OCETI SAKOWIN
POWER AUTHORITY

THE UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

	)	
Southwest Power Pool, Inc.	)	Docket No. ER26-2796-000
	)	

OCETI SAKOWIN POWER AUTHORITY
PROTEST SEEKING REJECTION OF SPP ORDER NO. 1920 COMPLIANCE FILING

The Oceti Sakowin (pr. O-CHET-ee Sha-KO-wee) Power Authority (OSPA), pursuant to Rule 211 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, submits this protest to the Southwest Power Pool, Inc.'s (SPP) Regional Compliance Filing submitted in purported compliance with the Commission's Order Nos. 1920, 1920-A and 1920-B (the *1920 Orders*[1]*).* In purporting to comply with the *1920 Orders,* SPP merely quotes the Commission's language in its tariff, while leaving the implementation of the 1920 requirements to terms and conditions that will be established in its untariffed Consolidated Planning Process Manual.[2] This protest demonstrates that SPP's attempted approach violates the rule of reason, ignores direct Commisssion directives, and will result in rates, terms and conditions that are unjust, unreasonable and unduly discriminate against energy projects developed on Tribal lands. This concern is supported by over a decade of experience – SPP has consistently refused to consider Tribal energy development goals and transmission needs, despite having actual notice of them, to the detriment of the Tribes and their Tribal energy developers.

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[1] *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (2024) ("*Order 1920*"), *order on reh'g & clarification*, Order No. 1920-A, 189 FERC ¶ 61,126 (2024) ("*Order 1920-A*"), *order on reh'g & clarification*, Order No. 1920-B, 191 FERC ¶ 61,026 (2025), *appeal pending sub nom. Appalachian Voices v. FERC*, No. 24-1650 and consolidated cases (4th Cir.).
[2] *See* Southwest Power Pool, Inc., Open Access Transmission Tariff, Sixth Revised Volume No. 1, Attachment AY Section 8 (Consolidated Planning Process).

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II. BACKGROUND

A. OSPA Is a Tribally Owned Developer of Energy Generation and Transmission on Tribal Lands

The Oceti Sakowin Power Authority is an energy and transmission project developer 100% owned by seven Sioux Tribes that share territory with the States of South and North Dakota. OSPA is a "Section 17" federally chartered corporation, certified by the Department of the Interior in 2015. As such, OSPA represents its member Tribes as consumers of energy, and as a developer, OSPA is a customer of services under SPP's Open Access Transmission Tariff. All OSPA's energy generation and transmission projects are located on the reservations of OSPA's member Tribes, which are all located within the Southwest Power Pool (SPP) planning and service territory. As a party that will be seeking interconnection of generation projects, and as a transmission developer whose projects will be included in SPP's portfolio, OSPA's projects are directly impacted by SPP's proposed tariff revisions. In addition, OSPA plans to participate actively in the SPP transmission planning process, which is now governed by regulations established in the *1920 Orders*. OSPA therefore has a direct interest in SPP's filing in the instant docketed proceeding, which purports to comply with these orders.

B. OSPA Has Demonstrated to the Commission that SPP's Former GI and ITP Processes Unduly Discriminated Against Tribal Energy Projects

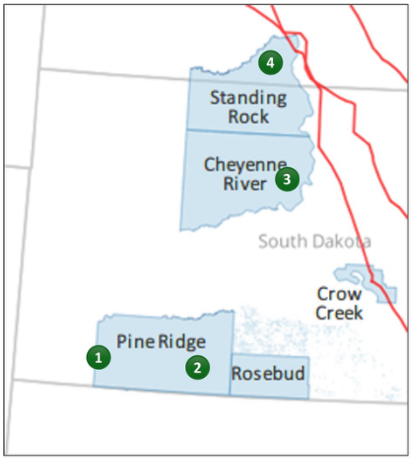
In multiple filings and oral and written testimony before the Department of Energy and this Commission, OSPA has told the story of its attempt to develop utility-scale generation projects on the reservations of two of its member Tribes. OSPA's experience demonstrates that the SPP Generator Interconnection (GI) process and Integrated Transmission Planning (ITP) process resulted in unjust, unreasonable and unduly discriminatory rates, terms and portfolio selection processes that became an absolute barrier to Tribal energy and economic development.

1. *Four Utility-Scale Generation Projects on Tribal Lands in West River South Dakota Have Been Stopped by SPP Grid Upgrade Cost Allocations*

Starting in 2017, OSPA partnered with an experienced energy development company and secured a position on the SPP interconnection queue for two utility-scale generation projects: 450 MW on the Cheyenne River Reservation and 120 MW on the Oglala Pine Ridge Reservation. Both projects had the resources to generate significantly more power, but were scaled back to fit the available transmission capacity then identified by SPP. Under the then-effective Generator Interconnection process, SPP completed its DISIS Phase 2 study in late 2022, and allocated $230 million of network upgrade costs – mostly to WAPA's transmission facilities on the reservations – to connect the two projects, with total nameplate capacity of 570 MW, to the power grid. This cost allocation increased the total capital costs of the projects by about 20%, rendering them economically infeasible, and forcing OSPA to stop development and withdraw the projects from the interconnection queue. Both projects remain on hold.

OSPA was not the only Tribal energy developer to have privately-funded development projects forced off the queue by excessive network upgrade charges – a 110 MW solar farm developed by Oglala Tribal members on the Pine Ridge Reservation, and a 235 MW wind farm being developed by a Tribally owned developer on the Standing Rock Reservation, met the same fate. So over the last five years, there have been four utility-scale generation projects developed on Tribal lands by Tribal developers partnered with professional development companies and all privately financed. As shown in the map below, these four projects – a total of 915 MW – all are suspended indefinitely because of SPP's interconnection cost allocations.

