff and at a minimum subject such loads to the non-rate terms and conditions of the tariff. Second, as to exactly how this requirement is to be implemented, there is some guidance but we cannot provide a definitive statement on this issue. In the attached tariff provisions, we submit our initial take on what is meant by this requirement for all bundled loads to be subject to the non-rate terms and conditions of the tariff (though ultimately FERC may add or delete certain of the provisions as in our initial research we could find no clear template to follow).

The Commission made clear in its review of SPP’s RTO proposal that bundled and grandfathered loads must be subject to the non-rate terms and conditions of the SPP OATT. The Commission stated, “Consistent with Order No. 2000 requirements, we will require that TOs [transmission owners], on behalf of their entire load including grandfathered wholesale and bundled retail loads, take service under the non-rate terms and conditions in the SPP OATT as a prerequisite to obtaining RTO status from the Commission.” SPP RTO Order at P 108. The Commission further explained that “under a functioning SPP RTO, the SPP transmission owners will no longer be the transmission providers.” Id. at P 109.

The Commission’s decision regarding the SPP RTO is consistent with its decisions regarding the applicability of the Midwest ISO OATT though, curiously, it is more narrowly stated than in the applicable Midwest ISO Order. In Opinion No. 453, the Commission directed the Midwest ISO to “revise its Midwest ISO Agreement and Tariff, as necessary, to place and provide all load under the Midwest ISO’s Tariff.” Midwest Indep. Transmission Sys. Operator, Inc., Opinion No. 453, 97 FERC ¶ 61,033 (2001), order on reh’g, Opinion No. 453-A, 98 FERC ¶ 61,141 (2002), order on remand, 102 FERC ¶ 61,192, order denying reh’g, 104 FERC ¶ 61,012 (2003), appeal pending, Midwest ISO Transmission Owners v. FERC, U.S. Court of Appeals, D.C. Cir. Case No. 02-1121. In Opinion No. 453-A, the Commission emphasized that its

objective in directing that all load be placed under the Midwest ISO OATT was to “work toward the goal set forth in Order No. 2000 that the RTO be the sole provider of transmission service over facilities under its control.” Based on the requirements of Order No. 453, the Midwest ISO filed revisions to its OATT providing that all load will be subject to the non-rate terms and conditions of the OATT (though the Midwest ISO did not attempt to define this in its tariff). The tariff provisions also avoided subjecting bundled load to various charges that already were reflected in retail rates subject to state jurisdiction such as transmission charges. In submitting that filing, the Midwest ISO did not await state commission approvals. The Midwest ISO took it upon itself to submit tariff revisions in compliance. Those revisions were accepted by the Commission. See Midwest Indep. Transmission Sys. Operator, Inc., 101 FERC ¶ 61,113 (2002); Midwest Indep. Transmission Sys. Operator, Inc., 103 FERC ¶ 61,038 (2003); Midwest Indep. Transmission Sys. Operator, Inc., Letter Order, Docket No. ER98-1438-018 (June 17, 2003).¹ As a result, of those tariff changes, we understand that all of the vertically integrated transmission owners at that time chose to become network customers under the Midwest ISO OATT within a relatively short period of time (largely due to the cost savings associated with taking network service as they would no longer need to pay for point to point service). We are not aware of the transmission owners seeking state approvals before moving ahead with the execution of network service agreements, though we have not thoroughly researched this issue as of this time.

The Commission’s directive is also consistent with the procedure for existing contracts or bundled load for transmission owners in other regional organizations. We understand that the transmission owners in both PJM and NEPOOL that are load serving entities are network customers under both of those tariffs for all of their loads. In the NEPOOL tariff, all customers with load in the NEPOOL Control Area who do not take Internal Point to Point Service at all of its Points of Delivery are required to take and pay for “Regional Network Service.”

