

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

Xcel Energy Services Inc.,)	
Complainant)	
)	
v.)	Docket No. EL07-_____
)	
Southwest Power Pool, Inc.)	
Respondent)	
)	
and)	
)	
John Deere Wind Energy,)	
Respondent)	

**COMPLAINT REQUESTING FAST TRACK PROCESSING OF
XCEL ENERGY SERVICES INC.
AGAINST THE SOUTHWEST POWER POOL, INC.
AND
JOHN DEERE WIND ENERGY**

Pursuant to Sections 206 and 306 of the Federal Power Act (“FPA”), 16 U.S.C. §§ 824e and 825e (2000), and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.206 (2006), Xcel Energy Services Inc. (“XES”), on behalf of itself and Southwestern Public Service Company (“SPS”), respectfully submits this Complaint against the Southwest Power Pool, Inc. (“SPP”) and John Deere Wind Energy (“J.D. Wind”).

In this complaint, XES is asking that the Commission enforce its previous order in Docket No. EL07-28-000, where it determined that SPP could not register certain qualifying facilities¹ (“QFs”) owned and operated by subsidiaries of J.D. Wind (referred to as the “J.D. Wind Assets”) to SPS in the energy imbalance service market (“EIS

Market”). See *Xcel Energy Services, Inc. v. Southwest Power Pool, Inc.* 118 FERC ¶ 61,232 (2007) (“March 22 Order”). Despite the Commission’s clear holding in the March 22 Order that SPP may not unilaterally register the J.D. Wind Assets to SPS for participation in the EIS Market, SPP has, over SPS’s repeated objections, continued to treat the J.D. Wind Assets as registered to SPS, despite the absence of any authority to do so. The J.D. Wind Assets should be registered to J.D. Wind, not SPS.

In the March 22 Order, the Commission interpreted the SPP OATT and the relevant SPP Market Protocols and found that SPP does not have the authority to unilaterally register an asset owned and operated by another entity, in this case J.D. Wind, to SPS absent SPS’s consent.² XES therefore seeks an order from the Commission directing (1) that SPP remove the J.D. Wind Assets from the list of generation facilities for which SPS is registered in the SPP EIS Market and (2) that SPP and J.D. Wind, both parties to Docket No. EL07-28-000 and subject to the March 22 Order, arrange the registration of the J.D. Wind Assets to J.D. Wind.

The EIS Market is currently operating and the J.D. Wind Assets are still not properly registered to J.D. Wind. Therefore, XES requests Fast Track Processing of this complaint in order to ensure that this error is corrected as quickly as possible to minimize the financial impacts to the Parties.

In support of this Complaint, XES states as follows:

I. COMMUNICATIONS, SERVICE, AND NOTICE

XES requests that the following persons be placed on the official service list in this proceeding:

¹ The J.D. Wind subsidiaries are J.D. Wind 1, LLC, J.D. Wind 2, LLC, J.D. Wind 3, LLC, J.D. Wind 4, LLC, J.D. Wind 5, LLC and J.D. Wind 6, LLC.

William M. Dudley
Assistant General Counsel
Xcel Energy Services Inc.
1099 18th Street, Suite 3000
Denver, Colorado 80202
Telephone: (303) 308-2743

Terri Eaton
Manager, Federal Regulatory Affairs
Xcel Energy Services Inc.
1099 18th Street, Suite 3000
Denver, CO 80202
Telephone: 303-308-2871

Steve Beuning
Director, Market Operations
Xcel Energy Services Inc.
1099 18th Street, Suite 3000
Denver, CO 80202
Telephone: 303-308-2211

David Hudson
Director, Regulatory Administration
6th & Tyler
Amarillo, TX 79101
Telephone: 806-378-2824

Floyd L. Norton
Kevin C. Frank
Morgan Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202-739-5620/5709

XES has served this filing on the persons listed in Attachment C. Additionally, included hereto as Attachment D, XES has provided a form of notice suitable for publication in the Federal Register in accordance with the specifications of 18 C.F.R. § 385.203.

II. BACKGROUND

A. The Parties

SPS is a New Mexico corporation and a vertically integrated electric utility that provides generation, transmission, and distribution services. SPS provides electric service to approximately 400,000 retail customers in a 52,000 square mile service territory comprising portions of the Panhandle of Texas and eastern New Mexico. SPS has 6,635 miles of transmission lines and operates 330 substations at transmission voltage. SPS's transmission facilities are located in Texas, New Mexico, Oklahoma, and Kansas. SPS

² March 22 Order at P 22.

also provides a substantial level of wholesale service – approximately a third of its total load – to customers both within and outside of SPS’s control area. SPS is currently a transmission-owning member of SPP and provides transmission services over its transmission facilities under the SPP OATT.³

XES is the service company affiliate of SPS. XES is a first-tier subsidiary of Xcel Energy Inc., a public utility holding company within the meaning of the Public Utility Holding Company Act of 2005. As a service company, XES performs an array of services on behalf of SPS. Among other things, XES makes filings with and appears in proceedings before the Commission on behalf of SPS and the other utility operating company subsidiaries of Xcel Energy Inc.⁴

SPP is an Arkansas non-profit regional transmission organization with its principal place of business in Little Rock, Arkansas. SPP currently provides independent transmission administration, planning, and security coordination within its service territory and provides transmission service on a regional basis pursuant to the SPP OATT.

On June 15, 2005, in Docket No ER05-1118-000, SPP proposed revisions to the SPP OATT to establish an energy imbalance market, as well as an accompanying monitoring and market power mitigation plan. This proposal was rejected by the Commission on September 19, 2005.⁵ Accordingly, on January 4, 2006, in Docket No. ER06-451-000, SPP submitted a revised proposal to implement the EIS Market. In its

³ SPS also provides transmission services pursuant to certain grandfathered arrangements, and offers to provide transmission services that also involve the systems of its sister operating companies pursuant to the Xcel Energy Operating Companies’ Joint Open Access Transmission Tariff.

⁴ The other utility operating company subsidiaries of Xcel Energy are Northern States Power Company, Northern States Power Company (Wisconsin), and Public Service Company of Colorado.

⁵ See *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303 (2005), *reh’g denied*, 113 FERC ¶ 61,115 (2005).

proposal, SPP stated that the EIS Market would be based on least cost bid-based security constrained economic dispatch and locational marginal pricing. The Commission conditionally accepted this proposal on March 20, 2006, subject to SPP's submission of a compliance filing to provide certain missing elements and market-readiness assurances.⁶ The SPP EIS Market commenced operations on February 1, 2007.

J.D. Wind's parent, Deere & Company, is engaged in the manufacturing and distribution of agricultural equipment, construction and forestry equipment, commercial and consumer equipment, and power systems. Through various subsidiaries, J.D. Wind owns six QFs in Texas that have been completed and are presently generating energy. J.D. Wind Units 1, 2, 3, 5 and 6 are interconnected, either directly or indirectly through distribution facilities, to SPS-owned transmission facilities that are under the control of SPP. J.D. Wind Unit 4 is interconnected to SPS but is not yet in commercial operation. It is projected to go into service in the fourth quarter of 2007.⁷ The following table lists these facilities and specifies their location and nameplate capacity:

Name of Facility	Location	Nameplate Capacity
J.D. Wind 1, L.P.	Hansford County, Texas	10 MW
J.D. Wind 2, L.P.	Hansford County, Texas	10 MW
J.D. Wind 3, L.P.	Hansford County, Texas	10 MW
J.D. Wind 4, L.P.	Hansford County, Texas	79.5 MW
J.D. Wind 5, L.P.	Sherman County, Texas	10 MW
J.D. Wind 6, L.P.	Sherman County, Texas	10 MW

⁶ See *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 (2006).

