

173 FERC ¶ 61,267
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James P. Danly, Chairman;
Neil Chatterjee and Richard Glick.

Southwest Power Pool, Inc.

Docket Nos. ER21-3-000
ER21-4-000

ORDER ACCEPTING PROPOSED TARIFF

(Issued December 23, 2020)

1. On October 1, 2020, pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.12 of the Commission's regulations,² Southwest Power Pool, Inc. (SPP) submitted: (1) a tariff to implement the Western Energy Imbalance Service Market (WEIS Market) in the Western Interconnection (WEIS Tariff); (2) Western Joint Dispatch Agreements (WJDA) executed by eight entities; and (3) the Western Markets Executive Committee (WMEC) Charter (collectively, SPP's proposal).³ As discussed below, we accept SPP's proposed WEIS Tariff, WJDAs, and WMEC Charter, effective February 1, 2021, as requested.

I. Background

2. SPP has been authorized as a regional transmission organization (RTO) since October 1, 2004.⁴ In its role as an RTO, SPP administers the Integrated Marketplace, a centralized day-ahead and real-time energy and operating reserve market with locational marginal pricing (LMP) and market-based congestion management in the Eastern Interconnection.⁵ In addition, as of December 3, 2019, SPP has served as a Reliability Coordinator (SPP West RC) for certain utilities in the Western Interconnection. As

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.12 (2020).

³ SPP filed the proposed WEIS Tariff and WJDAs in Docket No. ER21-3-000 and the proposed WMEC Charter in Docket No. ER21-4-000.

⁴ *Sw. Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004), *order on reh'g*, 110 FERC ¶ 61,137 (2005).

⁵ SPP Transmittal at 3.

relevant to these filings, the SPP West RC is responsible for overseeing reliable operations across a large portion of the proposed WEIS footprint.

3. SPP states that over the course of 2019, it worked with stakeholders in the Western Interconnection to develop a standalone tariff setting forth the rules and procedures to provide a market-based mechanism to supply energy imbalance service in the Western Interconnection.

4. On February 21, 2020, in Docket Nos. ER20-1059-000 and ER20-1060-000, SPP filed an initial proposal to implement the WEIS Market. On July 31, 2020, the Commission rejected SPP's proposal without prejudice, finding that SPP had not shown the proposal to be just and reasonable. The Commission identified five issues with the original WEIS Market proposal that required revisions or merited further consideration from SPP: (1) the use of non-participants' transmission capacity; (2) the role of the reliability coordinator in determining transmission availability; (3) supply adequacy; (4) the use of average losses as opposed to marginal losses; and (5) market power and market power mitigation. The Commission provided guidance to SPP about how it could modify its proposal if SPP chose to resubmit it.⁶ Each issue identified by the Commission in the July Order is discussed further below.

II. SPP Filing

5. The proposed WEIS Tariff provides for the implementation of a five-minute energy imbalance service market operated by SPP. SPP plans to begin WEIS Market operations on February 1, 2021. SPP states that the WEIS Tariff is based on the framework of the energy imbalance service market that it operated in the Eastern Interconnection from 2007-2014.⁷ SPP explains that it will administer the WEIS Market as a contractual service that it will operate separately from SPP's existing Integrated Marketplace.⁸ SPP states that at launch the WEIS Market will consist of the Western Area Colorado Missouri (WACM) and Western Area Power Administration Upper Great Plains West (WAUW) Balancing Authority Areas (BAAs).⁹

6. SPP states that the WEIS Market initially will consist of the following eight utilities: Western Area Power Administration (WAPA), separately and individually as

⁶ *Sw. Power Pool, Inc.*, 172 FERC ¶ 61,115, at PP 18-19 (2020) (July Order).

⁷ SPP Transmittal at 5; *see also Sw. Power Pool, Inc.*, 114 FERC ¶ 61,289, *order on reh'g*, 116 FERC ¶ 61,289 (2006).

⁸ SPP Transmittal at 5; Ex. SPP-0001 at 3.

⁹ SPP Transmittal at 17.

WAPA Colorado River Storage Project, WAPA Rocky Mountain Region, and WAPA Upper Great Plains Region; Basin Electric Power Cooperative (Basin Electric); Tri-State Generation and Transmission Association, Inc. (Tri-State); Deseret Generation & Transmission Cooperative (Deseret); Municipal Energy Agency of Nebraska (MEAN); and Wyoming Municipal Power Agency (WMPA).¹⁰

7. SPP states that, in order to participate in the WEIS Market, an entity must execute the WJDA with SPP.¹¹ The WJDA establishes the legal relationship between SPP and the market participant and includes the provisions for SPP's administration of the WEIS Market and the obligations of customers to pay administrative costs.¹² SPP has filed executed WJDAs with the eight market participants in the WEIS Market. SPP proposes to recover initial implementation and ongoing costs through the WEIS Rate, which is calculated in accordance with the WJDA.¹³ The WEIS Rate proposed for the first year of WEIS operations is \$0.22 per MWh of net energy for load,¹⁴ calculated based on an estimated \$5 million per year operating costs.¹⁵

8. SPP states that the WEIS Market will implement security constrained economic dispatch (SCED) market optimization software in order to centrally dispatch all available participating resources across the WEIS Market footprint to help balance load and generation.¹⁶ The SCED will constrain dispatch of the WEIS Market to the transmission capacity made available by market participants, Joint Dispatch Transmission Service providers, and the participating Balancing Authorities (BAs). SPP will calculate each market participant's quantity of imbalance energy within the settlement area every five

¹⁰ *Id.* at 4.

¹¹ *Id.* at 24; Ex. SPP-0001 at 5.

¹² SPP Transmittal at 2-3.

¹³ *Id.* at 25.

¹⁴ Net energy for load means net generation on or interconnected to the WEIS Market footprint (as defined in the WEIS Tariff) plus energy received from others less energy delivered to others through interchange and is measured in MWh/year. It includes system losses but excludes energy required for storage of energy at energy storage facilities. *See, e.g.*, Ex. SPP-0003, Basin Electric WJDA, § 1 (Definitions).

¹⁵ SPP Transmittal at 25-26.

¹⁶ *Id.* at 11.

minutes and settle at the LMP for that area.¹⁷ Market Participants will be required to submit resource plans each hour of the operating day that demonstrate that they have sufficient generation to meet their expected load and ancillary services obligations.¹⁸ SPP will assess these resource plans and notify the inadequate market participants and the associated BA of any identified inadequacies. SPP states that this supply adequacy analysis is not intended to replace any existing responsibility for participating balancing authorities; rather, it provides an additional tool and transparency into projected operating conditions.¹⁹

9. Additionally, under SPP's proposal, all imbalance energy within participating BAAs will be settled in the WEIS Market; therefore, all load and generation within the footprint must be registered with the WEIS Market.²⁰ SPP represents that the WACM and WAUW BAAs contain approximately 8,000 MW of generation and approximately 3,600 MW of load and that the eight entities that have executed the WJDA represent approximately 7,100 MW of that generation.²¹ These entities will register with SPP, and SPP will settle their imbalance energy. Entities within participating BAAs that opt to not execute the WJDA will be represented by their host BAA in the WEIS, and SPP will settle any associated imbalance energy with the BAA on behalf of such entities.²²

10. SPP proposes that its internal, independent market monitor (SPP MMU) will perform the market monitoring services for the WEIS Market.²³ Additionally, the SPP MMU completed a Market Power Study for the proposed WEIS Market in August 2020 and SPP states that the results have informed the market mitigation provisions in the proposed WEIS Tariff.

11. SPP notes that the WEIS Market “does not include consolidation of BA operations, nor markets for day-ahead unit commitment and energy deployment,

¹⁷ *Id.* at 16; Ex. SPP-0001 at 3.

¹⁸ SPP Transmittal at 15; Ex. SPP-0001 at 8.

¹⁹ SPP Transmittal at 15-16; Ex. SPP-0001 at 8.

²⁰ SPP Transmittal at 17.

²¹ *Id.* at 17-18.

²² *Id.* at 17; Ex. SPP-0001 at 5.

²³ SPP Transmittal at 21; Ex. SPP-0001 at 14.

operating reserves or financial transmission congestion rights.”²⁴ SPP states that market participants are not transferring functional control of their generation or transmission assets to SPP, and the market does not contain provisions for unit commitment decisions by SPP or the clearing of any operating reserve products. Further, SPP states that as the market operator it will not provide any consolidation nor administration of the transmission tariffs of market participants.²⁵

12. SPP states that the proposed WEIS Market is similar to the prior proposal it filed in Docket Nos. ER20-1059 and ER20-1060, with changes made to respond to issues the Commission identified in the July Order as well as changes made to address concerns the SPP MMU identified in its August 2020 Market Power Study.²⁶

13. SPP requests a February 1, 2021 effective date but asks that the Commission issue an order by December 3, 2020.

III. Notice of Filing and Responsive Pleadings

14. Notice of SPP’s filings in Docket Nos. ER21-3-000 and ER21-4-000 was published in the *Federal Register*, 85 Fed. Reg. 63,264 (Oct. 7, 2020), with interventions and protests due on or before October 22, 2020.

15. Timely motions to intervene were filed by: American Public Power Association;²⁷ Black Hills Colorado Electric, LLC; Holy Cross Electric Association, Inc.; Omaha Public Power District; Public Citizen, Inc.; the SPP MMU; and Western Power Trading Forum. NorthWestern Corporation (NorthWestern) filed a motion to intervene out of time.

16. Black Hills Service Company (on behalf of itself, Black Hills, Inc., and Cheyenne Light, Fuel & Power Company (collectively, Black Hills/Cheyenne Light)), Colorado Springs Utilities (Colorado Springs), Deseret, Platte River Power Authority (Platte River), and Xcel Energy Services Inc. (Xcel) (on behalf of Public Service Company of Colorado (PSCo)) filed motions to intervene and protests. Public Interest Organizations

²⁴ SPP Transmittal at 16; Ex. SPP-0001 at 4.

²⁵ SPP Transmittal at 16; Ex. SPP-0001 at 4.

²⁶ SPP Transmittal at 2.

²⁷ American Public Power Association filed a motion to intervene only in Docket No. ER21-3-000.

filed a protest.²⁸ Basin Electric, MEAN, Tri-State, and WAPA filed motions to intervene and comments.

17. On November 6, 2020, SPP, the SPP MMU, and WAPA filed answers to the protests and comments. On November 13, 2020, Xcel filed an answer to SPP's answer. On November 17, 2020, the SPP MMU filed a clarification to its November 6, 2020 answer. On November 20, 2020, Black Hills/Cheyenne Light filed an answer to the SPP and WAPA answers.

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2020), we grant NorthWestern's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept the answers filed by Black Hills/Cheyenne Light, SPP, the SPP MMU, WAPA, and Xcel because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

20. As discussed below, we accept as just and reasonable SPP's proposed Tariff, WJDAs, and WMEC Charter, effective February 1, 2021. We find that the proposed WEIS Market will yield diverse benefits to the participating utilities and customers in the Western Interconnection, and that SPP has both addressed the concerns presented by the Commission in the July Order and demonstrated that its proposal presents a just and reasonable regional solution. We expect that the WEIS Market will improve energy imbalance management by making a broader pool of resources available to serve load, enabling participating utilities to meet their energy imbalance needs at lower cost. Additionally, we expect that the WEIS Market will improve reliability by managing resources that could relieve transmission constraints more effectively, leveraging a larger,

²⁸ Public Interest Organizations are Earthjustice, Natural Resources Defense Council, Sustainable FERC Project, Western Grid Group, and Western Resource Advocates. Natural Resources Defense Council, Sustainable FERC Project, Western Grid Group, and Western Resource Advocates filed a separate motion to intervene.

more diverse set of resources to operate the system within limits and creating price signals that lead to actions that could enhance reliability.²⁹ The WEIS Market can also help to integrate and manage increasing levels of variable energy resources by pooling variability over a larger area and redispatching resources to help manage imbalance energy caused by variable energy resources.³⁰ We note that the Commission has previously recognized the benefits of energy imbalance markets,³¹ and we expect the WEIS Market will bring similar benefits.