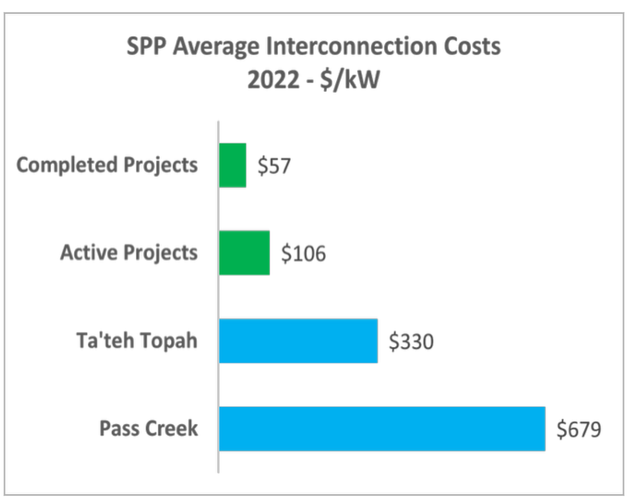
Map 1: Tribal Energy Projects Forced Off SPP Queue



1. **Lookout Solar: 110 MW, forced off queue November 2021**
   - POI WAPA Underwood - Wayside 230 kV
   - SPP assigned grid upgrade costs of $86M
2. **Pass Creek Wind: 120 MW, forced off queue September 2022**
   - POI WAPA Martin Substation
   - SPP assigned grid upgrade costs of $81M
3. **Ta'teh Topah Wind: 450 MW, forced off queue September 2022**
   - POI BEPC Leland Olds-Chapelle Creek 345kV
   - SPP assigned grid upgrade costs of $148M
4. **Anpetu Wi Wind: 235 MW, forced off queue November 2025**
   - POI BEPC Leland Olds-Chapelle Creek 345kV
   - SPP assigned grid upgrade costs of $77M

Moreover, the network upgrade costs assigned to these Tribal energy projects are grossly excessive in comparison to the rest of the SPP service territory. The chart below shows SPP's per-kW cost allocations to OSPA's two generation projects, compared to interconnection cost allocations to completed generation projects, and projects under development, throughout SPP's 17-state service area. The Tribal projects were allocated network upgrade costs 6 times and 12 times higher than the average completed project in SPP territory.

Figure 1: Interconnection Costs/kW - OSPA Projects v SPP Average



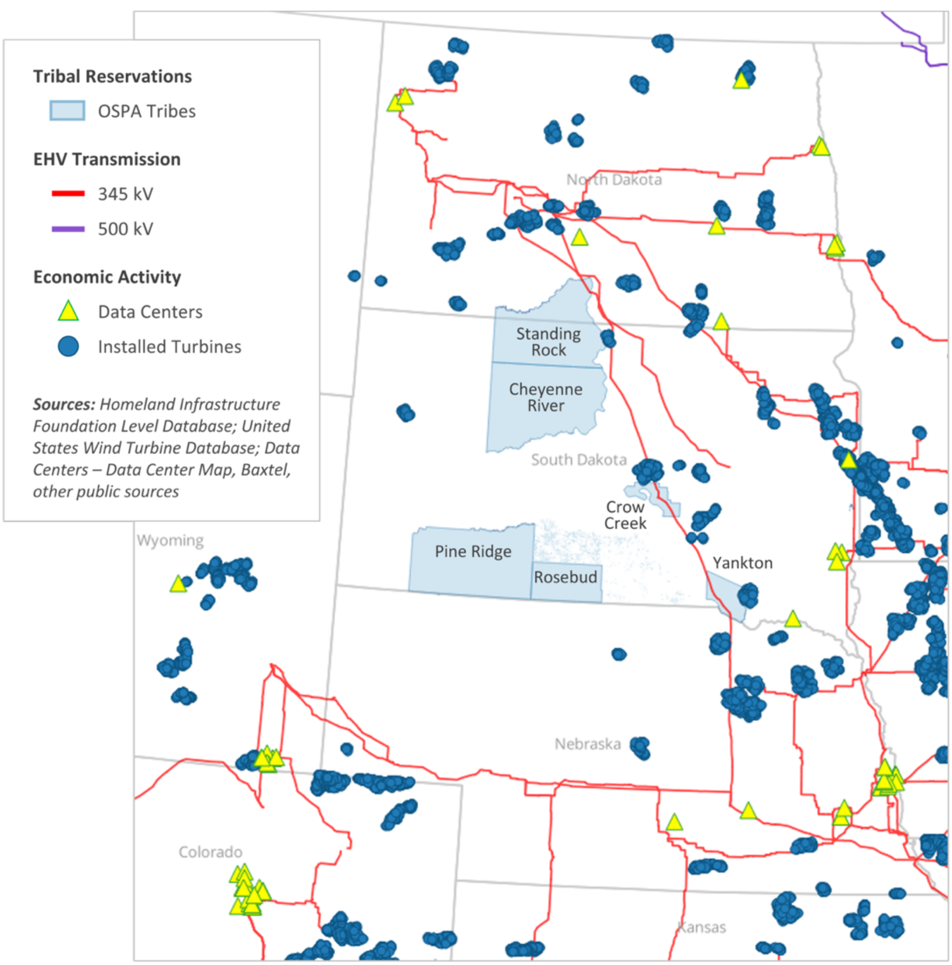
Sources:

- OSPA Projects – SPP DISIS Phase 2 study (2022)
- $57 average: Lawrence Berkeley National Laboratory's "Generator Interconnection Cost Analysis in the Southwest Power Pool (SPP) Territory" (2020-2022)

2. *The Problem: The Tribal Lands of Western South Dakota Are an EHV Transmission Desert*

At present, there is <u>no</u> extra high voltage transmission in South Dakota west of the Missouri River. This is the reason such excessive network upgrade costs were assigned to the Tribal generation projects in West River, and it has proven to be an absolute barrier to energy and economic development. Map 2 below depicts the West River South Dakota transmission desert – it maps existing 345 kV lines in South Dakota and surrounding states, and deployed data centers (yellow triangles) and wind turbines (blue circles). There can't be a clearer demonstration that energy and economic development follow 354 kV lines. The map includes an overlay of the OSPA member Tribes – West River South Dakota is home to four of the largest reservations in the country, and none have 345 kV transmission.