In claimed conformance with the Public Utility Commission of Texas' ("PUCT") rules implementing PURPA, J.D. Wind has submitted notices to SPS informing SPS of J.D. Wind's intent to sell power from these qualifying facilities. In each of these notices, J.D. Wind purported to establish a "legally enforceable obligation" that obligates SPS to buy the output of these facilities (net of station power needs) for a twenty-year term. In subsequent communications, J.D. Wind has stated that because of what J.D. Wind construes as a legally enforceable obligation, it does not retain any right to sell the output of its facilities to any other entities and therefore cannot participate in the EIS Market.⁸ However, J.D. Wind does participate in the market even though the units are registered to SPS. If the J.D. Wind Assets produce more power than scheduled the excess power is sold to the market. The purchase and selling of power is unrelated to the units' market registration. The Commission held in the March 22 Order that SPS was obligated to interconnect with the J.D. Wind Assets, however FERC did not address J.D. Wind's contention that it is "legally obligated" to sell all of its output to XES.⁹ SPS has purchased the energy that J.D. Wind has made available to SPS from the J.D. Wind Assets on a nonfirm, as available basis under SPS Tariff No. 7009, as filed with the PUCT on December 20, 1993, in PUCT Docket No. 11520.

On June 27, 2007, J.D. Wind filed a complaint at the PUCT against SPS.¹⁰ In the PUCT Complaint, J.D. Wind asks the PUCT to find that every time J.D. Wind sent a "Notice of Impending Delivery of Energy and Establishment of a Legally Enforceable

⁷ See *J.D. Wind 4, LLC's "Application for Market-Based Rate Authority, Certain Waivers, Blanket Authorizations and Request for Expedited Consideration"* filed in Docket No. ER07-1202-000 on July 26, 2007.

⁸ See *id.*

⁹ March 22 Order at P 22.

Obligation and Election of Payment Options” to SPS, a legally enforceable obligation was created, requiring J.D. Wind to sell and SPS to purchase all energy produced by the J.D. Wind Assets.¹¹ Additionally, J.D. Wind asks the PUCT to find that the term of the legally enforceable obligation is 20 years and that SPS must compensate J.D. Wind upon the basis of avoided cost “as set forth in the respective SPS 2005 and 2006 filings covered by the estimates set forth therein.”¹² However, the PUCT Complaint seeks no clarification of the SPP registration issues or any associated matters. The outcome of any PUCT Complaint proceeding will have no bearing on the need for J.D. Wind Assets to be registered to J.D. Wind, as J.D. Wind is the only entity that has the specific information identified by the Commission in the March 22 Order as necessary for the registrant of a market resource and the PUCT Complaint cannot alter that fact.¹³

B. Proceedings in Docket No. EL07-28-000

On January 4, 2007, XES filed a complaint against SPP alleging that the J.D. Wind Assets had improperly been registered to SPS for participation in the EIS Market. XES requested that the Commission determine that SPP lacks authority to unilaterally register the J.D. Wind Assets to XES. SPS has no dispatch or control of the J.D. Wind facilities. SPS only receives the energy as available from J.D. Wind. XES also requested that the Commission direct SPP to remove the J.D. Wind Assets from the list of generation facilities for which XES is the registrant in the EIS Market.

¹⁰ See “Complaint of JD Wind 1, LLC, JD Wind 2, LLC, JD Wind 3, LLC, JD Wind 4, LLC, JD Wind 5, LLC and JD Wind 6, LLC, Against Southwestern Public Service Company,” PUCT Docket No. 34442 (“PUCT Complaint”).

¹¹ *Id.* at 7.

¹² *Id.* at 8.

¹³ March 22 Order at P 25.

FERC held that the SPP OATT does not permit SPP to undertake registration responsibilities for SPS.¹⁴ FERC also determined that, “the SPP Market Protocols authorize only market participants to register market resources.”¹⁵ The Commission concluded that XES was not the operator of the J.D. Wind Assets and that, “in the absence of an operating agreement establishing [SPS] having operational information and sufficient control over the J.D. Wind facilities, [SPS] cannot be held to be a ‘[Market Participant] operating resources.’”¹⁶

The Commission ordered that “SPP cannot act to impose upon the parties obligations that they have not established.”¹⁷ Thus, the Commission granted XES’s complaint. Inconsistent with this holding, SPP still maintains SPS as the registrant for the J.D. Wind Assets while SPS still lacks the necessary information to act as the registrant for these facilities.

C. Discussions Regarding Registration of J.D. Wind’s Assets Subsequent to the March 22 Order

Subsequent to the issuance of the March 22 Order, XES had separate communications with SPP and J.D. Wind regarding the appropriate registration of the J.D. Wind Assets. The March 22 Order clearly established that SPP cannot unilaterally register the J.D. Wind Assets to XES.¹⁸ Absent registration in the EIS Market, the J.D. Wind Assets would be treated as behind-the-meter generation and would function as negative load, thereby adversely impacting SPS’s ability to accurately forecast and manage its own load.

¹⁴ March 22 Order at P 20.

¹⁵ *Id.* at P 21.

¹⁶ *Id.*

¹⁷ *Id.* at P 28.

¹⁸ *Id.*

Ultimately, all attempts to find a solution to the J.D. Wind registration problem have been fruitless. SPP indicated in April that it estimated it would take approximately five weeks to effectuate the transfer of registration of the J.D. Wind Assets from SPS to J.D. Wind¹⁹ SPP also informed SPS that it intended to file an unexecuted registration agreement, registering the J.D. Wind Assets to J.D. Wind, at the Commission.²⁰

However, instead of filing the appropriate registration, SPP communicated to SPS that it did not have authority under its existing tariff to register the units to J.D. Wind. SPP claimed that a revision to the tariff required review and approval through the SPP stakeholder process. On May 31, 2007, during a weekly status call with SPP, SPS employees were notified that J.D. Wind had informed SPP that they were unwilling to be a Market Participant or accept registration of the J.D. Wind Assets.²¹ On June 7, 2007, SPP notified SPS employees that SPP had determined that under its OATT, SPP could not unilaterally register the J.D. Wind Assets to J.D. Wind any more appropriately than it could unilaterally register them to SPS.²² About a month ago, SPP proposed revised tariff language to give SPP the authority to unilaterally register units to Market Participants if an asset owner or operator within the SPP footprint is unwilling to register its unit(s) with SPP. SPS filed with SPP a Protocol Revision Request on July 26, 2007 to give SPP the authority to file an unexecuted Registration Agreement with FERC if an asset owner or operator within the SPP footprint is unwilling the register the unit with SPP (See attachment A).²³

¹⁹ Attachment A, Affidavit of Jessica Collins, at 2.

²⁰ *Id.*

²¹ *Id.* at 3

²² *Id.*

²³ *Id.*

In addition to communications with SPP, XES had further discussions with J.D. Wind staff regarding the registration issue for the J.D. Wind Assets. On May 29, 2007, representatives of J.D. Wind and XES participated in a conference call to discuss certain issues, including the registration of the J.D. Wind Assets.²⁴ In response to solicitations from the executives of XES, the J.D. Wind representatives indicated that they would try to submit to SPS a proposal for reaching an agreement whereby SPS would serve as the registrant for the J.D. Wind Assets before an upcoming America Wind Energy Association (“AWEA”) conference on June 5, 2007, but no proposal was ever received.²⁵

At the AWEA conference on June 5, 2007, a representative of XES met with the representatives of J.D. Wind who had participated on the May 29, 2007 conference call.²⁶ Again the parties discussed ways of addressing the registration dispute, and J.D. Wind reiterated that it would send SPS a written proposal regarding the registration of the J.D. Wind Assets.²⁷ No such proposal was ever received.

Furthermore, at the conclusion of the August 7, 2007 meeting of the SPP Market Working Group (“MWG”), an informal discussion occurred relating to Protocol Revision Request (“PRR”) 165. This discussion was open to all interested parties and most participants in the meeting remained for this discussion. This PRR was submitted by XES on behalf of SPS in an effort to amend the protocols to provide SPP the authority to file an unexecuted Market Participant Agreement in the event the entity that SPP reasonably believes to be the Market Participant responsible for a resource fails or refuses to register the resource. SPS had proposed this PRR in an effort to facilitate an

²⁴ Attachment B, Affidavit of Karen T. Hyde at 3.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

appropriate response by SPP to the order in Docket No. EL07-28-000. During this discussion, SPP's Director of Transmission and Regulatory Policy, Pat Bourne, indicated that SPP had a plan to address registration of the JD Wind units by the end of the month. Mr. Bourne and SPP's Manager of Market Operations, Richard Dillon, indicated that it was SPP's intention to transfer registration of the J.D. Wind units to a pseudo-entity by month-end. Through this pseudo-entity, registration would be maintained so that SPP would receive the operational information it needed. However, any revenues (and presumably charges) attributable to the resources registered to the pseudo-entity would be captured by SPP and reallocated through Revenue Neutrality Uplift ("RNU") to all participants in the EIS market.