21. We find that the overall design of the WEIS Market is just and reasonable, and therefore our discussion and findings below address aspects of SPP's proposal that have been contested by various commenters.³² We find that the aspects of SPP's proposal that are not contested and not specifically discussed herein are just and reasonable.

1. Benefits of the Market

a. SPP's Filing

22. SPP states that the WEIS Market will offer a reliable and efficient energy imbalance management option. SPP cites to a Commission staff qualitative assessment of potential reliability benefits that a western energy imbalance market would bring, and notes the Commission has historically recognized the broad benefits that energy imbalance markets bring to the bulk electric system.³³ SPP states that the assumptions

²⁹ Federal Energy Regulatory Commission, Staff Paper, *Qualitative Assessment of Potential Reliability Benefits from a Western Energy Imbalance Market*, at 7-8 (Feb. 26, 2013) (Staff Paper).

³⁰ *See id.* at 19.

³¹ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231, at P 75 (2014) (describing benefits of CAISO's energy imbalance market in the Western Interconnection); *Sw. Power Pool, Inc.*, 114 FERC ¶ 61,289 at P 2 (describing benefits of SPP's energy imbalance market that operated in the Eastern Interconnection from 2007-2014).

³² We find that SPP has adequately responded to the Commission's guidance in the July Order to provide additional explanation about the role of the reliability coordinator in determining transmission availability. July Order, 172 FERC ¶ 61,115 at P 52; *see also* SPP Transmittal at 8-9 (explaining that reliability coordinators will not act as a conduit for market-related information, and that the WEIS Market will receive information about transmission availability from market participants, Joint Dispatch Transmission Service providers, and participating BAs). This issue was not protested.

³³ SPP Transmittal at 11-12 (citing Staff Paper, Ex. SPP-0011).

from that Commission staff assessment are directly aligned with the design of the WEIS Market, which includes a real-time market for imbalance energy that employs SCED to allow usage of lowest cost resources to balance loads and resources while respecting transmission and reliability constraints.³⁴

23. According to SPP, these benefits and SPP's history with implementing and operating organized markets contributed to WAPA's decision to participate in the WEIS Market. SPP states that WAPA senior management specifically cited the following reasons for participating: (1) addressing BA limitations; (2) addressing the risk of diminishing bilateral trading partners; (3) maintaining a stakeholder-involved governance structure; (4) responding to the changing generation industry; (5) addressing energy imbalance requirements with a broader scope of available resources; (6) improving reliability; and (7) creating and maintaining competitive options for a potential future Day-2 market.³⁵

b. Comments and Protests

24. Commenters disagree on whether the WEIS Market is likely to deliver net benefits to the WEIS footprint, or whether SPP must provide further support for such benefits. On the supporting side, WAPA states that there is increasing penetration of variable energy resources in its two BAAs, and the WEIS Market will expand WAPA's access to balancing resources and will provide WAPA a more reliable and cost-effective imbalance energy management option. WAPA contends that the WEIS Market will lessen WAPA's reliance on diminishing bilateral market trading to meet its imbalance needs.³⁶ Similarly, Basin Electric avers that the WEIS Market presents significant benefits because it offers Basin Electric access to a diverse mix of generation resources in order to meet its ramping and reserve requirements and maintain reliability. Basin Electric also states that the WEIS Market will increase competition for imbalance service providers and provide risk mitigation against diminishing trading partners.³⁷ Tri-State estimates that the

³⁴ *Id.* at 13.

³⁵ *Id.* at 13-14 n.55 (citing WAPA Memorandum, Recommendation to Participate in the SPP WEIS (Aug. 27, 2019), <https://www.wapa.gov/About/keytopics/Documents/spp-weis-recommendation-memo.pdf>).

³⁶ WAPA Comments at 6-8.

³⁷ Basin Electric Comments at 15.

economic benefits of joining the WEIS Market will greatly exceed the costs of joining,³⁸ while Deseret contends the WEIS Market will ensure adequate resources are available.³⁹

25. However, Black Hills/Cheyenne Light and Platte River argue that neither SPP nor any WEIS Participants⁴⁰ have demonstrated that the proposal will produce net benefits to participants or prevent adverse impacts to non-participants.⁴¹ Black Hills/Cheyenne Light state that SPP did not quantify the anticipated benefits of the WEIS Market and did not conduct the type of substantial cost/benefit analysis that was used to support CAISO's western energy imbalance market (Western EIM). Black Hills/Cheyenne Light contend that significant new costs are not justified based on theoretical benefits, and state that their costs for energy imbalance service will significantly increase under the WEIS Market because WEIS Market costs will be passed through to Black Hills/Cheyenne Light through the WACM BA, even though they are non-participants.⁴² Platte River contends that the Commission should reject SPP's proposal unless SPP demonstrates that the WEIS Market will produce net benefits.⁴³

26. Similarly, Public Interest Organizations contend that SPP has not provided a transparent and accessible study on the benefits of the WEIS Market, and state that SPP should enable public interest organizations, states, and other stakeholders to participate collaboratively in the development of such studies.⁴⁴ Public Interest Organizations state that there is no economic estimate of the costs of operating across the seam that will be created in Colorado by the WEIS Market, and note there is no realizable benefit created by the seam.⁴⁵

³⁸ Tri-State Comments at 6.

³⁹ Deseret Protest at 8.

⁴⁰ A WEIS Participant is a market participant that has executed a WJDA.

⁴¹ Black Hills/Cheyenne Light Protest at 19-23, Egge Aff. ¶¶ 23-25; Platte River Protest at 16-17.

⁴² Black Hills/Cheyenne Light estimate approximately \$1 million in costs for Black Hills/Cheyenne Light in the first year of the WEIS Market. *See* Black Hills Cheyenne Light Protest at 19-23, Egge Aff. ¶¶ 23-25.

⁴³ Platte River Protest at 17.

⁴⁴ Public Interest Organizations Protest at 9.

⁴⁵ *Id.*

c. Answers

27. SPP argues that several entities voluntarily agreed to fund the implementation of and participate in the WEIS Market, and that this constitutes sufficient evidence of the market's value to them.⁴⁶ SPP further argues that neither Black Hills/Cheyenne Light nor Platte River have provided evidence that the benefits listed by SPP will not accrue to the WEIS Market footprint when the market launches.⁴⁷ SPP contends that absent the WEIS Market, the WACM and WAUW BAs will become increasingly reliant on bilateral purchases, while the WEIS Market will provide a tool for participating BAs to access the most cost-effective generation for balancing purposes. SPP contends that the benefits of using a market for imbalances are borne out by the success of other balancing markets but can be difficult to quantify.⁴⁸

28. WAPA states that participation in an energy imbalance service is a critical component of overall BA sustainability for WAPA. WAPA states that joining the WEIS Market will allow it to address BA limitations, respond to industry changes, and address evolving energy imbalance requirements.⁴⁹

29. Black Hills/Cheyenne Light argue that SPP has made no effort to show that expenditures for the WEIS Market are prudent and that the assertion by SPP that because some entities have joined voluntarily there must be benefits ignores the fact that 16 entities elected not to join. Black Hills/Cheyenne Light further argue that by forcing the costs of the market on non-participants, the Commission would be overriding a conscious business judgment they made in their best interest by electing not to join the WEIS Market.⁵⁰ Further, Black Hills/Cheyenne Light note that SPP announced that it performed a cost-benefit study in connection with WEIS Participants prospectively joining the SPP RTO, and requests that the study be filed in the instant docket if it assessed WEIS Market benefits.⁵¹

⁴⁶ SPP Answer at 42, 46.

⁴⁷ *Id.* at 43-44.

⁴⁸ *Id.* at 44-46.

⁴⁹ WAPA Answer at 8.

⁵⁰ Black Hills/Cheyenne Light Answer at 6-7.

⁵¹ *Id.* at 9.

d. Commission Determination

30. As noted above and described in more detail below, we find the overall design of the WEIS Market to be just and reasonable and therefore accept it. We agree that a centralized imbalance market, such as that proposed here, can deliver significant benefits, including reliability benefits that are not easily quantified. Additionally, an energy imbalance market can enable participating utilities to meet their energy imbalance needs at lower cost and better integrate increasing levels of variable resources. Therefore, we do not find protestors' arguments that SPP must demonstrate quantifiable net benefits persuasive. Although the Commission carefully considers evidence of costs and benefits, it does not require a quantified cost-benefit analysis of proposals.⁵²

2. Cost Allocation

a. SPP's Filing

31. SPP explains that in order to participate in the WEIS Market, entities must execute the WJDA, which among other things contains the administrative rate which SPP will assess to WEIS Participants in order to recover the administrative costs of the WEIS Market, including initial implementation costs and ongoing costs. SPP states that the initial implementation and ongoing costs include: (1) salaries and benefits; (2) project consulting; (3) technology costs; (4) travel and administrative costs; (5) principal and interest payments; and (6) corporate overhead costs.⁵³

32. SPP states that the initial implementation costs are estimated to be approximately \$9.5 million, and states that these costs will be financed by SPP to enable WEIS

⁵² *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208, at P 49 (2015) (“[T]he Commission does not generally require the mathematical specificity of a cost-benefit analysis to support a market rule change.”), *order on reh’g*, 155 FERC ¶ 61,157, at P 30 (2016) (“[W]hile the Commission is required to consider all relevant factors and make a ‘common-sense assessment’ that the costs that will be incurred are consistent with the ratepayers’ overall needs and interests, the Commission’s finding need not be accompanied by a quantitative cost-benefit analysis.”), *aff’d sub nom. Advanced Energy Mgmt. All. v. FERC*, 860 F.3d 656, 660-61 (D.C. Cir. 2017); *see also Sw. Power Pool, Inc.*, 141 FERC ¶ 61,048, at P 57 (2012) (“[W]e note that our approval of the Integrated Marketplace proposal is not based on any specific cost-benefit amount. A cost-benefit analysis is largely a tool for stakeholders to evaluate different market designs and to determine their interest in moving forward with a market proposal.”).

⁵³ SPP Transmittal at 25. For a detailed breakdown of these costs, see Ex. SPP-0012.

Participants to pay them over the first eight years after the WEIS commencement date.⁵⁴ SPP explains that initial implementation and ongoing costs will be allocated to WEIS Participants based on their proportional share of the total net energy for load in the WEIS Market footprint, and the resulting rate will be updated each year to account for both changes in relative net energy for load and in ongoing costs.⁵⁵ SPP contends that net energy for load for a given entity remains relatively consistent from year to year, and thus this measure provides rate stability versus other methods based on transaction volumes.⁵⁶ SPP further notes that its costs are more impacted by the size of the market than the number of transactions settled.⁵⁷ SPP states that the rate to administer the WEIS for the first year (year one rate) after the commencement date will be \$0.22 per MWh of net energy for load and is based on an estimated \$5 million dollars of ongoing costs and the annualized payback of the initial implementation costs.⁵⁸

33. SPP states that WEIS Participants that join during the Initial Cost Recovery Period will be subject to the administrative rate, inclusive of any remaining implementation costs, and may be assessed an additional incremental cost recovery charge.⁵⁹ SPP further states that WEIS Participants that withdraw prior to the end of the Initial Cost Recovery Period will be assessed their remaining share of the initial implementation costs as a withdrawal payment.⁶⁰

b. Comments and Protests

34. Black Hills/Cheyenne Light assert that, to satisfy the principles of cost causation, WEIS Market implementation costs should only be allocated to those that have executed WJDAs and should not be passed through to non-participants. Black Hills/Cheyenne

⁵⁴ SPP Transmittal at 24-25. SPP defines this period as the Initial Cost Recovery Period.