Map 2: The EHV Transmission Desert of West River South Dakota

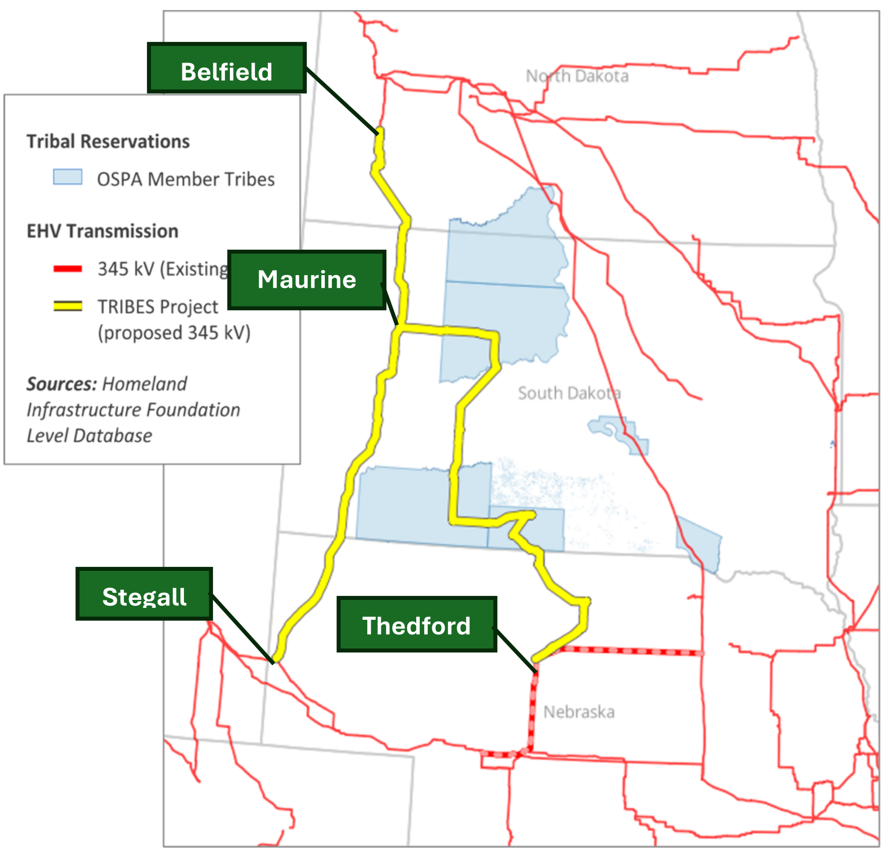


3. SPP Is Not the Cause of the EHV Transmission Desert, but Its ITP Project Evaluation and Selection Criteria and Processes Are Perpetuating It

The EHV transmission desert of western South Dakota is the result of generations of underinvestment in transmission and other infrastructure serving Tribal lands and well predates the establishment of the Southwest Power Pool. But the way SPP's Integrated Transmission Planning process structures its benefit/cost models and selects portfolio projects has now become a major part of the problem. The SPP ITP process has become an absolute barrier to energy and economic development on Tribal lands, perpetuating the EHV transmission desert and the endemic Tribal poverty that accompanies it.

After receiving the $230M cost allocation from SPP in late 2022, OSPA put its generation projects on hold, and reached out to the Western Area Power Administration (WAPA) and the Basin Electric Power Cooperative (Basin) for help. They agreed, and this was the result:

Map 3: WAPA/Basin/OSPA EHV Project Submitted to SPP ITP Process



- **December 2023** – OSPA teamed up with WAPA and Basin to design a new 345 kV north-south backbone across western SD.
- **March 2024** – WAPA submitted project to the SPP ITP process.
- **October 2024** – SPP completed its ITP analysis. SPP approved the Belfield-Stegall segment for its 2024 portfolio and moved the southern terminus to Laramie River WY. SPP rejected the Maurine-Thedford segment that would have brought 345 kV to three reservations

With OSPA's active involvement, WAPA and Basin designed an EHV upgrade that would, for the first time, bring 345 kV transmission capacity to three of the largest reservations in the country. WAPA and Basin rolled this Tribal EHV route into an EHV project that they had been working on – a 345 kV line west of the Tribal lands, running from Belfield ND to Stegall, NE – which would bring the first EHV to West River South Dakota. WAPA and Basin submitted the project depicted above – the western non-Tribal line, and the connected eastern line that served Tribal lands – to the SPP ITP process in March 2024.

When SPP announced its portfolio projects in October 2024, it approved the western leg of the WAPA/Basin/OSPA project, but stripped out that portion of the project that would have brought 345 kV to the Tribes. In doing so, SPP provided only its cost analysis of the two segments. There is no record of SPP considering the energy policy goals of the Tribes, the Tribal mandates to develop the Tribes' energy resources, the economic benefit of the 345 kV upgrade or the economic detriment of limiting the Tribes to the existing antiquated 115 kV lines, or the generator interconnection requests of OSPA and the other Tribal energy project developers. SPP conducted no outreach to OSPA or the other Tribal stakeholders in making its decision.

C. SPP Is Replacing the ITP and GI Processes with the Consolidated Planning Process, Including Planned Interconnection Locations

SPP will be replacing its Integrated Transmission Planning and Generator Interconnection processes with the Comprehensive Planning Process (CPP). SPP submitted revisions to its Open Access Transmission Tariff (OATT) to establish CPP, and the Commission approved the CPP tariff revisions, subject to conditions.[3] The CPP tariff provisions took effect on March 13.

[3] *Southwest Power Pool, Inc.,* 194 FERC ¶ 61,192 (2026).

D. The History of Undue Discrimination Against Tribal Energy Projects by SPP Requires that Any Compliance Tariff Must Specify Its Evaluation Process and Selection Criteria, and Must Contain Specific Provisions Relating to Tribes

In regard to the instant Compliance Filing, SPP states: "SPP's Order No. 1920 compliance filing applies to only the CPP and is forward-looking because by the time SPP's Order No. 1920 revisions are effective, SPP will no longer be conducting long-term regional transmission planning under the ITP process described in Attachment O of the Tariff."[4] OSPA agrees, and also agrees that in many ways, the CPP concept is a dramatic improvement over the ITP process.

Nevertheless, it is important to understand those aspects of the ITP process that resulted in unjust and unreasonable interconnection charges for Tribal energy projects, and unduly discriminatory treatment of generation and transmission projects being developed on Tribal lands. This history is important because, as OSPA demonstrates below, <u>the new CPP process, as tariffed and as implemented by SPP this year, evidences the same flaws and produces the same unreasonable outcomes</u>. OSPA shows that SPP's Compliance Filing does not comply with the *1920 Orders*, and so merits rejection.

