111 FERC ¶ 61,118
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Southwest Power Pool, Inc. Docket Nos. ER05-652-000
RT04-1-009
ER04-48-009 and
ER05-109-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued April 22, 2005)

1. On February 28, 2005, as amended on March 1, 2005, Southwest Power Pool, Inc. (SPP) submitted proposed revisions to its open access transmission tariff (OATT) in order to implement a regional transmission cost allocation plan with regard to new transmission upgrades (cost allocation plan). As discussed below, we will conditionally accept the proposed revisions and make them effective May 5, 2005, as requested. In addition, we will accept the cost allocation and cost recovery provisions of Attachment Z filed in Docket No. ER05-109-000, as modified herein, to be effective May 5, 2005.

2. This order benefits customers by establishing cost allocation and cost recovery methods for the SPP regional transmission organization (RTO) expansion process, thereby supporting needed and efficient transmission investment and expanding wholesale power markets.

<u>Background</u>

3. SPP has been authorized as an RTO since October 1, 2004.[1] In the Commission's initial order addressing SPP's RTO application, we directed SPP to develop and file a transmission cost allocation plan by the end of 2004.[2]

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[1] *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,010 (2004), *order on reh'g*, 110 FERC ¶ 61,137 (2005).

[2] *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 (2004) (February 10 Order), *order on reh'g,* 109 FERC ¶ 61,010 (2005).

4. On October 29, 2004, in Docket No. ER05-109-000, SPP submitted proposed tariff revisions in order to provide an aggregate transmission service study process to evaluate long-term transmission service requests, and included as part of that filing limited cost allocation and cost recovery provisions.[3] The proposed changes were set forth in Attachment Z to SPP's OATT. On January 21, 2005, the Commission accepted the proposed aggregate transmission study procedures to become effective February 1, 2005, but accepted and suspended SPP's proposed cost allocation and cost recovery provisions to become effective the earlier of five months from the requested effective date (July 1, 2005) or further Commission order, subject to refund.[4] In doing so, the Commission noted concerns about the interrelationship between Attachment Z and the fully developed transmission cost allocation plan SPP was required to file pursuant to the February 10 Order.[5]

5. Pursuant to the February 10 Order, on December 30, 2004 (shortly before the January 21 Order issued), SPP submitted a description of its then-anticipated cost allocation plan in Docket Nos. RT04-1-009 and ER04-48-009 (December 30 Filing). SPP stated that tariff language had not been finalized and certain issues remained unresolved.[6] SPP then expected to file the cost allocation plan within 90 days.

6. As noted above, on February 28, 2005, SPP submitted the completed cost allocation plan at issue in this order.

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[3] SPP explained that, for purposes of determining cost responsibility for each transmission service request, all upgrades required to provide transmission service for the transmission service reservations in the aggregate study will be included in an aggregate cost allocation assessment. SPP further explained that the cost of each transmission upgrade component will be allocated to each customer in the aggregation group on a pro rata impact basis for the positive incremental power flow impacts of the requested service on such upgraded facility, in proportion to the total of all incremental impacts on such upgraded facility.

[4] *Southwest Power Pool, Inc.*, 110 FERC ¶ 61,028 (2005) (January 21 Order).

[5] January 21 Order at P 16.

[6] SPP stated that its Regional State Committee (RSC) had developed a transmission cost allocation straw proposal for base funded upgrades, which was reviewed by SPP's Board of Directors (Board) and submitted to the SPP Regional Transmission Working Group (RTWG) so that the RTWG could develop tariff language to incorporate the RSC proposal. SPP asserted that, despite the diligent efforts of the RSC, RTWG and more than 200 participants, the process was not completed.

The Filing

7. SPP submits the cost allocation plan in furtherance of its new role as an RTO and in order to encourage transmission investment in the SPP region. SPP seeks an effective date for the plan of May 5, 2005.

8. SPP states the RSC developed the plan and SPP's Board adopted it using an extensive and fair process, including ample opportunity for members and interested parties to express concerns. SPP asserts that the Commission should respect the choices made by the RSC and accept this filing, in order to encourage RSCs in other regions to develop proposals using a similar process.

9. Principal proposed OATT revisions include a new Section V (Recovery of Costs for Base Plan Upgrades) and changes to Attachment J (Recovery of Costs Associated with New Facilities), Schedule 11 (Base Plan Charges), and Attachment Z (Aggregate Transmission Study Procedures). As revised, Attachment J breaks new transmission expansion projects into four categories: (1) SPP Base Plan facilities[7]; (2) Economic Upgrades[8]; (3) generation interconnection facilities; and (4) facilities required to respond to transmission requests.[9] If the cost of a Base Plan upgrade is less than or equal to $100,000, the annual transmission revenue requirement associated with such upgrade is allocated to the zone in which the upgrade is located. If the cost of the upgrade is greater than $100,000, one-third of the revenue requirement for the upgrade is allocated to the region on a postage stamp basis. The remaining two-thirds will be allocated locally to zones based on each zone's share of the incremental MW-mile benefits as computed in section 4 of Attachment S.[10] Economic upgrades, if constructed, will be allocated in accordance with agreements reached with project sponsors. Generation interconnection

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[7] Base Plan facilities are defined as: "Those upgrades included in and constructed pursuant to the SPP Transmission Expansion Plan in order to ensure the reliability of the Transmission System. Base Plan Upgrades shall also include those upgrades required for new or changed Designated Resources to the extent allowed for in Attachment J to this Tariff." SPP OATT, section 1.3h.

[8] Economic Upgrades are defined as: "Elective upgrades, identified in the SPP Transmission Expansion Plan, which have potential economic benefits to the SPP Region, but are not required for reliability reasons." SPP OATT, section 1.10a.

[9] Requested Upgrades are defined as: "Transmission upgrades, requested by a Transmission Customer or other entity, which do not meet the definition of any other category of Network Upgrades." SPP OATT, section 1.38a.

[10] Attachment S sets forth the Procedure for Calculation of MW-mile Impacts for Use in Assignment of Revenue Requirements, Revenue Allocation, and Determination of Losses.

facilities and facilities required to respond to transmission requests will be allocated consistent with provisions of SPP's tariff (as it may be amended), although the cost allocation plan provides a waiver mechanism for network upgrades associated with certain designated network resources to be treated the same as Base Plan facilities.