XES had not been advised of this plan by SPP before it was discussed by SPP staff at the MWG meeting. Through the chair of the MWG, SPP was advised that XES wished to discuss this proposal with SPP to learn more details. That discussion has not yet occurred. Preliminarily, XES has a number of concerns about this proposal, including:

- (1) SPP's tariff does not authorize it to establish a pseudo-entity or to transfer registration of assets to such an entity;
- (2) This proposal would effectively result in SPP appropriating revenues associated with the resource registered to the pseudo-entity, and distributing those revenues to entities that have no relationship to the resource;
- (3) SPP's proposal could result in imposing significant charges on Market Participants generally when such charges should appropriately be borne by the entity that owns or operates the resource;
- (4) The implications of this proposal on the settlement process have not been vetted with the market; and
- (5) The proposal fails to identify who is responsible for paying J.D. Wind for

the output of the J.D. Wind units when that output would not have been credited to the benefit of SPS either through imbalance revenues or as unsettled schedules.

SPP's proposal to simply unregister the J.D. Wind units will not alleviate the financial and operational responsibilities that were improperly imposed on SPS as a result of SPP's decision to register the units to SPS. Rather, SPP's proposed action may well exacerbate those problems. SPP's action will result in SPS remaining financially responsible for EIS market costs associated with these units. In particular, we expect that the frequency of imposition of over and underscheduling charges imposed on SPS will increase because the variability in these units will be reflected in SPS's load rather than in the output of the units. Furthermore, SPP's plan will not assign direct operational responsibility for the J.D. Wind units to the correct Market Participant; instead, SPS will continue to bear operational responsibility. SPS will have to attempt to manage its own system in a manner that fully accounts for the operation of the J.D. Wind units. These management activities will involve more complex load forecasting processes and additional administrative costs that SPS' customers would unjustly have to bear.

Since issuance of the March 22 Order, the EIS Market has been in operation for over four full months without SPP implementing the March 22 Order and XES does not foresee SPP or J.D. Wind resolving this issue in a timely fashion consistent with the Commission's decision in Docket No. EL07-28-000.

III. ARGUMENT

A. The Commission Held in the March 22 Order that Neither the SPP OATT Nor SPP Market Protocols Grant SPP Unilateral Authority to Register the J.D. Wind Assets to SPS

Governing Commission precedent establishes that Regional Transmission Organizations (“RTO”) are bound to implement their OATTs as filed with the Commission and clarified in their Market Protocols.²⁸ As previously explained in XES’ complaint in Docket No. EL07-28-000, neither the SPP OATT nor the SPP Market Protocols grant SPP the authority to unilaterally register assets to a Market Participant. SPP may, however, file an unexecuted Registration Agreement with the Commission.²⁹ Therefore the Commission should, consistent with its holding in the March 22 Order, require SPP to remove the J.D. Wind Assets from SPP’s list of assets registered to SPS. The Commission should also require SPP to file an unexecuted Registration Agreement with the Commission, registering the J.D. Wind Assets to J.D. Wind.

XES asserts that there still is no agreement between J.D. Wind and SPS relating to the sale and purchase of the output of the J.D. Wind Assets.³⁰ SPS purchases the output of the J.D. Wind Assets pursuant to the PUCT’s regulations implementing PURPA on a non-firm, as available basis. However, the basis upon which SPS pays J.D. Wind for its energy is immaterial to the issue of registration. The Commission determined in the March 22 Order that XES is not obligated to serve as the registrant for the J.D. Wind

²⁸ See the March 22 order, *see also, e.g., Atlantic City Elec. Co. v. PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,132 (2006), *order on reh'g and compliance filing*, 117 FERC ¶ 61,169 (2006) (granting complaint against PJM on the basis that PJM failed to comply with OATT provisions); *City of Holland v. Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,076, *reh'g den*, 112 FERC ¶ 61,105 (2005) (granting complaint against Midwest Independent Transmission System Operator, Inc. for failure to comply with OATT provisions)

²⁹ SPP OATT at Attachment AH - Market Participant Service Agreement.

³⁰ As mentioned previously, the basis on which SPS purchases power from J.D. Wind is being challenged in the PUCT Complaint.

Assets and that “registration of a market resource requires the registrant to have specific information about the market resource.”³¹ The Commission found that SPS did not possess the essential information for registration and that proper arrangements were not in place that would allow SPS to serve as the registrant for the J.D. Wind Assets.³² XES has repeatedly tried to come to an agreement with J.D. Wind that would permit SPS to operate and register the J.D. Wind Assets but despite XES’ good faith efforts, no such agreement has been struck.

Indeed, SPS currently has no entitlement to or information relating to the output of the J.D. Wind Assets. SPS and J.D. Wind have no agreement that would allow SPS to serve as the registrant for the J.D. Wind Assets. FERC’s regulations establish that J.D. Wind may sell to whomever it wants and SPS has no information relating to the operating characteristics of any of the J.D. Wind Assets, nor does SPS have any information relating to the real-time status of any of these units. If a unit goes down for maintenance or is derated for any reason, SPS will not have access to that information on its own, and there is no obligation on the part of J.D. Wind to inform SPS of those events. Consequently, SPS cannot reasonably be construed as the “operator” of those units. Accordingly the Commission should require J.D. Wind, as the only entity with operational control of the J.D. Wind Assets, to register its units as a Market Participant in the EIS Market.

The SPP OATT and the SPP Market Protocols establish that only Market Participants have the ability to register an asset for the EIS Market. Neither the SPP OATT nor the SPP Market Protocols require XES to register the J.D. Wind Assets,

³¹ March 22 Order at PP 25 and 28.

³² March 22 Order at P 25.

particularly given the absence of any contractual provisions that give SPS the operational control over the facility contemplated by the SPP Market Protocols.

The Commission determined that SPP does not have the authority to unilaterally register the J.D. Wind Assets to SPS,³³ and that, accordingly, SPP should remove these facilities from SPS's registered generation resources for the EIS Market. XES respectfully requests the Commission to issue an order wither (1) directing SPP to properly register the J.D. Wind Assets to J.D. Wind or (2) directing J.D. Wind to properly register the J.D. Wind Assets to itself.

B. J.D. Wind is a Market Participant and the Appropriate Registrant for the J.D. Wind Assets

In the March 22 Order, the Commission found that the text of both the SPP OATT and the SPP Market Protocols establishes that the Market Participants are responsible for the registration of assets they own or have an agreement to operate.³⁴ Further, the Commission held that SPP lacks the authority to unilaterally register an asset to a Market Participant that is not owned or operated by that Market Participant.³⁵ J.D. Wind is a Market Participant as defined by the SPP OATT. As further support for the contention that J.D. Wind is able to generate and sell power in the EIS Market, SPS notes that J.D. Wind has recently applied for Market-Based Rate Authority for one of the J.D. Assets.³⁶ The Commission should find that J.D. Wind is a Market Participant and order J.D. Wind to register the J.D. Wind Assets.

Section 1.18b of the SPP OATT defines a Market Participant as:

³³ March 22 Order at P 28.

³⁴ *Id.* at P 20.

³⁵ *Id.* at P 28.

³⁶ See *J.D. Wind 4, LLC's "Application for Market-Based Rate Authority, Certain Waivers, Blanket Authorizations and Request for Expedited Consideration"* filed in Docket No. ER07-1202-000 on July 26, 2007.

