

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

*Southwest Power Pool, Inc.*

| Docket No. ER16-209

**MOTION TO INTERVENE OF AND COMMENTS  
ARKANSAS ELECTRIC COOPERATIVE CORPORATION**

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and the Complainants' Notice of Complaint, Arkansas Electric Cooperative Corporation (AECC) hereby submits this motion to intervene and comments in the above-captioned proceeding. In support hereof, AECC states as follows:

**I. SERVICE AND COMMUNICATIONS**

Service in this proceeding should be made upon and communications should be directed to the following persons:

Arkansas Electric Cooperative Corporation  
P.O. Box 194208  
Little Rock, Arkansas 72219-4208

ATTN:

John T. Elkins  
Senior Staff Attorney  
P: 501.570.2146  
F: 501.570.2152  
[John.Elkins@aecc.com](mailto:John.Elkins@aecc.com)

Robert T. Shields  
Manager-Rates & Regulation, Legal Division  
P: 501.570.2408  
F: 501.570.2152  
[Robert.Shields@aecc.com](mailto:Robert.Shields@aecc.com)

**II. MOTION TO INTERVENE**

AECC is an electric generation and transmission cooperative incorporated under Arkansas law with its principal place of business in Little Rock, Arkansas. AECC provides wholesale electricity to its seventeen electric distribution cooperative members.<sup>1</sup> These distribution

---

<sup>1</sup> AECC's seventeen electric distribution cooperative members are: Arkansas Valley Electric Cooperative Corp. (Ozark, Arkansas); Ashley-Chicot Electric Cooperative, Inc. (Hamburg, Arkansas); C&L Electric Cooperative Corp. (Star City, Arkansas); Carroll Electric Cooperative Corp. (Berryville, Arkansas); Clay County Electric Cooperative Corp. (Corning, Arkansas); Craighead Electric Cooperative Corp. (Jonesboro, Arkansas); Farmers Electric Cooperative Corporation (Newport, Arkansas); First Electric Cooperative Corp. (Jacksonville,

cooperatives in turn provide electricity at retail to approximately 500,000 consumers, primarily in Arkansas. The certified service territories of AECC's distribution cooperative members extend into 74 of the 75 counties in Arkansas and cover approximately 60% of the state's geographic area.

The loads and resources of AECC and its members are located in balancing authority areas operated by three entities: Southwest Power Pool, Inc. (SPP) for transmission owned by American Electric Power Company's Southwestern Electric Power Company (AEP/SWEPCO) and Oklahoma Gas & Electric Company (OG&E); Midcontinent Independent System Operator, Inc. (MISO) for transmission owned by Entergy Corporation's Entergy Arkansas, Inc. (EAI); and the Southwestern Power Administration (SPA). AECC relies on the transmission systems of AEP/SWEPCO, OG&E, EAI and SPA to serve its member loads on the respective entity's transmission system, and thus is a transmission-dependent utility on the transmission systems of those entities. AECC is a transmission-owning member of MISO, as of June 1, 2014, and a Market Participant in MISO's day-ahead and real-time energy markets. AECC is also a Market Participant in the SPP Integrated Market Place.

On October 30, 2015, SPP, on behalf of and at the request of Central Power Electric Cooperative, Inc., (Central Power) submitted revisions to its Open Access Transmission Tariff (Tariff) to add an Annual Transmission Revenue Requirement (ATRR) and to implement a formula rate template and implementation protocols (together Formula Rate) for transmission service using the facilities of Central Power when Central Power transfers functional control of its transmission facilities to SPP on January 1, 2016. As one of the only transmission owners within both MISO and SPP, AECC may be uniquely affected by whatever action the Commission takes

---

Arkansas); Mississippi County Electric Cooperative, Inc. (Blytheville, Arkansas); North Arkansas Electric Cooperative, Inc. (Salem, Arkansas); Ouachita Electric Cooperative Corp. (Camden, Arkansas); Ozarks Electric Cooperative Corp. (Fayetteville, Arkansas); Petit Jean Electric Cooperative Corp. (Clinton, Arkansas); Rich Mountain Electric Cooperative, Inc. (Mena, Arkansas); South Central Arkansas Electric Cooperative, Inc. (Arkadelphia, Arkansas); Southwest Arkansas Electric Cooperative Corp. (Texarkana, Arkansas); and Woodruff Electric Cooperative Corp. (Forrest City, Arkansas).

in this proceeding. Specifically, changes in the border shared by SPP and MISO and the rates and protocols ultimately applied may have an impact on AECC as a transmission owner in both Regional Transmission Organizations. Consequently, AECC has a direct interest in this case that cannot be adequately represented by any other party, and the Commission should allow the intervention of AECC as a party, as provided by Rule 214.

