

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

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| Southwest Power Pool, Inc. |) | Docket No. ER13-366-000 |
| Southwest Power Pool, Inc. |) | Docket No. ER12-367-000 |

**PROTEST AND COMMENTS OF
CLEAN LINE ENERGY PARTNERS LLC ON
SOUTHWEST POWER POOL, INC'S
ORDER NO. 1000 COMPLIANCE FILING**

Pursuant to Rule 211 of the Federal Energy Regulatory Commission's (the "Commission" or "FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 (2012) and the Notice issued on November 14, 2012, Clean Line Energy Partners LLC ("Clean Line")¹ respectfully submits this Protest and Comments on the November 13, 2012 filing submitted by Southwest Power Pool, Inc. ("SPP") in the above referenced docket in purported compliance with the Commission's directives in Order No. 1000² (hereinafter "SPP Compliance Filing").

I. COMMUNICATIONS

All correspondence, communications, pleading, and other documents relating to this proceeding should be served upon:

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¹ Clean Line submitted a doc-less Motion to Intervene in this docket on December 17, 2012.

² Order No. 1000, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, 136 FERC ¶ 61,051 (2011) [hereinafter "Order No. 1000" or "the Order"].

II. INTRODUCTION

Clean Line is an independent developer of high voltage, long-haul transmission lines. Clean Line is developing four high voltage direct current (“HVDC”) transmission lines that will facilitate the reliable delivery of power generated by renewable resources and will support national and state efforts to significantly increase renewable electric generation capacity.³ The addition of this generating capacity will create new jobs, stimulate domestic manufacturing, and reduce pollution and water consumption.

Clean Line and its subsidiaries have achieved several key milestones in the development of their projects, including signing a Memorandum of Understanding with the Tennessee Valley Authority and obtaining certification as a transmission-only utility in both Kansas and Oklahoma. Two of Clean Line’s projects, the Rock Island Clean Line and the Plains & Eastern Clean Line, have obtained approval from the Commission to charge negotiated rates and enter into negotiated agreements with anchor-tenant customers. Clean Line’s subsidiary, Centennial West Clean Line LLC, entered into an agreement with the Western Area Power Administration (“Western”), pursuant to which Western will perform a National Environmental Policy Act (“NEPA”) review and, subject to negotiation and approval of participation and other agreements, acquire right of way. Clean Line, Plains and Eastern Clean Line LLC, and Plains and Eastern

³ Clean Line Energy Partners LLC presently has four major transmission projects underway in the United States. They are (1) the Rock Island Clean Line, an HVDC transmission line that will connect 3,500 MW of wind power from Iowa, South Dakota, Minnesota and Nebraska with load centers in Illinois and states farther east; (2) the Grain Belt Express Clean Line, an HVDC transmission line that will be capable of moving up to 3,500 MW of renewable power from new generation projects in western Kansas to the Midwest Independent Transmission System Operator Inc., PJM Interconnection, LLC, and the eastern United States; (3) the Plains & Eastern Clean Line, a 800-mile, HVDC line that will transmit up to 3,500 MW of renewable power from the Oklahoma and Texas Panhandles, and potentially Kansas, to Tennessee Valley Authority and the southeastern United States; and (4) the Centennial West Clean Line, an HVDC line that will gather up to 3,500 MW of power from renewable energy generation projects in eastern New Mexico and west-central Arizona, and will transmit it to load centers such as southern Nevada, southern California, Arizona, and other areas in the Southwest.

Clean Line Oklahoma, entered into a similar agreement with the U.S. Department of Energy and Southwestern Power Administration.

Clean Line has been an active participant in regional transmission planning organizations across the Eastern and Western Interconnections, including SPP and the Eastern Interconnection Planning Collaborative (“EIPC”).

III. BACKGROUND

In Order No. 1000, the Commission established a number of requirements applicable to transmission owning and operating public utilities. In particular, with respect to the transmission planning process, the Commission required 1) participation by public utility transmission providers in “a regional transmission planning process that produces a regional transmission plan and complies with existing Order No. 890 transmission planning principles,” and 2) consideration of transmission needs driven by Public Policy Requirements⁴ in local and regional transmission planning processes.⁵ The Commission concluded that

These reforms work together to ensure that public utility transmission providers in every transmission planning region, in consultation with stakeholders, evaluate proposed alternative solutions at the regional level that may resolve the region’s needs more efficiently or cost-effectively than solutions identified in the local transmission plans of individual public utility transmission providers [footnote omitted]. This, in turn, will provide assurance that rates for transmission services on these systems will reflect more efficient or cost-effective solutions for the region.⁶

For purposes of defining treatment of merchant transmission developers in the regional planning process, Order No. 1000 makes an important distinction between a transmission facility “in a regional transmission plan” and one “selected in a regional transmission plan for purposes of cost allocation:”

⁴ Defined in Order No. 1000 at P 2.