In the case of PJM, each of the transmission owners takes network service. In Atlantic City Elec. Co., 85 FERC ¶ 61, 445, at 62,663 (1998), FERC accepted the network service agreement filed in compliance with a prior FERC order as making clear that the transmission owners “will be obtaining transmission services from each other and from their own systems under the PJM Tariff.” In an earlier order, FERC accepted a proposal by the PJM transmission owners to subject themselves to the non-rate terms and conditions of the PJM OATT, pay congestion costs, receive congestion revenues, and pay the scheduling and dispatching charges. As part of that proposal, the transmission owners also sought (and were allowed by FERC) not to

¹ Subsequent to the issuance of Opinion Nos. 453 and 453-A, the United States Supreme Court issued a decision specifically addressing the Commission’s jurisdiction over transmission, in the context of Order No. 888. The Supreme Court pointed out that, while the Commission’s jurisdiction over the sale of power is confined to the wholesale market, the Commission’s jurisdiction over electricity transmissions is not subject to such a limitation. New York v. FERC, 535 U.S. 1, at 20 (2002). The Supreme Court reasoned that “[b]ecause the FPA [Federal Power Act] authorizes FERC’s jurisdiction over interstate transmissions, without regard to whether the transmissions are sold to a reseller or directly to a consumer, FERC’s exercise of this power is valid.” Id.

pay the network service charges because of the transmission owners view that the payment of such charges for bundled load “would infringe on state jurisdiction” (thus, suggesting that their proposal to subject themselves to the non-rate terms and conditions would not infringe on state jurisdiction). In that order, the Commission also made clear that the transmission owners had the right to choose whether to take point-to-point or network transmission service. PJM, 81 FERC ¶ 61,257 (1997). Of note is that we were informed by PJM’s counsel that he was not aware of the PJM Companies seeking state approvals before entering into the network agreements which did not require payment of network service charges but otherwise subjected the transmission owners to the terms of the PJM OATT.

You also questioned whether the Commission’s reference to “non-rate terms and conditions” provides enough direction as what SPP’s compliance filing should cover. The phrase “non-rate terms and conditions” has been used by the Commission and Administrative Law Judges (“ALJ”) and is broadly defined as simply those terms and conditions that do not prescribe the rate for service under the OATT. For example, in an initial decision regarding non-rate terms and conditions, an ALJ defined non-rate terms and conditions as including, but not being limited to “definitions, obligations to interconnect or construct transmission expansions and facility upgrades, expansion processes, interconnection processes, creditworthiness requirements, dispute procedures, along with other miscellaneous tariff provisions.” Pac. Gas & Elec. Co., 88 FERC ¶ 63,007, at 65,044 (1999). The Commission has also described non-rate terms and conditions as including rollover rights, operating requirements, deposits, and determination of network load. See Maine Pub. Serv. Co., 90 FERC ¶ 61,234 (2000). As noted above, we have attempted to detail our best take on what is meant by the term in the attached tariff provisions.

We would add that, in part, under FERC policy even before the order, transmission owners should have expected to have to comply with some of the major parts of the non-rate terms and conditions. FERC, for example, expected that transmission owners serving loads designate network resources and loads even without taking network service under their own tariffs.² FERC also has required that curtailments of transmission also involve curtailments of comparable bundled load service.³

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² See Aquila Power Corp. v. Entergy Servs., Inc., 101 FERC ¶ 61,328, at P 11 (2002)(“even for reservations of capacity for bundled retail native load customers, a utility is required to designate specific resources and load associated with these reservations.”); Aquila Power Corp. v. Entergy Servs., Inc., 90 FERC ¶ 61,260, at 61,859 (2000).

³ See N. Am. Elec. Reliability Council, 96 FERC ¶ 61,079, at 61,345 (2001)(“The Commission continues to believe that it has authority to require public utilities to treat customers using unbundled wholesale interstate transmission services in a manner that is comparable to the treatment of customers using bundled retail interstate transmission services, and thereby to prevent discrimination against unbundled users of the interstate transmission system.”)

IV. SPECIAL RULES ON USE OF TARIFF

37. During Transition Period

37.1 Service Not Required for Bundled Customers or Customers Under

Retail Access Programs: A Transmission Owner shall not be obligated to take Network Integration Transmission Service or Point-to-Point Transmission Service from the Transmission Provider in accordance with this Tariff for (1) bundled retail load not having a choice of power suppliers or (2) for bundled retail load it continues to serve that had the right to choose a different power supplier under a state retail access program or legislation and that was retail load served by the Transmission Owner prior to the retail load receiving the right to choose a different supplier.

37.2 Availability of Network Integration Transmission Service: All Transmission Owners shall have the option of electing Network Integration Transmission Service for retail loads or customers whether or not such loads or customers have the right to choose a different power supplier during the Transition Period.