10. Also under Attachment J, Economic Upgrades that are not included in SPP's Expansion Plan nevertheless may be built if there are project sponsors willing to fund the facilities. Project sponsors may receive transmission revenue credits in accordance with Attachment Z. If the facility would defer or displace the need for a Base Plan upgrade, then part of the costs may be allocated similar to the allocation of Base Plan Upgrades. SPP states that this approach provides a reasonable balance, in that it does not require regionalization of upgrades that are not in the SPP plan but which some parties wish to build, while providing revenue credits to transmission project sponsors in order to encourage construction of such facilities.

11. SPP proposes changes to Attachment Z, and more specifically, the cost allocation and cost recovery sections to clarify the applicability of their provisions in the context of the cost allocation plan, including provisions setting out transmission revenue credits for Economic Upgrades and direct assignment of costs that are in excess of a $180,000/MW Safe Harbor Cost Limit for Network Upgrades (discussed in detail below) associated with new, or changes in, designated resources, as well as revenue credits applicable to such excess costs.

12. Section V provides that network and point-to-point customers pay charges for Base Plan facilities. It also provides that transmission owners providing service to bundled retail and grandfathered loads for which those owners are not taking network service shall also pay for the Base Plan facilities. SPP states that this section expands the scope of those considered to be users of the system, whether bundled (indirectly) or unbundled, that are charged for the transmission facilities that are to be shared regionally.

13. Schedule 11 requires transmission customers and transmission owners to pay Base Plan charges. Schedule 11 also sets out the formulas for calculating the charges to each transmission customer (including network customers) and transmission owners.

14. Other conforming changes are found in: the Definitions section; Schedules 7, 8, and 9 to update company names and add provisions to have the customer pay all charges assessed under Schedule 11; Attachment H, to reflect the addition of Base Plan annual transmission revenue requirements; Attachment L (Treatment of Revenues), to allocate revenues associated with new facilities in proportion to respective annual transmission revenue requirements for Base Plan Upgrades; and Attachment S, to update the description of the MW-mile model and reflect that this model will be used to allocate transmission revenue requirements associated with new facilities.

15. SPP asserts that the cost allocation plan is consistent with prior Commission statements addressing cost allocation proposals. Specifically, SPP states that transmission upgrades benefiting the entire pool will receive regional cost support;[11] the one-third/two-third split is administratively easy to implement and minimizes litigation by avoiding the need to evaluate each project individually to determine the portion that should be regionally shared;[12] and the plan provides an avenue for Commission resolution of any remaining disputes.[13] In short, SPP contends that the cost allocation plan should limit litigation and case-by-case review of amounts to be accorded regional treatment, while also providing for some case-by-case review of the allocation of the non-regional facilities.

Notice of the Filing and Responsive Pleadings

16. Notice of SPP's filing was published in the *Federal Register*,[14] with interventions, comments and protests due on or before March 21, 2005. The Louisiana Public Service Commission and Arkansas Public Service Commission each filed a notice of intervention. Westar Energy, Inc., the Empire District Electric Company and Oklahoma Gas & Electric Company each filed a timely motion to intervene. The following parties filed a timely motion to intervene and protest: City Utilities of Springfield, Missouri (Springfield Utilities); Midwest Energy, Inc. (Midwest Energy); East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-Law Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives); Kansas City Power &

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[11] SPP cites *New England Power Pool*, 109 FERC ¶ 61,252 at 61,195-96 (2004) ("[W]hen transmission upgrades benefit the entire pool, they should receive regional cost support, and the costs should be shared by the entire pool of New England market participants. If, on the other hand, new transmission facilities are built to benefit particular participants or groups of participants, participant funding – i.e., allocation of the costs to that participant or participants – is appropriate for those projects.")

[12] SPP cites *New England Power Pool*, 105 FERC ¶ 61,300 at 62,453 (2003) (finding that the proposal there "will help minimize litigation and encourage actual needed transmission investment.").

[13] SPP cites *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,124 at 61,430-31 (2003) ("If at the end of the PJM process, there is no agreement to build the upgrade, PJM must make a filing with the Commission as to the results of its process."). SPP states with regard to the two-thirds allocated to local zones, for example, the cost allocation plan provides that costs will be allocated consistent with SPP's MW-mile method set out in Attachment S to the SPP tariff. However, before any charges are allocated (including charges associated with the other one-third of the facility), a filing will be submitted to the Commission justifying the charges.

[14] 70 Fed. Reg. 12,673 (2005).

Light Company (KCPL); Missouri Joint Municipal Electric Utility Commission, Oklahoma Municipal Power Authority, and West Texas Municipal Power Agency (collectively, TDU Intervenors); American Electric Power Service Corporation (AEP); the Midwest Stand-Alone Transmission Companies (MSATs)[15]; Kansas Municipal Utilities (KMU); Lafayette Utilities System (LUS); Golden Spread Electric Cooperative and Lyntegar Electric Cooperative (collectively, Golden Spread); and Southwest Industrial Customer Coalition (Southwest Industrial).[16] Redbud Energy, LP (Redbud) filed a timely motion to intervene and supportive comments. The Electric Power Supply Association (EPSA) filed an untimely motion to intervene and supportive comments. Xcel Energy Services (Xcel) filed an untimely motion to intervene.

17. On April 4, 2005, SPP submitted an answer to the protests.

18. All parties generally support the cost allocation plan in that they agree that some costs should be allocated regionally. They note that the SPP region has severe transmission constraints and that the cost allocation plan is designed to stimulate needed transmission investment, distribute the cost of regional facilities among all load zones, and provide a regional solution to the contentious issue of funding interstate upgrades. They further agree with SPP's assertion that the stakeholder process used in developing the cost allocation plan was a fair and open process, and they laud SPP and its RSC for taking a positive, constructive, and solution-oriented approach to resolving transmission constraints. While one party requests that SPP refile the cost allocation plan with changes, no party seeks outright rejection of it, and the comments and protests focus on specific modifications or clarifications. These issues and SPP's answer are discussed in detail below.

Procedural Matters

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant EPSA's and Xcel's motion for late intervention, given the early stage of this proceeding, and the absence of any undue delay, prejudice or burden to the parties.

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[15] MSATs include: American Transmission Company LLC, Grid America LLC, International Transmission Company, and Michigan Electric Transmission Company, LLC.

[16] Entities that filed protests will be referred to collectively as "protestors."

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SPP's answer because it has provided information that assisted us in our decision-making process.