III. PROTEST AND ARGUMENT

A. No Deference Should Be Accorded the Compliance Filing

SPP states that the tariff revisions proposed in its Compliance Filing were approved by SPP's Regional Tariff Working Group, the Cost Allocation Working Group, the Markets and Operations Policy Committee, the Regional State Committee, the Board of Directors, the Project Cost Working Group, the Economics Studies Working Group, and the Transmission

[4] Compliance Filing, Transmittal at 10.

Working Group – several by unanimous vote.[5] SPP relies on this showing of support among its committees to seek Commission deference in accepting its proposed Compliance Filing: "SPP requests that the Commission extend appropriate deference to the wishes of SPP's stakeholders, consistent with Commission precedent."[6]

No such deference can be awarded. A review of the SPP committees listed above, and the Board of Directors, shows that no Tribes, Tribal energy developers, or Tribal advocacy groups are members. SPP conducted no Tribal outreach or consultation regarding its proposed tariff changes. And, as demonstrated in § II(B) above, OSPA and other Tribal organizations and Tribes have, repeatedly and consistently, testified before this Commission, DOE and Congress about the need for Tribe-specific consultation, direct engagement on energy generation and transmission projects that directly affect Tribal lands, and consideration of Tribal energy development goals and transmission needs in SPP's planning activities. SPP has had actual notice of these Tribal stakeholder positions for the better part of a decade, and OSPA has communicated these concerns directly to SPP Staff on multiple occasions. The tariff changes proposed in the purported Compliance Filing fail to demonstrate any support from this key stakeholder group, and so they are not entitled to deference. Indeed, the proposed tariff changes would result in unjust and unreasonable rates, terms and conditions that unduly discriminate against energy projects developed on Tribal lands, and so merit rejection.

[5] Compliance Filing, Transmittal at 2-4.
[6] *Id.* at 4.

B. Neither the Compliance Filing Nor the CPP Manual Contain Any Substantive Provisions Regarding Tribal Outreach or Consideration of Factors that Support Transmission Upgrades on Tribal Lands

The SPP Compliance Filing says nothing about consultation with Tribes, consideration and quantification of the public policy benefits of upgrading transmission on Tribal lands, or the application of the Commission's seven required benefits metrics or the seven factors for scenarios in evaluating proposed transmission upgrades on Tribal lands. In particular, as discussed in below, the Compliance Filing excludes consideration of Commission-required key factors (see § III(C)(3)(a)) and benefits (see § III(E)) in the project selection process. These factors all affect interconnection rates and charges and are not superfluous. And given SPP's history of imposing network upgrade costs so excessive that they have caused every utility-scale energy development project on Tribal lands in West River South Dakota to withdraw from the interconnection queue, the need to specify them in the tariff is self-evident.

Instead of specifying these metrics, SPP simply repeats the language of the *1920 Orders* in its tariff. The only reference to Tribes in its proposed OATT revisions consists of the repetition of the phrase "federal, federally recognized Tribal, state and local" laws or policies 15 times, without elaboration. The CPP Manual contains <u>one</u> reference to Tribes, in a footnote describing SPP's requirement for 100% site control as a precondition to obtaining a generator interconnection agreement.[7] As OSPA discusses in § III(C)(3)(c) below, this provision violates a specific interconnection reform requirement from Commission Order No. 2023.

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[7] *Southwest Power Pool, Inc.,* Consolidated Planning Process Manual, Version 1.0 (Jan. 13, 2026) available at https://www.spp.org/media/2453/consolidated-planning-process-manual-v10-pending-cpp-approval.pdf (CPP Manual) at 42 n.54.

At a minimum, SPP should draft the following tariff provisions to comply with the *1920 Orders* and other Commission requirements:

- Identify the office, committee or individual within SPP that will accept questions, statements of concern, or policy positions from Tribes or developers of Tribal energy projects.
- Describe any Tribal outreach initiatives or procedures that SPP will conduct as part of the CPP.
- Include evaluation of public policy benefits—including an explanation of how they are quantified – in the project evaluation and selection process.
- Explain how evidence of generation demand—in particular, evidence of Tribal generation projects that withdrew from the SPP interconnection queue after receiving network upgrade cost allocations—are evaluated in CPP.
- Describe how deliverability is quantified and included in the benefit/cost analysis of the selection process for generation projects developed on Tribal lands.
- Amend the tariffed site control rules regarding Tribal generation projects, as required by FERC *Order No. 2023* (see discussion in § III(C)(3)(c) below).

C. The Compliance Filing Places Virtually All Planning Evaluation Criteria and Processes in the Consolidated Planning Process Manual – This Directly Violates the Commission's Express Ruling in *Order 1920*, Violates the Rule of Reason and Compels Rejection of the Filing in Its Entirety

1. SPP Petitioned the Commission to Allow It to Place Its Evaluation Processes and Selection Criteria in Its Business Practice Manual; In Order 1920, the Commission Denied This Request and Ordered SPP to Tariff These Provisions

In its Initial Comments in Docket RM21-17-000, SPP argued that it should be allowed to maintain its selection criteria in business practice manuals because it would "give them more flexibility if they need to adjust study approaches."[8] The Commission expressly rejected the SPP position:

> Finally, we find that, consistent with the Commission's rule of reason, transmission providers' evaluation processes and selection criteria significantly affect rates, are reasonably susceptible to specification, and are not otherwise so generally

[8] *Order 1920*, 187 FERC ¶ 61,068 at P. 910 (citing SPP Initial Comments at 21-22).

> understood as to render their recitation superfluous and therefore must be included in their OATTs. As such, we reject SPP's request that we allow transmission providers to instead maintain evaluation processes and selection criteria in their business practice manuals.[9]

2. The SPP Compliance Filing Admits to Ignoring the Commission's Explicit Ruling on this Matter

The Compliance Filing states that it is "propos[ing] to deviate" from the Commission's requirement that transmission providers' evaluation processes and selection criteria must be tariffed in the Open Access Transmission Tariff:

> Order No. 1920 requires transmission providers to establish a transparent, standardized, and non-discriminatory process for evaluating and selecting long-term regional transmission facilities, and to describe such processes in their tariffs. SPP proposes to deviate from this requirement and submits that its current process of describing, in significant detail, its evaluation process and selection criteria in the CPP Manual accomplishes the Commission's transparency goals. Under the Commission's "rule of reason," only those practices and methodologies that "significantly affect" rates, terms, and conditions of service must be included in the tariff; operational details that do not materially affect rates can be placed in manuals or business practice documents, provided the tariff makes clear the controlling standards and the Commission retains oversight.[10]

What SPP does not say is that, in doing so, it is ignoring the Commission's express rejection of the same SPP position in its *1920 Order.* SPP purports to cite two federal cases as precedent in support for its rejection of the Commission's order, but neither of the cases has anything to do with the rule of reason or the issue of the tariffing *vel non* of rates, terms and conditions.[11] SPP's unjustified refusal to comply with an express Commission directive, by itself, merits summary rejection of its Compliance Filing.