⁵⁵ *Id.* at 25.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 25-26.

⁵⁹ *Id.* at 24-26. New WEIS Participants that join after the Initial Cost Recovery Period will not be responsible for any of the initial implementation costs but may still be responsible for incremental costs SPP has to incur to accommodate that new WEIS Participant.

⁶⁰ *Id.* at 26.

Light contend that they did not cause the WEIS Market costs to be incurred but will be indirect and involuntary captive customers under the WEIS Market construct.⁶¹ Black Hills/Cheyenne Light contend that WAPA's balancing authority (BA) agreements with non-participating entities should be filed with the Commission and subject to challenge because SPP and WAPA are using this agreement to pass on a jurisdictional charge.⁶²

35. Black Hills/Cheyenne Light argue that WEIS Market administrative costs should be allocated on a volumetric basis (i.e., the volume of energy market transactions) rather than a load basis (i.e., withdrawals) as SPP proposes. Black Hills/Cheyenne Light maintain that a volumetric approach would create better incentives to manage imbalance and would allocate costs to generation that causes market transactions, consistent with cost causation principles. Black Hills/Cheyenne Light assert that SPP's load-based approach undermines market efficiency and creates a free rider problem in which benefitting generation does not pay its share of costs.⁶³

36. Black Hills/Cheyenne Light assert that, under SPP's proposal, cost allocation is determined based on net energy for load, but net energy for load is not defined in the WEIS Tariff and is only vaguely defined in the WJDAs. Black Hills/Cheyenne Light contend that there is not enough detail to independently verify how SPP calculates net energy for load, and argue that the net energy for load calculation should be included in the WEIS Tariff.⁶⁴

37. Black Hills/Cheyenne Light argue that SPP should better explain the cost allocation for shared services between the SPP RTO, WEIS Market, and SPP West RC (such as salary costs for SPP employees who perform work for both the RTO and the WEIS Market). Black Hills/Cheyenne Light assert that SPP's filing is unclear about what costs are incremental costs of the WEIS Market, and contend that separating out the costs is needed to ensure that there is no cost subsidization between the SPP RTO, WEIS Market, and reliability coordinator customers.⁶⁵

38. Black Hills/Cheyenne Light assert that the formula for calculating the WEIS Market administrative rate after the first year (located in Exhibit A of each WJDA) lacks transparency, advance notice, and an opportunity to review or challenge, features which

⁶¹ Black Hills/Cheyenne Light Protest at 9-10, Egge Aff. ¶¶ 33-34.

⁶² Black Hills/Cheyenne Light Protest at 4.

⁶³ *Id.* at 10-15, Egge Aff. ¶¶ 35-36.

⁶⁴ Black Hills/Cheyenne Light Protest at 16-17.

⁶⁵ *Id.* at 17-19.

Black Hills/Cheyenne Light assert make formula rates just and reasonable.⁶⁶ Black Hills/Cheyenne Light state that SPP can modify the next year's administrative rate for unforeseen circumstances, but there is no definition or limitation on what constitutes unforeseen circumstances. Additionally, Black Hills/Cheyenne Light argue that the administrative rate formula lacks transparency because it is not linked to the Uniform System of Accounts, and is not auditable due to lack of protocols, information exchange, or an informational filing requirement. Black Hills/Cheyenne Light also assert that the administrative rate should be filed as part of the WEIS Tariff because it is a generally applicable rate for generally applicable service.⁶⁷

39. Tri-State notes that the \$9.5 million implementation cost of the WEIS Market will be divided among the WEIS Participants on a load ratio share basis and will be paid over the initial eight years of implementation. Tri-State contends that the total annual cost for the WEIS Market is estimated to be \$4.7 million and argues therefore the cost of entry for each member will be low. Furthermore, Tri-State states that the annual costs of the WEIS Market will be reduced as new members join, but Tri-State contends that it expects savings through the implementation of the WEIS Market regardless of whether additional members join the market or there are additional service enhancements.⁶⁸ Tri-State states that SPP's cost recovery approach: (1) prevents SPP's RTO members from "floating" the implementation costs; (2) spreads the implementation costs over multiple years; (3) minimizes free riders; and (4) ensures rate stability.⁶⁹

c. Answers

40. SPP states that the year one rate accounts for several production-related cost categories necessary to implement and administer the WEIS Market and explains that the year one rate reflects the total estimated production costs divided by the net energy for load submitted by participating BAs.⁷⁰ Furthermore, SPP argues that all WEIS Participants are sophisticated entities that have weighed the costs and benefits of joining

⁶⁶ *Id.* at 26.

⁶⁷ *Id.* at 26-29, Egge Aff. ¶¶ 41-42.

⁶⁸ Tri-State Comments at 7.

⁶⁹ *Id.* at 7-8.

⁷⁰ SPP Answer at 56.

and have found that executing the WJDA, and agreeing to pay the administrative rate contained in the agreement, was in their interest.⁷¹

41. SPP contends that nothing in the proposal authorizes the pass-through of market costs to non-participants, and that such concerns are beyond the scope of these proceedings.⁷²

42. SPP argues that allocating costs based on net energy for load is just and reasonable, and the existence of other alternative allocations does not make it unjust and unreasonable.⁷³ SPP argues that, in any event, allocating costs based on net energy for load is appropriate, noting that a majority of SPP's WEIS Market costs do not vary based on the volume of transactions.⁷⁴ SPP contends that comparisons to the SPP RTO are misguided, as the scope of the services provided by the SPP RTO far exceed those provided here.⁷⁵

43. SPP further states that its net energy for load calculations include net energy for load for non-participating entities within a participating BA, but notes that the rate impact is determined by arrangements between the generation and load and their host BA, not the WEIS Tariff or WJDA.⁷⁶ SPP contends that including all load and generation within a participating BA is appropriate because the BA is the provider of last resort for imbalance energy service.⁷⁷

44. SPP argues that Black Hills/Cheyenne Light's concerns about being allocated costs of the WEIS Market are outside the scope of these proceedings. Specifically, SPP contends that it will not allocate costs to Black Hills/Cheyenne Light or other non-participants, and that Black Hills/Cheyenne Light are really taking issue with their host BA's wholesale transmission rates, not with any of the rates contained in the WEIS Tariff

⁷¹ *Id.* at 57.

⁷² *Id.* at 37.

⁷³ *Id.* at 46-47.

⁷⁴ *Id.* at 52-53.

⁷⁵ *Id.* at 54.

⁷⁶ *Id.* at 47-48.

⁷⁷ *Id.* at 48.

or other documents.⁷⁸ However, SPP notes that non-participating entities within a participating BA will benefit from the WEIS Market, and contends that the costs a host BA passes through to non-participating customers are supported by cost causation principles.⁷⁹

45. SPP asserts that it has provided sufficient justification for its allocation of common service costs between its RTO, SPP West RC, and WEIS Market functions. SPP further argues that the concerns raised here are beyond the scope of these proceedings, stating that it is within the purview of the Board of Directors to resolve concerns around resource prioritization or accounting of costs.⁸⁰

46. WAPA contends that the Commission should dismiss as outside the scope of the instant proceedings Black Hills/Cheyenne Light's argument that the Commission should review WAPA's BA services agreement and rates. WAPA notes that Black Hills/Cheyenne Light can comment and participate in WAPA's rate filings and in customer meetings related to WAPA's participation in markets and BA services agreement process.⁸¹

47. Black Hills/Cheyenne Light argue that SPP's claim that the cost allocation methodology for common services is beyond the scope of the proceeding is not sufficient and that SPP should provide transparency into how the costs are allocated, as is typical among affiliates.⁸² Additionally, Black Hills/Cheyenne Light dispute that the methodology to calculate net energy for load will incentivize appropriate market behavior. Referring to WAPA's recent rate schedule brochure provided to WAPA customers, Black Hills/Cheyenne Light explain that WAPA will charge an administrative fee to non-participants instead of collecting a penalty, as WAPA did prior to the WEIS Market. Black Hills/Cheyenne Light maintain that the penalty sent an important price signal that incentivized entities to manage their own imbalance. Black Hills/Cheyenne Light argue that under the blanket administrative fee to non-participants, costs will be imposed regardless of entities' efforts to stay balanced or imbalanced.⁸³

⁷⁸ *Id.* at 49-50.

⁷⁹ *Id.* at 51.

⁸⁰ *Id.* at 54-56.

⁸¹ WAPA Answer at 4-5.

⁸² Black Hills/Cheyenne Light Answer at 14-15.

⁸³ *Id.* at 15-16.

d. Commission Determination

48. We find that SPP has sufficiently supported the administrative rate and therefore accept it as just and reasonable. We find that SPP has adequately supported its proposal to allocate the initial implementation and ongoing costs of the WEIS Market according to net energy for load. In addition, we agree with SPP that this methodology reasonably reflects cost causation because net energy for load correlates to the size of the market participant and is therefore a reasonable reflection of the WEIS Market costs that the market participant causes to be incurred and the benefits the market participant will receive. With regard to Black Hills/Cheyenne Light's argument that SPP should allocate costs on a volumetric basis rather than based on net energy for load, under FPA section 205 we evaluate the proposal that was filed, and we find that SPP's proposal to allocate costs based on net energy for load is just and reasonable. Therefore, we do not need to consider whether alternative proposals would also be just and reasonable.⁸⁴

49. SPP detailed the cost categories for the initial implementation costs and ongoing administrative costs in the WEIS Market.⁸⁵ We find that SPP has provided adequate support for the costs it intends to include in the WEIS Rate and will not require SPP to provide further support or explanation of how it will allocate common costs to its RTO, reliability coordinator, and WEIS Market operator functions.

50. We find the issue of the pass-through of costs to non-participants to be beyond the scope of these proceedings. We agree with SPP that nothing in the WJDAs assesses costs to non-participants. To the extent WEIS Market costs will be passed through to non-participants through other agreements, those agreements are not part of SPP's filing and are not before the Commission in the instant proceeding.

51. We disagree with Black Hills/Cheyenne Light's contention that the WEIS Rate lacks transparency and needs to have implementation protocols and formal challenge provisions. Although the Commission has required implementation protocols and formal challenge provisions to be included in tariffs assessing charges under transmission service formula rates, we do not find that comparison apt here. First, the charges here are laid out in individual agreements with individual market participants and therefore all parties that will be assessed the WEIS Rate have voluntarily agreed to it. Second, SPP is

⁸⁴ *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (when determining whether a proposed rate was just and reasonable, the Commission properly did not consider "whether a proposed rate schedule is more or less reasonable than alternative rate designs"); *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 21 (2009) (finding that, because the Commission found the proposal to be just and reasonable, it need not assess the justness and reasonableness of an alternative proposal).

⁸⁵ See Ex. SPP-0012.

a non-profit entity that does not have an incentive to inflate the costs included in its administrative rate.⁸⁶ Finally, we note that the WMEC, which is the governing body for the WEIS Market, will have an advisory function with respect to the development of the WEIS Rate each year. As discussed below, we find that the WMEC will provide transparency to interested parties regarding the calculation of that rate.