Preliminary Matters

21. We note that two parties, TDU Intervenors and East Texas Cooperatives, filed a protest to SPP's December 30 Filing (that explained the cost allocation plan was still in development). TDU Intervenors disputed some of SPP's stated reasons for the delay in developing the cost allocation plan and further asserted that, given the then-expected revisions to Attachment J as part of the cost allocation plan, there is no need for the Commission to grant SPP's request for a one-year extension of Attachment J in Docket No. ER05-326-000.[17] East Texas Cooperatives argued that SPP should not be granted an extension beyond 90 days. SPP filed an answer to the protests, and TDU Intervenors filed a response to SPP's answer.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest and answer unless otherwise ordered by the decisional authority. We are not persuaded to accept SPP's answer and TDU Intervenors' response, and will, therefore, reject them.[18]

23. We find that the cost allocation plan SPP submitted on February 28, 2005 satisfies the February 10 Order, to the extent that it generally sets forth a detailed cost allocation plan. While SPP submitted the plan 60 days past the deadline set in the February 10 Order, we do not find that the delay caused any harm to interested parties. We reject as beyond the scope of this proceeding TDU Intervenors' arguments regarding Docket No. ER05-326-000.

Discussion

24. Our preliminary analysis indicates that the cost allocation proposal and the cost allocation and cost recovery provisions in Attachment Z, as conditioned herein, are just and reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential. Accordingly, we will conditionally accept them for filing,

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[17] TDU Intervenors' protest also addressed SPP's compliance filing in Docket Nos. RT04-1-008 and ER04-48-008, regarding the elimination of pancaked rates. That filing and TDU Intervenors' corresponding arguments will be addressed in a separate order.

[18] SPP's answer and TDU Intervenors' response primarily regarded the issue of pancaked rates at issue in Docket Nos. RT04-1-008 and ER04-48-008.

effective May 5, 2005, as requested. Furthermore, we commend SPP, its stakeholders, and the SPP RSC for their concerted effort to develop the cost allocation plan using an open and collaborative process that allowed for extensive stakeholder participation. However, we find that certain aspects of the plan and Attachment Z require modification. We now turn our attention to these issues and issues raised by protestors.

<u>The One-Third/Two-Third Cost Allocation</u>

<u>SPP's Proposal</u>

25. As noted above, under Attachment J, if the cost of a Base Plan upgrade is greater than $100,000, one-third of the revenue requirement for the upgrade will be allocated to the SPP region on a postage stamp basis. The remaining two-thirds will be allocated locally to zones based on each zone's share of the incremental MW-mile benefits as computed in section 4 of Attachment S.

26. SPP states that it applied its MW-mile method to determine the use of facilities regionally and locally. According to SPP, that study showed that about two-thirds of the usage serves local native load customers with the remainder used regionally. Thus, SPP and the RSC determined that the remaining one-third of new upgrades would benefit the entire region and that those costs should be allocated to the entire SPP.

<u>Protests</u>

27. AEP raises concern that it will pay a sizeable share of the 33 percent region-wide costs, because it has a substantial portion of SPP's investment and load. AEP trusts that the Commission and state commission will support timely and full cost recovery for investments made pursuant to the plan, and expects to work closely with state commissions to assure full cost recovery.

28. KCPL asserts that it is inappropriate, inefficient and inequitable to allocate regionally one-third percent of the cost of network upgrades, and that SPP has not adequately supported its proposal to do so. While KCPL understands that there are certain theoretical region-wide benefits associated with additional wheeling capability and greater reliability, KCPL finds it difficult to imagine how its customers would derive significant tangible benefits from, for example, upgrades involving facilities that primarily serve native load in Texas or New Mexico.

29. East Texas Cooperatives state that the cost allocation plan is a welcome improvement over the status quo and superior to the cost allocation mechanisms in several RTOs because it recognizes the regional nature of the grid by assigning one-third of the cost recovery for Base Plan Upgrades to a single, region-wide rate. However, they

contend that a larger regional allocation is necessary to recognize the regional nature of the grid and to facilitate markets. They further contend that the ultimate goal of SPP's cost allocation plan should be the establishment of a single SPP-wide postage stamp rate.

SPP's Answer

30. SPP responds that its proposed allocation of Base Plan reliability projects is consistent with cost causation principles. SPP adds that arguments seeking establishment of a single SPP-wide postage stamp rate are beyond the scope of this proceeding.

Discussion

31. We will accept the one-third/two-third cost allocation without modification. While certain parties question whether the regional allocation is consistent with cost causation principles or provide tangible benefits, we find that the proposal is supported by the RSC Cost Allocation Working Group (CAWG) determinations that most transmission facilities provide both a local and regional benefit. SPP states that the CAWG performed multiple analyses and found that the MW-mile allocation summation for all zones showed that the total SPP system usage was 66 percent zonal to service native load. This means, according to SPP, that one-third of the transmission system usage reflects regional needs and, therefore, it would be appropriate to use that one-third figure as the regional allocation factor.[19] We agree that this is a reasonable approach to evaluate usage and to assign corresponding costs and will therefore accept the one-third/two-third cost allocation.

32. In response to AEP, we agree that entities making investments pursuant to the plan should be able to recover their costs in a timely manner. We encourage utilities to consider adopting formula rates to facilitate such recovery.

33. We applaud the RSC for working with the stakeholders in developing the cost allocation plan. We believe that the RSC's leadership role in developing this cost allocation plan will help ensure that, ultimately, there will be timely cost recovery for investments.

34. In response to KCPL, we note that while SPP's cost allocation might not assign costs to the exact beneficiaries for every expansion, we find the proposal to be a reasonable approach to funding needed investments, while eliminating the burden of case-by-case determinations of the regional/local cost allocation. Assigning two-thirds of

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[19] SPP Exhibit No. 1, Direct Testimony of Bruce Rew at 5-9.

the cost of a network upgrade to the zone while assigning one-third of the cost to the region as a whole is reasonable, given SPP's general finding that one-third of the transmission system usage reflects regional needs.

35. As noted, East Texas Cooperatives assert that SPP should commit to eventually adopting a single SPP-wide postage-stamp rate. However, while we have encouraged RTOs to move in that direction, we have not directed them to adopt that goal, and will not direct SPP to do so here.

Base Plan vs. Economic Upgrades Distinction

SPP's Proposal

36. As noted above, Attachment J of the cost allocation plan distinguishes Base Plan facilities, which are eligible for regional cost allocation, from Economic Upgrades, which generally are not eligible for regional allocation.