37.3 Unbundled Wholesale: A Transmission Owner shall be obligated to take Network Integration Transmission Service or Point-to-Point Transmission Service from the Transmission Provider in accordance with this Tariff for any sales to wholesale load the Commission requires to be unbundled unless such service is arranged by another entity or is pursuant to a Grandfathered Agreement.

37.4 Grandfathered Transactions: During the Transition Period, transmission provided pursuant to Grandfathered Agreements shall continue to term in accordance with the provisions of the Grandfathered Agreement ~~rather than under this Tariff~~ unless the parties agree otherwise. Grandfathered Transactions are defined in Section 1.14a.

38 After Transition Period

- 38.1 Applicability to Retail Load Having Choice:** Beginning on the first day after the end of the Transition Period, this Tariff shall be applicable to all transmission service over the Transmission System provided for retail loads having the right to choose a different power supplier except for deliveries made pursuant to Grandfathered Agreements.
- 38.2 Applicability to Retail Load Not Having Choice:** Beginning at the end of the fifth year after the last day of the Transition Period, the Transmission Owner shall take Network Integration Transmission Service or Point-To-Point Transmission Service from the Transmission Provider in accordance with this Tariff for sales to retail customers not having the right to choose a different power supplier.
- 38.3 Grandfathered Agreements:** Transmission Service provided pursuant to Grandfathered Agreements shall continue to term in accordance with the provisions of the Grandfathered Agreements ~~rather than under this Tariff~~ unless the parties agree otherwise. Grandfathered Agreements are defined in Section 1.14a.

39. Applicability of Non-Rate Terms and Conditions

- 39.1 Bundled Retail and Grandfathered Load:** Notwithstanding Sections 37 and 38 of this Tariff, Each Transmission Owner (which is not otherwise taking Network Integration Transmission Service) is subject to the non-rate terms and conditions of this Tariff for: (1) its bundled retail load not having a choice of power suppliers; (2) its bundled retail load that had the right to choose a different power supplier under a state retail access program or legislation and that was retail load served by the Transmission Owner prior to the retail load receiving the right to choose a different supplier; and (3) its bundled load under Grandfathered Agreements. For purposes of this provision the non-rate terms and conditions are those that would apply to Network

Customers except for (1) Section 28 other than the provision in Section 28.1 requiring Ancillary Services pursuant to Section 3 and Section 28.2; (2) Section 29 other than Sections 29.3 and 29.4; and (3) Sections 34.1, 34.2 and 34.3. [Note-As this eliminates the need to sign a service agreement, need to ensure that TOs are otherwise obligated to abide by these terms.] In addition, unless a Transmission Owner executes a Service Agreement under this Part III, it will not be considered as taking Network Integration Transmission Service.

**TRANSITION PLAN FOR THE PROVISION OF REGIONAL NITS TO
BUNDLED RETAIL LOAD**

March-April, 2004	TO's evaluate individual requirements and possible need for cost/benefit study in some circumstances
March-June, 2004	TO's not requiring state approval transition to the SPP OATT
May-December, 2004	Cost/benefit study for those with that requirement
January - February, 2005	TO filing preparation
March, 2005	TO's file with states
March - August, 2005	State procedural schedules and decisions
September - December, 2005	All load under SPP OATT

ATTACHMENT O

~~COORDINATED~~ PLANNING AND EXPANSION PROCEDURES

The highly interconnected nature of the Transmission System, and the associated high degree of interdependence of the facilities of the Transmission Owners, requires coordination of transmission planning efforts. These Procedures describe ~~coordination requirements for~~ transmission planning ~~within the SPP Region.~~ and expansion procedures for the SPP Transmission System. Transmission Owners are obligated to build facilities subject to regulatory approval under the provisions of this Tariff. The Transmission Provider will not build or own transmission facilities. These procedures neither obligate the Transmission Provider nor Transmission Owners to build or own facilities within another Transmission Owner's area where a limit may exist. Transmission Owners may at any time voluntarily form associations and partnerships between Members or with non-Members to jointly construct and finance new transmission facilities provided such projects are subject to the assessment process of these Procedures.

1.0 Planning Criteria

The individual planning criteria of each Transmission Owner shall be the basis for determining whether a violation of criteria exists and when a need for new facilities should be considered. This planning criteria shall, at a minimum, conform to SPP Criteria and NERC Planning Standards. Transmission Owners shall submit their transmission planning criteria to the Transmission Provider. This criteria may be modified at any time provided that, if the criteria is made more stringent, the increased

requirements shall not apply retroactively to transmission planning studies previously completed nor studies already underway by ~~SPP's~~ the Transmission Assessment Working Group (TAWG) Provider.

