



414 Nicollet Mall  
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September 15, 2023

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *Southwestern Public Service Company***  
**Docket No. ER23-\_\_\_\_\_**  
*Xcel Energy Operating Companies Open Access Transmission Tariff – ID 2001*  
**Limited Revisions to Attachment O-SPS to Implement Settlement Agreement**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2023), and Section 35.13(b) of the regulations of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 35.13(b) (2023), Public Service Company of Colorado, on behalf of its affiliate Southwestern Public Service Company (“SPS”),<sup>1</sup> hereby submits for filing limited revisions to its transmission formula rate template, Attachment O-SPS of the Xcel Energy Operating Companies Joint Open Access Transmission Tariff (“Xcel Energy OATT”). As discussed further below, the revisions implement one aspect of a recent settlement agreement submitted in Docket No. ER23-1144-000. SPS requests an effective date of January 1, 2023, for the enclosed revisions.

## **I. BACKGROUND**

### **A. Southwestern Public Service Company**

SPS is a wholly owned utility operating company subsidiary of Xcel Energy Inc. (“Xcel Energy”), a public utility holding company headquartered in Minneapolis, Minnesota. SPS is a vertically integrated electric utility that provides generation, transmission, and distribution services in Texas and New Mexico, and owns transmission in portions of Kansas and Oklahoma. SPS provides cost-based regulated electric services to retail and wholesale customers in Texas and New Mexico. SPS’s retail electric services are subject to the jurisdiction of the Public Utility Commission of Texas (“PUCT”) and the New Mexico Public Regulation Commission (“NMPRC”). SPS’s wholesale sales and transmission services and rates are regulated by the Commission. Since 1973, SPS has been a transmission-owning member of Southwest Power Pool,

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<sup>1</sup> PSCo is the designated e-Tariff filing entity for the Xcel Energy OATT, consistent with the requirements of Order No. 714. The Xcel Energy OATT was filed via eTariff in *Public Service Company of Colorado*, Docket No. ER10-2070-000, and accepted by the Commission on September 24, 2010. See *Pub. Svc. Co. of Colo.*, Docket No. ER10-2070, delegated letter order (Sept. 24, 2010).

Inc. (“SPP”), a FERC-approved Regional Transmission Organization. Since June 2000, transmission service over the SPS transmission system has been available under the SPP Open Access Transmission Tariff (“SPP Tariff”).

## **B. Lubbock Power & Light**

Lubbock Power & Light (“LP&L”) is the municipally-owned electric utility of the City of Lubbock and serves more than 100,000 customers in and around Lubbock, Texas. LP&L’s system and load historically have been located within the SPP footprint and, in particular, in Zone 11 of the SPP transmission system in which SPS’s transmission facilities are located.

In 2021, LP&L transferred a majority of its load from SPP to the Electric Reliability Council of Texas (“ERCOT”).<sup>2</sup> SPS and LP&L are parties to a long-term partial requirements agreement through which SPS provides power to serve the portion of LP&L’s load remaining in SPP.<sup>3</sup>

## **C. Transitioning LP&L’s Remaining Load to ERCOT and the Proceedings in Docket No. ER23-1144-000**

In May 2021, SPS and LP&L reached a settlement agreement between them to facilitate an early termination of the partial requirements agreement and transfer of LP&L’s remaining load to ERCOT. Among other things, the settlement agreement permits an early termination of the partial requirements agreement in exchange for a termination payment. The settlement agreement was filed for approval by the PUCT in April 2022, and the PUCT approved the settlement agreement on March 22, 2023.<sup>4</sup>

On February 21, 2023, to enable Commission review of the settlement agreement, SPS filed revisions to the partial requirements agreement with LP&L to incorporate the terms of the settlement agreement. SPS’s filing was docketed in Docket No. ER23-1144-000. Golden Spread Electric Cooperative, Inc. (“Golden Spread”), and Central Valley Electric Cooperative, Inc., Farmers’ Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc. (collectively, known as the “New Mexico Cooperatives”) protested SPS’s filing. On April 21, 2023, the Commission accepted SPS’s revisions, including the

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<sup>2</sup> Further background about the 2021 transfer of LP&L load to ERCOT is provided in SPS’s filing in Docket No. ER21-2961-000, which was accepted by the Commission. *Southwestern Public Service Co.*, letter order, Docket No. ER29-2961-000 (Nov. 24, 2021)

<sup>3</sup> The partial requirements agreement was most recently amended and accepted in Docket No. ER19-1502-000.

