

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Brian J. Moline, Chair
John Wine
Robert E. Krehbiel

In the Matter of a General Investigation Into)
the Involvement of Kansas Jurisdictional) Docket No. 04-GIME-922-GIE
Electric Utilities in the Southwest Power)
Pool Regional Transmission Organization)

**ORDER OPENING GENERAL INVESTIGATION,
CONVENING ROUNDTABLE, AND REQUESTING COMMENTS**

In connection with the Federal Energy Regulatory Commission's (FERC) conditional recognition of Southwest Power Pool, Inc. (SPP) as a Regional Transmission Organization (RTO), the Commission has decided to initiate a general investigation to consider various procedural and substantive issues associated with Kansas jurisdictional utilities' involvement in the SPP RTO. In furtherance of such general investigation, the Commission will conduct a roundtable. All interested persons are invited to attend and participate in the roundtable, which will be held in the Commission's hearing room, on May 4, 2004, commencing at 9:00 a.m. and ending before 4 p.m. In addition, the Commission solicits written comments on certain issues.

1. On February 10, 2004, in Docket No. RTO04-1-000, FERC granted SPP's request for recognition as a RTO, subject to fulfillment of certain requirements. It is the Commission's understanding that SPP intends to submit a compliance filing to FERC in May of this year. If that submission is found to fulfill the requirements, SPP will become an RTO.

2. Kansas jurisdictional utilities that have agreed to participate in the SPP RTO need to obtain the Commission's approval to do so. Under K.S.A. 66-136, "any contract or agreement . . . affecting . . . [a] certificate of convenience and necessity or right thereunder" must be approved

by the KCC in order to be valid and of force and effect. Pursuant to the FERC's RTO requirements and the SPP Membership Agreement, Kansas jurisdictional electric utilities, which have certificates of convenience and necessity from this Commission, will be ceding to SPP the operational control of transmission facilities under the SPP by-laws. Furthermore the SPP RTO will also have responsibility for other functions that will affect jurisdictional utilities operations and functions, including the following: SPP's Open Access Transmission Tariff (OATT) and congestion management mechanisms will control all non-grandfathered transmission transactions, except that only the non price terms and conditions of the OATT will apply to bundled retail transactions; SPP will be responsible for transmission expansion and regional planning and interregional coordination; and SPP will also have responsibility for addressing short term reliability, parallel path flow, ancillary services, and market monitoring.

3. In several prior cases, this Commission has found that transfer of control and operation of transmission facilities from a certificated utility to an RTO directly affects the ability of Kansas utilities to furnish reasonably efficient and sufficient electric service and facilities to retail customers and is a matter subject to Commission jurisdiction. In addition, in a prior proceeding involving the request of Utilicorp for Commission approval of the transfer operation control of its transmission facilities to the Midwest Independent System Operator, Inc. (MISO), the Commission found that MISO was an indispensable party since it would be a public utility as defined in K.S.A. 66-104, as an entity that controls, operates or manages the means of transmission, delivery or furnishing of electricity. In Docket No. 02-MISE-350-MIS, MISO sought and was granted a certificate of public convenience pursuant to K.S.A. 66-131. The Commission likewise anticipates the need for a proceeding or proceedings regarding Kansas

electric utilities' transfer of various responsibilities to the SPP RTO and SPP's implementation of new mechanisms affecting transmission of electric power in Kansas.

4. To that end the Commission believes that it would be beneficial to have a discussion on the appropriate procedures, issues and evidence for Commission consideration of the utilities' participation in the SPP RTO. Among the basic questions that should be addressed are the following:

- a. Should the applications of companies requesting approval of their agreement to participate in the SPP RTO be handled separately or consolidated? If consolidated, are there issues specific to individual companies that should be heard separately?
- b. What role should SPP play in the proceedings?
- c. Should the Commission consider granting separate approvals to participate in the various aspects of the SPP RTO rather than a blanket approval, e.g. separately determine whether it is in the public interest to participate in the various RTO functions which will be implemented in stages? If so, which functions should be addressed separately or together and what should be the timing for such proceedings, especially considering the availability of cost benefits studies or other potentially desirable evidence?
- d. What issues should be addressed in considering whether participation in the various aspects of the SPP RTO is in the public interest? What kind of evidence is desirable and necessary for Commission consideration with regard to those various aspects? How comprehensive should the evidence be concerning the consequences of the SPP RTO activities; i.e., should it encompass each company individually, all participating companies in the aggregate, the entire state of Kansas, and/or a larger area?