3. Governance

a. SPP's Filing

52. SPP states that the governance structure and procedures of the WEIS Market are set forth in the WMEC Charter, which SPP filed as a rate schedule to the WEIS Tariff. SPP proposes that the WMEC will have the authority to approve or reject amendments to the WEIS Tariff, approve or reject WEIS market rules, recommend amendments to the WJDA, and consult with SPP regarding WEIS Tariff amendments and the administrative rate charged to WEIS Participants.⁸⁷

53. Each WEIS Participant (inclusive of affiliates) has one representative on the WMEC.⁸⁸ Each representative has one vote, and resolutions will generally be approved if they receive both (1) an affirmative vote of at least 75% with the WMEC representative votes weighted by the total net energy for load of WEIS Participants; and (2) an affirmative vote of at least 75% of WMEC representatives. SPP refers to this as a “House and Senate” style approach.⁸⁹ The WMEC will officially meet at minimum biannually, and the meetings will be noticed and open to stakeholders and the public.⁹⁰

54. SPP explains that stakeholder participation is a feature of the governance of the WEIS Market. The WMEC Charter provides that meetings are open to all interested

⁸⁶ SPP Articles of Incorporation at 1-2 (Jan. 1, 1994), https://www.spp.org/documents/4233/spp_articles%20of_incorporation.pdf (forming SPP as a non-profit corporation and providing that “[n]o part of the net income of [SPP] shall inure to the benefit of or be distributable to any member, director, officer, or any other interested private person”).

⁸⁷ SPP Transmittal at 23.

⁸⁸ WMEC Charter, Representation.

⁸⁹ WMEC Charter, Voting Structure.

⁹⁰ WMEC Charter, Meetings & Meeting Schedule. Portions of the WMEC meetings may be limited in attendance for confidentiality purposes with an affirmative vote of the WMEC.

stakeholders and that any state with generation or load participating in the WEIS Market may have a state liaison from its regulatory commission serve in an advisory role.⁹¹ The WMEC may also establish working groups and committees comprising diverse participants.⁹² SPP further states that there is a WEIS Revision Request process for changes to the proposed WEIS Tariff and the WEIS market protocols. Entities that may submit a Revision Request are: (1) any WJDA signatory; (2) any staff member of a governmental authority having jurisdiction over the WEIS Market or any WEIS Participant; (3) SPP staff; (4) any rostered individual of an official WMEC organizational group; (5) any entity designated by a qualified entity to submit a Revision Request “on their behalf”; (6) a WEIS Participant; (7) SPP Western Transmission Customers or other entities that are parties to transactions under the WEIS Tariff; and (8) the SPP MMU. SPP notes that this will allow any interested party to meaningfully participate in the governance of the WEIS Market.⁹³

b. Comments and Protests

55. Deseret and WAPA support the WEIS Market governance structure.⁹⁴ WAPA argues that the governance structure is broadly inclusive and is consistent with the public power governance of many of WAPA’s customers.

56. Black Hills/Cheyenne Light assert that even though non-participants will pay the costs of the WEIS Market (due to the pass-through of costs through their BAs), they will not be able to propose changes to the WEIS Tariff or market protocols, and will not be able to vote on proposals. Black Hills/Cheyenne Light also contend that the WMEC voting structure is unduly discriminatory because, in the “Senate” portion of WMEC voting, WAPA entities will get one vote each while public utilities with multiple affiliates get only one vote total. Black Hills/Cheyenne Light state that SPP has not explained why WAPA should be excluded from affiliate restrictions placed on other entities.⁹⁵

57. Public Interest Organizations contend that the governance structure of the WEIS Market is deficient. Public Interest Organizations argue that the WMEC Charter limits representation and voting to WEIS Participants and should be amended to include

⁹¹ WMEC Charter, Meetings & Meeting Schedules, Reporting; SPP Transmittal at 23.

⁹² WMEC Charter, Working Groups & Committees Reporting to the WMEC.

⁹³ SPP Transmittal at 24.

⁹⁴ Deseret Protest at 8.

⁹⁵ Black Hills/Cheyenne Light Protest at 40-42.

representation by entities that have no direct financial interest in the operation of the WEIS Market.⁹⁶ Public Interest Organizations further argue that there should be a framework for public interest advocates and other stakeholders to participate in an advisory capacity in stakeholder groups or on task forces. Public Interest Organizations state that public interest organizations play a role in the Western EIM's Governance Review Committee, but note that SPP offers no such representation.⁹⁷ Public Interest Organizations also contend that the revised WEIS Market proposal lacks sufficient formal participation opportunities for states, and notes that the liaison framework proposed by SPP will leave states challenged to take collective positions on ongoing WEIS issues.⁹⁸

58. Public Interest Organizations further state that the WEIS Market proposal is unclear on what entities are allowed to appeal WMEC decisions to the SPP Board of Directors.⁹⁹ Public Interest Organizations further argue that the proposal is unclear on whether WEIS meetings will be open or closed to the public, and argue that the Commission should require SPP to provide such information and explain the rationale for why a meeting should be closed.¹⁰⁰

59. Public Interest Organizations assert that the shortcomings of SPP's proposed solution to the non-participating transmission issue illustrates the importance of a governance structure that considers the views of all affected stakeholders.¹⁰¹

c. Answers

60. SPP contends that the proposed governance structure is just and reasonable, noting that it is similar to the one the Commission has accepted to oversee SPP's RTO function.¹⁰² Specifically, SPP contends that the WMEC is similar in design and purpose to SPP's Markets and Operations Policy Committee, and notes that meetings are publicly noticed and open to participation by all stakeholders with an interest in the WEIS

⁹⁶ Public Interest Organizations Protest at 3-4.

⁹⁷ *Id.* at 5-6.

⁹⁸ *Id.* at 7-8.

⁹⁹ *Id.* at 4-5.

¹⁰⁰ *Id.* at 7.

¹⁰¹ *Id.* at 11-12.

¹⁰² SPP Answer at 28.

Market.¹⁰³ SPP argues that the WEIS Market's governance structure provides robust opportunities for stakeholder input and the oversight of an independent board of directors, meeting the Commission's expectations for a regional market, and that not being the same as the Western EIM's governance structure does not make it unjust and unreasonable.¹⁰⁴

61. SPP notes that its Board of Directors meetings are open to all and any interested party is free to address the Board of Directors on issues related to the WEIS Market. Similarly, SPP notes that any entity may appeal a WMEC decision to the Board of Directors, regardless of whether they are a market participant.¹⁰⁵ Regarding the makeup of WJDA signatories, SPP notes that it is subject to change as more entities may sign on as the market develops.¹⁰⁶ Regardless, SPP contends that the current makeup of WJDA signatories is not determinative of whether the structure of the WMEC is just and reasonable.¹⁰⁷ SPP contends that the House and Senate structure serves as a safeguard for independence from any one market participant, ensures fair representation for smaller market participants, and received unanimous support from WJDA signatories.¹⁰⁸ Regarding the "House" side, which is based on net energy for load, SPP notes that BA operators are responsible for the administrative costs and the settlement of energy imbalance for non-participating load and generation within their metered boundaries.¹⁰⁹ SPP notes that Black Hills/Cheyenne Light or any other entity may execute the WJDA and become a full voting WEIS Participant, and that if Black Hills/Cheyenne Light were to do so, the net energy for load of WACM would be reduced to coincide with the financial responsibility shifted to Black Hills/Cheyenne Light under the WEIS Tariff.¹¹⁰ Finally, SPP notes that the parties to the WJDA agreed that WAPA Colorado River Storage Project, WAPA Rocky Mountain Region, and WAPA Upper Great Plains each

¹⁰³ *Id.* at 32.

¹⁰⁴ *Id.* at 29-30.

¹⁰⁵ *Id.* at 31.

¹⁰⁶ *Id.* at 32.

¹⁰⁷ *Id.* at 33-34.

¹⁰⁸ *Id.* at 32-33.

¹⁰⁹ *Id.* at 34-35.

¹¹⁰ *Id.* at 35.

should have one vote, recognizing the distinct and far-reaching geographic scope and unique customer base of each of them.¹¹¹

62. SPP argues that there is nothing unreasonable about limiting representation and voting to WJDA signatories. SPP notes these are the entities that have agreed to abide by the decisions of the WMEC and be responsible for their share of costs and fees, and further contends this is how voting works in RTOs like SPP.¹¹² SPP argues that granting such rights to non-signatories would unreasonably dilute the rights of WEIS Participants that have agreed to participate in the market and be subject to its costs.¹¹³ SPP does note, however, that the Revision Request process is open to a broad array of stakeholders, and that any interested entity may submit comments on any Revision Request to be considered by the WMEC.¹¹⁴

63. SPP similarly argues that the advisory role the proposal affords to state commissions is consistent with past Commission precedent and the role state commissions have played in other regional markets.¹¹⁵ SPP further contends that allowing state commissions to decide for themselves how best to organize will allow them the opportunity to ensure that the diverse interests of all participating states can be fully recognized.¹¹⁶

64. SPP confirms that representatives named to working groups and task forces must be representatives of WEIS Participants, but that non-participants are welcome to attend meetings and express concerns or positions at any time.¹¹⁷ SPP further clarifies that stakeholder group meetings will be closed when confidentiality is required, but will otherwise be open, similar to the SPP RTO's approach to holding meetings.¹¹⁸

¹¹¹ *Id.* at 35-36.

¹¹² *Id.* at 36.

¹¹³ *Id.* at 37-38.

¹¹⁴ *Id.* at 38.

¹¹⁵ *Id.* at 38-39 nn.87-88.

¹¹⁶ *Id.* at 39-40.

¹¹⁷ *Id.* at 40-41.

¹¹⁸ *Id.* at 41.

65. In response to SPP's argument that non-participants should not have a WMEC vote, Black Hills/Cheyenne Light assert that they will pay disproportionately more than WEIS Participants for the implementation of the WEIS Market given that, they claim, WAPA will charge Black Hills/Cheyenne Light and other non-participants a WAPA-specific administrative fee while it is unclear if WEIS Participants will pay the same fee. Black Hills/Cheyenne Light state that they will be asked to pay a WAPA-specific administrative fee of more than \$800,000 in the first year. Black Hills/Cheyenne Light argue that they should be either allocated a vote or should not be required to indirectly pay to administer the market.¹¹⁹

d. Commission Determination

66. We find that SPP has provided adequate support for the proposed governance structure of the WEIS Market and therefore accept the governance structure and the WMEC Charter as just and reasonable. We agree with SPP that limiting voting rights to WJDA signatories is reasonable because only WJDA signatories have made a financial commitment to the WEIS Market. We note that any party may execute a WJDA with SPP to receive voting rights on the WMEC.

67. We further find that SPP has provided avenues for stakeholders who are not WJDA signatories to participate in open meetings and in the Revision Request process, thereby allowing stakeholders without voting rights to provide feedback and proposals to the WMEC for consideration. We find that the WMEC Charter permits stakeholders to appeal to the independent SPP Board of Directors on matters regarding the WEIS Market¹²⁰ and disagree with commenters' assertions that it is unclear whether meetings will or will not be open to the public.¹²¹ The WMEC Charter is explicit in delineating that only portions of meetings voted as having a need for confidentiality by the WMEC

¹¹⁹ Black Hills/Cheyenne Light Answer at 13-14.

¹²⁰ The WMEC Charter states that "[a]ny action, or inaction, taken by the WMEC may be brought before the SPP Board of Directors for ultimate resolution." WMEC Charter, Reporting. This provision places no limitation on the entities that may bring matters before the SPP Board of Directors.