Protests

37. MSATs state that the Base Plan/Economic Upgrades distinction lacks an operational basis, does not accurately match project costs and benefits, and may have a chilling effect on cost-effective transmission investment, such as investment in transmission facilities that can significantly reduce or eliminate congestion but are not categorized as Base Plan facilities. MSATs state that many transmission investments exhibit both reliability (i.e., Base Plan) and economic characteristics, and that SPP has provided no justification for distinguishing them. MSATs request that, if the Commission accepts the cost allocation plan, it make clear that such acceptance neither reflects a generic preference for one cost allocation methodology over another or establish a generally-applicable Commission policy endorsing either Base Plan or economic projects.

SPP's Answer

38. SPP responds that a Commission-accepted PJM Interconnection, L.L.C. (PJM) Operating Agreement makes the same distinction between Base Plan Upgrades and Economic Upgrades.[20] SPP states that there is a reasonable basis for the distinction. SPP contends that, because non-Expansion Plan facilities are optional, it is appropriate to let the market determine whether there are enough project sponsors to build them.

[20] SPP cites PJM Operating Agreement at Schedule 6.

Discussion

39. While many transmission investments may provide both economic and reliability benefits to the system, there is a reasonable basis for the distinction here: Base Plan facilities are those that are included in the SPP Transmission Expansion Plan as needed for reliability purposes, while Economic Upgrades are not required to reliably serve SPP's obligations for long-term firm transmission service. The proposal discusses how reliability and Economic Upgrades are funded differently, and we note that SPP determines reliability upgrades based upon the SPP Criteria and NERC Planning Standards referenced in Attachment O.[21] We find SPP's proposal appropriate for its region at this time based on these distinctions. But, our acceptance here does not establish a generally applicable Commission policy regarding cost allocation methods or whether it is appropriate to make Base Plan and Economic Upgrade distinctions.

Base Plan Criteria

SPP's Proposal

40. Under the cost allocation plan (Attachment J, section III.B),[22] upgrades associated with a new or changed Designated Network Resource will be eligible for Base Plan funding if the following conditions (Base Plan criteria) are met: (1) the transmission customer's commitment to the Designated Network Resource has a duration of at least five years; (2) the new and existing Designated Network Resources of the transmission customer cannot exceed 125 percent of the customers projected system peak responsibility; and (3) the cost of the upgrades associated with the Designated Network Resource is less than or equal to $180,000/MW times the lesser of the planned maximum net dependable capacity applicable to the transmission customer or the requested capacity (Safe Harbor provision).

Protests

41. Several protestors take issue with the Base Plan criteria. KCPL argues that the proposed five-year commitment is too short and seeks a higher threshold, such as 10 years. KCPL asserts that the five-year commitment requires Network Upgrade costs to be borne by the entire region for decades, as the accounting assets depreciate, while any benefit that accrues to the region due to the Network Upgrades expires in five years.

[21] Attachment O, Planning and Expansion Procedures. SPP's Criteria and the NERC Planning Standards are posted on SPP's website.

[22] Section III.B is titled, "Conditions for Classifying Upgrades Associated with Designated Resources as Base Plan Upgrades."

42. Golden Spread argues that five-year generation contracts, particularly in small increments, are not necessarily readily available standard products in the market. On the other hand, East Texas Cooperatives argue that the five-year commitment is too long, stating that it would severely limit supply options available to parties seeking new Designated Network Resources, because suppliers and purchasers are hesitant to enter into longer-term contracts due to factors such as congestion costs and natural gas price risk. They contend that a three-year commitment would more accurately reflect the realities of today's markets, while ensuring that the SPP region will not have to bear the costs of an upgrade that may not be important in the future. Springfield Utilities agree with the five-year commitment, stating that lengthy commitments are inherent in projects to serve native load.

43. Further, several protestors argue that the 125 percent load-based limitation will disadvantage smaller entities and therefore operate in a discriminatory manner. They assert that the limitation is too low, given that generating capacity additions are inherently "chunky,"[23] and that SPP Planning Criteria already require a minimum reserve capacity level of 12 percent (thus leaving a Network Customer with a very narrow margin within which it may add new Network Resources and obtain full Base Plan treatment for the associated upgrades). Springfield Utilities seeks clarification that the SPP capacity reserve requirement will be deemed additive to the 125 percent limitation, thus allowing for Base Plan treatment of capacity additions up to 135 percent of the Network Customer's peak demand. Midwest Energy recommends that the Commission raise the total capacity limit to provide a 25 percent increment above the prevailing minimum capacity margin requirement. Lafayette Utilities seeks clarification that only existing resources that have been designated as Network Resources by or for a requesting customer would be included in calculating the load-based limitation.[24] TDU Intervenors suggest that any reserve limit criterion included in Attachment J allow a customer to enjoy Base Plan treatment if its Designated Network Resource addition either meets the percentage reserve limit, or is equal to or smaller than a particular number of megawatts, such as 25 MW or 50 MW.

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[23] Springfield Utilities' protest at 5.

[24] Lafayette Utilities notes that Attachment J provides that the limitation would apply to the sum of the transmission customer's existing Designated Resources plus the lesser of the planned maximum net dependable capacity applicable to the transmission customer, or the requested capacity. Attachment J, Section III.B.2. Designated Resource is defined as any designated generation resource owned, purchased or leased by a transmission customer to serve load in the SPP region, not including any resource or portion thereof that is committed for sale to third parties or otherwise cannot be called upon to meet the transmission customer's load on a non-interruptible basis. Attachment J, section 1.9a.

Several protestors also take issue with the Safe Harbor provision that limits project funding to a maximum cost of $180,000/MW. They state that SPP calculated this figure from the average transmission investment in SPP using each transmission owner's annual revenue requirements and fixed charge rate, and that therefore, the figure is dated and not representative of the cost of new construction of right-of-way acquisition. They argue that it is inappropriate to base the Safe Harbor restriction on the embedded cost of the SPP system, because embedded costs bear no relation to the costs of new facilities. TDU Intervenors seek a significantly higher Safe Harbor limit that is more consistent with the actual or projected current costs of upgrades, contending that SPP's own estimates show the average cost of seven studied upgrades to be more than $870,000/MW, nearly five times higher than the proposed Safe Harbor limit.[25] Springfield Utilities contends that transmission lines have useful lives of more than 40 years, and, accordingly, suggests adoption of a 10-20 percent higher figure, such as $200,000-$225,000/MW. East Texas Cooperatives argue that the Safe Harbor provision should be eliminated in order to ensure that all generators can compete on a level playing field; alternatively, East Texas Cooperatives agree with other protestors that the limit should be raised significantly. Lafayette Utilities assert that any Safe Harbor cost limit should be periodically adjusted for inflation.

