

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

Southwest Power Pool, Inc.

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Docket No. ER16-209-000

**MOTION TO FILE COMMENTS OUT-OF-TIME AND
COMMENTS OF THE NORTH DAKOTA PUBLIC SERVICE COMMISSION**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC”),¹ the North Dakota Public Service Commission (“NDPSC”) submits this Motion to File Comments Out-of-Time and Comments (“Comments”) in support of the Motion to Intervene and Protest (“Protest”) filed by Otter Tail Power Company (“Otter Tail”)² in response to the filing submitted by the Southwest Power Pool, Inc. (“SPP”) on October 30, 2015 in the above-captioned docket (“SPP October 30 Filing”).³ The integration of Central Power Electric Cooperative (“Central Power”) facilities under the SPP Open Access Transmission Tariff (“Tariff”) could have significant adverse impacts on Otter Tail customers located in North Dakota whose retail rates are under the jurisdiction of the NDPSC. As discussed further below, the NDPSC supports Otter Tail’s request that the Commission require SPP and Central Power to hold Otter Tail and its native load customers harmless from these adverse financial and operational impacts. Moreover, the NDPSC agrees with Otter Tail that neither SPP nor Central Power has provided sufficient information to justify rolled-in rate treatment for the facilities identified in the SPP October 30 Filing.

¹ 18 C.F.R. §§ 385.212 (2015).

² Motion to Intervene and Protest of Otter Tail Power Company, Docket No. ER16-209-000 (filed Nov. 20, 2015).

³ Submission of Revenue Requirement, Formula Rate Template and Formula Rate Protocols for Central Power Electric Cooperative, Inc., Docket No. ER16-209-000 (filed Oct. 30, 2015).

I. MOTION TO FILE COMMENTS OUT-OF-TIME

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, the NDPSC respectfully requests that the Commission accept its out-of-time comments. The Commission regularly exercises its discretion to accept out of time comments where good cause exists.⁴ The NDPSC respectfully submits that good cause exists to accept its comments out-of-time. The NDPSC timely filed a doc-less Motion to Intervene on November 20, 2015 and, therefore, is a party to this proceeding. The NDPSC is statutorily charged with the duty of regulating electric public utility services, rates, and charges in North Dakota. As such, the NDPSC has a strong interest in ensuring that rates in North Dakota, including input rates at the wholesale level, are just, reasonable, and non-discriminatory. Moreover, given that the Commission has not yet issued an order on the SPP October 30 Filing, accepting the NDPSC's comments will not unduly delay the proceedings or prejudice any party.⁵

II. COMMENTS

The NDPSC has reviewed Otter Tail's Protest, and shares its concerns regarding the potential impacts of the SPP October 30 Filing on Otter Tail's native load customers, many of whom are North Dakota ratepayers. As Otter Tail notes in its Protest, because of the uniquely intertwined nature of the Integrated Transmission System ("ITS"), Central Power's decision to join SPP will result in certain Otter Tail load being

⁴ See, e.g., *PJM Interconnection, L.L.C.*, 125 FERC ¶ 61,231, at P 13 (2008) (accepting out-of-time comments for good cause shown); *Midwest Independent Transmission System Operator, Inc. and Ameren Transmission Company of Illinois*, 138 FERC ¶ 61,147, at P 8 (2012) (permitting comments out-of-time).

⁵ See, e.g., *Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.*, 133 FERC ¶ 61,058, at P 17 (2010) (accepting out-of-time comments given the filing parties' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay); *California Independent System Operator Corp.*, 115 FERC ¶ 61,329 (2006) (accepting comments filed out-of-time, given the early stage of the proceeding and the absence of any undue prejudice or delay); *ISO New England Inc.*, 123 FERC ¶ 61,266, at P 22 (2008) (granting motion for leave to file comments out-of-time, given the early stage of the proceedings).

isolated from the rest of the Otter Tail system, which falls within the footprint of the system controlled by the Midcontinent System Operator, Inc. ("MISO"). As a result, Otter Tail will be forced to take transmission service from SPP, at pancaked rates, in order to reach other areas of MISO. Otter Tail estimates that this will result in a total annual impact of approximately \$2.96 million annually to Otter Tail's native load customers. Given the significant impact to Otter Tail's customers, the ratepayers of North Dakota, that will result from the inclusion of Central Power's facilities under the SPP Tariff, the NDPSC urges the Commission to grant the relief requested by Otter Tail. Specifically, the Commission should condition the inclusion of Central Power's facilities under the SPP Tariff on a requirement that SPP and Central Power hold Otter Tail and its customers harmless from the operational and financial impacts of Central Power joining SPP.

The NDPSC believes that the SPP October 30 Filing fails to provide sufficient information to demonstrate that the inclusion of Central Power's Annual Transmission Revenue Requirement ("ATRR") will not cause SPP's rates to become unjust and unreasonable. In particular, Central Power has not provided key data, information, and explanations that are necessary for Central Power's formula rate to be approved. Because North Dakota ratepayers would be directly impacted by these rates, the NDPSC urges the Commission to determine that the SPP October 30 Filing is deficient, and that the proposed changes to the SPP Tariff will not be allowed to become effective until at least 60 days after Central Power (or SPP) provides additional information demonstrating that the facilities identified by Central Power are eligible for rolled-in rate treatment.

III. CONCLUSION

For the foregoing reasons, the NDPSC respectfully requests that the Commission grant its Motion to File Comments Out-of-Time, and consider these comments supporting the Protest filed by Otter Tail.

NORTH DAKOTA PUBLIC SERVICE COMMISSION

By: 

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Dated: December 17, 2015

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 list compiled by the Secretary in this proceeding.

Dated at Bismarck, North Dakota this 17th day of December, 2015.



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Hamre, John G.

From: Schuh, John M.
Sent: Thursday, December 17, 2015 4:42 PM
To: Hamre, John G.
Subject: FW: FERC Receipt of Filing in ER16-209-000

-----Original Message-----

From: eFiling@ferc.gov [<mailto:eFiling@ferc.gov>]
Sent: Thursday, December 17, 2015 4:41 PM
To: Schuh, John M.; efilingacceptance@ferc.gov
Subject: FERC Receipt of Filing in ER16-209-000

Confirmation of Receipt

This is to confirm receipt by the FERC Office of the Secretary of the following electronic submission:

-Submission ID: 631772
-Docket(s) No.: ER16-209-000
-Filed By: North Dakota Public Service Commission -Signed By: John Schuh -Filing Desc: Comment of North Dakota Public Service Commission under ER16-209-000.
-Submission Date/Time: 12/17/2015 5:39:20 PM -Filed Date: 12/18/2015 8:30:00 AM

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Hamre, John G.

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Sent: Friday, December 18, 2015 8:39 AM
To: Hamre, John G.
Subject: FW: FERC Acceptance for Filing in ER16-209-000

-----Original Message-----

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Acceptance for Filing

The FERC Office of the Secretary has accepted the following electronic submission for filing (Acceptance for filing does not constitute approval of any application or self-certifying notice):

-Accession No.: 201512185029
-Docket(s) No.: ER16-209-000
-Filed By: North Dakota Public Service Commission -Signed By: John Schuh -Filing Type: Comment on Filing -Filing Desc: Comment of North Dakota Public Service Commission under ER16-209.
-Submission Date/Time: 12/17/2015 5:39:20 PM -Filed Date: 12/18/2015 8:30:00 AM

Your submission is now part of the record for the above Docket(s) and available in FERC's eLibrary system at:

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