

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

Southwest Power Pool, Inc.

Docket No. OA08-104-000

**MOTION TO INTERVENE AND PROTEST OF
THE ELECTRIC POWER SUPPLY ASSOCIATION**

On April 15, 2008, Southwest Power Pool Inc. (SPP) filed revisions to its Open Access Transmission Tariff to comply with requirements in the Federal Energy Regulatory Commission's (FERC or the Commission) Order No. 890-A.¹ The Electric Power Supply Association (EPSA) respectfully submits this intervention and protest of the instant filing.² EPSA objects to SPP's claim that it is not required to offer Conditional Firm transmission service as mandated in Order No. 890, and we request that the Commission direct SPP to offer this service within 120 days. EPSA members have monitored SPP's stakeholder process of the Conditional Firm Task Force³ that began meeting on November 9, 2007. This meeting followed SPP's October 11, 2007 Order No. 890 compliance filing in which SPP asserted that it is not required to offer a Conditional Firm product. In essence, the April 15 SPP filing dismisses the work of the task force and undermines its efforts by reasserting SPP's contention from the October filing that there is no need for a Conditional Firm service option. The Commission should direct SPP to use this stakeholder process to develop a Conditional Firm product and require SPP to file the necessary tariff changes to implement this transmission service product within 120 days.

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order 890-A, 2006-2007 FERC Stats. & Regs., Preambles ¶ 31,261, at P 38 (2007).

² The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

³ There is no timetable for the taskforce to deliver any recommendation or work product.

I. MOTION TO INTERVENE

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers.

Many of EPSA's members are authorized to sell energy and ancillary services at market-based rates and seek transmission service to bring their product to market. Many existing and proposed competitive generating resources whose interests are represented by EPSA are and will be transmission customers under SPP's OATT and are directly impacted by the lack of Conditional Firm transmission service if it is not implemented in SPP. EPSA members are and will continue to be active participants in SPP and EPSA has participated in the Commission's proceedings relating to SPP issues and the EIS Market. Accordingly, EPSA has a direct and substantial interest in the outcome of this proceeding that cannot be adequately represented by any other party.

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

Nancy E. Bagot, Vice President of Regulatory Policy
Jack Cashin, Director of Regulatory Affairs
Electric Power Supply Association
1401 New York Avenue, N.W., 11th Floor
Washington, D.C. 20005
(202) 628-8200
NancyB@epsa.org

EPSA, with AWEA and other companies in the Transmission Dispatch Advocates ad hoc group assisted Commission Staff regarding its consideration of Conditional Firm Service in Order No. 890. While monitoring transmission providers' efforts to implement conditional firm, EPSA was surprised by SPP's October 11, 2007 filing which said, "After stakeholder discussions, SPP determined that it would not submit changes to its Tariff relating to Conditional Firm service." It was only after discussions with AWEA that EPSA and its members became aware of any stakeholder discussions regarding this issue previous to the October 2007 filing. Consequently, it appears that SPP made its decision not to implement Conditional Firm service prior to any opportunity for full stakeholder input.

II. COMMENTS AND PROTEST

SPP states in its compliance filing that the Commission reiterated in Order No. 890 – A that, "RTOswith real-time energy markets are not required to offer conditional firm option." Further, SPP notes in the October 11, 2007 filing that it had held stakeholder discussions from which it determined that it would not submit changes to its tariff for Conditional Firm service. However, the basis on which the Commission made this exception does not apply to SPP's market structure.

Order No. 890 - A states in Paragraph 511⁴ that the Commission does not require RTOs and ISOs with real-time energy markets to adopt the provisions for conditional firm point-to-point service, since "customers transacting in RTOs and ISOs are able to buy through transmission congestion in real-time energy

⁴ See *id.* at P 511.

markets and need no prior reservation in order to access transmission.” It is true that SPP does not require a prior transmission reservation for participation in their energy imbalance market. However, the energy imbalance market is only 8 percent of the total load in SPP⁵. SPP is primarily a bilateral market where energy sales rely on prior reservation of firm transmission. This is exemplified in the tremendous amount of transmission requests that are being processed by SPP in the aggregate study process.⁶ In fact, SPP is so inundated with transmission requests that on March 31, 2008, SPP announced a delay in processing aggregate studies. To date, no aggregate study has been processed on time.

New and existing generation needs to be able to obtain long-term firm transmission, especially if it’s a wind resource, which is unavailable in most parts of SPP’s service territory without significant system upgrades. Order Nos. 890 and 890 - A provided this exemption for RTOs and ISOs that operate a market that accepts all transmission schedules and manages congestion through the use of Locational Marginal Pricing (LMP). Such a market does not require any reservation of physical transmission rights and allows customers to buy through congestion. It is this type of market that can support the development of new supply resources. However, the SPP market does not operate in such a manner and therefore does not facilitate efficient market entry. The recent *2007 State of the Market Report Southwest Power Pool, Inc.*, prepared by Boston Pacific, highlights the need for new market entry in SPP:

⁵ 2007 State of the Market Report Southwest Power Pool, Inc. Report prepared by Boston Pacific, April 24, 2008, Page 4.