44. TDU Intervenors state that the Commission should require follow-up reports to enable review of SPP's implementation of the cost-allocation plan, including application of the Base Plan criteria.

SPP's Answer

45. SPP responds that five-year commitment is an appropriate compromise between competing interests. SPP states that transmission projects involve multiple years of construction, and that the five-year commitment period assures a substantial commitment to the project and a clear need for it, before costs are allocated as Base Plan Upgrades.

[25] TDU Intervenors suggest that one way to mitigate the alleged discriminatory effects of the Safe Harbor provision is to aggregate the capacities of all transmission customers whose Designated Network Resource requests gave rise to the need for the upgrade in calculating whether the Safe Harbor limit is met or exceeded. TDU Intervenors further suggest that any excess costs to be directly assigned should be shared by all customers whose requests gave rise to the upgrade and that the cost allocation provisions of Attachment J should be harmonized with the aggregation and cost allocation provisions of Attachment Z.

46. SPP further states the 125 percent limit provides a substantial margin above SPP's typical 12 percent reserve margin, and that, if a party believes that it needs Designated Network Resources that exceed this margin, then that party should not be able to compel the rest of SPP to pay for any transmission necessary to move those additional resources to its load. SPP does confirm, in response to Lafayette, that the existing resources of a customer that would figure into the application of the 125 percent limitation are only the resources that have been designated as Network Resources by or for the requesting customer and would continue to be so designated in the first year in which the customer plans to use the new Designated Resource that is the subject of its request. SPP further states that it would accommodate partially-owned resources, i.e., apply only their portion of the joint-owned resource against the 125 percent limit.

47. With regard to the Safe Harbor provision, SPP states that the $180,000/MW figure is higher than the average SPP costs, which SPP states equal about $150,000/MW for the majority of SPP utilities. SPP also asserts that the limit should send a price signal to generators to locate closer to loads, thereby reducing the dollar per MW cost of the transmission.

48. SPP further notes that all of the criteria may be waived (as discussed below).

Discussion

49. We will not require any modifications to the Base Plan criteria at this time. We find that the five-year commitment is reasonable, because it strikes an appropriate balance between the competing concerns noted by protestors, including shorter-term commitments to designated resources that could result in inefficient construction and longer-term commitments that might serve to inhibit expansion.

50. We further find the 125 percent limitation to be a reasonable compromise between competing interests. While we share the concern that this threshold might be too limiting for smaller transmission customers, we believe that the waiver process offers the opportunity to ensure that reasonable exceptions to the stated Base Plan criteria will be accepted, on a non-discriminatory basis.

51. With regard to the Safe Harbor provision, we find the $180,000/MW to be reasonable at this point, but we understand protestors' concerns that the figure might be too low, because embedded costs (upon which the Safe Harbor limit is based) could include greatly depreciated assets and are much less than current construction costs. Accordingly, we will accept the $180,000 MW threshold as an initial amount and direct SPP to assess, as part of its biennial planning process, the average costs of all network upgrades and work with the stakeholders and RSC to evaluate the effectiveness and accuracy of the $180,000/MW threshold. This review may be conducted in conjunction with review of the Attachment J "unintended consequences" provision discussed below.

Further, we find that follow-up reports would be beneficial, and we will require SPP to file informational reports, as part of its planning process, concerning the reviews directed in this order.

Waiver of Base Plan Upgrade Criteria

SPP's Proposal

52. Attachment J also includes a waiver process whereby a transmission customer may seek waiver from SPP so that the costs of a Network Upgrade may be classified in whole or in part as Base Plan upgrade costs even if the relevant Designated Resource or the associated upgrade does not meet one or more of the conditions established by SPP for such classification.[26]

Protests

53. KCPL asserts that the waiver provision vests too much discretion with SPP to determine whether a network upgrade associated with a new or changed Designated Resource should be reclassified as a Base Plan Upgrade. It requests that the Commission direct SPP to remove the waiver provision, arguing that the provision will introduce unnecessary uncertainty and create contentious disputes.

54. KMU states that SPP must have some degree of flexibility to avoid denying requests that are reasonable,[27] but seeks Commission clarification that the waiver provision is to be used as a means by which a request may be included as a Base Plan upgrade, rather than as a rigid tool by which to exclude requests.

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[26] Attachment J, section III.C. The non-exhaustive list of factors considered in granting waiver requests include, among others, the following: (1) whether there are insufficient competitive resource alternatives for one or more transmission customers; and (2) whether the resource that is the subject of the designation utilizes a source of fuel that benefits the SPP region by providing needed fuel diversity.

[27] For example, KMU states that some requests may arise in cases involving smaller customers, customers located in remote locations, or other unforeseen circumstances. In addition, KMU cautions that qualification for Base Plan treatment should not depend on the size of the customer or whether the upgrade would support network service or point-to-point service.

55. Southwest Industrial disputes that aspect of the waiver provision that allows the SPP Board to consider whether "the proposed Designated Resource utilizes a fuel resource that would be beneficial to the SPP Region."[28] Southwest Industrial states that other RTOs do not consider fuel diversity in evaluating transmission enhancement or expansion proposals and that the SPP Board should not be allowed to pick among competing generation technologies or use the construction of a transmission upgrade for purposes of promoting a particular fuel diversity agenda.[29]

SPP's Answer

56. SPP responds that parties who believe the waiver provision results in an abuse of power may proceed through a dispute resolution procedure and retain all other filing rights afforded to any other party. SPP notes that it is required to act in a non-discriminatory fashion and that it will file any granted waivers with the Commission. SPP generally agrees that the waiver process should be used as a means for including, rather than excluding, waiver requests.

Discussion

57. We believe that SPP must have some degree of flexibility in making cost allocation determinations and that therefore, the existence of a waiver process is appropriate. Further, we are not persuaded that the waiver process vests the SPP Board with too much discretion. While Southwest Industrial cites the *RTO West* order for the proposition that the fuel diversity provision should be removed, we note that, in that case, we merely declined to require, at the request of an intervenor, that RTO West have the express ability to order system expansions to accommodate "public interest concerns," such as promoting fuel diversity.[30] Here, SPP seeks to include fuel diversity among the non-exhaustive list of waiver criteria, and we find that it properly may be included. We further note, as SPP states, that any aggrieved parties not granted waivers retain the filing rights of any other party.

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[28] Attachment J, section III.B.2.ii.