### **III. COMMENTS**

An inherent denominator in all border issues is whether pancaked charges for transmission service across the MISO–SPP seam are unjust and unreasonable because those charges impose artificial barriers to efficient market operations given the present scope and configuration of the two RTOs. AECC pays significant pancaked transmission charges for service across the MISO–SPP seam. Currently, the rate pancake of network transmission charges between MISO and SPP is now costing AECC about \$6.3 million annually, and it is forecast to rise to 9.8 million annually by 2023.<sup>2</sup> As more and more utilities are added along the border, this problem will only grow and replicate.

Despite the promises of increased efficiency and reliability that RTO-run energy and ancillary-services markets are supposed to bring to consumers, pancaked transmission charges by MISO and SPPMISO impose artificial barriers to efficient market operations, which result in inefficiently high transmission costs across the MISO–SPP seam. Excessive transmission access charges can cause transmission prices to exceed their marginal cost, causing inefficient under-use of the transmission system, inefficient generation commitment and dispatch, and higher total prices for electric power service.<sup>3</sup> Pancaked transmission charges exacerbate the inefficiencies: The

---

<sup>2</sup> See EL14-30, Motion to Intervene and Answer of Arkansas Electric Cooperative Corporation, Affidavit of Dr. Laurence D. Kirsh, at 13 (March 10, 2014).

<sup>3</sup> See EL14-30, Motion to Intervene and Answer of Arkansas Electric Cooperative Corporation, Affidavit of Dr. Laurence D. Kirsh, at 4–5 (March 10, 2014).

problem becomes worse when a transmission customer must pay more than one transmission access charge—that is, pancaked transmission rates—to receive transmission service, as AECC now must do to operate in both the SPP and MISO energy markets.<sup>4</sup> The effect of each rate pancake is to reduce the efficiency of generation commitment and dispatch and thereby increase the costs ultimately borne by electricity consumers.<sup>5</sup>

The Commission has long recognized the burdens imposed by pancaked transmission charges and has adopted policies to discourage their use and to encourage their elimination.<sup>6</sup> This policy can be found in Order No. 888, where the Commission described the attributes of Independent System Operators: “An ISO should provide open access to the transmission system and all services under its control at non-pancaked rates pursuant to a single, unbundled, grid-wide tariff that applies to all eligible users in a non-discriminatory manner.”<sup>7</sup> In Order No. 2000, where the Commission first promulgated its regulations governing the formation of RTOs (codified at 18 C.F.R. § 35.34 (2013)), the Commission declared that “elimination of rate pancaking for large regions is a central goal of the Commission’s RTO policy.”<sup>8</sup> The Commission reasoned that “pancaked transmission rates ... restrict the size of regional power markets” and this “balkanization of electricity markets hurts consumers who pay higher transmission rates and have access to fewer generation options.”<sup>9</sup> The benefits of RTOs include “increased efficiency through

---

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 5.

<sup>6</sup> *Id.* at 5-6

<sup>7</sup> Promoting Wholesale Competition Through Open Access Nondiscriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21540, 21596 (May 10, 1996) (emphasis added), *aff’d in part and rev’d in part on other grounds sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>8</sup> Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 810, 915 (Jan. 6, 2000), *on reh’g*, Order No. 2000-A, 65 Fed. Reg. 12088 (Mar. 8, 2000), *pet. for review dismissed sub nom. Pub. Util. Dist. Snohomish Cty. v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

<sup>9</sup> *Id.* at 817.

regional transmission pricing and the elimination of rate pancaking,” which “will expand the scope of markets and bring more players into the markets.”<sup>10</sup> Therefore, the Commission adopted the pro-competitive policy of eliminating pancaked transmission rates wherever possible: “Competitive benefits result from eliminating pancaked transmission rates within the broadest possible energy trading area.”<sup>11</sup>

The underlying logic—“[a] wider area served by a single rate means more generation is economically available to any customer which means greater competition for energy<sup>12</sup>”—also argues for eliminating pancaked transmission charges between RTOs. The Commission recognized that “encouraging RTOs to agree among themselves to waive access charges on a reciprocal basis for transactions that cross RTO borders ... would have the effect of increasing effective trading areas.”<sup>13</sup> Thus, in Order No. 2000, the Commission stated that it would “continue to encourage reciprocal waivers of access charges between RTOs as long as they are reasonable in terms of cost recovery, cost shifting, efficiency, and discrimination.”<sup>14</sup> These economic principles and Commission policies are as valid today as they were when the Commission first advanced them, and they should govern the Commission’s disposition of this proceeding and the other cases now before it involving existing and proposed pancaked transmission charges on the MISO–SPP seam.