⁵ Order No. 1000 at P 68.

⁶ *Id.*

A “transmission facility selected in a regional transmission plan for purposes of cost allocation” is one that has been selected, pursuant to a Commission-approved regional transmission planning process, as a more efficient or cost-effective solution to regional transmission needs. . . . [T]his distinction is an essential component of this Final Rule.⁷

The Commission also recognized that different regions of the country may have different practices in developing their regional transmission plans when considering projects that are cost allocated and those that are not.

In some regions, transmission facilities not selected for purposes of regional or interregional of cost allocation nonetheless may be in a regional transmission plan for informational purposes, and the presence of such transmission projects in the regional transmission plan does not necessarily indicate an evaluation of whether such transmission facilities are more efficient or cost-effective solutions to a regional transmission need, as is the case for transmission facilities selected in a regional transmission plan for purposes of cost allocation. By focusing in parts of this Final Rule on transmission facilities selected in a regional transmission plan for purposes of cost allocation, we do not intend to disturb regional practices with regard to other transmission facilities that also may be in the regional transmission plan.⁸

Order No. 1000 also requires that Public Policy Requirements be considered in the “regional transmission planning process, as well as the underlying local transmission planning processes of public utility transmission providers.”⁹

We conclude that requiring each local and regional transmission planning process to provide this opportunity is necessary to ensure that transmission planning processes identify and evaluate transmission needs driven by relevant Public Policy Requirements, and support more efficient and cost-effective achievement of those requirements.¹⁰

In summary, Order No. 1000 requires public utility transmission providers to participate in regional transmission planning processes to support efficient and cost-effective transmission development, as well as the development of a not unduly discriminatory regional process for

⁷ *Id.* at P 5.

⁸ *Id.* at P 64, p 52.

⁹ *Id.* at P 6.

¹⁰ *Id.*

transmission project submission, evaluation, and selection. The Rule also creates two categories of projects included in regional and interregional transmission plans: “a transmission facility in a regional transmission plan” and “a transmission facility selected in a regional transmission plan for purposes of cost allocation.”¹¹ Finally, the Rule requires that needs driven by Public Policy Requirements be considered in regional and inter-regional transmission planning.

IV. PROTEST AND COMMENTS ON SPP COMPLIANCE FILING

1. Evaluating Independent Transmission Benefits

Clean Line supports several aspects of SPP’s Compliance Filing designed to meet the Commission’s goal for regional plans to “identify transmission facilities that more efficiently or cost effectively meet the region’s reliability, economic and Public Policy Requirements . . . [by] reflect[ing] a fair consideration of transmission facilities proposed by nonincumbents.”¹² In particular, Clean Line applauds SPP’s continued use of a transmission cost allocation methodology and Integrated Transmission Plan (“ITP”) process that does not generally distinguish among transmission facility “types” (i.e., reliability, economic, or public policy) for purposes of cost allocation but instead evaluate projects holistically and allocate costs based on voltage level in a manner that the Commission has previously determined is roughly commensurate with benefits.¹³ The Compliance Filing states that in the SPP ITP “[e]ach assessment provides for robust stakeholder involvement throughout the process in both designing the study scope for each assessment and for identifying potential solutions....For all proposed solutions, SPP is required to assess cost-effectiveness.”¹⁴ Involving stakeholders and assessing the cost-effectiveness of proposed solutions are important and necessary for regional

¹¹ *Id.* at P 5.

¹² *Id.* at P 11.

¹³ SPP Compliance Filing at p. 36

¹⁴ *Id.*, at p. 17

transmission planning. Similar to the existing ITP process, SPP's Compliance Filing affirms the ability of "any stakeholder to propose a project"¹⁵ and creates the Detailed Project Proposal ("DPP") process to encourage stakeholders to bring ideas to the planning process and reward them by granting incentive points in the Transmission Owner Selection Process.¹⁶

In addition to the proposed ITP process for studying independent transmission projects for cost allocation, SPP does have an existing process, SPP Criteria 3.5, and Appendix 11, for studying the reliability of participant-funded projects. The Criteria 3.5 process was previously developed by SPP and its stakeholders and is retained in SPP's Compliance Filing. Clean Line's Plains & Eastern project recently participated in this process and received approval from the SPP Transmission Working Group for the project's interconnection studies. Clean Line endorses this process as one that clearly embodies both the letter and the spirit of Order No. 1000 with respect to how merchant participant-funded projects should be studied for consistency with regional plans.