[29] Southwest Industrial cites *Avista Corporation*, 101 FERC ¶ 61,346 (2002) (*RTO West)*.

[30] *RTO West*, 101 FERC at P 47.

Attachment J's Unintended Consequences Provision

SPP's Proposal

58. Section III.D.2 of proposed Attachment J provides:

> For each SPP Transmission Expansion Plan, SPP shall calculate the cost allocation impacts of the Base Plan Upgrades to each Transmission Customer within the SPP Region. The results will be reviewed for unintended consequences by the Regional Tariff Working Group and reported to the Markets Operations Policy Committee and Regional State Committee.

Protests

59. East Texas Cooperatives seek elimination of the provision or clarification as to what constitutes "unintended consequences" and what will happen if unintended consequences are discovered. They argue that the provision injects a degree of uncertainty into the cost allocation plan and is ripe for abuse by parties who are unhappy with the results of a particular SPP transmission plan.

SPP's Answer

60. SPP responds that the provision merely incorporates a reporting requirement, and that it will not result in any automatic changes in rates or cost allocation, as such changes must be submitted to and accepted by the Commission.

Discussion

61. We will accept the unintended consequences provision without modification. We find no ambiguity in the meaning of "unintended consequences" and believe that this aspect of the proposal provides a reasonable check on the outcome of the transmission expansion process, as well as an additional level of review regarding the effectiveness of SPP's transmission expansion plan and cost allocation decisions. As noted by SPP, the provision does not authorize changes to the rate provisions conditionally accepted herein, absent a filing under section 205 or 206 of the Federal Power Act (FPA).[31] To the extent that the provision allows stakeholders to express their concerns, we find the effect to be a positive one. Further, we will require SPP to include the results of these reviews in the informational filings discussed above (in the Base Plan Criteria section).

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[31] 16 U.S.C. §§ 824d and 824e (2000).

Construction of Economic Upgrades

SPP's Proposal

62. Attachment J, section IV provides that the costs of an economic upgrade shall be borne voluntarily by the project sponsors, who shall be entitled to credits in accordance with Attachment Z.

Protests

63. TDU Intervenors express no objection to this provision, provided that the Commission ensures that participation in Economic Upgrades is open to all. TDU Intervenors assert that the Commission has previously signaled its desire for SPP to adopt an open approach to participation in transmission expansion projects,[32] and that it should require SPP to adopt provisions requiring widely disseminated advance notice of Economic Upgrades that are under consideration, so that all customers will have a meaningful opportunity to become project sponsors.

SPP's Answer

64. In its answer, SPP confirms that all entities are eligible to become project sponsors of Economic Upgrades, and that there will be advance notices stating when SPP will have an open stakeholder process.

Discussion

65. We are satisfied with SPP's answer that it will provide advance notices stating when it will have an open stakeholder process and will not mandate an additional specific form of advance notice here. We believe that SPP's transmission planning procedures are already sufficiently noticed and open,[33] so that all interested parties may become aware of opportunities to become project sponsors. We encourage SPP to continue utilizing its open transmission expansion procedures. We further note that SPP is in the second phase of its two-year planning process that will focus on Economic Upgrades.

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[32] TDU Intervenors cites *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 at P 186 (2004).

[33] For example, SPP holds periodic transmission planning summits.

Attachment Z's Crediting Mechanism and "And" Pricing

SPP's Proposal

66. For economic and requested upgrades not included in the Base Plan, Attachment Z provides different cost recovery methods for point-to-point and network transmission customers. For point-to-point customers, the levelized monthly revenue requirement derived from the cost allocation process will be compared to SPP's monthly base point-to-point transmission service rate, and the customer pays the higher of the total monthly base rate charge or the monthly revenue requirement associated with the facility upgrades. Network customers pay the applicable network transmission service rate and a direct assignment charge based upon the monthly revenue requirement associated with the facility upgrades not included in the Base Plan. SPP also proposes that any charges paid by the customers in excess of the transmission service base rate will be credited back to the customer from future transmission service revenues until the customer has been fully compensated.[34] SPP proposes to calculate a credit (with interest in accordance with Commission regulations, 18 C.F.R. § 35.19(a)(2)(ii) (2004)) from transmission service revenues that result from new point-to-point transmission service "that increases loading on the new facility upgrade in the direction of the initial overload."[35]

Protests

67. Golden Spread, East Texas Cooperatives and TDU Intervenors argue that Attachment Z's cost allocation provisions for requested upgrades violate the Commission's prohibition on "and" pricing, because it improperly charges the same customer twice for use of the grid by charging for the entire price of the grid upgrades through direct assignment, as well as a portion of all other grid costs through the embedded cost transmission rate in Schedule 9, sections 1 and 6 of SPP's OATT.[36] They argue that, although Attachment Z provides for crediting back to the network customers

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[34] Attachment Z, First Revised Sheet No. 423

[35] *Id.*

[36] *See Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act*, FERC Stats. & Regs. ¶ 31,005 (1994), *clarified*, 71 FERC ¶ 61,195 (1995) (Transmission Pricing Policy Statement) (Noting that when a transmission owner would be required to add transmission assets in order to respond to a request for new or expanded transmission service, the Commission has allowed the transmission owner to charge transmission customers the higher of either the rolled-in embedded cost for the system as expanded (i.e., a rolled-in rate, which includes expansion costs) or the incremental expansion cost (i.e., a rate based on only expansion costs) ("or" pricing), but not the sum of the two ("and" pricing). *Id.* at 31,137-38.

of the costs the customers pay in excess of the base rate, crediting is allowed only when SPP provides new point-to-point service that increases loading on the new facility upgrade in the direction of the initial overload. They state that crediting back to the network customer would take place, if ever, at some undefined point in the future when new point-to-point service over the upgrades is provided by SPP.[37] They contend that this uncertainty as to cost recovery could serve as a disincentive to transmission expansion, and, further, that the crediting mechanism fails to recognize that upgrades could provide benefits by increasing loading on a new facility in the opposite direction from the initial overload, or by increasing the amount of network service that could be sold.

68. East Texas Cooperatives and TDU Intervenors further assert that Attachment Z discriminates against network customers, because they must pay the embedded network service rate along with the directly-assigned cost of the upgrades, while point-to-point customers requesting transmission upgrades will be subject to "or" pricing. East Texas Cooperatives state that the Commission does not allow distinctions between point-to-point service and network service when it comes to crediting network upgrade costs.[38]

69. TDU Intervenors also contend that an upgrade originally occasioned by the request of one or more network customers for new or changed Designated Network Resources but later found to be necessary for reliability should be considered a Base Plan facility, and all costs that were directly assigned to the network customer should be rolled-in.