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[9] *Order 1920*, 187 FERC ¶ 61,068 at P. 918 (footnotes omitted)(citing SPP Initial Comments at 21-22).

[10] Compliance Filing, Transmittal at 28.

[11] SPP cites two cases, both of which are inapposite: *Columbia Gas Transmission Corp. v. FERC*, 895 F.2d 791 (D.C. Cir. 1990)(FERC waiver of filed rate doctrine for gas pipeline rates improper, resulted in retroactive ratemaking); and *Black Oak Energy, LLC v. FERC*, 725 F.3d 230 (D.C. Cir. 2013)(surplus disbursement rates set at marginal cost just and reasonable, related refunds remanded). Neither case mentions the rule of reason or contains an issue of inadequate tariffing of rates, terms or conditions.

3. *There Is Already Evidence that SPP's Proposed New CPP Tariff Will Lead to Unjust, Unreasonable and Unduly Discriminatory Results*

a) *SPP's First Planned Interconnection Locations Report Shows that the OSPA Member Tribes Will Be Subject to the Same Unjust, Unreasonable and Discriminatory Rates and Rate Structure that the ITP Process Imposed*

As demonstrated in §II(B) above, the interconnection charges for network upgrades, and the benefit/cost analysis generated by the ITP process have produced unjust and unreasonable results that present an insuperable barrier to energy and economic development among the OSPA member Tribes. SPP notes however, that the requirements of the *1920 Orders* will only apply to its Consolidated Planning Process, because CPP will replace the ITP planning process.[12]

Regarding implementation, SPP's proposed tariff revision states: "The Transmission Provider shall use best available data inputs when developing futures, and shall use best practices to develop each data input, as informed by diverse and expert perspective, as described in the CPP Manual."[13] SPP asserts that it is already in compliance because: "Section IV.1.2.1 of Attachment AY already identifies the seven factors required by Order No. 1920…."[14]

But merely listing the seven factors required by the Commission, and referring to "best practices" detailed in the CPP Manual is not compliance. To the contrary, SPP's published CPP-Planned Interconnection Site (PILS) dashboard demonstrates that SPP has ignored stakeholder complaints and input that the seven factors require it to take into account. In its tariff filing proposing the original CPP tariff revisions, SPP provided this definition:

> Planned Interconnection Locations represent strategically selected locations where Transmission System capability has been evaluated using prior studies, <u>technical assessments from the generator interconnection queue, and stakeholder</u>

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[12] Compliance Filing, Transmittal at 10.
[13] *Id.*, Proposed Revised Tariff § IV.1.2.
[14] *Id.* Transmittal at 16.

> <u>input</u>, to identify locations with sufficient existing or planned transmission capacity available to serve long-term generator interconnection needs. … The final determination of the Planned Interconnection Locations and associated MW caps <u>are subject to stakeholder review and approval</u>. … The benefit of seeking to interconnect at Planned Interconnection Locations is that transmission capacity will have been proactively developed in that area <u>to serve future needs, including generator interconnection needs</u>. To the extent an interconnection customer elects to interconnect at such location, it generally will not be responsible for additional System Network Upgrade costs beyond its GRID-C. SPP expects to identify hundreds of Planned Interconnection Locations <u>and has developed a stakeholder-led process to identify and select potential locations that have not already been identified by SPP</u>.[15]

Between October 2022 and February 2025, OSPA provided multiple detailed accounts of the SPP interconnection charges that forced two OSPA projects and two other Tribal energy projects off the interconnection queue, and recommended changes to the ITP process. These communications included: a letter to then-Secretary Granholm, copied to SPP; comments and written and oral testimony in FERC Dockets AD24-9-000 and RM22-14-000; and comments in DOE Docket No. HQ-2024-0088. SPP had actual notice of all of them. In addition, in 2025 the National Laboratory of the Rockies (NLR) was seeking Tribal input for a paper on "Tribal Engagement in Transmission Planning" which was ultimately published in February 2026. As part of that outreach, NLR presented to the Great Plains Tribal Chairmen's Association (GPTCA) on July 18, 2025 in Rapid City, SD.[16] Both OSPA and SPP attended and made presentations to the organization. The SPP representatives, one of whom was introduced as SPP's Tribal

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[15] *Southwest Power Pool, Inc.,* Tariff Filing, Docket No. ER26-414-000, Accession No. 20251103-5149 (November 3, 2025) at 25-26 (emphasis added).

[16] The Great Plains Chairmen's Association is a federally chartered intertribal organization that represents 16 sovereign Indian Nations and Tribes across North Dakota, South Dakota and Nebraska. Most of the member Tribes are located in SPP's service area. https://www.facebook.com/p/Great-Plains-Tribal-Chairmens-Association-Inc-100068659760723/

liaison,[17] discussed the SPP ITP transmission planning process, and conducted a dialog with the Tribal Chairs and other Tribal leaders in attendance.

OSPA lauds SPP for its participation in the GPTCA meeting, and for other direct discussions SPP representatives have held with OSPA. OSPA has only one story to tell – that the EHV transmission desert of western South Dakota constitutes an absolute barrier to Tribal energy and economic development – and we've been telling it consistently in every forum available to us since our projects were forced off the SPP interconnection queue in late 2022. These fora include DOE, FERC, the U.S. Congress and direct communications with SPP. Unfortunately, these discussions and presentations have not been reflected in any meaningful way in SPP's transmission planning processes, either under the ITP or the CPP.