<sup>4</sup> *Application of the City of Lubbock, Acting By and Through Lubbock Power & Light, for Authority to Connect the Remaining Portion of its Load with the Electric Reliability Council of Texas and for Approval of an Agreement*, Order, PUCT Docket No. 53529 (Mar. 22, 2023).

settlement agreement with LP&L, to be effective April 23, 2023, subject to refund and the outcome of hearing and settlement judge procedures.<sup>5</sup>

After several months of negotiations before Settlement Judge Patricia French, SPS, LP&L, Golden Spread, and the New Mexico Cooperatives reached a settlement agreement. On August 16, 2023, SPS filed an offer of settlement and settlement agreement (“Settlement Agreement”) to resolve all issues in Docket No. ER23-1144-000. The Settlement Agreement was not contested and Settlement Judge French certified the Settlement Agreement to the Commission on September 7, 2023.<sup>6</sup> As of the date of this filing, the Commission has not yet approved the Settlement Agreement.

Relevant to this filing, section 4.1 (“Transmission Formula Rate Modification”) of the Settlement Agreement requires SPS to make a filing to amend its transmission formula rate, applicable in SPP Zone 11, to remove CIAC-related ADIT from the annual revenue requirement. The full text of section 4.1 provides:

In consideration of a comprehensive settlement of the issues in Docket No. ER23-1144-000, SPS agrees to file changes to Attachment O-SPS to remove Contribution in Aid of Construction (“CIAC”)-related Accumulated Deferred Income Taxes (“ADIT”) in transmission formula rates, and the Transmission CIAC Deficient ADIT amortization from the transmission formula rate. SPS shall make such filing within thirty (30) days of the filing of this Settlement Agreement, and SPS shall request an effective date of January 1, 2023, for such filing. This filing will resolve all matters related to a preliminary challenge regarding SPS’s transmission formula rate true-up for 2021 that were being discussed separately among the Settling Parties.

As the Settlement Agreement was filed on August 16, SPS now is filing revisions to Attachment O-SPS to eliminate CIAC-related ADIT consistent with section 4.1.

## **II. DESCRIPTION OF FILING**

Transmission and general CIAC-related ADIT are ADIT balances within SPS’s Account 190 (Accumulated Deferred Income Taxes), reported in SPS’s Form 1. Presently, pursuant to the terms of Attachment O-SPS, the Form 1 ADIT balances in Account 190 are data populated in Worksheet D (Average Rate Base) of the formula.

The enclosed revisions to the Xcel Energy OATT remove transmission and general CIAC-related ADIT from the Attachment O-SPS rate base calculation. The revisions include a new worksheet entitled “Workpaper 2 - CIAC” which will flow through the following existing

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<sup>5</sup> *Southwestern Public Service Co.*, 183 FERC ¶ 61,051 (2023).

<sup>6</sup> *Certification of Uncontested Offer of Settlement re Southwestern Public Service Company*, Docket No. ER23-1144-001 (Sept. 7, 2023).

worksheets in Attachment O-SPS: (i) Worksheet D.2 (ADIT Proration Factor); (ii) Worksheet D.4 (Excess ADIT Amortization); and (iii) Worksheet D.5 (Adjustments to Rate Base) in SPS's template.

To facilitate the removal of the CIAC-related ADIT, the new worksheet Workpaper 2 - CIAC will serve to isolate the balances for transmission and general CIACs in Account 190. Workpaper 2 - CIAC identifies the tax basis and excess/deficient ADIT amortization for transmission and general CIACs.

The balances identified on Workpaper 2 - CIAC will feed into the other worksheets noted above. The amounts from Workpaper 2 - CIAC are used in Worksheet D.4 (Excess ADIT Amortization) to adjust the total excess/deficient ADIT amortization before the resulting total is used in the Annual Revenue Requirement calculation. Similarly, the ADIT Balance adjustments from Workpaper 2 - CIAC flow to Worksheet D.5 (Adjustment to Rate Base), where it will be combined with other pre-existing adjustments and then on to Worksheet E to be allocated.