An entity that generates, transmits, distributes, purchases, or sells electricity or provides ancillary services with respect to such services (or contracts to perform any of the foregoing activities) within, into, out of, or through the Transmission System. Market Participant expressly includes: (a) Transmission Owner(s) and any of their affiliates including Transmission Owners providing transmission service to: (i) bundled retail load for which such Transmission Owners are taking neither Network Integration Transmission Service nor Firm Point-to-Point Transmission Service under this Tariff; and (ii) load being served under Grandfathered Agreements for which such Transmission Owners are taking neither Network Integration Transmission Service nor Firm Point-to-Point Transmission Service under this Tariff, (b) Transmission Customers, (c) Network Customers, (d) Generation Interconnection Customers and (e) any Eligible Customer offering Resources for sale into the EIS Market that executes the Service Agreement specified in Attachment AH. In order to be a Market Participant, the Eligible Customer must be a Transmission Customer; must have executed a Service Agreement, or on whose behalf an unexecuted Service Agreement has been filed with the Commission; or must be otherwise bound by the terms of this Tariff.³⁷

J.D. Wind is thus a Market Participant as defined by the SPP OATT, and is clearly the entity in the best position to be registered as responsible for its own assets. Since J.D. Wind is unwilling to register its own facilities and SPP has not registered the assets to J.D. Wind, XES respectfully requests the Commission issue an order either (1) directing SPP to properly register the J.D. Wind Assets to J.D. Wind or (2) directing J.D. Wind to properly register the J.D. Wind Assets to itself.

IV. HARM TO SPS AND RELIEF REQUESTED

SPP's unilateral registration of the J.D. Wind Assets to SPS harms SPS because SPS will be responsible for scheduling the J.D. Wind Assets in Real-Time in the EIS Market, as well as providing SPP with a Day-Ahead resource plan for the J.D. Wind Assets, when no contract currently exists between SPS and J.D. Wind governing the sale of the output or operation of those facilities. SPS has become financially responsible for

³⁷ See SPP OATT, First Revised Sheet No. 12 (emphasis added).

any market charges associated with the J.D. Wind Assets in the EIS Market when SPS does not operate those facilities, or have access to information concerning those facilities' operation. Thus, SPS does not have the information necessary to fulfill its scheduling and forecasting obligations associated with the J.D. Wind Assets' registration in the EIS Market, while at the same time, being financially responsible for those facilities' imbalances. XES respectfully requests the Commission issue an order either (1) directing SPP to properly register the J.D. Assets to J.D. Wind or (2) directing J.D. Wind to properly register the J.D. Wind Assets to itself.

V. REQUEST FOR FAST TRACKING AND RULE 206 REQUIREMENTS

XES has requested Fast Track Processing of this Complaint due to the current financial liabilities stemming from the improper registration of the J.D. Wind Assets. The longer the J.D. Wind Assets are improperly registered in the EIS Market, the greater the potential financial consequences. Further, XES believes that the appropriate registration of resources will enhance the operation of the EIS Market.

The issues raised in this Complaint are not pending in any other Commission proceeding or in a proceeding in any other forum in which XES or SPS is a party.³⁸ Moreover, XES has not attempted to utilize the Enforcement Hotline, Dispute Resolution Service, or tariff-based dispute resolution procedures to resolve the issues set forth in this complaint, because as noted above, XES has attempted informally to resolve these issues with SPP and J.D. Wind, without success. Given the state of communications to date between SPP, J.D. Wind and XES on the issues set forth herein and the fact that SPP has

³⁸ J.D. Wind has initiated a proceeding before the Public Utility Commission of Texas seeking to compel SPS to purchase the output of the J.D. Wind Assets on terms more favorable to J.D. Wind than the terms in SPS's approved tariff, however, the terms on which SPS is compelled to purchase the output of the J.D.

continued to maintain the J.D. Wind Assets registered to SPS, XES does not believe that other dispute resolution procedures would prove useful in resolving the concerns of XES. Further, given the implementation of the EIS Market and the financial liability associated with the J.D. Wind Assets, XES does not believe that adequate time exists to pursue alternative dispute resolution mechanisms.

VI. ADDITIONAL REQUIREMENTS OF RULE 206

In addition to the foregoing, XES submits the following information in accordance with the Commission's complaint procedures set forth in Rule 206 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206.

A. Supporting Documents

Attachment A	Jessica L. Collins Affidavit Regarding Discussions with SPP subsequent to March 22 Order
Attachment B	Karen T. Hyde Affidavit Regarding Discussions with J.D. Wind subsequent to March 22 Order
Attachment C	<i>Xcel Energy Services, Inc. v. Southwest Power Pool, Inc.</i> 118 FERC ¶ 61,232 (2007) ("March 22 Order")
Attachment D	List of Parties Served With Complaint
Attachment E	Notice of Complaint

VII. CONCLUSION

WHEREFORE, for the reasons described herein, XES respectfully requests the Commission review this Complaint and further that the Commission grant the relief requested herein.

Wind Assets is not an issue raised in this complaint and unrelated to the issue of the appropriate registration of the J.D. Wind Assets and the determination that J.D. Wind is a Market Participant.

Respectfully submitted,

/s/

Floyd L. Norton IV
Kevin C. Frank
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 739-3000

Fax: (202)739-3001

William M. Dudley
Xcel Energy Services Inc.
1099 18th Street, Suite 3000
Denver, Colorado 80202
Tel: (303) 308-2242
Fax: (303) 308-7683

Date: August 13, 2007

Attorneys for
Xcel Energy Services Inc.

ATTACHMENT A

SPP's EIS Market. The following table lists the J.D. Wind Assets and specifies their location and nameplate capacity:

Name of Facility	Location	Nameplate Capacity
JD Wind 1, L.P.	Hansford County, Texas	10 MW
JD Wind 2, L.P.	Hansford County, Texas	10 MW
JD Wind 3, L.P.	Hansford County, Texas	10 MW
JD Wind 4, L.P.	Hansford County, Texas	79.5 MW
JD Wind 5, L.P.	Sherman County, Texas	10 MW
JD Wind 6, L.P.	Sherman County, Texas	10 MW

4. On March 22, 2007, the Commission issued an Order in Docket No. EL07-28, holding that SPP was unable to unilaterally register an asset owned and operated by another entity, in this case J.D. Wind, to SPS absent SPS's consent.¹ SPS had thought that subsequent to the March 22 Order, the J.D. Wind Assets would be appropriately registered to J.D. Wind, however that has still not occurred.
5. The Commission held in the March 22 Order that XES was obligated to interconnect with the J.D. Wind Assets.² SPS has purchased and continues to purchase the energy that J.D. Wind has made available to SPS from the J.D. Wind Assets on a nonfirm, as available basis under SPS Tariff No. 7009, as filed with the PUCT on December 20, 1993, in PUCT Docket No. 11520.³
6. SPP indicated in April that it estimated it would take approximately five weeks to effectuate the transfer of registration of the J.D. Wind Assets from SPS to J.D. Wind.⁴ SPP also informed SPS that it intended to file an unexecuted registration agreement, registering the J.D. Wind Assets to J.D. Wind, at the Commission.⁵

¹ See *Xcel Energy Services, Inc. v. Southwest Power Pool, Inc.* 118 FERC ¶ 61,232 (2007) ("March 22 Order").

² March 22 Order at P 27.

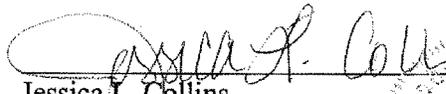
³ *Id.*

⁴ See Exhibit 1 (April 30, 2007 Email of Terri K. Eaton memorializing conversations with SPP staff) and Exhibit 2 (May 8, 2007 Email of Christi Pinkerton of SPP containing tentative schedule for registration to J.D. Wind).

⁵ *Id.*

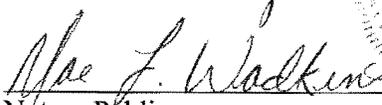
7. However, instead of filing the appropriate registration, SPP communicated to SPS that it could not move forward on its proposed timetable for registering the J.D. Wind Assets because of delays in obtaining a "necessary" DUNS # from Dun & Bradstreet.⁶
8. On May 31, 2007, during a weekly status call with SPP, SPS employees were notified that J.D. Wind had informed SPP that it was unwilling to be a Market Participant or accept registration of the J.D. Wind Assets.
9. On June 7, 2007, during the next weekly status call, SPP notified SPS employees that SPP had determined that under its OATT, SPP could not unilaterally register the J.D. Wind Assets to J.D. Wind any more appropriately than it could unilaterally register them to SPS. At that point, SPP Staff suggested that in order to register the J.D. Wind Assets appropriately, it must revise its tariff, which would require review and approval through the SPP stakeholder process, specifically the Regional Tariff Working Group.⁷
10. SPS filed a Protocol Revision Request on July 26, 2007 to give SPP the authority to file an unexecuted registration Agreement with FERC if an asset owner or operator within the SPP footprint is unwilling to register the unit with SPP. Since issuance of the March 22 Order, the EIS Market has been in operation for over four full months without the registration issue being resolved.