How do we know the CPP has not considered the factors relevant to our Tribal generation and transmission projects? SPP's issued its first PILS map on its CPP Dashboard earlier this year. The map and related Dashboard data do not include any meaningful PILS that can be used by the OSPA member Tribes to interconnect utility-scale generation projects. Below, OSPA provides a screenshot of the PILS identified by SPP in South Dakota and North Dakota, and OSPA has added an overlay showing the location of the OSPA member Tribes' reservation boundaries:[18]

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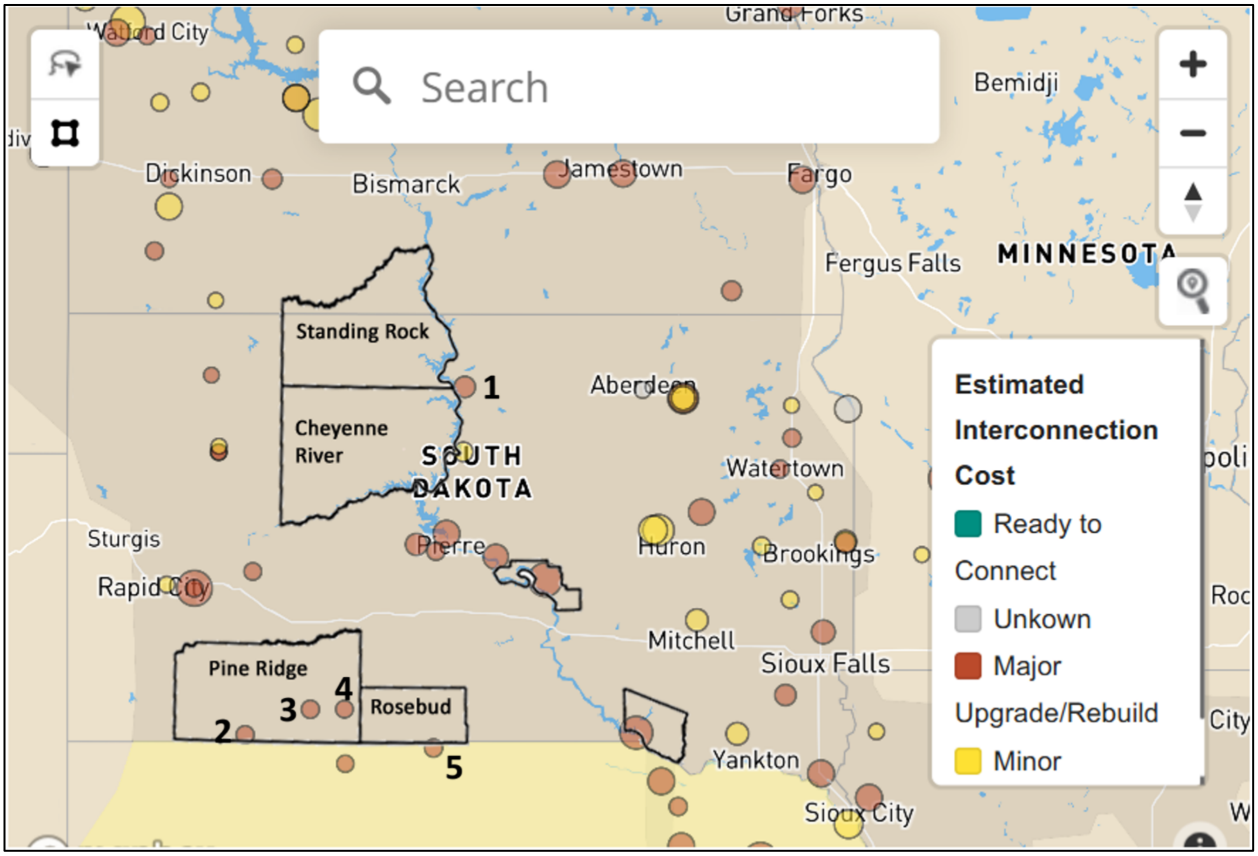
[17] It is OSPA's understanding that SPP no longer has a representative serving as a Tribal liaison. OSPA is grateful for SPP's participation in the GPTCA meeting, and for other direct discussions that SPP representatives have held with OSPA, and OSPA is hopeful to pursue further direct discussions with SPP in the future.

[18] SPP PILS Dashboard Map (screen capture on 8/2/2026, with OSPA overlay added). Source for PILS map: https://app.powerbigov.us/view?r=eyJrIjoiZjAzNGYxZWItY2JjMS00NWI4LWFiYmMtZTcwMjM1MDJjNGJjIiwidCI6IjMyMzA5MjZhLTcxYjctNDM3MC1hMTM3LTE5N2JhZGMwNjZhMiJ9

Map 4: Screenshot of PILS Map with OSPA Tribes Overlay



SPP's publication of the first PILS map demonstrates the following:

- Standing Rock Reservation – The PILS labeled as #1 above is the Leland Olds-Fort Thompson 345 kV line, sited for up to 200 MW by SPP to avoid any additional system network upgrade costs beyond the GRID-C rate. This line crosses the northern tip of the Standing Rock Reservation in North Dakota. The Tribe's 235 MW Anpetu Wi Wind project (noted in Map 1) had planned to interconnect to this line. The PILS maximum capacity for the site is less than the nameplate capacity of the generation project that was forced off the SPP interconnection queue.

- Cheyenne River Reservation – There are no PILS identified on the 115 kV lines that cross the Cheyenne River Reservation. In fact, OSPA's 450 MW Ta'teh Topah wind project (noted in Map 1) included a 40-mile generation tie line that was to cross the Missouri River to interconnect to the Leland Olds-Fort Thompson 345 kV line identified as PILS #1 above. That means only 200 MW of PILS capacity was identified by SPP at a location for which 685 MWs of Tribal wind energy had been on the SPP interconnection queue from 2017 through 2025.

- Oglala Pine Ridge Reservation – There are three PILS located on the Pine Ridge Reservation – #2 Shannon Substation 115 kV sited for up to 100 MW, #3 Martin

Substation 115 kV sited for up to 100 MW, and #4 Vetal Substation 115 kV sited for up to 80 MW. This makes it look like the Tribe has access to up to 280 MW of transmission capacity under the new PILS designations, but that is not the case – there is a single 115 kV line that connects these three substations so the actual amount of capacity accessible by the Tribe is limited to a maximum of 100 MW. The OSPA 120 MW Pass Creek wind project (noted in Map 1) had planned to interconnect to #3 Martin Substation, and was originally sized for available capacity in 2017. This means that the amount of available capacity under the new CPP regime is less than was available under SPP's previous ITP process. OSPA has identified three wind development sites on the Pine Ridge Reservation and Rosebud Reservation along this 115 kV line that can support a total of 1.5 GW of wind energy. Again, the PILS identified by SPP do not remotely meet Tribal energy and economic development goals.