Workpaper 2 - CIAC also will be used as an input into Worksheet D.2 (ADIT Proration Factor) to adjust the CIAC Transmission and CIAC General proration calculation. Worksheet D.2 shows the proration calculations for transmission and general CIAC-related ADIT. The total proration adjustment then flows to Worksheet E (Adjustment to Rate Base).

The revisions to Attachment O-SPS discussed above are just, reasonable, and should be accepted by the Commission. As noted above, the revisions will implement SPS's obligation under section 4.1 of the Settlement Agreement in Docket No. ER23-1144-000. With the removal of transmission and general CIAC-related ADIT, the revisions will result in a slight decrease in SPS's annual transmission revenue requirement. SPS consulted with Golden Spread and the New Mexico Cooperatives (SPS's two primary wholesale transmission customers) regarding the appropriate corrections to Attachment O-SPS prior to this filing. Moreover, removing the general and transmission CIAC-related ADIT is consistent with Commission policy.<sup>7</sup>

### **III. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVERS**

SPS requests that the Commission grant waiver of the prior notice requirements to allow an effective date for the revisions to Attachment O-SPS of January 1, 2023. Waiver would be consistent with Commission policy, which allows an effective date earlier than sixty days before filing when such effective date is set forth in a settlement or other agreement on file with the Commission.<sup>8</sup> Here, a January 1, 2023 effective date for the enclosed revisions is provided by section 4.1 of the Settlement Agreement filed in Docket No. ER23-1144-000. In addition, the

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<sup>7</sup> See, e.g., *San Diego Gas & Electric Co.*, 180 FERC ¶ 61,095 at PP 15-17 (2022).

<sup>8</sup> *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,974-75 (1993).

removal of the ADIT will result in a rate decrease, which is another factor that the Commission considers in support of waiving the prior notice requirements.<sup>9</sup>

SPS respectfully requests waiver of any other requirements of the Commission's rules and regulations, as well as any authorizations as may be necessary or required, to permit the revised tariffs to be accepted by the FERC and made effective in the manner proposed herein.

#### **IV. ADDITIONAL FILING REQUIREMENTS**

##### **A. Documents Included with this Filing**

This filing includes the following documents:

- This transmittal letter;
- A clean version of the revised Attachment O-SPS in e-Tariff format;
- A redlined version of the revised Attachment O-SPS.

##### **B. Other Information Required by 18 C.F.R. § 35.13**

SPS has all requisite authority to make this filing.<sup>10</sup> As noted above, SPS consulted with Golden Spread and the New Mexico Cooperatives in the preparation of the tariff records included with this filing, and the Settlement Agreement in Docket No. ER23-1144-000 obligates SPS to make this filing. None of the costs proposed to be recovered through the revisions or additions in this filing have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.<sup>11</sup>

##### **C. Communications and Correspondence**

Communications and correspondence with respect to this filing should be directed to each of the following<sup>12</sup>:

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<sup>9</sup> *See id.*

<sup>10</sup> 18 C.F.R. § 35.13(b)(6) (2023).

<sup>11</sup> 18 C.F.R. § 35.13(b)(7) (2023).

<sup>12</sup> XES requests waiver of Section 385.203(b)(3) of the Commission's regulations to permit the designation of more than two persons upon whom service is to be made in this proceeding. 18 C.F.R. § 385.203(b)(3) (2023).

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**D. Service and Posting**

SPS will serve a copy or notice of this filing on LP&L, Golden Spread, the New Mexico Cooperatives, and on the state regulatory commissions with jurisdiction over SPS. A courtesy copy or notice will be served on the Director, Division of Tariffs and Market Development (Central). A copy of the filing is also available for public inspection in the offices of SPS at 790 Buchanan Street, Amarillo, Texas.

**V. CONCLUSION**

For the reasons set forth above, SPS respectfully requests that the Commission accept the revisions to Attachment O-SPS, effective January 1, 2023, without suspension or hearing.

Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

*/s/ Joseph W. Lowell*

Joseph W. Lowell