Further affiant sayeth not.



Jessica L. Collins

SUBSCRIBED TO AND SWORN to before me by 1361 on August 11, 2010



Mae F. Wadkins
Notary Public



My Commission expires: Aug 11, 2010

⁶ See Exhibit 3 (May 10, 2007 Email of Christi Pinkerton of SPP regarding delay in registering J.D. Wind Assets).

⁷ *Id.*

EXHIBIT 1

----- Message from "Eaton, Terri K" <terri.k.eaton@xcelenergy.com> on Mon, 30 Apr 2007 15:33:20 -0600 -----

To: "Dudley, William M" <bill.dudley@xcelenergy.com>, "Pavlovic, Jeff T" <jeff.pavlovic@xcelenergy.com>, "Nicholas J" <nick.detmer@xcelenergy.com>, "Welch, John T" <john.welch@xcelenergy.com>, "Bc" <bill.olson@xcelenergy.com>, "Woolley, Timothy B" <timothy.b.woolley@xcelenergy.com>
cc: "Collins, Jessica L" <jessica.l.collins@xcelenergy.com>, "Beuning, Stephen J" <Stephen.J.Beuning@xcelenergy.com>, "Kristine.Schmidt@xcelenergy.com"

Subject Registration of JD Wind

:

We had a short conversation with SPP today about its plans to respond to the FERC order relating to registration of the JD Wind units.

SPP indicated that it will take about 5 weeks to get systems set up to transfer registration from us to JD Wind—that includes two 7-day QA test periods. SPP's plan is to file an unexecuted registration "agreement" with FERC and simultaneously begin working on setting up systems for the transfer. The unexecuted agreement would include an effective date timed to coincide with changes to SPP systems. SPP is supposed to provide us by this Friday a draft schedule for filing an unexecuted agreement and making required system changes.

We mentioned to SPP the concern that Bill previously raised that SPP would have to change its tariff in order to file an unexecuted agreement. Pat Bourne said he would call Bill to get a better understanding of Bill's concern.

We asked whether we could get reimbursement for any charges incurred during the time the units were registered to us. SPP said it would look at settlements, and we said we would do the same. (Note: I doubt that SPP will agree to reimburse us, and there's probably not enough money involved to warrant pursuit through FERC).

Jeff and/or Carolyn—can you clarify when we started submitting schedules for JD Wind? Karin will use that date as the start date to pull some settlements information to see how much we were charged for imbalances in relation to our load-weighted average LIP.

EXHIBIT 2

----- Message from "Christi Pinkerton" <cpinkerton@SPP.ORG> on Tue, 8 May 2007 15:45:16 -0600 -----

To: "Collins, Jessica L" <jessica.l.collins@xcelenergy.com>

cc: "Carl Monroe" <cmonroe@SPP.ORG>, "Eddie Watson" <ewatson@SPP.ORG>, "RJ Robertson

Subject: FW: Scheduling Information for Implementing the Change to Transfer JD Wind Asset from SPS

Jessica,

Here is a tentative schedule we have put together for transferring the JD Wind assets from SPS to a new JD Wind Market Participant. Please note that this is based upon having all of the needed data from JD Wind by tomorrow. If we are missing any of the data, the schedule will have to be adjusted.

Please let me know if you have further questions or concerns.

Thank you,
Christi

From: Eddie Watson

Sent: Tuesday, May 08, 2007 3:42 PM

To: Christi Pinkerton

Cc: Eddie Watson

Subject: Scheduling Information for Implementing the Change to Transfer JD Wind Asset from SPS to new JD Wind Market Participant.

Christi,

Scheduling information for implementing the Model changes to transfer the JD Wind asset from SPS to the new JD Wind Market Participant is attached and below;

Schedule for Model Update to be Effective in PROD on June 1, 2007 (JD Wind MP Data not available until May 9, 2007.)

QA Termination Date = 5/17/2007

QA Effective Date = 5/18/2007

PROD Termination Date = 5/31/2007

PROD Effective Date = 6/01/2007

Receive required MP Registration data from JD Wind by **5/09/2007**

QA - Obtain CAB approval to implement CR in QA – **5/10/2007**

QA - Implement COS Terminations by **5/10/2007** (Complete Terminations by **5/10/2007** and Additions by **5/16/2007**)

QA - Implement MOS Upload starting on **5/10/2007** (Do not execute Reconcile Netmom)

QA - Implement Offer Cap changes = **5/15/2007** (No later than this date if needed.)

QA - Implement RSS and NLS changes = **5/17/2007** (If needed.)

QA - Implement EMS Upload Date and execute Reconcile Netmom to move EMS changes to MOS = **5/17/2007** (If needed.)

QA – Perform QA Testing of Changes – **5/18/2007 – 5/23/2007**

DEADLINE to revert to SPS as MP and not impact PROD = **5/24/2007**

PROD - Obtain CAB approval to implement CR in PROD – **5/24/2007**

PROD - Implement COS Changes starting **5/24/2007** (Complete Terminations by **5/24/2007** and Additions by **5/30/2007**)

PROD - Implement MOS Upload Starting **5/31/2007** (Do not execute Reconcile Netmom)

PROD - Implement Offer Cap changes at least by **5/29/2007**. (If needed.)

PROD - Implement RSS and NLS changes = **5/31/2007**. (If needed.)

PROD - Implement EMS Upload Date and execute Reconcile Netmom to move EMS changes to MOS = **5/31/2007**. (If needed.)

Please let me know if you have any questions or need additional information.

Thank,
Eddie

EXHIBIT 3

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

From: Christi Pinkerton <cpinkerton@SPP.ORG>

To: Collins, Jessica L

Sent: Thu May 10 10:34:49 2007

Subject: RE: Scheduling Information for Implementing the Change to
Transfer JD Wind Asset from SPS to new JD Wind Market Participant.

Jessica,

I spoke with JD Wind today and they have applied for but have not yet received a DUNS #. This information is needed to obtain a NERC ID (w/in a relatively short amount of time). Both of these pieces are needed by us for the registration process. JD Wind's contact at DUNS indicated they should get this today, but we'll have to see if that happens. If we receive their registration packet today we should be able to stay on schedule. If not, we'll have to adjust the schedule based on when the information is received. At this point both JD Wind and SPP are at the mercy of Dun & Bradstreet. I will certainly let you know once we receive everything and based on that time what we see as the schedule.

Thank you,

Christi

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

From: Collins, Jessica L [<mailto:jessica.l.collins@xcelenergy.com>]

Sent: Thursday, May 10, 2007 10:23 AM

To: Christi Pinkerton

Subject: Fw: Scheduling Information for Implementing the Change to
Transfer JD Wind Asset from SPS to new JD Wind Market Participant.

Christi,

Did JD Wind provide the registration data on time? If not, what data is

missing and when will it be provided? I assume the schedule will suffer a day for day slip for every day that you don't have the data. If necessary, when will SPP be able to provide an updated schedule? Thank you.

Jessica Collins

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

From: Collins, Jessica L

To: 'Christi Pinkerton' <cpinkerton@SPP.ORG>

Sent: Tue May 08 20:22:47 2007

Subject: RE: Scheduling Information for Implementing the Change to Transfer JD Wind Asset from SPS to new JD Wind Market Participant.

Hi Christi,

Thanks for the schedule. I assume that you are expecting an on time delivery of the data from JD Wind. However, please let me know if JD Wind is delinquent and (if that happens) when a revised schedule can be provided by SPP. Thanks for your help.

Jessica L. Collins

Manager, Market Operations

Xcel Energy Services, Inc.

jessica.l.collins@xcelenergy.com

(W) 303-308-7740

(C) 303-910-7960

From: Christi Pinkerton [<mailto:cpinkerton@SPP.ORG>]

Sent: Tuesday, May 08, 2007 3:45 PM

To: Collins, Jessica L

Cc: Carl Monroe; Eddie Watson; RJ Robertson

Subject: FW: Scheduling Information for Implementing the Change to
Transfer JD Wind Asset from SPS to new JD Wind Market Participant.