2.0 Planning and Assessment Studies

The Transmission Provider shall independently perform regional transmission planning studies. These studies shall assess the reliability and economic operation of the SPP Transmission System. Transmission planning studies ~~shall~~ may also be performed by individual Transmission Owners. Members shall contact the ~~TAWG~~ Transmission Provider whenever new facilities that impact interconnected operation are in the conceptual planning stage so that the optimal integration of any new facilities and potentially benefiting parties can be identified. The Transmission Provider's ~~operating personnel~~ shall periodically inform the ~~TAWG~~ Transmission Owners of identified operating constraints that should be addressed in future studies. Seasonal transmission assessments shall be performed by the ~~TAWG~~ Transmission Provider. These planning studies and seasonal assessments are for purposes of identifying any planning criteria violations that may exist. Transmission Owners shall submit their five-year transmission construction plans to the Transmission Provider. ~~The initial plans, existing as of January 1, 1999, shall be considered grandfathered and shall not be subject to review or approval by the TAWG.~~

In the event the assessment process identifies a violation, the violation shall be directed to the associated Transmission Owner. The responsible Transmission Owner shall respond

by explaining why the violation is not valid or by identifying alterations in its transmission plan which correct the criteria violation. The Transmission Owner with an identified limit shall be responsible for performing studies to determine alternatives that remove the limit. If corrective action causes regional impacts and is therefore subject to cost sharing, the Transmission Provider's ~~Staff~~ shall participate in these studies if requested by the Transmission Owner or another Member.

Recommendations developed by the responsible Transmission Owner to mitigate an identified violation shall be presented for review and approval by the ~~TAWG~~ Transmission Provider. This review shall evaluate study results for negative impacts on the transmission systems of other Members. If such negative impacts are found, the ~~TAWG~~ Transmission Provider, the impacted Member and the Transmission Owner shall participate in a joint effort to modify the recommendation to the satisfaction of all-involved Members. If negative impacts are not found, the ~~TAWG~~ Transmission Provider shall accept the recommendation. If the ~~TAWG~~ Transmission Provider finds the study incomplete, the Transmission Owner shall make further analysis to the satisfaction of the ~~TAWG~~ Transmission Provider. Once the recommendation is shown to address the violation and any negative impacts have been mitigated to the extent practicable, the ~~TAWG~~ Transmission Provider shall accept the recommendation. The Transmission Provider shall independently make the final determination in the process, subject to the Dispute Resolution Procedures and subject to review by the FERC or state regulatory authorities where appropriate.

3.0 Need for New Facilities

Undue limitation on the maintenance of the Transmission System and the provision of firm transmission service shall be deemed to create a need for new or upgraded facilities. Either situation shall require submittal of a transmission plan for review by the ~~TAWG~~ Transmission Provider to resolve the issue and may result in cost sharing among the entities that benefit from facility additions or improvements. This review can be initiated by any Member requesting firm transmission service under any applicable tariff. This review can also be initiated by any SPP organizational group as a result of its performance of operational assessments.

If the Transmission Owner with an identified limit is unable to determine alternatives in a timely manner, the ~~TAWG~~ Transmission Provider may establish a task force to determine appropriate options and make a recommendation. Such task force roster shall include representation from the Member with the limiting facility and Members with transmission service or facilities that might be affected by the limiting facility or corrections. The task force shall provide a recommendation, along with options considered to the ~~TAWG~~ Transmission Provider for a review of impacts. Based on its review of the task force recommendations, the ~~TAWG~~ Transmission Provider shall independently prepare a proposal for consideration by the SPP Board of Directors to direct the appropriate Transmission Owners to begin implementation of the project.

