

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

Southwest Power Pool, Inc.

Docket No. ER18-757-000

**MOTION TO INTERVENE AND COMMENTS OF THE
SOUTHWEST POWER POOL MARKET MONITORING UNIT**

The independent Market Monitoring Unit (MMU) of Southwest Power Pool, Inc. (SPP) moves to intervene¹ in support of SPP's proposed revisions to its Open Access Transmission Tariff (Tariff) filed on January 31, 2018 (Filing)² to eliminate a gaming issue related to Regulation Deployment adjustment. The Filing addresses the gaming concern and will prevent any further abuses. Therefore, the MMU strongly recommends that the Commission accept the changes outlined in the Filing.

I. COMMENTS IN SUPPORT OF THE SPP FILING

As SPP notes in its Filing, the proposed Tariff revisions are intended to close a gaming issue identified by the MMU related to Regulation Deployment adjustment.³ The MMU sent a letter to the SPP President and the Chairman of the Oversight Committee in June 2017 identifying

¹ The MMU moves to intervene pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure (18 C.F.R. §§ 385.212, 385.214 (2017)), and in fulfillment of its responsibilities under Commission Order No. 719 (*Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281, at P 354 (2008) (Order No. 719), *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292, *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009)) and Attachment AG of the SPP Tariff (Southwest Power Pool, Inc., FERC Electric Tariff, Sixth Revised Volume No. 1, Attachment AG, § 6.2 (SPP Tariff)).

² *Southwest Power Pool, Inc.*, "Submission of Tariff Revisions to Close a Gaming Issue Related to Regulation Deployment Adjustment," Docket No. ER18-757-000 (Jan. 31, 2018) (Filing).

³ Filing, at 5.

the market flaw. The flaw was more than a potential issue as the MMU estimated the market harm at approximately \$1 million, with most of this concentrated in a few months in 2017.

The Tariff changes proposed by SPP in the Filing will address the gaming opportunity associated with the market flaw, and therefore, the MMU supports the Filing. The MMU worked with SPP staff in the development of several options to create a design change that would close the gaming opportunity. The MMU's preferred approach was strongly opposed by SPP staff. This approach would have completely removed the Regulation Deployment adjustment charge type. The MMU argued that resources that are cleared for regulation should be compensated for their ability to regulate through the regulation service marginal clearing price. Under the MMU's preferred approach, market participants that feel they are at risk of losing margins because of lost opportunity during times of deployment could include that risk in their market-based regulation offers. While some stakeholders were concerned that this would increase regulation prices, the MMU argued that this would represent a more accurate regulation price.

A second concern that stakeholders had with the MMU proposal was that the mitigated regulation offer would not explicitly include deployment risk. The MMU's solution was to propose eliminating mitigated regulation offers. The MMU supported this change because the SPP market-clearing engine does not consider transmission constraints when clearing for regulation. Furthermore, the concept of mitigation is to address resources exercising local market power. Because local market power is based on binding or breached transmission constraints, it may not be necessary to include mitigation logic for regulation as it is essentially a system-wide product given that SPP has not regionalized procurement of regulation since market inception.

SPP staff feared that removing the Regulation Deployment adjustment charge type would potentially degrade reliability by reducing incentives to follow dispatch. SPP staff was also

concerned that costs would increase as more resources would be needed to cover for resources that did not follow regulation instructions. However, market participants have the responsibility to follow regulation dispatch instructions. Because regulation dispatch signals are crucial to ensuring the stability and reliability of the grid, following regulation dispatch signals is an obligation when called upon, rather than an option, and, therefore, market participants should not need an extra incentive to follow dispatch apart from the market clearing price. When brought up for discussion at the Market Working Group meeting, only one market participant supported the MMU approach. Given the lack of support from both SPP and its stakeholders, and the need to develop a timely solution to the gaming opportunity, the MMU dropped consideration of its preferred approach and supported SPP's approach to eliminate the gaming opportunity.

SPP's Filing proposes changes directly addressing the gaming opportunity associated with the flaw by including the Mitigated Energy Offer Curve as part of the calculation. While the Mitigated Energy Offer Curve is a cost-based offer, the Energy Offer Curve is not bound by a resource's costs and could be used to inappropriately increase regulation deployment adjustment payments. The gaming opportunity is exacerbated when the Energy Offer Curve is drastically different from the Mitigated Energy Offer Curve. For example, suppose a resource with a \$5/MWh Mitigated Energy Offer offers -\$150/MWh for its Energy Offer and offers \$0/MWh for its Regulation-Down Offer. Because this appears to be a cheap resource for the market at minus \$150/MWh, the market software would dispatch that resource to its maximum capacity for Energy, and also would clear that resource for Regulation-Down because it appears to be inexpensive. If the resource is deployed for Regulation-Down, it would no longer receive energy payments for the megawatts that were deployed down. The Regulation Deployment adjustment charge is intended

to compensate the resource for this lost opportunity and make the resource indifferent to whether it clears for energy or is deployed down for regulation.