¹²¹ WMEC Charter, Meetings & Meeting Schedule ("Meetings of the WMEC are open to all interested parties . . .")

will be closed to the public,¹²² and we find this to be an acceptable provision in the WMEC Charter.

68. We disagree with Black Hills/Cheyenne Light's argument that they should be given WMEC voting rights if they are required to pay an administrative fee through WAPA. We find it reasonable to limit WEIS Market voting rights to WEIS Participants and to not provide voting rights to non-participants. With regard to whether it is reasonable for WAPA to assess an administrative fee to Black Hills/Cheyenne Light through other agreements that are not before the Commission in the instant proceedings, we find the issue beyond the scope of these proceedings.

4. Market Power and Market Power Mitigation

a. SPP's Filing

69. In response to the Commission's guidance in the July Order,¹²³ SPP's revised WEIS Market proposal removes the automatic increases in mitigation thresholds that were included in the original WEIS Market proposal. SPP explains that under the proposed WEIS Tariff the SPP MMU will evaluate the various mitigation thresholds over time and if the SPP MMU determines a change to a threshold is required, SPP will make a filing with the Commission to implement the change.¹²⁴ Furthermore, SPP includes provisions to implement market power mitigation to resources with local and structural system-wide market power based on the recommendations from the SPP MMU's Market Power Study. The proposed WEIS Tariff contains the conditions for determining local market power through the local market power test, including establishment of frequently constrained areas and the pivotal supplier test.¹²⁵ In its Market Power Study, the SPP MMU found that a single supplier could possess structural market power at the system level in the proposed WEIS Market.¹²⁶ The proposed WEIS Tariff also includes an assessment of structural market power at the system level and has provisions to mitigate energy offers when a resource has system-level structural market power and has an energy offer curve that exceeds the conduct test threshold, and fails the impact test for

¹²² *Id.* ("However, the WMEC may limit attendance during specific portions of a meeting by an affirmative vote of the WMEC in order to discuss issues that require confidentiality.").

¹²³ July Order, 172 FERC ¶ 61,115 at P 66.

¹²⁴ Ex. SPP-0001 at 26.

¹²⁵ Proposed WEIS Tariff, Attach. B, § 3.1.

¹²⁶ Ex. SPP-0014 at 4.

that market interval.¹²⁷ SPP states that the MMU supports the proposed market monitoring provisions.¹²⁸

b. Comments and Protests

70. Deseret contends that acceptance of SPP's proposal should be conditioned on further analysis and that a BA-wide weighted LMP mechanism should be used for a transitional period prior to full adoption of LMP.¹²⁹ Deseret states that it is concerned that its loads face a risk of experiencing price excursions at its designated LMP node.¹³⁰ Deseret points to its experience with the Western EIM to support its concerns and argues that SPP cannot assure any market participant that price excursions will not occur.¹³¹ Deseret contends that caution is also warranted because the SPP MMU has not completed a robust analysis of the supply and demand conditions of the subregions of the WEIS Market footprint.¹³² Deseret points to no frequently constrained areas being designated so far and the lack of hedging features found in other RTO markets as further reasons for caution.¹³³

71. Platte River states that the Market Power Study's proposed solutions are flawed and inadequate to address high market concentration and pivotal supply market power in the WEIS Market. Platte River contends that the Commission should direct the SPP MMU to supplement the Market Power Study to: (1) determine market concentration and pivotal supplier analysis treating WAPA's separate entities, the Colorado River Storage Project and Loveland Area Projects, as a single market participant; (2) determine the sufficiency of available transmission offerings to mitigate barriers to entry; (3) identify and examine alternative remedies to market power issues; (4) explain the

¹²⁷ Ex. SPP-0013 at 14.

¹²⁸ SPP Transmittal at 55.

¹²⁹ Deseret Protest at 15-16.

¹³⁰ *Id.* at 8-11 (noting it has no resources within the two participating BAs).

¹³¹ *Id.* at 11-13 (citing *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014), *reh'g dismissed*, 152 FERC ¶ 61,087 (2015)).

¹³² *Id.* at 13-14.

¹³³ *Id.* at 14-15.

meaning of cost-based offers in a market dominated by hydropower; and (5) provide a sound rationale including quantitative support for the proposed remedy.¹³⁴

c. Answers

72. In response to Platte River's argument that the Commission should direct the SPP MMU to supplement the Market Power Study to determine market concentration and pivotal supplier analysis by treating WAPA's Colorado River Storage Project and Loveland Area Projects operating units as a single participant, the SPP MMU argues that the Market Power Study already includes this analysis with sufficient information to determine the resulting change in Herfindahl-Hirschman Index (HHI), the market concentration metric.¹³⁵ Furthermore, the SPP MMU argues that even if WAPA Colorado River Storage Project and Loveland Area Projects were to act in a collusive manner, that behavior is still prohibited as WAPA has an obligation to abide by the market rules.¹³⁶ The SPP MMU further notes that the results of the concentration analysis under which WAPA's Colorado River Storage Project and Loveland Area Projects were treated individually already demonstrated high concentration of market power, and any other aggregation of the entities would simply increase the level of concentration determined by the Market Power Study.¹³⁷ The SPP MMU asserts that it already conducted the analysis requested by Platte River, and that the analysis went further than what Platte River requested, in that it included the supply provided by the third WAPA entity—Upper Great Plains—that Platte did not include in its description of WAPA.¹³⁸ The SPP MMU states that even without aggregating WAPA's Colorado River Storage Project and Loveland Area Projects, HHI values are significantly above the 1,800 HHI level, considered "highly concentrated," and aggregating these entities does not change the presumption of system-level market power.¹³⁹

73. In regard to vertical market power, the SPP MMU states that because the WEIS Market design is not a standard RTO/independent system operator (ISO) design, and the WJDA does not amount to an open access transmission tariff (OATT), the SPP MMU is not in a position to conclusively determine if the individual participants' OATTs on file

¹³⁴ Platte River Protest at 10-15.

¹³⁵ SPP MMU Answer at 2-3.

¹³⁶ *Id.* at 3, 5-6.

¹³⁷ *Id.* at 3.

¹³⁸ *Id.* at 3-4.

¹³⁹ *Id.* at 5.

with the Commission satisfy the minimum terms and conditions of Order Nos. 888 and 890. Therefore, the SPP MMU states that it defers to the Commission to determine if market participants have vertical market power in the WEIS Market.¹⁴⁰

74. In response to Platte River's argument that the Commission should direct the SPP MMU to supplement its Market Power Study to determine the sufficiency of available transmission offerings to mitigate barriers to entry, the SPP MMU clarifies that the transmission function is not subject to offer or bid behavior; instead, transmission reference levels, such as available capacity, are subject to monitoring by the SPP MMU.¹⁴¹ In response to Platte River's concerns regarding the SPP MMU's assessment of barriers to entry, the SPP MMU states that it fully addressed the barriers to entry and exit issues by assessing ownership or control of inputs to electric power production, such as intrastate natural gas transportation, storage or distribution facilities, the balancing of energy function by two WAPA BA entities as one essential input in the production of the relevant products, the exit fee proposed by the WEIS Tariff, sites for generation capacity development, control of hydroelectric resources, coal supplies and the transportation of coal supplies.¹⁴²

75. The SPP MMU disagrees with the various remedies to high market concentration and screen failures as advocated by Platte River, arguing that restructuring or divestiture are matters of legislative action and are outside the scope of the SPP MMU's Market Power Study and are topics for the Commission to consider.¹⁴³ Furthermore, the SPP MMU asserts that Platte River's argument that the Market Power Study does not provide sufficient information to assess the adequacy of proposed mitigation is misleading because: (1) ISO New England Inc.'s existing system level structural mitigation tariff provisions employ a system level pivotal supplier analysis that specifically targets identifying the system level pivotal suppliers and their available supply;¹⁴⁴ (2) relinquishing operational control over generation is not under the purview of the SPP MMU or the subject of competitive wholesale market design under the proposed WEIS

¹⁴⁰ *Id.* at 9.

¹⁴¹ *Id.* at 6.

¹⁴² *Id.* at 9.

¹⁴³ *Id.* at 10.

¹⁴⁴ In its Market Power Study, the SPP MMU recommended that SPP develop a system-wide market power mitigation measure, and noted one developed by ISO-NE Market Power Study, Ex. SPP-0014 at 6. Platte River notes the SPP MMU's recommendation but claims that the Market Power Study falls short of solving the market power issue presented. Platte River Protest at 13.

Tariff; (3) the SPP MMU recommended the use of cost-based offers if a system-level market power mitigation measure cannot be implemented for the start of market operations; and (4) the WEIS Market is a new construct and the SPP MMU will recommend necessary market mitigation measures as experience is gained in the market.¹⁴⁵

76. With regard to hydroelectric resources, the SPP MMU argues that hydroelectric resources' large share in the market would not automatically translate to local market domination, as Platte River suggests, because competitive markets clear at the nodal level.¹⁴⁶ The SPP MMU states that hydroelectric resources already exist in Commission-jurisdictional markets, and Platte River is already subject to imbalance pricing in areas dominated by hydroelectric resources.¹⁴⁷ SPP states that to the extent that Platte River seeks the formulaic prescription of opportunity cost calculations for hydroelectric resources, the SPP MMU proposes that market participants determine methodologies for opportunity cost calculation, subject to the SPP MMU's review and approval, as they are best situated to conduct these assessments.¹⁴⁸ Furthermore, the SPP MMU states that the answer to Platte River's questions regarding hydroelectric cost-based offers can be found in the market protocols based on marginal cost pricing principles.¹⁴⁹

77. In response to Deseret's comments regarding frequently constrained areas, the SPP MMU states that while there are no frequently constrained areas included in the testing during market trials, other mitigation measures are in place as part of the WEIS Market design to mitigate for the presence of local and system-wide structural market power.¹⁵⁰ The SPP MMU states that under the WEIS Tariff, it is obligated to recommend the frequently constrained areas prior to the start of the WEIS Market, and any resource identified in a frequently constrained area will be subject to the defined threshold.¹⁵¹

¹⁴⁵ SPP MMU Answer at 11.

¹⁴⁶ *Id.* at 11-12.

¹⁴⁷ *Id.* at 13-14.

¹⁴⁸ *Id.* at 14-15.

¹⁴⁹ *Id.* at 16.

¹⁵⁰ *Id.* at 21.

¹⁵¹ *Id.* at 22.

Furthermore, the SPP MMU states that it is required to assess frequently constrained areas annually and may perform these assessments more frequently if necessary.¹⁵²

78. The SPP MMU states that it reviewed Deseret's weighted average LMP pricing proposal and clarifies that nodal LMP is not a regulatory rate design mechanism but rather a pricing scheme.¹⁵³ Furthermore, the SPP MMU argues that nodal LMP pricing is accepted by the marketplace and regulatory authorities as the best pricing to achieve competitive outcomes and represents the best pricing solution for consumers, with any deviation from nodal LMP resulting in impermissible distortions.¹⁵⁴ Finally, the SPP MMU states that the weighted average pricing scheme did not receive support from any market participant other than Deseret.¹⁵⁵

79. In its clarification to its answer, the SPP MMU states that the situation postulated by Platte River—wherein WAPA Colorado River Storage Project and Loveland Area Projects act as an aggregate entity—is an accurate reflection of their current registration status. However, the SPP MMU asserts that Colorado River Storage Project and Loveland Area Projects acting as one entity does not alter the Market Power Study's conclusions and fundamental implications for the levels of structural market power observed or the proposed remedies.¹⁵⁶

d. Commission Determination

80. We find that the proposed WEIS Market mitigation plan is just and reasonable, addresses the major market power issues identified by the SPP MMU's Market Power Study, and adequately responds to the Commission's guidance in the July Order. We find that the market mitigation provisions in the WEIS Market proposal are largely structured like those in SPP's Integrated Marketplace but with additional measures, including a more stringent set of mitigation thresholds and a provision to address structural system-wide market power.¹⁵⁷ More stringent mitigation thresholds are

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 23.