- e. Assuming that SPP RTO implementation is in the public interest, from the utilities' perspective, what are the critical implementation issues?
- f. Should the Commission require evidence regarding the potential long term implications of this development?
- g. Are there limitations or safeguards that the Commission should consider imposing as part of the orders in these matters to ensure that the public interest is served by allowing participation in the SPP RTO?
- h. If the evidence shows that participation in the SPP RTO is in the public interest, should the Commission consider requiring other companies to participate in the SPP RTO or another RTO?

5. In its February 10, 2004 Order Granting RTO Status Subject to Fulfillment of Requirements, the FERC indicated a Regional State Committee (RSC), consisting of representatives from the state regulatory commissions which regulate an SPP member, would have "primary responsibility" for the following issues:

- a. Participant funding of transmission investments.
- b. Use of license plate vs. postage stamp rates for recovering the fixed costs of the transmission grid.
- c. Financial Transmission Rights (FTRs) allocations where Locational Marginal Pricing Methodology is used, including the transitional mechanism to ensure that firm customers receive FTRs equivalent to existing rights.
- d. Approaches for resource adequacy for the region.

- e. With regard to transmission planning, whether upgrades for remote resources should be included in the regional planning process and the role of transmission owners in proposing upgrades.

Because of concerns that the Commission may lack legal authority to participate in a RSC if it is a “decision making” body rather than being advisory in nature, the Commission has requested FERC clarification on this issue. However, assuming that the Commission does eventually decide to participate, it is interested in discussion at the roundtable about a specific aspect of its participation. Concerns have been raised about the need for broad input into the RSC determinations, including input from transmission dependent entities that are not subject to KCC jurisdiction and interested parties, such as elected officials, who may not have established avenues for providing their concerns or perspectives to the Commission. The Commission is interested in discussion on what process might be appropriate to address this concern. Specifically, would the establishment of additional roundtables or other informal proceedings to discuss the various issues that may come before the RSC be desirable or would more formal procedures be warranted?

6. The Commission anticipates that the roundtable will be informal in nature and that discussion will not necessarily be limited to the above questions and issues. Interested parties may discuss other issues concerning the SPP RTO that are relevant for this roundtable. The Commission will first allow all interested parties to make general comments and then discuss specific issues as desirable and appropriate. Parties may submit written comments or responses to the above questions or other issues in advance of the roundtable.

7. This Order is being served on all jurisdictional electric public utilities, the Southwest Power Pool, and the Citizens’ Utility Ratepayer Board. However, any other interested person is

invited to attend the roundtable or submit comments. For purposes of arranging accommodations, persons planning to attend the roundtable should notify Staff on or before April 27, 2004.

8. The Commission finds that the expenses reasonably attributable to this investigation will exceed \$100, and assesses these expenses against all jurisdictional electric utilities. Expenses attributable to this docket shall be assessed beginning three days after notice of this assessment is given by service of this Order by United States Mail. Each jurisdictional electric utility is hereby notified that it has an opportunity to request a hearing on this assessment in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*

IT IS, THEREFORE, ORDERED BY THE COMMISSION THAT:

A. A general investigation to determine various procedural and substantive issues as discussed above is hereby commenced and a roundtable is hereby convened on May 4, 2004, at 9:00 a.m., in the Commission's first floor hearing room, 1500 SW Arrowhead Road, Topeka, Kansas.

B. Any party interested in participating in the roundtable is requested to advise the Commission Staff of its intent to participate and the number of persons to attend by April 27, 2004. Specifically, notification should be directed to J. Michael Peters, (785) 271-3181, or m.peters@kcc.state.ks.us.

C. Costs of this investigation are assessed to all jurisdictional electric utilities pursuant to K.S.A. 66-1502.

D. A party may file a petition for reconsideration of this Order within 15 days of the date this Order is served. If service is by mail, three additional days may be added to the 15-day time limit to petition for reconsideration.

E. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED:

Moline, Chr.; Wine, Com.; Krehbiel, Com.

Dated: APR 16 2004

ORDER MAILED

APR 16 2004

 Executive Director

Susan K. Duffy
Executive Director

jmp