4.0 Construction

a. Each Transmission Owner shall use due diligence to construct transmission facilities as directed by the SPP Board of Directors subject to such siting, permitting, and environmental constraints as may be imposed by state, local and federal laws and regulations, and subject to the receipt of any necessary federal or state regulatory approvals. Such construction shall be performed in accordance with Good Utility Practice, applicable SPP Criteria, industry standards, each Transmission Owner's specific reliability requirements and operating guidelines (to the extent these are not inconsistent with other requirements), and in accordance with all applicable requirements of federal or state regulatory authorities. Each Transmission Owner shall be fully compensated to the greatest extent permitted by The Commission, for the costs of construction undertaken by such Transmission Owner in accordance with this Tariff.

b. After a new transmission project has been approved, the Transmission Provider will direct the appropriate Transmission Owners to begin implementation of the project. If the project forms a connection between facilities of a single Transmission Owner, that Owner will be designated to provide the new facilities. If the project forms a connection between facilities owned by two different Transmission Owners or between a new facility and the facilities of a Transmission Owner, both entities will be designated to provide the new facilities. The two entities will agree between themselves how much of the project will be provided by each entity. If agreement cannot be reached, the Transmission Provider will facilitate the ownership determination process.

c. A designated provider for a project can elect to arrange for another entity or another existing Transmission Owner to build and/or own the project in their place. If a designated provider or providers do not or cannot agree to implement the project in a timely manner, the Transmission Provider will solicit and evaluate proposals for the project from other entities and select a replacement designated provider.

Seams Agreement Timeline

DRAFT

Neighboring Party	Task	Oct-04				Nov-04				Dec-04				Jan-05				Feb-05				Mar-05				Apr-05				May-05			
		4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk	1st wk	2nd wk	3rd wk	4th wk			
MISO	Execute MOU																																
	Finalize JOA for Initial Operations																																
	Add Short-term Market Development																																
	Add Medium-term Market Development																																
	Add Long-term Market Development																																
Entergy	Execute MOU																																
	Finalize JOA																																
AECI	Execute MOU																																
	Finalize JOA																																
	Add Short-term Market Development																																
ERCOT	Execute MOU																																
	Finalize JOA for Initial Operations																																
	Add Short-term Market Development																																
PNM	Execute MOU																																
	Finalize JOA																																
EPE	Execute MOU																																
	Finalize JOA																																
CLECO	Execute MOU																																
	Finalize JOA																																
SECI	Execute MOU																																
	Finalize JOA																																
TVA	Execute MOU																																
	Finalize JOA																																

Imbalance and Market Based Congestion Management Draft Timeline

MWG Motion to the OPC (not yet presented or acted upon by the OPC):

“The SPP imbalance systems can be complete in approximately 11 months from the date at which funds are available. Significant hurdles exist which have an impact on the implementation date. Specifically, all load under the market and state regulatory approvals are major issues being dealt with by the SPC. A delay in decisions will likely increase the time and resources necessary to implement an imbalance market. Concerns over avoiding market trials and cutover during the summer and participant readiness may also extend the implementation date. The engagement of an IMM is still recommended as early as possible in order to properly include monitoring and mitigation rules and systems within the implementation.”

Task	Main Task Length	Sub-Task Length	Month 1	Month 3	Month 5	Month 7	Month 9	Month 11	Month 13	Month 15	Month 17	Month 19	Month 21	Month 23	Month 25	Month 27	Month 29	Month 31	Month 33	Month 35	Month 37	Month 39	Month 41	Month 43	Month 45	Month 47	Month 49	Month 51	Month 53	Month 55	Month 57	Month 59
			Increment 1 - Revalidate Data and Cutover	30																												
NSI & Resource Plan (Risk Mitigation Alternative)	90																															
Imbalance Mkt. - Market Dispatch	301																															
Protocols Complete		1																														
Imb. Mkt - Design		60																														
Imb. Mkt - Build		60																														
Imb. Mkt. - Internal Test		60																														
Imb. Mkt. - Psuedo Dispatch Trials**		90																														
Imb. Mkt. - Market Trials		45																														
Imb. Mkt. - Preparation & Cutover		30																														
Imb. Mkt - Training***	240																															
Imb. Mkt - Participant Systems Complete																																
IMM - Involvement	280																															
IMM - Selection		5																														
IMM - Protocol Changes		60																														
IMM - Mitigation Measures Protocols																																
IMM - Market Monitoring & Mitigation Design		60																														
IMM - Market Monitoring & Mitigation Build		60																														
IMM - Market Monitoring & Mitigation Internal Test		60																														
IMM - Market Monitoring & Mitigation Implementation		60																														
Tariff Filing - Imbalance Market	90																															
Market-Based Congestion Management	780																															
Mkt-Based Congestion Mgmt - Protocols		180																														
Benefit Cost Study (Incl. IMM)		180																														
Mkt-Based Congestion Mgmt - Design**		90																														
Mkt-Based Congestion Mgmt - Build		120																														
Mkt-Based Congestion Mgmt - Internal Test		90																														
Mkt-Based Congestion Mgmt - Psuedo Settlement		90																														
Mkt-Based Congestion Mgmt - Market Trials		90																														
Mkt-Based Congestion Mgmt - Prep & Cutover		30																														
Tariff Filing - Mkt-Based Congestion Mgmt	90																															
Market-Based Ancillary Services	600																															
Benefit Cost Study (Incl. IMM)		120																														
Mkt-Based Ancillary Services - Protocols		180																														
Mkt-Based Ancillary Services - Design/Build		180																														
Mkt-Based Ancillary Services - Trials/Cutover		120																														
Tariff Filing - Mkt-Based Ancillary Services	60																															