¹⁵⁵ *Id.*

¹⁵⁶ SPP MMU Clarification at 2-3.

¹⁵⁷ For instance, the threshold below which an Energy Offer Curve will not be subject to mitigation measures for economic withholding will be \$5/MWh as opposed to \$25/MWh in the SPP Integrated Marketplace. In the frequently constrained areas, the conduct thresholds in the WEIS Market and the SPP Integrated Marketplace are 0% and

appropriate for the WEIS Market because it is a smaller, more concentrated market with fewer participants and, therefore, a greater potential for the exercise of market power exists compared to SPP's Integrated Marketplace, which is a larger market with more participants.

81. Regarding the Commission's guidance in the July Order that SPP should either remove or justify the automatic increases to the mitigation thresholds,¹⁵⁸ SPP's proposed WEIS Tariff no longer includes automatic increases. Instead, SPP and the SPP MMU will evaluate the mitigation thresholds over time, and SPP will file with the Commission to implement changes as needed. We find that this approach is just and reasonable and addresses the Commission's concern in the July Order regarding automatic increases of mitigation thresholds.

82. We find that the additional mitigation measures recommended by Platte River are not necessary. Further, we do not agree with Platte River's recommendation that SPP should clarify the meaning of cost-based offers given the high share of hydro resources because the cost-based offer does not depend on resource type. Additionally, we find that the SPP MMU provided sufficient justification for its proposed mechanisms for market mitigation at both local and system-wide levels. Finally, we find that the SPP MMU's Market Power Study adequately addresses high market concentration and pivotal supply market power in the proposed WEIS Market.

83. Regarding Deseret's concern about the lack of identified frequently constrained areas and the resulting price excursions that could pose risk to load-serving entities, we find that the other proposed market provisions that address system-level structural market power and conduct thresholds for non-frequently constrained areas address the potential risks associated with the lack of identified frequently constrained areas. Furthermore, the SPP MMU is obligated to recommend frequently constrained areas prior to the start of the WEIS Market.¹⁵⁹

84. We disagree with Deseret's recommendation to implement a BA-wide weighted average LMP mechanism during a transitional period. Similar to the SPP MMU, we find that nodal LMP as a pricing mechanism is intended to achieve competitive outcomes and represents a solution for maximizing both productive and allocative efficiency for

17.5% above the mitigated Energy Offer Curve, respectively. In the non-frequently constrained areas, the conduct threshold is 15% in the WEIS Market whereas the conduct threshold is 25% in the SPP Integrated Marketplace.

¹⁵⁸ July Order, 172 FERC ¶ 61,115 at P 66.

¹⁵⁹ Proposed WEIS Tariff, Attach. B, § 3.1.1.2.

consumers; therefore, we agree with SPP that averaging LMPs would distort price signals and lead to less efficient outcomes.¹⁶⁰

5. Marginal Losses

a. SPP's Filing

85. As suggested by the Commission in its July Order,¹⁶¹ SPP proposes to add a marginal loss component to its LMP and incorporate marginal losses in the dispatch algorithm used in its SCED.¹⁶² SPP explains that the inclusion of marginal losses in LMP improves efficiency in the dispatch of imbalance energy in the WEIS Market. However, SPP states that incorporation of marginal losses may lead to overcollection of revenue associated with losses. SPP thus proposes to adjust the final quantity of imbalance energy at each load settlement location by a loss adjustment factor. SPP explains that the loss adjustment factor removes the marginal losses calculated in the market clearing engine associated with the metered losses at each load settlement location.¹⁶³

b. Comments and Protests

86. Black Hills/Cheyenne Light contend that SPP has not explained whether transactions that sink on the Black Hills/Cheyenne Light systems will be double counted under SPP's marginal loss proposal given that, pursuant to their OATTs, Black Hills/Cheyenne Light charge for losses in conjunction with the use of their systems. Additionally, Black Hills/Cheyenne Light state that the WACM construct of charging for losses on all transactions in the WACM footprint is contrary to the *pro forma* OATT, the Black Hills/Cheyenne Light OATTs, and could inappropriately compound losses. Black Hills/Cheyenne Light argue that it is unclear how the WACM construct will coordinate with the SPP marginal loss rate or whether it will result in overcollection of losses.¹⁶⁴

¹⁶⁰ SPP Answer at 59.

¹⁶¹ July Order, 172 FERC ¶ 61,115 at P 62.

¹⁶² Ex. SPP-0001 at 5; Proposed WEIS Tariff, Attach. A, § 4.4.

¹⁶³ Ex. SPP-0001 at 5; Proposed WEIS Tariff, Attach. A, § 5.1.

¹⁶⁴ Black Hills/Cheyenne Light Protest at 37-38.

c. Answers

87. SPP argues that it has complied with the Commission's guidance in the July Order to incorporate marginal losses for the purposes of dispatch and LMP. SPP contends that assessing how the numerous transmission providers in the region treat losses is beyond the scope of these proceedings. SPP further asserts that should a transmission provider determine that modifications to the treatment of losses are appropriate, nothing in the WEIS Market proposal prevents parties from proposing or making modifications to their respective OATTs.¹⁶⁵

88. Black Hills/Cheyenne Light argue that merely including marginal losses in the LMP per the Commission's suggestion in the July Order is not sufficient, as SPP must justify how its proposal will function in practice, particularly given that transmission providers in the proposed WEIS Market footprint use a variety of loss methodologies already. Black Hills/Cheyenne Light further argue that the implications of whether entities need to revise their existing OATTs should be evaluated in this docket and that SPP is assuming others will determine what they need to modify in order to accommodate SPP and the WEIS Market. Black Hills/Cheyenne Light state that SPP now incorrectly presumes that the obligation to ensure that the WEIS Market respects non-participants' losses methodology rests with those non-participants. Black Hills/Cheyenne Light state that WAPA's recent rate schedule brochure reveals that WAPA seeks to apply postage stamp losses for the entire BA, including the non-participants, and that it is unclear how they will remain in compliance with their filed rate without clarification on how various loss methodologies are supposed to interact.¹⁶⁶

d. Commission Determination

89. We find that SPP's proposal to include marginal losses in dispatch and LMP is just and reasonable and adequately responds to the Commission's guidance in the July Order. The use of marginal losses is necessary to ensure least-cost dispatch¹⁶⁷ and will minimize imbalance costs, provide prices that accurately reflect marginal costs, and preserve resources' incentives to follow dispatch. Additionally, we find that SPP's proposal to adjust the final quantity of imbalance energy at each load settlement location by a loss adjustment factor is just and reasonable. The loss adjustment factor lessens the potential for overcollection of revenue resulting from the marginal loss calculation to load.

¹⁶⁵ SPP Answer at 58.

¹⁶⁶ Black Hills/Cheyenne Light Answer at 17-18.

¹⁶⁷ *Cal. Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,140, at P 77 (2003).

90. We are not persuaded by Black Hills/Cheyenne Light's argument that SPP should be required to explain how its use of marginal losses will not result in overcounting losses on non-participants' transmission systems. We find that Black Hills/Cheyenne Light's arguments that jurisdictional entities may need to change their OATTs in response to SPP's proposal to calculate marginal losses are vague and speculative. Black Hills/Cheyenne Light's specific contention, that WAPA's proposed rate brochure may cause it to violate its OATT, is particular to its status as a non-participating entity. Black Hills/Cheyenne Light's broader concerns that the interaction between SPP's proposed application of marginal losses might require modification of preexisting OATTs by other transmission providers merely references the fact that there are various loss methodologies currently employed within the WEIS Market footprint without further explanation. As Black Hills/Cheyenne Light note, losses incurred by them related to the WEIS Market are addressed through their BA agreements, and those agreements are not before the Commission in this proceeding.

6. Supply Adequacy

91. In the July Order, the Commission observed that "it is not clear how the proposed construct will properly incentivize market participants to maintain supply adequacy and not lean on other market participants" and stated that SPP should consider adding a mechanism that would ensure that market participants were incentivized to maintain supply adequacy in any future proposal.¹⁶⁸

a. SPP's Filing

92. SPP states that when a participating BA is identified as being supply deficient, the SCED will activate an operating constraint to limit the economic delivery of imbalance energy to the deficient BA from other participating BAs until the deficiency is resolved.¹⁶⁹ Furthermore, SPP asserts that market participants failing to remain supply adequate could result in the BAA being energy obligation deficient, thereby exposing supply inadequate market participants to higher LMPs resulting from the activation of the operating constraint.¹⁷⁰ SPP clarifies that market participants that are supply adequate would remain hedged against the higher LMPs and potentially receive increased revenues

¹⁶⁸ July Order, 172 FERC ¶ 61,115 at PP 59-60.

¹⁶⁹ SPP Transmittal at 15-16.

¹⁷⁰ *Id.* at 15.

for their excess supply.¹⁷¹ Finally, SPP states that the SPP MMU will notify the Commission's Office of Enforcement of suspected physical withholding behavior.¹⁷²

b. Comments and Protests

93. Black Hills/Cheyenne Light state that SPP's proposal does not incentivize market participants to be supply adequate, but instead focuses on whether the BA is supply adequate, and argue that a market participant has no real incentive to become supply adequate if others in the BAA are routinely long. Black Hills/Cheyenne Light also contend that two market participants, one long and one short, could exploit SPP's proposed construct by intentionally entering into the operating hour long and short, respectively, thereby avoiding the need for a bilateral transaction prior to the operating hour. Black Hills/Cheyenne Light assert that SPP's proposal to activate an operating constraint until a deficiency is resolved will exacerbate problems because entities could be subject to higher LMPs caused by another resource in the BAA.¹⁷³

94. Platte River contends that SPP's proposal still lacks proper incentives for market participants to maintain supply adequacy and argues that SPP would vest in WAPA as BA the responsibility to address identified supply adequacy concerns.¹⁷⁴ Furthermore, Platte River argues that the Commission should require SPP to include a mechanism that directly incentivizes market participants to maintain supply adequacy.¹⁷⁵

95. In its comments, MEAN notes that SPP's filing states that SPP does not have authority for unit commitment decisions or long-term resource adequacy within the WEIS and that participating BAs retain that responsibility. Accordingly, MEAN states that it will pursue provisions with WAPA to implement supply adequacy deficient penalties at the BA customer level rather than at the BA level.¹⁷⁶

¹⁷¹ *Id.*

¹⁷² *Id.* at 16.

¹⁷³ Black Hills/Cheyenne Light Protest at 38-40.

¹⁷⁴ Platte River Protest at 15.

¹⁷⁵ *Id.* at 16.