Absent in SPP's Compliance Filing, however, is a way to study the potential regional benefits of participant-funded projects that allows for partial cost allocation of such projects. Participant-funded projects do not benefit only their funders or customers. Projects like these bring a number of economic, policy, and reliability benefits, which accrue to other parties in addition to the project participants or customers. Consequently, it is appropriate for SPP's ITP to consider the regional benefits of a participant-funded project and to consider cost allocating portions of the project cost commensurate with identified benefits. As an example, anchor tenant customers could purchase and utilize the capacity on a line to cover a portion of the project cost, and if there are appropriate and identified regional economic and policy benefits, the remainder

¹⁵ *Id.* at p. 90.

¹⁶ *Id.*

of the cost could be recovered through regional cost allocation, subject to cost benefit ratio requirements.

Allowing partial cost allocation conforms with the Commission’s provision in Order No. 1000 requiring “the comparable evaluation of all potential transmission solutions...to ensure that the more efficient or cost-effective solutions are in the regional transmission plan.”¹⁷ Such partial project cost allocation has the potential to meet identified transmission needs at lower cost to ratepayers, and it more closely aligns with the Commission’s preference for allocating costs commensurate with benefits. As the Order states: “If a regional transmission plan determines that a transmission facility serves several functions...the regional cost allocation method must take the benefits of these functions of the transmission facility into account in allocating costs roughly commensurate with benefits.”¹⁸

The Commission should require SPP to modify the compliance filing to allow for partial cost allocation of facilities instead of treating all facilities as either “cost allocated” or “not cost allocated.” If a merchant project is submitted for inclusion in the ITP as a DPP or Sponsored Project, the project sponsor should be allowed to propose that the project be studied as a solution to identified transmission needs. If these studies show regional benefits, some portion of the project cost should be eligible for cost allocation through the process identified in the SPP Compliance Filing.

2. SPP’s Planning Process and Order No. 890 Principles

In Order No. 1000, the Commission required that each regional planning process comply with the transmission planning principles established by Order No. 890, including¹⁹: (1) Coordination; (2) Openness; (3) Transparency; (4) Information exchange; (5) Comparability; (6) Dispute

¹⁷ *Id.* at P 255.

¹⁸ *Id.* at P 601.

¹⁹ Order No. 890 at P 435

resolution; and (7) Economic planning.²⁰ SPP notes that the Commission previously ruled that the ITP process complies with each of these principles.²¹

As SPP states in its Compliance Filing, members are encouraged to submit project proposals to solve issues identified within the Futures being studied in the ITP planning process.²² In the current ITP20, five futures are being studied, including an export future in which 10 gigawatts of wind resources are added to the SPP footprint specifically intended for export to regions farther to the East. As this ITP20 process unfolded and projects were solicited for submittal, three broad areas of concern arose:

1. Certain members, who had agreements with the software vendor (Ventyx Promod), had access earlier than other members to model data in the format used for the ITP analysis. These members were then able to spend substantial amounts of time modeling and testing proposed solutions for the SPP system. For other members, transmission models were made available the week that project submissions were due.
2. Maps were not available that showed specific megawatts sited in each location based on the model data. A high level map was provided; however, it was difficult to clearly determine aggregate megawatt levels at individual sites. The map should be able to tell the story of where the resource is located and what is needed to get that resource to market, based on each scenario. The buses on which wind resources are sited and which nearby lines are overloaded due to the wind would also be useful data to distribute to potential respondents.

²⁰ Order No. 1000 at PP 146, 151

²¹ SPP Compliance Filing p. 18; and ITP Order at P 52, *Sw. Power Pool, Inc.*, 124 FERC ¶ 61,028, at P 10 (2008)

²² Clean Line Energy Partners is an SPP member through its projects, Plains & Eastern Clean Line and Grain Belt Express Clean Line.

3. Wind resource siting utilized in the ITP20 process was not realistic because of potential or actual threatened and endangered biological species issues and other environmental constraints that were not considered.
4. Sub-optimal resource sites were used to model the location of future wind resources. In particular, the SPP ITP20 process allowed incumbent utilities to “choose” where independent wind resource developers might site wind over the 20 year planning horizon. This approach improperly biases the siting of future resources to narrow areas where such resources have been sited in the past.

Despite these problems, Clean Line submitted two +/- 600 kV HVDC projects capable of transmitting 3500 MW from the SPP footprint to external-to-SPP sinks in each of the ITP20 Futures 1 through 4. Thus, while the current ITP process allows incumbent and nonincumbent transmission entities to submit projects, changes need to be made to the process to ensure compliance with the Order No. 890 principles of transparency, comparability, and information exchange. Among other things, necessary models should be made available at the same time for all members, with a two week window for questions and creation of the required data files for submission.