SPP's Answer

70. SPP responds that many of the issues concerning "and" pricing were addressed in the Attachment Z proceeding in Docket No. ER05-109-000 and are beyond the scope of this case.

[37] They argue that, if such service is never provided, or if point-to-point service is provided by increasing loading on the new facility in the opposite direction from the initial overload, the network customer would never get paid credits against the direct assignment costs it paid for the upgrades.

[38] East Texas Cooperatives cites *American Electric Power Service Corp.*, 91 FERC ¶ 61, 045 (2000).

Discussion

71. We will conditionally accept for filing Attachment Z's cost allocation and crediting proposal. We are not persuaded that the potential for direct assignment of network upgrades constitutes prohibited "and" pricing since we have permitted similar pricing where the transmission provider is independent.[39] We note that the Commission recently accepted a proposal on an experimental basis that permits the direct assignment of network upgrade costs without any crediting mechanism to offset these costs.[40] Under SPP's proposal, the direct assignment of costs to network customers will only occur if the network customers' required upgrades do not meet the criteria for Base Plan funding. Further, to the extent any costs are directly assigned, these costs may be offset under the crediting provisions. For point-to-point customers under SPP's existing tariff, there is no crediting mechanism, while under proposed Attachment Z, they would qualify for credits for subsequent transmission usage and therefore be in an improved position economically. Accordingly, we find the Base Plan criteria and crediting proposal, as modified, reasonable and sufficient to justify the distinction between the cost allocation treatment for point-to-point and network customers. We also find that the Base Plan criteria properly balance the principles of equity and economic incentive. The criteria satisfy the equity needs of customers by allocating costs to the region and to a local zone, relieving the requesting transmission customer of the costs of network upgrades that provide benefits to other users of the grid. In addition, the criteria provide economic incentives, by ensuring that Designated Resource requests do not unduly burden customers with costs that result from short-term designations or unreasonably expensive upgrade costs.

72. We agree, however, that the crediting provisions in Attachment Z are too restrictive in that they are limited to point-to-point service in the direction of the initial overload. We find that it is appropriate to grant credits for subsequent network transmission service as well as point- to-point requests that use the capacity created by a requested or economic upgrade. We disagree, however, with the assertion that the credits should be extended to service in the opposite direction of the original overload (except for controllable equipment, as noted below), since any transmission service requests could have been granted in the opposite direction to relieve the original overload. Additionally, we will direct SPP to include crediting provisions for controllable

[39] *Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003*, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. P 31,146 (2003) (Order No. 2003), *order on reh'g, Order No. 2003-A* at P 587, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. P 31,160 (2004) (Order No. 2003-A), *order on reh'g, Order No. 2003-B,* 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. P 31,171 (2005) (Order No. 2003-B), *reh'g pending*.

[40] *Entergy Services, Inc.*, 110 FERC ¶ 61,295 (2005).

transmission equipment, such as DC (direct current) ties and regulating phase shifting transformers, in its footprint, since the proposal lacks any discussion of these facilities. In this regard, the crediting provisions should include credits for service in both directions, since service over these transmission elements is different, i.e., specifically scheduled and controllable. Accordingly, SPP is directed to revise Attachment Z to provide for credits consistent with the discussion above.

Attachment Z Aggregate Facilities Study Process

SPP's Proposal

73. Section IV of Attachment Z provides:

> [SPP] in conjunction with the applicable Transmission Owners shall determine the necessary cost and lead-time for construction of each upgrade and the estimated cost of service for each request. The Transmission Provider, in conjunction with the applicable Transmission Owners, shall determine the optimal set of solutions to reduce the overall costs for the study group and reliably provide the requested service in a timely manner.

Protests

74. East Texas Cooperatives and Golden Spread argue that this provision gives SPP and transmission owners full control over the Aggregate Facilities Study Process to the exclusion of all other interested parties. They state that this provision invites anticompetitive behavior on the part of transmission owners because it gives them the power to determine what facilities are necessary to accommodate new transmission service requests – including service requests from competitors. They contend that SPP should revise section IV to either: (1) remove the transmission owners from the process; or (2) allow the inclusion of transmission customers and applicants for service along with transmission owners in the process.

Discussion

75. We will not require any modifications relevant to this issue, as we believe that other portions of the study procedures and SPP's OATT address protestors' concerns. For example, section III, paragraph (a) states in part that "[t]he Transmission Provider [SPP] shall determine the upgrades required to reliably provide all requested service." In addition, Attachment O of SPP's OATT, Transmission Planning and Expansion Procedures, provides that "[t]he Transmission Provider shall independently perform regional transmission studies." (Section 2) Section 4 (a) states that "[e]ach Transmission Owner shall use due diligence to construct transmission facilities as directed by the SPP

Board of Directors. . . ." Because these portions of the tariff work together and we required SPP to amend Attachment O to allay similar concerns,[41] we will not require further amendments here. A transmission customer who believes this arrangement has been abused to the customer's detriment may file a complaint under section 206 of the FPA.

Attachment Z Right of First Refusal Provision

SPP's Proposal

76. Section VII of Attachment Z affords transmission owners a right of first refusal to construct facilities identified in the Aggregate Facilities Study Process. It states, in pertinent part:

> Each SPP Transmission Owner shall possess the right of first refusal to obtain all rights and responsibilities afforded to customers under this Attachment Z by assuming the cost responsibility for any or all of the upgrades to their facilities which it constructs to provide transmission service pursuant to this Attachment Z.

Protests

77. East Texas Cooperatives seek either removal of the right of first refusal provision or a requirement that a transmission owner selecting this option cannot include the costs of the facilities in the revenue requirements eligible for cost recovery under the SPP OATT. They state that SPP provides no explanation for the provision and that such a provision provides an opportunity for gaming on the part of transmission owners.[42] They further state that, while SPP should have the ability to solicit competitive bids from qualified and appropriately approved developers to build transmission projects so that SPP's customers will be assured that new facilities are built at the lowest possible cost, a right of first refusal for transmission owners could foreclose this possibility.[43]

[41] February 10 Order at P 188.

[42] For example, they state that a transmission owner could have an incentive to exercise its right of first refusal to build transmission facilities necessary to accommodate one of its own generators. The transmission owner could roll the costs of the new facilities into its rate, thereby relieving the generator of the cost responsibility it would otherwise bear under the Attachment Z cost allocation procedures.