¹⁷⁶ MEAN Comments at 3.

c. Answers

96. In response to the protests raised by Black Hills/Cheyenne Light and Platte River, SPP argues that its proposal is directly responsive to the Commission's recommendation in the July Order and adequately incentivizes individual market participants to be supply adequate while simultaneously disincentivizing supply inadequacy.¹⁷⁷ Specifically, SPP argues that the activation of a constraint exposes market participants that are not supply adequate to higher LMPs, while those that are supply adequate can avoid purchasing imbalance energy.¹⁷⁸ SPP notes that, under its proposal, a market participant that is supply adequate in a supply inadequate BAA has the potential to increase revenues by selling power at a higher margin. Conversely, a supply inadequate market participant will forego the opportunity to obtain these higher revenues and may face higher costs due to higher prices on the energy they purchase.¹⁷⁹ SPP states that BAs will have information about which entities are and are not supply adequate, and will take steps to address inadequacies in their footprints.¹⁸⁰ SPP further notes that the SPP MMU will have access to the same information and will proactively address patterns of inadequacies that it feels warrant discussion.¹⁸¹

d. Commission Determination

97. We find that SPP's proposal to activate constraints to incentivize supply adequacy and prevent market participants from leaning on others is just and reasonable and adequately responds to the Commission's guidance in the July Order.

98. We note that in the Western EIM, CAISO incentivizes entities to maintain supply adequacy by limiting the imbalance imports of Western EIM entities that fail a resource sufficiency test.¹⁸² By initiating a constraint in order to subject supply inadequate market participants in supply inadequate participating BAs to higher LMPs, SPP's proposal serves as a form of incentive for market participants to maintain supply adequacy, similar to strategies implemented by the Western EIM.

¹⁷⁷ SPP Answer at 24.

¹⁷⁸ *Id.* at 27.

¹⁷⁹ *Id.* at 25.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 25, 27-28.

¹⁸² CAISO Tariff, § 29.34(n)(1) (13.0.0).

99. Commenters contend that SPP's proposal does not adequately impose consequences on the market participants that are supply inadequate in a supply adequate BA. We disagree. Although the proposed provisions do not directly penalize market participants for being short in an interval when the BA as a whole is supply adequate, these provisions do ensure that market participants that remain short always face the risk of higher LMPs. In addition, to the extent that market participants are consistently short due to physical withholding, they face potential referral to the Commission's Office of Enforcement if the SPP MMU suspects physical withholding behavior based on credible evidence.¹⁸³

100. In response to Black Hills/Cheyenne Light's concerns that supply adequate market participants may be exposed to higher LMPs, we note that market participants that are supply adequate have the opportunity to avoid purchasing imbalance energy and thus not be exposed to the higher LMPs.

7. Transmission Use and Seams

101. In rejecting SPP's initial WEIS Market proposal, the Commission determined that intentionally using the transmission capacity of non-participating entities that have not elected to provide Joint Dispatch Transmission Service¹⁸⁴ or made other arrangements to provide transmission service in the WEIS Market would be inconsistent with the requirements of the *pro forma* OATT and Order Nos. 890 and 890-A.¹⁸⁵ The Commission provided guidance to SPP that any future proposal for the WEIS Market should include the mechanisms or agreements that will ensure that the WEIS Market respects the transmission capacity of non-participating entities with appropriate constraints in the SCED.¹⁸⁶

a. SPP's Filing

102. SPP proposes to restrict its SCED market model to use only the transmission capacity of, and that is explicitly communicated by, market participants, Joint Dispatch

¹⁸³ SPP Transmittal at 16; SPP Answer at 27-28.

¹⁸⁴ Under the WEIS Tariff, Joint Dispatch Transmission Service is non-firm, as-available, intra-hour transmission service, over the facilities of market participants providing Joint Dispatch Transmission Service. Proposed WEIS Tariff, § 1 (J - Definitions).

¹⁸⁵ July Order, 172 FERC ¶ 61,115 at P 40.

¹⁸⁶ *Id.* P 42.

Transmission Service providers, and participating BAs.¹⁸⁷ The proposed WEIS Tariff specifies that SPP will create and maintain constraints in the SCED based on this transmission capacity.¹⁸⁸ The proposed WEIS Tariff provides that SPP will continuously activate constraints in the SCED and update them as soon as practicable when it receives information regarding changes to the transmission capacity available for use in the WEIS Market. SPP will maintain a list of the constraints activated in the SCED on its public website.¹⁸⁹

103. Under the proposal, SPP will require market participants to communicate to SPP, through their participating BA, their: (1) reserved but unused and otherwise available rights to transmission capacity located within a participating BAA and on facilities used to transfer energy between participating BAAs; and (2) rights to transmission capacity under agreements that permit the use of another party's transmission facilities within a participating BAA or facilities used to transfer energy between participating BAAs.¹⁹⁰ The proposed WEIS Tariff requires Joint Dispatch Transmission Service providers to communicate to SPP, through their participating BA, transmission capacity that has been made available to market participants as Joint Dispatch Transmission Service on facilities within the participating BAA or facilities used to transfer energy between participating BAAs.¹⁹¹ Participating BAs will communicate this transmission information to SPP, in addition to communicating transmission capacity under agreements that permit the BA's use of another party's transmission system within a participating BAA or on facilities used to transfer energy between participating BAs.¹⁹² SPP explains that its proposal does not require non-participating entities to opt out or to justify or explain why their transmission rights should not be used by the WEIS Market, and states that the WEIS Market SCED is not dependent on any non-participating entity's transmission rights.¹⁹³

104. SPP states that it is committed to facilitating ongoing conversations with stakeholders in order to "minimize seams inefficiencies through the development of

¹⁸⁷ SPP Transmittal at 7.

¹⁸⁸ Proposed WEIS Tariff, Attach. A, §§ 1.2.11, 4.3(2).

¹⁸⁹ *Id.* § 4.3(2).

¹⁹⁰ *Id.* § 1.2.11.2.

¹⁹¹ *Id.* § 1.2.11.3.

¹⁹² *Id.* § 1.2.11.4.

¹⁹³ SPP Transmittal at 7.

business practices, revisions to existing operating procedures, and, where appropriate, mutually beneficial agreements.”¹⁹⁴

b. Comments and Protests

105. Basin Electric, Tri-State, and WAPA argue that SPP has adequately addressed the Commission’s concern in the July Order regarding the use of transmission capacity of non-participating entities.¹⁹⁵

106. Black Hills/Cheyenne Light, Platte River, and Public Interest Organizations, however, argue that SPP’s proposal does not adequately protect non-participants from uncompensated use of their transmission systems.¹⁹⁶ Platte River contends that SPP has not provided sufficient detail to determine whether the constraints it imposes will appropriately respect transmission rights.¹⁹⁷ Public Interest Organizations contend that it is unclear whether SPP’s proposed solution is adequate, and argue that it would be clearer if SPP had entered into agreements with neighboring non-participants.¹⁹⁸ Public Interest Organizations recommend that before approving the WEIS Market proposal the Commission should direct SPP to enter into such agreements.¹⁹⁹

107. Black Hills/Cheyenne Light assert that the WEIS Tariff should make clear that market participants can only use non-participant transmission in a manner that is consistent with the applicable transmission provider’s OATT. Black Hills/Cheyenne Light state that reassignment is the OATT’s method of ensuring that secondary use of transmission occurs in an orderly, traceable, and verifiable manner. Black Hills/Cheyenne Light also request that the Commission require SPP to file quarterly reports detailing any instance of the WEIS Market exceeding the available transmission capacity identified by market participants or the available transmission capacity

¹⁹⁴ *Id.* at 21.

¹⁹⁵ Basin Electric Comments at 14; Tri-State Comments at 10; WAPA Comments at 13.

¹⁹⁶ *See* Black Hills/Cheyenne Light Protest at 30-37; Platte River Protest at 9-10; Public Interest Organizations Protest at 11-12.

¹⁹⁷ Platte River Protest at 9-10.

¹⁹⁸ Public Interest Organizations Protest at 11.

¹⁹⁹ *Id.* at 12.

designated by non-participants for balancing authority or WEIS Market delivery of imbalance service.²⁰⁰

108. Black Hills/Cheyenne Light request that the Commission require SPP to report unscheduled flow mitigation events and demonstrate that Joint Dispatch Transmission Service transactions did not take priority over other transactions. Black Hills/Cheyenne Light state that there is uncertainty about how the WEIS Market will operate during unscheduled flow mitigation events, and that there is a potential for tagged schedules to be curtailed while non-tagged WEIS Market transactions are not impacted. Black Hills/Cheyenne Light assert that this would result in out-of-priority transmission curtailments that could harm Cheyenne Light customers.²⁰¹

109. Black Hills/Cheyenne Light state that Black Hills administers a joint OATT with Basin Electric, but SPP has not submitted procedures that would ensure the WEIS Market will not impinge on existing operations and customer rights under their joint OATT, where one transmission provider under the OATT is a WEIS Participant and the other is not. Black Hills/Cheyenne Light request that the Commission require SPP to address how Basin Electric's participation in the WEIS Market will not affect Black Hills. Black Hills/Cheyenne Light also state that an unresolved issue is how Basin Electric's transmission capacity rights on the jointly-owned system will be communicated to SPP and WAPA.²⁰²

110. Platte River also contends that the proposal does not explain how SPP will handle jointly-owned paths, whether all transmission owners will be held to the same standard, or how the model will bind constraints on a path that involves multiple elements. Platte River argues that the Commission should require SPP to identify the existing or proposed contractual and operational terms it will apply to ensure that non-participant transmission is not used or leaned on by the WEIS Market and to disclose how it will limit its SCED. Platte River adds that affected entities should be allowed an opportunity to comment based on these facts.²⁰³

111. Xcel requests that SPP validate its understanding of how constraints will be enforced to limit the use of transmission in the WEIS Market to only what rights holders have made available for market dispatch. Xcel states that it understands that constraints will be added to the SCED per the business practice manual, but seeks clarity on how this

²⁰⁰ Black Hills/Cheyenne Light Protest at 33-35.

²⁰¹ *Id.* at 35-36.

²⁰² *Id.* at 36-37.

²⁰³ Platte River Protest at 9-10.

would work on certain paths representing multiple elements.²⁰⁴ Xcel further argues that SPP's proposal lacks adequate mechanisms to ensure untagged market flows will not continue to flow when higher priority tagged transactions are curtailed. Xcel explains that in the Western Electricity Coordinating Council, the Unscheduled Flow Mitigation Procedure (UFMP) is used to curtail transactions as needed to avoid overloading certain transmission paths pursuant to a transmission priority hierarchy approved by the Commission. According to Xcel, when the UFMP is applied to a transmission path that is internal to a BA, such as WACM Path 36, higher priority e-tagged transactions could be curtailed ahead of untagged WEIS Market flows, thereby impairing transmission rights of non-participants.²⁰⁵ Additionally, Xcel asserts that unless SPP's congestion management process holds WEIS Market flows at pre-contingent levels if a Real-Time Contingency Analysis shows that redispatch of PSCo generation is required to mitigate a system operating limit, parallel flows caused by the WEIS Market could possibly force continuous displacement of PSCo generation.²⁰⁶

112. Xcel also argues that the WEIS Market has the potential to create significant parallel flows and SPP has not committed to ensuring that the WEIS Market dispatch will not result in material changes to historic levels of parallel flows. In support, Xcel points to an analysis it conducted that shows that increases in generation in various locations can increase flows on various transmission paths. Xcel argues that the Commission has approved seams agreements that preserve historic uses of transmission paths and that without a seams agreements that ensure lower priority WEIS Market flows are curtailed prior to higher priority transactions and that historic transmission usage of PSCo and others are maintained, the SPP proposal is not just and reasonable.²⁰⁷

113. Additionally, Black Hills/Cheyenne Light state that WAPA is negotiating revised balancing authority agreements with WACM customers (including Black Hills/Cheyenne Light) and has proposed language granting WAPA the right to use non-participant transmission to deliver energy imbalance through the WEIS Market. Black Hills/Cheyenne Light state that they have no meaningful alternative for balancing authority services and, although negotiations are ongoing, will likely have no choice but to sign WAPA's balancing authority agreement. Black Hills/Cheyenne Light argue that the WEIS Market should not obtain non-participant transmission through market power

²⁰⁴ Xcel Protest at 7-8.