Jessica,

Here is a tentative schedule we have put together for transferring the

JD Wind assets from SPS to a new

-----Original Message Truncated-----

Jessica Collins

ATTACHMENT B

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Xcel Energy Services Inc.,)	
Complainant)	
)	
v.)	Docket No. EL07-_____
)	
Southwest Power Pool, Inc.)	
Respondent)	

County of Denver §

State of Colorado §

AFFIDAVIT OF KAREN T. HYDE

1. I, Karen T. Hyde, submit this affidavit in support of the application of Xcel Energy Services, Inc for Southwestern Public Service Company ("SPS"), an electric operating company subsidiary of Xcel Energy Inc. ("Xcel Energy"). I am over the age of 18 years, of sound mind, and am fully competent to make this affidavit. I have personal knowledge of the facts stated herein, or the gathering of facts has been pursuant to my guidance and direction, which facts and information are true and correct to the best of my knowledge, belief, and understanding of the information provided to me.

2. My professional work experience includes working as a forecaster for Baltimore Gas and Electric and as a Lead Nuclear Engineer for the Department of Defense. I began my career with Xcel Energy at Public Service Company of Colorado ("PSCo") over 17 years ago. I held various positions at PSCo including Research Analyst, where I forecasted regional economics as well as customer and sales growth, and Planning Engineer and Senior Planning Engineer in the System Planning Department, where I negotiated power purchase agreements ("PPAs"), amendments to PPAs, and financing documents for PPAs. I also performed production cost and expansion planning modeling. In 1995, I became a Business Development Analyst where I developed pricing for PSCo's bid responses to various wholesale requests for proposals and worked on a team investigating the restructuring of various PSCo PPAs. I eventually led that team and became Team Lead over Purchased Power Administration. In 1998, I

was promoted to Manager, Purchased Power. In 2002, I was promoted to Director, Purchased Power. I assumed the additional responsibility of resource planning for Xcel Energy in 2006 when I was made the Managing Director of Resource Planning and Acquisition. In June of 2007, I was named the Vice President of Resource Planning and Acquisition. My business address is 1099 18th Street, Suite 2200, Denver, CO 80202.

3. As Vice President of Resource Planning and Acquisition for Xcel Energy, I manage a staff that is responsible for electric and gas resource planning and acquisition with the mandate that adequate gas and electric resources are procured to meet the load requirements of both retail and wholesale customers. Staff duties include load and resource analysis to evaluate resource need, resource solicitation, resource bid evaluation, and negotiating and administering short-term and long-term electric PPAs for the purchase of both energy and capacity for Xcel Energy's utility operating companies: SPS, PSCO and the Northern States Power Companies. My group currently purchases over 7,500 megawatts (MW) of electric generating capacity under long-term contracts, including over 1,400 MW from renewable energy resources, for the Xcel Energy utility operating companies. The majority of the purchases include the purchase of energy. Xcel Energy's operating companies also make short-term purchases of electric energy and capacity to meet system needs. Xcel Energy's electric trading group makes these purchases.

4. The purpose of this affidavit is to provide background information regarding the facts leading to XES's filing of its Complaint Seeking Fast Track Processing against SPP and John Deere Wind Energy ("J.D. Wind"). XES is filing the Complaint because of the improper registration of certain Qualifying Facilities ("QFs") owned and operated by J.D. Wind (referred to collectively as the "J.D. Wind Assets") to SPS for participation in SPP's EIS Market.

5. On March 22, 2007, the Commission issued an Order in Docket No. EL07-28, holding that SPP was unable to unilaterally register an asset owned and operated by another entity, in this case J.D. Wind, to SPS absent SPS's consent.¹ SPS had thought that subsequent to the March 22 Order, the J.D. Wind Assets would be appropriately registered to J.D. Wind, however that has still not occurred.

6. The Commission held in the March 22 Order that SPS was obligated to interconnect with the J.D. Wind Assets.² SPS has purchased and continues to purchase the energy that J.D. Wind has made available to SPS from the J.D. Wind Assets on a nonfirm, as available basis under SPS Tariff No. 7009, as filed with the PUCT on December 20, 1993, in PUCT Docket No. 11520.³

¹ See *Xcel Energy Services, Inc. v. Southwest Power Pool, Inc.* 118 FERC ¶ 61,232 (2007) ("March 22 Order").

² March 22 Order at P 27.

³ *Id.*

7. On Tuesday, May 29, 2007, Steve Beuning, Director of Market Operations with XES, Terri Eaton, then Manager of Regulatory Affairs with XES, and I had a conference call with John Harvey and Rick Free of J.D. Wind. On the conference call, we discussed, among other issues, the registration of the J.D. Wind Assets. I explained that it was SPS' position that the units needed to be registered because otherwise the units would act as behind-the-meter generation and thus cause SPS problems in managing its' load. During the call the XES representatives solicited any proposals J.D. Wind might have regarding the management of the J.D. Wind Assets, asking them to submit any thoughts they had in writing. In addition, I indicated that SPS might be willing to take on registration of the units, provided that a mutually agreeable arrangement between SPS and J.D. Wind could be arranged. We encouraged J.D. Wind to send us a mark-up of the Registration Agreement we had provided to J.D. Wind before the complaint in Docket No. EL07-28 was filed. Near the end of the call, the J.D. Wind representatives indicated that they could not see a paradigm within which they would agree to accept registration of the J.D. Wind assets. The J.D. Wind representatives indicated that, as requested, they would try to submit SPS a proposal before an upcoming America Wind Energy Association ("AWEA") conference on June 5, 2007, but no proposal was ever received.

8. At the AWEA conference on June 5, 2007, I met with John Harvey and Rick Free. We discussed the continuing dispute between XES and J.D. Wind relating to the nature of J.D. Wind's rights as a QF on the SPS system. This dispute relates to the nature and extent of the "Legally Enforceable Obligation" that J.D. Wind believes it has unilaterally imposed upon SPS, as discussed further in J.D. Wind's response in Docket No. EL07-28. We also discussed ways of addressing the current registration dispute, and they reiterated that they would send SPS a written proposal regarding the registration of the J.D. Wind Assets. No such proposal was ever received.

9. Finally, I believe that it is important that the Commission realize that XES has made good faith efforts to negotiate an agreement with J.D. Wind. XES has proposed arrangements where, pursuant to a stand-alone contract not contingent upon resolution of the underlying issue of whether J.D. Wind can require SPS to purchase from its wind units on a long-term basis, XES would register J.D. Wind's generation resources with the SPP. A condition of XES's willingness to register those resources was a commitment by J.D. Wind that it would not, in fact, make sales to any other entities within the EIS Market, and at such time as J.D. Wind elected to make other sales, the agreement would terminate. While J.D. Wind purports to give its permission to XES to register the units and to consider some lesser "coordination agreement" of unspecified nature, it has declined to even negotiate SPS's proposed agreement, much less execute it.

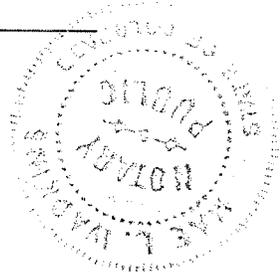
Further affiant sayeth not.

Karen T Hyde
Karen T. Hyde

SUBSCRIBED TO AND SWORN to before me by ^{m.w.} 13th on August.

Mae L. Walker
Notary Public

My Commission expires: Aug 11, 2010



ATTACHMENT C

118 FERC ¶ 61,232
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Jon Wellinghoff.

Xcel Energy Services, Inc.

Docket No. EL07-28-000

v.

Southwest Power Pool, Inc.

ORDER ON COMPLAINT

(Issued March 22, 2007)

1. In this order, the Commission addresses a complaint filed on January 4, 2007, by Xcel Energy Services, Inc., on behalf of itself and its operating company, Southwestern Public Service Company (collectively, Xcel) against the Southwest Power Pool, Inc. (SPP). The complaint alleges that, contrary to SPP's Open Access Transmission Tariff (OATT or tariff) and its Market Protocols, SPP improperly registered qualifying facilities (QFs) owned and operated by subsidiaries of John Deere Wind Energy (J.D.Wind) to Xcel for participation in SPP's new energy imbalance service market (imbalance market). Xcel requests that the Commission: (1) find that SPP lacks authority under its tariff to register the J.D.Wind facilities to Xcel for participation in the imbalance market; and (2) order SPP to remove the J.D.Wind assets from the list of facilities currently registered to SPS. Finally, Xcel requests that the Commission afford this complaint Fast Track Processing. The Commission finds that SPP does not meet the applicable SPP OATT definitions or registration requirements of a Market Participant and, therefore, SPP lacks authority pursuant to the SPP OATT to register generation facilities as resources for the imbalance market. Accordingly, we grant Xcel's complaint.