⁶ Through the first 3 quarters of 2007 SPP processed 24,118 MW of firm transmission service requests.

...a continuing effort should be made to attract more and different competitors, including pure financial investors as well as generation developers responding to State competitive procurements. The number and quality of competitors is what drives the benefits of competitive markets.

Thus, in other RTO/ISOs, new generation has sufficient market entry on par with incumbent suppliers that allow it to deal with congestion. Similar opportunities, while needed, do not exist within the SPP footprint and need to be encouraged.

SPP's market is not analogous to other RTO/ISO markets, because SPP does not offer financial transmission rights as a way for new developers or existing generation to access transmission capacity and pay their way through congestion. The lack of a Conditional Firm product in SPP also maintains a barrier to new and existing market entrants in the SPP service territory and limits SPP's ability to make the most efficient use of its existing transmission capacity. Without a Conditional Firm product in SPP, and no ability to buy through congestion, transmission customers in SPP are left with the same "all or nothing" answer that caused the Commission to require Conditional Firm service for non-RTO regions in Order No. 890.

SPP's transmission expansion working group is considering some major transmission projects such as the "X-plan" or an "EHV Overlay" to alleviate the chronic congestion on the SPP system⁷. However the "EHV Overlay" is in the early planning stages and will cost \$4.85 billion and a decade to construct and although SPP has planned for \$2.2 billion of transmission expansion, it will take

⁷ The recent 2007 State of the Market Report Southwest Power Pool, Inc. Report prepared by Boston Pacific highlights that "there was at least one flowgate congested on the transmission system in 56% of the five-minute intervals. That equates to approximately 187 days of transmission congestion out of a possible 334 days (excluding January).

SPP until 2017 at the earliest to construct the facilities. In the meantime, it is imperative that participants have some sort of alternative. Although SPP offers interim dispatch as an alternative this service does not fully solve the problem. The availability of Conditional Firm transmission service would serve as a bridge to allow development of more generation in the SPP region in the near-term while such major transmission projects are being permitted, routed, and constructed, which, as discussed above, will likely take several years to accomplish for high-voltage transmission lines.

In the interim, existing and new supply resources need access to transmission capacity that is available in most hours of the year but may be contractually constrained. Existing generation facilities are unable to enter into capacity sales due to lack of availability of transmission. Incremental gas-fired additions and wind projects can be constructed within a couple of years, and these developers need a transmission solution like Conditional Firm so that they do not face the construction delay of waiting for large transmission upgrades that would be necessary to provide them firm transmission service. In many cases, the capacity limits of transmission lines are only reached a few hours out of the year. There are many generating projects that can be effectively financed in situations where some curtailment of their output may occur, provided that the frequency and duration of such curtailments are well understood. A well-crafted Conditional Firm service can provide the type of assurances needed for financing for such incremental additions. Given the current supply and demand situation, the SPP region continues to be a region with one of the lower reserve margins compared to other regions. Furthermore, with environmental concerns looming

but still are undecided, incremental additions are an attractive interim option until environmental issues are defined and priced. Consequently, the timing and need for incremental additions in SPP is crucial to maintaining reliability in the near term.

Implementation of conditional firm service will provide another tool for SPP to relieve congestion on par with other RTO and ISOs. Currently the EIS market is the only congestion resolution mechanism; SPP needs to increase its efforts to enhance existing markets and create new market services such as Conditional Firm. As was noted and recommended in the recent Boston Pacific report:

That success [the EIS market] should give the SPP Board and members the confidence to accelerate efforts toward creating new markets.⁸

The intent of the Conditional Firm requirement in Order No. 890 is to “increase the efficient utilization of transmission by eliminating artificial barriers to use of the grid.”⁹ The addition of a Conditional Firm transmission product would provide new users of the system opportunities to better utilize transmission capacity and work around congestion. Additionally, better transmission system utilization in SPP will be beneficial to transmission owners and retail electricity customers alike.

⁸ 2007 State of the Market Report Southwest Power Pool, Inc. at Page 4.

⁹ *Order No. 890: Preventing Undue Discrimination and Preference in Transmission Service*, 118 FERC ¶ 61,119 (February 16, 2007) (“Final Rule”).

III. Conclusion

Based on the foregoing, EPSA requests intervention be granted and that the Commission require SPP to offer a Conditional Firm product within 120 days, and direct SPP to continue its stakeholder process under the Conditional Firm Task Force to develop this product.

Respectfully submitted,



Nancy E. Bagot, Vice President of Reg. Policy
Jack Cashin, Director of Regulatory Affairs
Electric Power Supply Association
1401 New York Ave, NW
11th Floor
Washington, D.C. 20005
Phone: 202-628-8200

May 6, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list in this proceeding.

Dated this 6th day of May, 2008.



Nancy Bagot, VP of Reg. Policy