²⁰⁵ *Id.* at 8-9.

²⁰⁶ *Id.* at 10-11.

²⁰⁷ *Id.* at 10-12.

and that, at a minimum, the Commission should require the WAPA balancing authority agreements to be filed with the Commission.²⁰⁸

c. Answers

114. SPP reiterates that the proposed WEIS Market would limit the use of transmission facilities to only what is communicated to SPP by market participants, Joint Dispatch Transmission Service providers, and participating BAs, and that these limits will be enforced via constraints in the SCED model.²⁰⁹ SPP states that this applies whether the transmission is on jointly-owned or single-owner systems. Further, SPP states that the parties to a jointly-administered OATT, such as Black Hills/Cheyenne Light and Basin Electric, are in the best position to identify the limits of that OATT, rather than SPP.²¹⁰

115. Regarding verification or validation of claimed transmission rights, SPP asserts that independent verification is not required in other markets and is virtually impossible to accomplish in real-time. SPP argues that there is no Commission policy or precedent that would make it necessary for SPP, as an independent market operator and not a transmission operator or transmission service provider, to be required to verify the appropriateness of transmission capacity claimed by a WEIS Participant. SPP explains that it does not have visibility into the arrangements or agreements between transmission customers and transmission service providers, and even if it did, SPP is not in a position to interpret the terms and obligations in those arrangements or agreements. In addition, SPP states that its proposal to publicly list SCED constraints on its website provides sufficient transparency into how the SCED operates and is constrained. SPP also notes that its proposed process for constraining the WEIS Market is similar to existing processes of market operators that use a SCED, such as SPP's Integrated Marketplace.²¹¹

116. Regarding loop flow, SPP states that protesters' claims that loop flow will impact non-participating systems are speculative and hypothetical. SPP asserts that WEIS Market loop flow impacts would be no different than loop flow that occurs throughout the Western Interconnection, including that caused by other market constructs and the PSCo Joint Dispatch Agreement (PSCo JDA).²¹² SPP notes that generator operators

²⁰⁸ Black Hills/Cheyenne Light Protest at 30-33, Egge Aff. ¶¶ 45-49.

²⁰⁹ SPP Answer at 9-10.

²¹⁰ *Id.* at 10.

²¹¹ *Id.* at 10-12.

²¹² *Id.* at 10. PSCo, Black Hills Colorado, Platte River, and Colorado Springs are parties to a joint dispatch agreement under PSCo's OATT that facilitates the centralized intra-hour dispatch of resources within PSCo's BAA. PSCo JDA participants plan to join

operating within their transmission rights can already choose to dispatch their resources today in a manner similar to the manner in which the WEIS Market will dispatch them, and therefore could cause inadvertent loop flows even in the absence of the WEIS Market.²¹³ SPP describes the documentation of Xcel's analysis of potential loop flow as a less than one-half page table, "devoid of supporting calculations."²¹⁴ Thus, SPP argues that protesters' claims about inadvertent loop flows from the WEIS Market are unsupported and lack merit.²¹⁵

117. Additionally, SPP argues that existing agreements and mechanisms provide adequate congestion management processes for the WEIS Market. SPP states that, in administering the WEIS Market, SPP is not taking on responsibilities that might normally require comprehensive agreement with neighboring entities, such as administering open access transmission service, reliability coordination, or BA operations. SPP asserts that two existing congestion management processes, the UFMP and the SPP West RC congestion management process, manage loop flow impacts between BAs. SPP contends that the instant docket is not the appropriate forum for addressing any perceived deficiencies in the existing processes. Furthermore, SPP notes that it will not have functional control of transmission facilities in the WEIS Market footprint and states that it is unclear why a joint operating agreement would be appropriate between an entity that operates transmission facilities and one that does not, or why as a market operator SPP should negotiate seams agreements.²¹⁶

118. In response to the Black Hills/Cheyenne Light and Xcel arguments that the WEIS Market could displace higher priority use of the system during UFMP events and that untagged, intra-BA transfers would be overlooked by congestion management processes, SPP asserts that these scenarios exist today without the WEIS Market. SPP states that intra-BA, untagged market flows exist under the operation of the Western EIM and the PSCo JDA. SPP contends that, rather than exacerbate existing congestion issues, the WEIS Market will have a positive net effect on congestion because coordinated economic dispatch will result in more efficient congestion management when generation redispatch is required. SPP asserts that it should not be required to implement more robust seams

the Western EIM in April 2022.

²¹³ SPP Answer at 12-13.

²¹⁴ *Id.* at 14.

²¹⁵ *Id.*

²¹⁶ *Id.* at 14-20.

arrangements or congestion management practices than what is required of the Western EIM or PSCo JDA.²¹⁷

119. In its answer, Xcel takes issue with SPP's characterization of its modeling of loop flow, detailing its analysis and reiterating that 24% to 44% of any output from a Wyoming resource in the WEIS footprint used to serve load in Colorado would show up as parallel flow on the Pawnee-Missile-Denver path, which Xcel uses for imports. Xcel explains that this could result in an increase in the size and frequency of curtailments on these paths.²¹⁸ Xcel provides materials supporting its analysis, including summaries of the study results, a summary of how the results were obtained, and the flow calculation files used to perform the studies.²¹⁹

120. In response to protests over congestion management, WAPA contends that any argument that WEIS Market congestion management will result in higher-priority non-WEIS Market transmission service being curtailed is purely speculative. Further, WAPA argues, there are established congestion coordination processes in the Western Electricity Coordinating Council, including reliability coordinators' work with impacted transmission operators, BAs, and generation operators, as well as the UFMP and associated committees that are open to interested stakeholders. WAPA argues that to deviate from those processes due to the WEIS Market would mean deviating from agreed upon policies and processes that have been vetted through the authorized work groups and committees established through Commission-approved filings.²²⁰

121. WAPA acknowledges that it is negotiating a new BA services agreement with its customers and argues that this agreement is outside the scope of the instant proceeding.²²¹

122. Black Hills/Cheyenne Light argue that SPP inappropriately places the burden on non-participants to ensure their transmission is not being misused by the WEIS Market. Black Hills/Cheyenne Light contend that SPP was unresponsive to their request that SPP verify the transmission rights communicated by market participants, impose consequences on market participants that misreport, and report instances of SPP failing to

²¹⁷ *Id.* at 21-23.

²¹⁸ Xcel Answer at 2-3.

²¹⁹ *Id.* at 4.

²²⁰ WAPA Answer at 6-7.

²²¹ *Id.* at 4.

observe transmission limits.²²² Black Hills/Cheyenne Light also assert that SPP must explain how its proposal will comport with existing rules for the transmission system jointly-owned by Basin Electric and Black Hills.²²³

123. Black Hills/Cheyenne Light contend that the WAPA BA services agreement is germane to this proceeding because SPP proposes to use transmission that WAPA obtains the right to use through BA service agreements.²²⁴ Black Hills/Cheyenne Light further argue that as indirect customers they are entitled to the Commission's protection because they have no real alternative to paying the pass-through rate for the WEIS Market and no other recourse aside from Commission review. Black Hills/Cheyenne Light request that the Commission reject the proposal to use transmission procured through BA services agreements until the Commission determines that such agreements cannot be used to require transmission providers to give away transmission service for free.²²⁵

d. Commission Determination

124. We find that SPP's proposed modeling of transmission availability in its SCED model is just and reasonable, not unduly discriminatory or preferential, and adequately responds to the Commission's guidance in the July Order. Because the model will explicitly constrain flows over transmission facilities to the transmission capacity that market participants, Joint Dispatch Transmission Service Providers, and participating BAs inform SPP is available for use in the WEIS Market, we find that SPP's proposal respects the transmission capacity of non-participating entities with appropriate constraints in the SCED.

125. We find that SPP's proposed modeling of transmission rights will limit flows resulting from WEIS Market dispatch, and we disagree with protestors that this is unclear. Because transmission constraints reflecting transmission rights made available by WEIS Participants will be integrated into the SCED market prior to the market running, the market solution will be forced to respect those rights. If non-participants do not voluntarily offer their transmission for use in the WEIS Market, the constraint enforced in SCED will not allow the WEIS Market dispatch to utilize the non-participants' transmission rights. This clearly illustrates the limits built into SPP's WEIS

²²² Black Hills/Cheyenne Light Answer at 9.

²²³ *Id.* at 10-11.

²²⁴ *Id.* at 11-12 (citing Ex. SPP-001 at 14).

²²⁵ *Id.* at 12-13.

Market optimization to ensure that transmission capacity that is not voluntarily made available cannot be used.

126. We find that SPP's proposed approach adequately takes into account joint ownership of transmission facilities. Because the participating joint owner has a defined portion of a transmission facility it has rights to use, it can only make that amount of transmission available to SPP for the WEIS Market. SPP's WEIS Market solution will honor that limit through the activation of constraints limiting its flow to the fraction of the jointly-owned transmission facility communicated to SPP as available to it. Under the proposed WEIS Tariff, WEIS Participants are required to accurately represent to SPP their available transmission, and to the extent they do not, they would be in violation of the WEIS Tariff.²²⁶

127. Black Hills/Cheyenne Light raise the issue that WAPA is negotiating revised BA services agreements with its customers and has proposed language granting it the right to use non-participant transmission to deliver energy imbalance through the WEIS Market. This issue is outside the scope of the instant proceeding. The referenced BA services agreements are not part of SPP's filing, and therefore the potential terms of those agreements are not before the Commission for consideration.

128. We disagree with Xcel that potential loop flows due to WEIS Market dispatch warrants requiring SPP to enter into seams agreements with its neighbors. Loop flow is a natural consequence of the operation of transmission systems and exists with or without this particular market formulation. As the Commission has previously found, "changes to market operations may indeed result in changes to flows on the integrated transmission system. This, however, is not reason to prevent improvements to market operations that will result in increased efficiencies and benefits to customers."²²⁷

129. We find that comments about the manner in which congestion is managed, pursuant to the existing congestion management constructs in the West, are outside the scope of this proceeding. We note that the congestion management process in the Western EIM depends on the UFMP as a congestion management process.²²⁸ In accepting the Western EIM proposal, the Commission did not require CAISO to implement more stringent congestion management.²²⁹ We similarly decline to do so here for the WEIS Market. We do not agree with Xcel that the UFMP and SPP West RC

²²⁶ Proposed WEIS Tariff, Attach. A, §§ 1.2.11.2, 1.2.11.3, 1.2.11.4.

²²⁷ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 at P 268.

²²⁸ CAISO Tariff, § 29.7(k) (2.0.0).

²²⁹ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 at PP 263, 268.

congestion management processes, in addition to the congestion management processes implemented by individual BAs and transmission operators in the WEIS Market footprint, will be insufficient to manage congestion appropriately.

130. Regarding reporting requirements, we do not agree with protesters that reporting on transmission usage or loop flows is necessary. We find that reporting on non-participant transmission use and unscheduled flow mitigation events is not needed given that SPP's proposal adequately protects against the use of non-participants' transmission and given existing congestion management processes. We note that other transmission rights holders and transmission owners are able to monitor flows on their own facilities and can raise with SPP and the Commission any potential misuse of transmission.

The Commission orders:

SPP's proposal is hereby accepted, effective February 1, 2021, as discussed in the body of this order.

By the Commission. Commissioner Clements is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.