[43] *See also*, Golden Spread's, East Texas Cooperatives', and TDU Intervenors' protest in Docket No. ER05-109-000.

78. TDU Intervenors seek Commission clarification that all customers, not just the transmission owners, should be given the right to fund network upgrades and, in turn, get compensated for them. TDU Intervenors state that broad third-party participation serves the competitive goals of the Commission's RTO policy, as well as the economic interests of customers.[44]

Discussion

79. We will direct SPP to remove the right of first refusal provision from Attachment Z. On the issue of transmission expansion and construction, the Commission has denied transmission owners the right of first refusal.[45] We find that the right of first refusal provision at issue here gives decision-making authority to the transmission owners, which is not afforded to customers, potentially to the customers' detriment. Further, by injecting an element of uncertainty into the expansion process, the provision does nothing to encourage third parties from proposing transmission expansion projects. Moreover, we find that the provision could obstruct third-party ownership and SPP's ability to resolve concerns regarding compensation for customer-owned transmission facilities.[46] Accordingly, we direct SPP to delete section VII in Attachment Z and amend its tariff to provide for third party ownership once it has established an appropriate compensation method.

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[44] TDU Intervenors cite *PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,061 at 61,241 (2001); *Midwest Independent Transmission System Operator, Inc.*, 97 FERC ¶ 61,326 at 62,520 (2001).

[45] *See*, *e.g.*, *Arizona Public Serv. Co.*, 101 FERC ¶ 61,033 at P 200, *order on reh'g*, 101 FERC ¶ 61,350 at P 65-66 (2002); *Carolina Power and Light* , 94 FERC ¶ 61,273 at 62,010, *order on reh'g*, 95 FERC ¶ 61,282 (2001); *Cleco Power LLC,* 101 FERC ¶ 61,008 (2002). *Cf., New York Independent System Operator, Inc.*, 109 FERC 61,372 (2004).

[46] In previous orders, the Commission directed SPP to develop a method of compensation for customer-owned transmission facilities. (*See* February 10 Order at P 115 and July 2 Order at P 80.) In addition, the Commission understood SPP's transmission planning and expansion process to accommodate third-party investment and participation in transmission upgrade projects. (*See* February 10 Order at P 185-86).

Miscellaneous

Protests

80. East Texas Cooperatives state that all cost allocation provisions should be moved to Attachment J, arguing that the inclusion of cost allocation provisions in both Attachment Z and Attachment J creates confusion. They further seek clarification that not every cost allocation will be subject to Commission approval and that the cost allocation proposal does not contemplate intra-zonal cost allocations.[47]

81. Springfield Utilities state that it is on a seam between various utility entities and comments that balkanization of utilities and gerrymandered RTOs are a threat to efficient operation of markets and reliability and will imperil the efficient expansion of the regional grid. They encourage the Commission to continue to ensure that RTOs and their non-RTO neighbors develop not just seamless markets through effective agreement, but also seamless transmission expansion planning and construction.

82. Southwest Industrial states that SPP's filing touches upon the issue of flow-through of transmission upgrade costs to retail customers by stating, "in the SPP region, most of the costs will need to be recovered in state-set rates."[48] Southwest Industrial objects to the filing to the extent that it may be interpreted as inviting the Commission to entertain matters, such as recovery of transmission upgrade costs, which are properly within the jurisdiction of state commissions and legislatures.

83. Lafayette Utilities states that stakeholders are now in the process of considering further revisions to Attachment Z, and that the Commission may wish to defer issuing an order on the proposed cost allocation plan, or make any acceptance of the cost allocation plan subject to the outcome of further discussions and a filing by SPP addressing the proposed additional revisions to Attachment Z.

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[47] They state that, in describing the zonal allocation portion of Base Plan costs using the MW-mile method, Bruce Rew (in his direct testimony accompanying SPP's filing) states that, if a "Transmission Owner's total change in MW-miles is positive or increase flow, they are deemed to have received a benefit and are allocated a pro rata share of the total MW-mile increase of similar Transmission Owners." East Texas Cooperatives contends that this statement implies that the MW-mile allocation will be "done down to the level of individual transmission owners," while the tariff makes clear that the MW-mile allocation will be done on a zonal basis. They seek clarification that the latter is true.

[48] SPP transmittal letter at 9.

Discussion

84. We will not require SPP to move all cost allocation provisions to Attachment J. Given the intricacies of the entire cost allocation plan, we find that requiring such reorganization would require considerable effort but result in minimal benefit. In any case, we note that the cost allocation provisions in Attachment Z pertain to Requested Upgrades, while the cost allocation provisions in Attachment J include Requested Upgrades as a subset of the four types of upgrades subject to Attachment J.

85. Further, we will not require SPP to clarify any statements in its transmittal letter indicating that every cost allocation proposal is subject to Commission approval. The proposed tariff language does not require such a result, and we base our action here on the tariff language.

86. With regard to East Texas Cooperatives' concerns about intra-zonal transactions, we understand the proposed tariff language to mean that cost allocation will be done on a zonal basis, and that the tariff does not contemplate intra-zonal cost allocations. SPP confirms this understanding in its answer, and we will not require any further changes on this issue.

87. The Commission shares Springfield's concerns related to the efficient operation of markets and believes that the cost allocation plan is an initial step toward efficient expansion of the grid. On this issue, we note that SPP and the Midwest ISO have adopted a joint operating agreement that includes provisions for coordinated planning for the expansion of transmission facilities.[49] We encourage them to continue their efforts to reduce the seams issues through that forum.

88. With regard to Southwest Industrial's jurisdictional concerns pertaining to the flow-through of costs, we note that recovery of transmission upgrade costs from retail customers is not at stake in this proceeding. By conditionally accepting the cost allocation plan, the Commission does not intend to, and is not, intruding upon matters within state jurisdiction.

89. Lastly, we will not, as Lafayette Utilities suggests, delay decision in this case pending further changes to Attachment Z that might be in development. If and when SPP seeks to revise Attachment Z, it may submit those changes to the Commission and we will address those modifications then.

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[49] *See Southwest Power Pool, Inc.*, 109 FERC ¶ 61,008 (2004), *order on reh'g*, 110 FERC ¶ 61,031 (2005).

The Commission orders:

(A) SPP's cost allocation plan and cost allocation and cost recovery provisions in Attachment Z are hereby conditionally accepted for filing, to become effective May 5, 2005, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.