Applying these requirements, the Commission in 2003 eliminated the MISO and PJM RTORs for transactions sourcing in either RTO and sinking in the other.<sup>15</sup> In that order, the Commission explained that “rate pancaking restricts the amount of generation that can be

---

<sup>10</sup> *Id.* at 829.

<sup>11</sup> *Id.* 862.

<sup>12</sup> *Id.* at 915.

<sup>13</sup> *Id.* at 916.

<sup>14</sup> *Id.*

<sup>15</sup> Midwest Indep. Transmission Sys. Operator, Inc., 104 FERC ¶ 61,105 at P 28 (2003).

economically delivered to any customer, thereby frustrating the realization of competitive and efficient bulk power markets.”<sup>16</sup> Therefore, in judging a proposed RTO configuration, the Commission “will consider the extent to which the proposal would encompass one contiguous area, encompass a highly interconnected portion of the grid, and recognize trading patterns.”<sup>17</sup> The Commission explained that the appropriate conditions in such cases include “requiring inter-RTO coordination agreements and/or the elimination of inter-RTO rate pancaking, in order to mitigate otherwise inappropriate RTO configuration.”<sup>18</sup> While the Commission found, in the course of its initial approval of MISO as an RTO, that its scope and configuration were appropriate at that time, it is clear that the requirements of Order No. 2000 generally, and the scope and configuration requirements specifically, must be analyzed on an ongoing basis, and not only as part of an RTO’s initial formation.<sup>19</sup>

Finally, in considering these issues, the Commission should pay particular heed to the needs of load-serving entities, like AECC, that have no choice but to do business across the MISO–SPP seam. The Commission must act in conformity with its governing statute. Section 217(b)(4) of the FPA directs the Commission to exercise its authority under the FPA “in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities ....”<sup>20</sup> A “load serving entity” is a distribution utility or electric utility, whether a transmission provider or customer, with a “service obligation” created “under Federal, State, or local law or under long-

---

<sup>16</sup> Id. at 29.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> “[W]e reject Midwest ISO’s argument that the requirements of Order No. 2000 should only be considered as part of an RTO’s initial formation.” Midwest Indep. Transmission Sys. Operator, Inc., 126 FERC ¶ 61,139 at P 62 (2009).

<sup>20</sup> 16 U.S.C. § 824q(b)(4) (2012).

term contracts to provide electric service to end-use customers or to a distribution utility.”<sup>21</sup> AECC is a load-serving entity with service obligations as defined in FPA section 217(b)(4). The directive of FPA section 217(b)(4) is mandatory and not optional. Congress has given the Commission a specific objective, and the Commission must pursue that objective in this proceeding and in the other pending proceedings concerning the future of the MISO–SPP seam. The Commission must ensure that, in deciding these proceedings, its actions concerning the MISO–SPP seam “facilitate[ ] the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities.”

#### **IV. CONCLUSION**

AECC respectfully requests that the Commission: (1) permit it to intervene as a party in this proceeding, (2) Order MISO and SPP to eliminate rate pancaking for transactions that cross the seam between the two RTOs; (3) Order MISO and SPP to modify their joint planning process to specifically address the needs of entities that must serve load on both sides of the MISO-SPP seam; (4) and grant it all other relief to which it may be entitled.

Respectfully submitted,



By: \_\_\_\_\_

**John T. Elkins**  
Senior Staff Attorney  
Arkansas Electric Cooperative Corporation  
P.O. Box 194208  
Little Rock, Arkansas 72219-4208

November 20, 2015

---

<sup>21</sup> 16 U.S.C. § 824q(a)(2)–(3).

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service compiled by the Secretary in this proceeding.

Dated at Little Rock, Arkansas, on the 20th day of November 2015.



By: \_\_\_\_\_

**John T. Elkins  
Senior Staff Attorney  
Arkansas Electric Cooperative Corporation  
P.O. Box 194208  
Little Rock, Arkansas 72219-4208**