3. SPP's Conditional Revisions and Transmission Owner Selection Process

SPP chose to conditionally propose in its Compliance Filing a Transmission Owner Selection Process²³ “through which SPP will solicit competitive proposals from qualified entities to construct transmission facilities in SPP that, under Commission precedent, provide regional benefits and therefore qualify as ‘transmission facilities selected in the regional transmission plan for purposes of cost allocation.’” For facilities needed for local reliability and service issues,

²³ SPP Compliance Filing p. 52

SPP proposes to retain its current practice for determining the appropriate entity to construct, own and operate such facilities.²⁴

Without taking a position regarding whether the *Mobile-Sierra* arguments put forth by SPP in its Compliance Filing have merit, Clean Line generally supports the SPP proposed process for nonincumbent transmission developer participation.

In its Compliance Filing, SPP conditionally proposes to adopt a selection process to determine entities responsible for constructing “Competitive Upgrades.”²⁵ Competitive Upgrades are defined as new transmission facilities to be cost allocated under SPP’s “Highway” portion of the previously-approved Highway/Byway cost allocation methodology.²⁶ These Competitive Upgrades include ITP Upgrades and high priority upgrades with a nominal operative voltage of 300 kV or above that do not fall within one of the allowable exceptions to the nonincumbent developer requirements specified in Order No. 1000.²⁷ Although supportive of the proposed process, at this juncture, Clean Line takes no position on the Byway or “local” aspects of the previously-approved methodology. To emphasize the acceptability of its conditionally proposed methodology, SPP states:

SPP’s definition of Competitive Upgrade honors the Commission’s findings in the Highway/Byway Order by treating such Byway and low voltage facilities as local for purposes of Order No. 1000 compliance. Consistent with SPP’s unique circumstance as an RTO with a Commission approved cost allocation methodology that distinguishes between regional and local transmission facilities, SPP’s proposed definition of Competitive Upgrade is consistent with or superior to the distinction drawn in Order No. 1000-A between regional and local facilities based on whether *any* costs of a transmission facility, even a nominal amount, that

²⁴ *Id.*, p. 52

²⁵ *Id.*, p. 53

²⁶ SPP submitted the Highway/Byway cost allocation methodology to the Commission on April 19, 2010. Submission of Revisions to Modify Transmission Cost Allocation Methodology of Southwest Power Pool, Inc., Docket No. ER10-1069-000 (Apr. 19, 2010). The Commission unconditionally accepted the Highway/Byway proposal on June 17, 2010, and denied rehearing of the Highway/Byway on October 20, 2011. *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252, at PP 1, 62 (2010) (“Highway/Byway Order”), *order on reh’g*, 137 FERC ¶ 61,075 (2011).

²⁷ Order No. 1000 at P 319; Order No. 1000-A at P 427

otherwise would be considered local are allocated outside of a single retail distribution service territory or footprint.²⁸

Clean Line agrees that SPP's proposed definition of Competitive Upgrade, and associated selection methodology, will provide opportunity for participation in SPP by a diversity of entities, even without inclusion of "Byway" projects in the mix.²⁹

4. Cost Allocation of Interregional Projects at the Regional Level

Order No. 1000 states that "an interregional transmission facility must be selected in both of the relevant regional transmission plans for the purposes of cost allocation in order to be eligible for interregional cost allocation pursuant to an interregional cost allocation method required under this final rule."³⁰ Therefore, regardless of whether a project located in two or more regions is actually cost allocated at the interregional level, a methodology must exist for that project to be cost allocated solely at the regional level. Otherwise, such a project would fail the Commission's requirement that "a public utility transmission provider must have a regional cost allocation method for any transmission facility selected in a regional transmission plan for purposes of cost allocation."³¹ Therefore, no interregional project may be excluded from regional cost allocation purely because it exists in multiple regions. If a project provides sufficient benefits to a region such that it is selected in that region's plan for purposes of regional cost allocation, that project must remain eligible for regional cost allocation even if ultimately it is not cost allocated at the interregional level. Any such project would still need to gain applicable state approvals.

Clean Line anticipates raising this issue in response to the SPP Interregional Compliance filing, but due to the Order's link between regional and interregional plans, it is necessary to

²⁸ SPP Compliance Filing p. 58

²⁹ SPP Compliance Filing p. 59

³⁰ *Id.* at P 400.

³¹ *Id.* at P 690.

ensure that the SPP Regional Compliance Filing does not preclude cost allocation of an interregional project solely at the regional level if sufficient benefits are identified.

V. CONCLUSION

WHEREFORE, Clean Line appreciates the Commission's consideration of its Protest and Comments and respectfully requests that the Commission require SPP to modify its tariff and planning process as discussed above.

Respectfully submitted,

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December 27, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person listed on the Official Service List compiled by the Secretary in these proceedings.

Dated in Houston, Texas, this 27th day of December, 2012.

/s/ Cary Kottler
Cary Kottler