- Rosebud Reservation – There are no PILS located on the Rosebud Reservation. The PILS labeled as #5 is the Harmony Substation 115 kV sited for up to 100 MW by SPP. The substation is south of the Rosebud Reservation in Nebraska, but the 115 kV line does connect to the St. Francis Substation on the reservation. The capacity on this 115 kV line would likely be impacted by any generation interconnection at PILS #2, #3 and #4, which means the Oglala and Rosebud Sioux Tribes would likely only have a maximum of 100 MW of transmission capacity available for their 1.5 GW of developable wind energy under the PILS identified by SPP.

In short, the new PILS reflect exactly the same conditions that forced the suspension of the only utility-scale projects being developed on Tribal lands in West River South Dakota – maintenance of an inadequate 115 kV transmission grid across the Tribal lands, the imposition of unspecified network upgrade costs (to rebuild inadequate 115 kV grid components) that will be determined at some future date and that guarantee that energy projects on Tribal lands will pay more in interconnection fees than similar projects being developed outside Tribal lands. These are the non-transparent, unjust and unreasonable results that the *1920 Orders* are designed to protect against. SPP, acting pursuant to the processes and selection criteria proposed in its purported Compliance Filing, has ignored the repeated, direct and fully documented petitions from Tribal stakeholders, in clear violation of Factors 1, 2, 4, 6 and 7. SPP's proposed CPP tariff revisions and manual do not comply with the requirements of the *1920 Orders* and merit rejection.

b) OSPA Currently Is Applying for Membership in SPP – Non-tariffed Rules and Procedures Conflict with Tariffed Member Rights, Creating Confusion, Unreasonable Delay and the Risk of Unduly Discriminatory Outcomes

Starting in February of this year, OSPA contacted SPP to pursue its interest in becoming a voting member. In preparation, OSPA reviewed the relevant SPP tariff provisions, which are included in the Bylaws Tariff. OSPA is a lean organization, representing some of the most impoverished Tribes in the country, and so pursued the tariffed provision providing for a waiver of the annual membership fee. That provision states: "Legitimate public interest groups (e.g. consumer advocates, environmental groups, or citizen participation groups) may seek a waiver of the annual membership fee."[19] OSPA provided SPP with a copy of its Charter, and an explanation that OSPA is a nonprofit Section 17 corporation, 100% owned by its seven member Tribes, and OSPA's sole mandate is to develop Tribal energy on the reservations of the OSPA member Tribes for the benefit of the Oyate (the people).

The SPP Stakeholder Relations Staff at all times have been responsive and informative, but could not tell OSPA whether or not it qualified for a waiver. The problem: while the tariffed waiver provision quoted above is very straightforward, the actual implementation of the waiver provision is governed by non-tariffed rules, which are not. These provisions provide for a waiver under two circumstances: 1) a "legitimate public interest" group may seek a 50% fee waiver, but the definition of such a group is restricted to 501(c)(3) and 501(c)(4) organizations and so excludes Section17s; or 2) a 100% waiver is available to "consumer advocates operating

[19] Southwest Power Pool, Inc., Governing Documents Tariff, Bylaws, First Revised Volume No. 4, Section 8.0 (Fiscal Administration), Section 8.2 (Annual Membership Fee) (Effective Apr. 30, 2020, Docket No. ER20-1134-000).

under the authority of a governmental agency" – a term not otherwise defined. SPP has concluded that this issue can only be resolved by the Corporate Governance Committee (CGC). OSPA has submitted its membership application and waiver request, and has been invited to attend the CGC meeting to be held this August 18. OSPA looks forward to attending, and is hopeful of a resolution of the matter at the August 18 meeting.

While OSPA emphasizes that, at all times, SPP Staff have been accessible, responsive, and pleasant to deal with, the lack of clear tariffed rules, vetted through the tariffing process, has resulted in confusion (both for SPP and OSPA), unreasonable delay (by August 18, OSPA will have been seeking membership and fee waiver for six months, with no guarantee that the matter will be settled at the CGC meeting this August), and presents the risk of an inconsistent and potentially unduly discriminatory decision – precisely the problems that the rule of reasonableness seeks to prevent.

c) SPP's Failure to Tariff Tribe-specific Interconnection Terms Has Led to Violation of the Commission's Order No. 2023 Requirements

In *Order 2023*,[20] which introduced groundbreaking interconnection reform, the Commission adopted a Tribe-specific rule proposed by OSPA regarding the amount of site control required to apply for a position on the interconnection queue. In comments filed in that proceeding, OSPA explained that most reservations are comprised of three different types of land – Tribally owned trust land, trust land owned by individuals, and fee land – each with its own legal status and permitting requirements. Because utility-scale energy projects require large areas of land that typically involve all three categories of tracts, they face leasing and

[20] *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,054 (2023) (*Order 2023*).

permitting challenges not found outside reservations. OSPA proposed to address this problem by adopting a rule that, for energy projects developed on Tribal lands, a single lease signed by a Tribe would suffice for a developer to submit a queue application, even if other leases would need to be secured for 100% site control. The Commission adopted OSPA's proposal:

> With respect to OSPA's concerns regarding the challenges of demonstrating site control on Tribal lands due to the nature of land ownership on Reservations and the need for the Bureau of Indian Affairs to approve certain leases, we clarify that under the site control definition, interconnection customers developing generating facilities on Tribal lands can demonstrate site control with a signed lease agreement with the applicable Tribe-owner. [21]

SPP never included that provision in its tariff. Its currently effective tariff requires a demonstration of 100% site control, or a showing that: 1) site control is "unobtainable," and 2) a full explanation of all regulatory requirements, and 3) a payment of $10,000 per MW.[22] This same provision is now referenced in the CPP Manual – in direct violation of *Order 2023.*[23] OSPA posits that, even though this Tribe-specific rule was adopted in *Order 2023,* SPP's 1920 filing cannot be deemed compliant if it fails to include a provision expressly required by the Commission.