Docket No. EL07-28-000

2

Background

2. In 2004, the Commission granted authority for SPP to establish itself as a regional transmission organization (RTO).¹ Thereafter, SPP committed to develop an imbalance market, including implementation of a real-time, offer-based energy market to calculate the price of imbalance energy. In the *Order on Market Readiness Certification*,² the Commission granted SPP authority to commence operating its imbalance market, which SPP began operating on February 1, 2007.

Xcel Complaint

3. According to Xcel, in preparation for the commencement of the imbalance market, SPP required all Market Participants to register their generation resources with SPP in order that SPP could complete its imbalance market network model. Xcel explains that in November 2005 and June 2006, it notified SPP that the QF facilities owned and operated by the J.D.Wind subsidiaries³ should be included in this modeling because they deliver energy to the transmission grid and, therefore impact the market flows within SPP.⁴ Thereupon, Xcel explains, SPP undertook two actions. First, it added the J.D.Wind facilities to its imbalance market network model. Second, over the objection of

¹ *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004).

² *Southwest Power Pool, Inc.*, 118 FERC ¶ 61,055 (2007).

³ According to Xcel, J.D.Wind subsidiaries own six QFs in Hansford and Sherman County, Texas. J.D.Wind 1, 2, 3, 5 and 6 are interconnected, either directly or indirectly through distribution facilities, to Xcel owned transmission facilities. Xcel complaint at 5. J.D.Wind explains in its Answer of January 16, 2007 at 4 that J.D.Wind 4 is beginning commercial operation this month, and that J.D.Wind 4 is interconnected to Xcel through its transmission-level facilities.

⁴ Xcel comments that it understood that if the J.D.Wind facilities were not registered in the imbalance market, these facilities would be treated as behind-the-meter generation and would function as negative load, thereby adversely impacting Xcel's ability to accurately forecast and manage its own load. Xcel complaint at 7.

Docket No. EL07-28-000

3

Xcel, SPP registered these J.D.Wind facilities as resources for Xcel in the imbalance market.⁵

4. Xcel represents that it only agreed to SPP's registration of the J.D.Wind facilities for the limited purpose of certain deployment tests, and only agreed after SPP had completed this registration.⁶ Further, Xcel insists that it repeatedly requested that SPP not register these facilities as resources for Xcel within the imbalance market because SPP has no authority under the SPP OATT or Market Protocols for this registration. Finally, Xcel explains that SPP's registration of the J.D.Wind facilities to Xcel would inappropriately impose on Xcel operational responsibilities for these facilities.⁷

5. On January 4, 2007, Xcel filed this complaint protesting SPP's registration of the J.D.Wind facilities as resources for Xcel. Xcel argues that pursuant to the SPP OATT and Market Protocols, only Market Participants are authorized to register energy resources.⁸ SPP does not qualify as a Market Participant, argues Xcel, and it, therefore, cannot register these facilities for participation in the imbalance market.⁹

6. Xcel requests that the Commission find SPP lacks authority under the SPP OATT and Market Protocols to register the J.D.Wind facilities as a resource to Xcel. Xcel also requests that the Commission direct SPP to remove the J.D.Wind assets from the list of generation facilities for which Xcel is registered in the imbalance market.

⁵ At the time of the filing of the complaint, SPP had registered J.D.Wind 1 through 4 as resources for Xcel. On January 26, 2007, SPP notified the Commission that it had registered two additional J.D.Wind facilities, J.D.Wind 5 and 6, and that the registration was expected to take about 20 days.

⁶ Xcel complaint at 8, n. 12.

⁷ Xcel represents that the parties attempted to resolve this matter starting in the summer of 2006. Xcel complaint, Attachment A, Affidavit of Terri K. Eaton.

⁸ Xcel cites to section 1.18b of the SPP OATT for the definition of a Market Participant, and sections 1.2.2 of the SPP OATT (Attachment AE) and section 12.2.1 of SPP's Market Protocols as authority for registering energy resources.

⁹ Xcel comments that either Xcel or J.D.Wind might become Market Participants, but at present, as Xcel explains, Xcel cannot register these facilities for the imbalance market, and J.D.Wind is not seeking to become a Market Participant.

Docket No. EL07-28-000

4

7. Xcel argues that it cannot register the J.D.Wind facilities as its resource, in accordance with the registration provisions of the SPP OATT, because to do so would impose upon Xcel operational and financial responsibilities that Xcel cannot assume at this time. Further, Xcel argues that it lacks information necessary to fulfill its scheduling and forecasting obligations¹⁰ related to the J.D.Wind facilities and that it cannot be held financially responsible for those facilities' imbalances. While Xcel explains that it has entered into negotiations with J.D.Wind to formalize terms for operating in the imbalance market, the parties have not finalized operating agreements. Without these agreements, Xcel insists that it cannot assume responsibility for the J.D.Wind assets as Xcel resources.

8. Xcel argues that the Commission need not look beyond the SPP OATT and Market Protocols to resolve this dispute. However, it acknowledges that it has an obligation to purchase power from the J.D.Wind subsidiaries, pursuant to the Public Utility Regulatory Policies Act of 1978, as amended, (PURPA) and the implementing regulations of the Public Utility Commission of Texas (PUCT). Pursuant to these authorities, Xcel explains that it has received from J.D.Wind notices informing it of J.D.Wind's intent to sell power from its QF facilities (net of station power), and that, in fact, it has purchased energy from J.D.Wind on a non-firm, as available basis.¹¹ Xcel also explains that while J.D.Wind contends that Xcel is obligated to purchase from J.D.Wind on a long-term basis, and that J.D.Wind cannot sell energy to third parties, Xcel disputes these points. Instead, Xcel contends that J.D.Wind is able to sell its output to whomever it wants under PURPA.¹²

Notice of Filings and Responsive Pleadings

9. Notice of Xcel's complaint was issued in the *Federal Register*, 72 Fed. Reg. 1,716 (2007), with interventions and protests due on or before January 16, 2007. A

¹⁰ According to Xcel, these responsibilities would include scheduling the J.D.Wind facilities in real-time in the imbalance market and providing SPP with a day-ahead resource plan for these facilities.

¹¹ These purchases have been made pursuant to Southwestern Public Service Company Tariff No. 7009, as filed with the PUCT on December 20, 1993 in PUCT Docket No. 11520. There is an ongoing dispute as to whether, under the state implementation of PURPA, this tariff is applicable to these sales and whether Xcel is properly compensating J.D.Wind for the energy purchased.

¹² Xcel complaint at 6, n 7.

timely motion to intervene was filed by Golden Spread Electric Cooperative, Inc. A timely motion to intervene and protest was filed by J.D.Wind. SPP filed an answer, and Xcel filed a motion for leave to file an answer and answer. Finally, J.D.Wind filed an answer to the Xcel answer.

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. We will also accept the answers filed herein because they are helpful to the Commission's resolution of this dispute.

Answer and Protests

11. SPP and J.D.Wind filed motions and answers in opposition to the Xcel complaint. SPP contends that its registration of the J.D. Wind facilities, although not explicitly authorized by its tariff, should be accepted by the Commission as necessary to the start-up of the imbalance market. J.D.Wind supports SPP's registration of its QF facilities because it argues that Xcel is obligated under PURPA, as implemented by PUCT, to purchase all of the output from its subsidiaries' QFs.