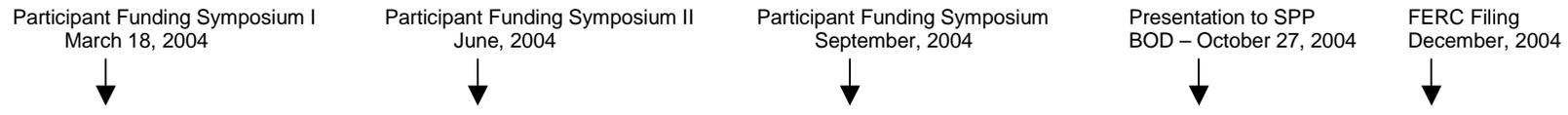
**The above timeline does not reflect the impact of the following issues (which is necessary at this point in time):

- 1) Regulatory approvals (State)
- 2) Load under the tariff

***Participant Training is not detailed in the above timeline. Retraining due to the delay is required and will be included in a final timeline.

TRANSMISSION COST ALLOCATION PLAN

Time Line



March 18, 2004	Participant Funding Symposium I
March 18 – June, 2004	Proposal(s) development
June, 2004	Participant Funding Symposium II
June – September, 2004	Proposal refinement
September, 2004	Participant Funding Symposium III
September – October, 2004	Finalization of Proposal, SPP committee structure review
October 27, 2004	SPP Board presentation and possible vote
November – December, 2004	Completion and Filing

MEMORANDUM

To: Tom Dunn
From: Stacy Duckett
Re: Finance Committee Request for Opinion
Date: March 8, 2004

As presented to me, the Finance Committee has requested opinions as to the calculation of a member's withdrawal obligation in two instances:

1. SPP has committed to borrow a certain amount of money, however, the debt is structured with multiple funding periods and a member withdraws prior to the full funding of the facility. Is the withdrawing member obligated for a portion of any amounts that have not been funded but have been committed to in the borrowing agreement?
2. The SPP Board of Directors commits to various projects that require capital spending that has not yet been obtained. Is the withdrawing member obligated for a portion of the capital project when the project has not yet been funded?

The intent has always been that as long as SPP is legally committed to/liable for an amount, the Members are in turn obligated. Likewise then, if SPP is not yet legally committed to/liable for an amount, the Members are not yet either.

The SPP Membership Agreement obligates a withdrawing member to its portion of SPP's existing obligations as those obligations exist at the effective date of withdrawal (Section 4.2.2). These amounts are calculated in accordance with a formula in the SPP Bylaws (Section 7.7). To date, this has not been "tested" meaning that no withdrawing member has contested its obligation. There is currently pending a collection case in federal court against a former member that is contesting the amount it owes.

In an effort to avoid any future confusion regarding what "existing obligations" are, changes to the SPP Membership Agreement were developed by outside counsel and included in the version of that document included in the RTO filing. For reference, I have included the language in the currently effective Agreement, and the language as revised in the pending version of the Agreement. I have also included the formula from the Bylaws – it is currently effective and remains unchanged in the version of the Bylaws included in the RTO filing.

Under either version of the Membership Agreement, I would suggest that a withdrawing Member is obligated for its portion of whatever existing financial obligations SPP carries on its books at the effective date of withdrawal. That would include debt service, long-term leases, loans, contractual obligations, etc.