The Regulation Deployment adjustment charge is calculated using the difference between the locational marginal price (LMP) and the resource's Energy Offer. If the LMP is \$25/MWh, then the resource would be compensated \$175/MWh ($\$25/\text{MWh LMP} - [-\$150/\text{MWh Energy Offer}]$) for every megawatt it is deployed down under the current Regulation Deployment adjustment charge approach. The SPP proposal eliminates the gaming issue by changing the calculation to be the difference between the LMP and the higher of the resource's (i) Mitigated Energy Offer Curve and (ii) Energy Offer Curve for Regulation-Down. For example, using the resource's cost-based Mitigated Energy Offer of \$5/MWh would result in a Regulation Deployment adjustment payment of \$20/MWh ($\$25/\text{MWh LMP} - \text{Maximum } [\$5/\text{MWh Mitigated Energy Offer}; -\$150/\text{MWh Energy Offer}]$). This change in the calculation reduces the payment by \$155/MWh, eliminates the gaming opportunity, and still preserves the incentive payment as a function of the resource's cost as reflected in the Mitigated Energy Offer.

During discussions of this proposal with SPP and the stakeholders, some stakeholders had concerns about using the Mitigated Energy Offer Curve for something other than market mitigation of local market power. In some cases, the MMU has used the same argument and is sympathetic to those concerns. However, the MMU strongly believes that the need to close the gaming issue outweighs concerns with extending the use of the Mitigated Energy Offer Curve beyond local market power mitigation. Effectively, the use of the Mitigated Energy Offer Curve in calculating the Regulation Deployment adjustment payment will mitigate the ability for participants to game the Regulation Deployment adjustment payment while still ensuring that resources recover their lost opportunity costs when deployed to supply regulation rather than energy.

In an effort to completely address the gaming opportunity, two different revision requests were ultimately approved by the stakeholders. The first resulted in the SPP Filing. The second revision request⁴ resulted in a design change that did not require any Tariff changes, but rather required only changes to SPP's Protocols and therefore is not being filed with the Commission, consistent with the Commission's long-standing "rule of reason."⁵ The second change involves deploying regulation resources in an economic order. Thus, resources that have higher costs are deployed after lower cost resources. Resources that benefited from higher Regulation Deployment adjustment payments would be less likely to be deployed under this change as only about 20 percent of regulation resources are deployed, on average. The original approach was to randomly deploy regulation resources, regardless of cost. Ordering the deployment based on cost should reduce the impact of the gaming opportunity to the market as this change reduces the probability of being deployed. However, it would not eliminate the gaming opportunity because resources

⁴ See "MRR242 – Regulation Deployment Priority Change" at <https://www.spp.org/Documents/53673/rr242.zip>.

⁵ See *City of Cleveland*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file "only those practices that affect rates and service *significantly*, that are reasonably *susceptible* of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous") (emphasis added); see also *Public Serv. Comm'n of N.Y. v. FERC*, 813 F.2d 448, 454 (D.C. Cir. 1987) (holding that the Commission properly excused utilities from filing policies or practices that dealt with only matters of "practical insignificance" to serving customers); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1650 (2007) (stating that Business Practice Manuals that mostly involve "general operating procedures" need not be filed with the Commission), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009); *Prior Notice and Filing Requirements Under Part II of the FPA*, 64 FERC ¶ 61,986 (1993) (explaining Commission jurisdiction with respect to all rates and charges that are "for or connected with" and all agreements that "affect or relate to," jurisdictional activities); *Southwest Power Pool, Inc.*, 136 FERC ¶ 61,050, at PP 32-35 (2011) (SPP's Tariff provides sufficient guidance on how cost-effectiveness analysis will be conducted to satisfy the rule of reason and implementation details of such analysis are properly included in the manual instead of the Tariff); *Midwest Independent Transmission System Operator, Inc.*, 98 FERC ¶ 61,137, at 61,401 (stating "It appears that the proposed Operating protocols could significantly affect certain rates and service and as such are required to be filed pursuant to Section 205."), *clarification granted*, 100 FERC ¶ 61,262 (2002).

that attempt to game the market could still be deployed if all regulation resources are needed and deployed.

The proposed Tariff changes are still required to eliminate the gaming opportunity even with this other enhancement to the Protocols. Furthermore, proactive Tariff rules to address this gaming issue are a more appropriate approach rather than relying only on market monitoring to catch further behavioral issues after the fact. An objective of the MMU as stated in the SPP Tariff is to make recommendations that prevent market harm rather than punish offenders afterwards.⁶

II. CONCLUSION

The MMU strongly recommends that the Commission accept the modifications to the Regulation Deployment adjustment charge type as proposed in the Filing.

Respectfully submitted,

/s/ Keith N. Collins

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⁶ *Southwest Power Pool, Inc.*, FERC Electric Tariff, Sixth Revised Volume No. 1 (SPP Tariff), Attachment AG, § 1.3.2.

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing document upon the parties designated on the official service list for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Little Rock, Arkansas on this 13th day of February, 2018.

/s/ Keith N. Collins