D. The Compliance Filing Fails to Comply with the Commission Directive to Include Past Withdrawn Generation Interconnection Requests as Evidence of Demand for Transmission Capacity

The Compliance Filing references the seven factors required to be used in long-term planning scenarios, but "the use of and weighting of the factors" will be published in the CPP Manual.[24] As described in §III(C) above, placement of critical provisions regarding the

[21] *Order 2023,* 184 FERC ¶ 61,054 at P 590 (citing OSPA Initial Comments at 17-18).
[22] Southwest Power Pool, Inc., FERC Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, Attachment AY (Consolidated Planning Process), § V.8.2(a)(1) (Demonstration of Site Control).
[23] CPP Manual at 42 n.54.
[24] Compliance Filing, Transmittal at 16-17; Proposed Tariff Revisions at §§ IV.1.1.1 and 1.2.1.

evaluation and selection of portfolio projects in the untariffed CPP Manual violates the express directive of the *1920 Orders.* Given OSPA's interconnection history with SPP, this issue is particularly concerning regarding Factor Six – Generator interconnection requests and withdrawals. Under the ITP process, wind energy generation projects were only considered in transmission planning while the projects held an interconnection queue position – if a project withdrew from the queue, it became invisible to the SPP planning process. This planning criterion was published in the ITP Siting Manual, not the OATT: "… for wind generation projects, only active projects that are in the interconnection queue are considered."[25]

The CPP Manual drops this restriction, and states that "prior interconnection activity" will be a consideration for siting renewables projects.[26] However, as shown in § III(C)(3)(a) above, the CPP Manual leads to the same results as SPP's ITP process – generation projects on the Cheyenne River and Standing Rock Reservations that were forced off the interconnection queue by network upgrade charges did not result in any PILS being located on those Tribal lands, and the three PILs identified on the Pine Ridge Reservation are useless because they limit generation to 100 MW or less.

In the *1920 Orders,* the Commission recognized that withdrawal from interconnection queues was a symptom of unjust, unreasonable and unduly discriminatory practice:

> In Order No. 1920, the Commission found that there is substantial evidence to support the conclusion that the Commission's existing regional transmission planning requirements are unjust, unreasonable, and unduly discriminatory or preferential because they do not adequately consider certain interconnection-

[25] *Southwest Power Pool, Inc.*, Integrated Transmission Planning Resource Siting Manual, (May 6, 2020), (cited in Post-workshop Comments of the Oceti Sakowin Power Authority, filed in Docket No. AD24-9-000, Innovations and Efficiencies in Generator Interconnection at 6 (Nov. 14, 2024), at 11, § 5.2.
[26] SPP CPP Manual at 2.4.2.4.1 (Resource Siting Consideration for Renewables); see generally *id.* at 2.4.2.4 (Resource Siting Process).

> related transmission needs that the transmission provider has identified multiple times in the generator interconnection process but that have never been resolved due to the withdrawal of the underlying interconnection request(s). … The Commission stated that, while interconnection customers may choose to withdraw from the interconnection queue for a number of reasons, in recent years, the deciding factor has increasingly become the interconnection customer's sticker shock at its cost responsibility for interconnection-related network upgrades.[27]

In response to this concern, the Commission developed factor six, as well as the other factors, and ordered transmission providers "to revise their regional transmission planning processes in their OATTs."[28] SPP's purported Compliance Filing does not follow the letter or the spirit of the Commission's requirement that transmission providers account for involuntary withdrawals from the interconnection queue, and so merits rejection.

E. The Compliance Filing Rejects the Commission's Requirement to Consider All Seven Benefits During the Project Selection Process, Abandoning the Greatest Hope for Positive Change in SPP's Evaluation of Tribal Energy Projects

SPP's purported Compliance Filing includes another "deviation" from the requirements of the *1920 Orders* – it rejects the Commission's requirement that all seven benefits be considered in the portfolio selection process.[29] Instead, the Compliance Filing uses the Adjusted Production Cost (APC) metric to select its portfolio projects, and promises to consider all seven benefits at a later time, after the initial portfolio projects have been selected. SPP attempts to justify its noncompliance with the *1920 Orders* with unsupported assertions that complying with the Commission's directives would be "frankly impossible."[30] At the same time,

[27] *Order 1920-A*, 189 FERC ¶ 61,126 at P 511, *citing Order 1920*, 187 FERC ¶ 61,068 at PP 1100-1101.
[28] *Id.* at P 512.
[29] Compliance Filing, Transmittal at 31-33.
[30] *Id.,* Transmittal at 31.

SPP argues that consideration of benefits "could also distort planning outcomes by favoring projects with easily quantifiable standalone benefits."[31]

The "easily quantifiable" benefits that SPP wants to disregard include benefits that are particularly relevant to the OSPA member Tribes: avoided transmission costs for outmoded and aging infrastructure, reduced loss of load and improved resource adequacy, reduced congestion costs caused by transmission line outages, and mitigation of extreme whether events.

SPP's rejection of the Commission's portfolio selection requirements, in conjunction with its Planned Interconnection Location methodology for generator interconnection, will ensure that SPP continues to assign excessive and unduly discriminatory network upgrade costs to Tribal energy projects, will continue to steer energy projects away from Tribal lands, and will perpetuate the EHV transmission desert among the OSPA member Tribes. How do we know this is the case? Because the APC screening threshold, with only secondary consideration of other benefits, is the analytical method used by SPP in its Integrated Transmission Planning process when SPP adopted that portion of the WAPA/Basin/OSPA-submitted project that was off Tribal lands, and rejected that portion that would have brought EHV to the Tribes. SPP's proposal must be rejected because it defies the Commission, and because it seeks to disregard the very *1920 Order* rules that are meant to correct the demonstrably unjust and unreasonable outcomes of SPP's ITP process.

[31] Compliance Filing, Transmittal at 32.

IV. CONCLUSION AND REQUESTED RELIEF

For the reasons discussed above, OSPA requests that the Commission reject SPP's purported Compliance Filing in its entirety and require SPP to submit revised tariff provisions that do not deviate from the directives of the *1920 Orders*.

Respectfully submitted,

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