As to the questions presented:

1. In this scenario, it will depend upon how the borrowing agreement is structured. If SPP is obligated to the full amount regardless of the timing of the funding, I would argue that Members are fully obligated as well.
2. In this scenario, I would argue that the Members are not obligated until SPP, Inc. is. The Board of Directors should enter the decision to commit to capital projects with the knowledge of any pending withdrawals and the effective date of those, if membership composition is a factor in proceeding with a project and its funding. Until the company is obligated – meaning has signed on the dotted line – any decision is still subject to change. Some examples:
 - a. The Board votes to pursue a new project that will require contracting with consultants/developers. A Member actually becomes obligated when SPP executes the contracts, thus obligating it (SPP) to pay the vendor. If, to pay those vendors, SPP must obtain financing, the Member is further obligated to the terms of the financing at the execution of those documents.
 - b. The Board determines that SPP should build its own facility. A Member becomes obligated when SPP, Inc. executes a contract to pay the realtor to find land; the Member becomes further obligated when SPP, Inc. enters a contract with the architect to design the facility; the Member becomes further obligated when SPP, Inc. enters a contract with the contractor to build the facility; the Member becomes further obligated when SPP, Inc. enters into financing arrangements for the project.

Again, the intent has always been that as long as SPP is legally committed to/liable for an amount, the Members are in turn obligated.

Please let me know if I can provide additional information or further clarification regarding this matter.

FOR REFERENCE

Current Version: Membership Agreement, Section 4.2.2 Existing Obligations

All financial obligations incurred and payments applicable to time periods prior to the effective date of such withdrawal shall be honored by SPP and the withdrawing Member. The withdrawing Member's existing obligations shall include, as calculated pursuant to the SPP Bylaws, all costs or expenses incurred up until the date withdrawal becomes effective. The withdrawing Member shall pay such costs or expenses it owes within 30 days after receiving an invoice from SPP. SPP shall pay the withdrawing Member any monies it owes that Member within 30 days after the withdrawal became effective. The withdrawing Member or SPP may net the amounts due it by any amounts it owes.

RTO Filing Version: Membership Agreement, Section 4.2.2 Existing Obligations

The “existing obligations” of a withdrawing or terminated Member shall mean:

- a. Member’s unpaid membership fee, if any;
- b. any assessments imposed on Member in respect of SPP’s costs or expenses incurred prior to the effective time of Member’s withdrawal or termination;
- c. any costs or expenses imposed upon SPP as a direct consequence of Member’s withdrawal or termination, whether payable prior to or after Member’s withdrawal or termination and including, without limitation, any prepayment premium or penalty in respect of SPP’s debt;
- d. Member’s share (computed in accordance with the SPP Bylaws) of SPP’s long-term obligations as of the effective time of Member’s withdrawal or termination, with long-term obligations defined as amounts outstanding and payable under negotiated financing obligations, including but not limited to operating leases, capital leases, debt obligations, and debt instruments; and
- e. Member’s share (computed in accordance with the SPP Bylaws) of interest scheduled to accrue (“future interest”) on SPP’s long-term obligations between the effective date of Member’s withdrawal or termination and the scheduled maturity of each long-term obligation (in the event that an obligation carries a variable interest rate, the interest rate in effect at the effective date of Member’s withdrawal or termination shall be used for purposes of this paragraph); provided, however, that in computing the Member’s share of future interest under this paragraph (e), SPP shall take into account SPP’s ability to mitigate the Member’s share of future interest by a commercially reasonable application (such as prepayment of debt or investment in an interest-bearing instrument) of the Member’s share of debt obligations and debt instruments due under the immediately preceding paragraph (d).

SPP shall invoice Member for existing obligations as soon as reasonably practical after the effective date of Member’s withdrawal or termination, and Member shall pay its existing obligations to SPP within 30 days after receipt of the invoice. Any amounts owed by SPP to Member shall be, at SPP’s election, offset against Member’s existing obligations or paid to Member concurrently with issuance of the invoice for existing obligations. Member acknowledges and agrees that existing obligations include amounts that may accrue and be payable by SPP following Member’s withdrawal or termination, and that no part of a payment of existing obligations shall be refundable to Member under any circumstances, including (except as provided in paragraph (e) above) any mitigation by SPP of its long-term obligations in connection with Member’s withdrawal or termination. Any disagreement as to existing obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws.

Current and RTO Version: SPP Bylaws, Financial Obligation of Withdrawing Members

For purposes of computing the “existing obligations” of any withdrawing or terminated Member in accordance with the Membership Agreement, such “Member’s share” is a percentage calculated as follows:

$$A = 100 [0.25(1/N) + 0.75(B/C)]$$

Where: A = Member’s share (expressed as a percentage)
N = Total number of Members
B = The Member's previous year Net Energy for Load within SPP
C = Total of factor B for all Members

The Finance Committee shall have the discretion to reduce the “existing obligations” of any withdrawing or terminated Member, to reflect any SPP costs or expenses that may be mitigated in connection with such Member’s withdrawal or termination.

RTO COMPLIANCE/IMPLEMENTATION TIMELINE

March	16	SPP Board of Directors meeting
	17	Resume market implementation activities
	20	Engage investment advisor to represent SPP in investment market
	22	Begin staffing Corporate Governance Committee (by sector)
	29	IMM candidates' written proposals due
April	5	Corporate Governance Committee meet re: nominees
	8	IMM presentations to Task Force
	8	RTWG meeting
	12	(week of) IMM vendor selected
	12	Corporate Governance Committee meet to finalize nominees
	14-15	OPC meeting
	19	Distribute Offering Memorandum to potential investors
	19	Distribute Board of Directors meeting background materials
	19	Distribute Meeting of Members background materials
	27	SPP Board of Directors meeting/receive authorization to borrow
	27	Special Meeting of Members
	28	IMM contract for market services executed
May	1	Revised Bylaws and Membership Agreement effective
	1	Compliance Filing
	10	Close and fund financial transaction
	15	IMM contract for transmission services executed

Draft

**Southwest Power Pool
Finance Committee Recommendation
To the SPP Board of Directors
March 16, 2004**

Authorization to Borrow and Negotiate Financing

Background

SPP's 2004 operating and capital budgets will require SPP to obtain external financing to meet the company's initiatives. SPP's Board of Directors approved the 2004 budgets with the provision that additional Board of Director action would be required prior to authorizing expenditures related to development of a balancing energy market, market-based congestion management solution, and independent market monitoring processes. SPP has not executed definitive financing agreements to fund the 2004 budget.

Analysis

The Federal Energy Regulatory Commission ("the Commission") issued an order regarding SPP's application for recognition as a Regional Transmission Organization on February 10, 2004. In the order, the Commission outlined numerous conditions SPP must meet prior to receiving final recognition. After review of the Commission's conditions, the SPP Board of Directors has acted to authorize SPP to move forward towards the continued development of the balancing energy market and independent market monitoring processes. SPP must now obtain financing sufficient to fund the market initiatives and SPP's working capital needs.

Recommendation

The Finance Committee recommends the SPP Board of Directors approve the following resolution authorizing the SPP President to execute the required financing documents to obtain an \$8 million revolving credit facility to fund working capital needs. The Finance Committee further recommends that SPP staff take necessary steps to negotiate \$25 million in medium-term financing. However, this recommendations stops short of authorizing SPP to commit to borrow \$25 million in medium-term financing. The Finance Committee further recommends that SPP staff report to the Finance Committee and the SPP Board of Directors following negotiations with lenders, the terms and conditions under which SPP may commit to borrow.

Approved:

Action Requested: Approve Recommendation

**RESOLUTION OF
BOARD OF DIRECTORS OF
SOUTHWEST POWER POOL, INC.**

WHEREAS, on October 28, 2003, the Board of Directors approved the 2004 SPP operating and capital budgets, which included costs associated with ongoing operations, capital expenditures to support those ongoing operations, and operating and capital costs associated with development and implementation of energy markets consistent with FERC Order 2000; and

WHEREAS, SPP will require external funding to support its operating cash needs during the 2004 budget year and external funding to cover the costs associated with the various capital projects (ongoing and energy markets) forecast during the year. SPP estimates that its operating cash financing needs during the 2004 budget year will approach \$8 million and its capital financing needs will approach \$16 million.

NOW, THEREFORE, BE IT,

RESOLVED, that the President of the Corporation be, and hereby is, authorized to execute and deliver financing agreements to meet the operating cash and capital expenditure needs of the Corporation for 2004, up to and including financing totaling \$8 million in the aggregate; and

FURTHER RESOLVED, that any and all actions taken by any of the officers or representatives of the Corporation, for and on behalf and in the name of the Corporation, are hereby ratified, confirmed, and approved in all respects for all purposes; and

FURTHER RESOLVED, that the authority granted to the officers and representatives of the Corporation shall continue in full force and effect, and lenders may rely thereon in dealing with such officers, unless and until written notice of any change in or revocation of such authority shall be taken by the Board of Directors.