12. SPP concedes that neither its OATT nor its Market Protocols clearly address whether it can hold a transmission owner-purchaser responsible for operational-type, resource-related information necessary for implementing the SPP imbalance market. SPP explains that it is a "reluctant referee" in this matter, and that it only intervened and registered the J.D.Wind QFs when it became clear that Xcel and J.D.Wind were not resolving this matter in time for including these QFs at the start of the imbalance market.¹³ However, SPP contends that the proper issues before the Commission are whether the J.D.Wind facilities constitute a resource of Xcel and whether SPP's actions to obtain information and data regarding the operation of the J.D.Wind generating facilities was reasonable. SPP argues that it is required to have specific scheduling and supply information for each resource in order that it may operate the imbalance market and properly account for all energy flows into and out of the transmission grid.

13. Moreover, SPP agrees with Xcel that the Commission can resolve this dispute without addressing the state regulatory matters governed by PURPA. However, SPP offers that should the Commission find it needs to address the obligations under PURPA, the Commission should find that all of the available output from the J.D.Wind QFs (net of station power) is being purchased by Xcel, and that because J.D.Wind represents that

¹³ Parties represent that they engaged in discussions over the course of many months prior to the filing of this complaint. Xcel complaint at 9 and 12; SPP answer at 9.

Docket No. EL07-28-000

6

its sales commitment to Xcel is exclusive and fixed for a 20-year term, the necessary legal obligations exist for these QFs to be registered as a resource to Xcel.

14. Finally, SPP argues that the Commission should dismiss the complaint and direct Xcel to provide to SPP information and data pursuant to section 12.2.1.1 of the SPP Market Protocols. Alternatively, SPP requests that the Commission provide specific guidance to SPP to ensure its ability to manage and account for all resources in the imbalance market, or direct OATT or Market Protocol modifications to effectuate the necessary result.

15. In its opposition to the Xcel complaint, J.D.Wind asserts that Xcel is factually and legally incorrect in its contention that there is no legally enforceable obligation for J.D.Wind to sell solely to Xcel. J.D.Wind argues that pursuant to PURPA and the PUCT rules implementing PURPA, there exists a legally enforceable obligation between the J.D.Wind QFs and Xcel under which J.D.Wind is committed to deliver and sell its entire output to Xcel for a 20-year term. As a result, J.D.Wind argues, Xcel is obligated to purchase and receive the output from the J.D.Wind QFs at the interconnection points for this specific term. J.D.Wind explains that it cannot sell to a purchaser other than Xcel because it has not made transmission arrangements and, in fact, has committed not to sell energy and/or capacity from the J.D.Wind QFs to any other party or into the SPP market, and has not done so. On the basis of Xcel's mandatory purchase obligation under PURPA, and the legally enforceable obligations pursuant to regulations of the PUCT, J.D.Wind contends that there is a contract equivalent in place that makes J.D.Wind a resource for Xcel.

16. J.D.Wind also argues that although it does not have a formal coordination agreement with Xcel, Xcel has all the information it needs to register the wind facilities in the imbalance market. J.D.Wind comments that the notices it filed with the PUCT and the Notices of Self-Certification¹⁴ filed with the Commission contain sufficient information for completion of the SPP imbalance market registration. Moreover,

¹⁴ J.D.Wind 1 filed a notice of self-certification in Docket No. QF05-114-000 on May 18, 2005. J.D.Wind 2 filed a notice of self-certification in Docket No. QF05-116-000 on May 18, 2005. J.D.Wind 3 filed a notice of self-certification in Docket No. QF05-115-000 on April 29, 2005. J.D.Wind 4 filed a notice of self-certification in Docket No. QF03-13-000 on November 18, 2002, and filed a notice of self-certification in Docket No. QF03-13-001 on May 30, 2006. J.D.Wind 5 filed a notice of self-certification in Docket No. QF06-289-000 on July 5, 2006. J.D.Wind 6, Docket No. QF06-290-000 on July 5, 2006. All of the J.D.Wind QFs are 10 MW, except for J.D.Wind 4 which is 79.8 MW.

Docket No. EL07-28-000

7

J.D.Wind argues that Xcel provided information to SPP for including the wind facilities in the imbalance market network model in July 2006.

17. Xcel filed an answer in which it argues that SPP assumes that Xcel has an entitlement to information regarding the operation and status of J.D.Wind facilities that, in fact, Xcel does not have available to it. Further, Xcel disagrees with J.D.Wind's characterization of its PURPA obligations and explains that, at present, it is purchasing energy from J.D.Wind on a non-firm, as available basis, under a QF purchase tariff filed with the PUCT. Moreover, Xcel contends that SPP's argument that this dispute could be quickly resolved by modifying the SPP OATT, either by the Commission so doing or by Commission directive, overlooks the stakeholder procedures through which OATT changes must be considered and approved and then subsequently submitted to the Commission for its approval.

18. Finally, on January 30, 2007, J.D.Wind filed an answer to the Xcel answer to notify the Commission that J.D.Wind believes Xcel has a right to essential information regarding the operations and status of the wind facilities and, further, that J.D.Wind will provide information about the operation and status of its facilities to Xcel.

Discussion

19. The SPP OATT establishes the authority and procedures for registration of market resources in the new imbalance market. Section 1.2.2(a) and (b) of the OATT provide for the application and registration of market participants in the imbalance market as follows:¹⁵

¹⁵ Section 1.18b of the SPP OATT defines a Market Participant as: An entity that generates, transmits, distributes, or sells electricity or provides ancillary services with respect to such services (or contracts to perform any of the foregoing activities) within, into, out of, or through the Transmission System. Market Participant expressly includes: (a) Transmission Owner(s) and any of their affiliates including Transmission Owners providing transmission service to: (i) bundled retail load for which such transmission Owners are taking neither Network Integration Transmission Service nor Firm Point-to-Point Transmission Service under this Tariff; and (ii) load being served under Grandfathered Agreements for which such Transmission Owners are taking neither Network Integration Transmission Service nor Firm Point-to-Point Transmission Service under this Tariff, (b) Transmission Customers, (c) Network Customers, (d) Generation Interconnection Customers and (e) any Eligible Customer offering Resources for sale into the EIS Market that executes the Service Agreement specified in Attachment AH. In order to be a Market Participant, the Eligible Customer must be a Transmission

(continued)

Application and Asset Registration

- (a) Applications for a Market Participant to provide services in the EIS Market must be submitted to the Transmission Provider no later than 45 Calendar Days prior to the expected date of participation. Completed applications must contain the required information specified under the application procedures in the Market Protocols.
- (b) As part of the application process, Market Participants must register all load, including applicable load associated with Grandfathered Agreements, and Resources with the Transmission Provider in accordance with the registration process specified in the Market Protocols.¹⁶

20. This OATT language clearly specifies that Market Participants (MP) are the entities authorized to undertake this registration process. The OATT does not extend this authority to any other entity, such as SPP. We, therefore, do not find authority within these OATT provisions for SPP to undertake these registration responsibilities.

21. The parallel SPP Market Protocols, section 12.2.1 and section 12.2.1.1, provide additional information regarding the registration process:

Section 12.2.1: Registration of Generation Resources and Loads Acting as A Resource

Any MP operating Resources within SPP must register with SPP. To register a resource, an applicant must submit a Registration Packet (Appendix A) and be capable of performing the functions of a Resource as described herein. Resources are registered on a nodal basis to Settlement Locations. Resources at the same physical and electrically equivalent injection point to the transmission grid may register at the unit or plant level.

Customer; must have executed a Service Agreement or on whose behalf an unexecuted Service Agreement has been filed with the Commission; or must be otherwise bound by the terms of this Tariff. SPP OATT, Fourth Revised Vol. No. 1, Fourth Revised Sheet No. 12.

¹⁶ SPP OATT, Fourth Revised Vol. No. 1, Fourth Revised Sheet No. 626.

Section 12.2.1.1: Responsibilities of the Resource

Each MP shall be responsible for conducting its operations in accordance with all applicable SPP market rules and guidelines. Each MP shall supply operating characteristics of its Resource, including, but not limited to: Capability, Ramp Rate, Location of Physical Resource, Legal Owner. To the extent that Resources are energy limited and/or intermittent it is the responsibility of the MP to ensure that their Resource Plan reflects the proper availability. Registration shall also include the Settlement Location and Settlement Area of the Resource. The MP is responsible for ensuring that real-time meter data is submitted to SPP.

Here, again, we agree with Xcel that the SPP Market Protocols authorize only market participants to register market resources. This authority is not extended to SPP or any other entity. The Market Protocols specify that the registration is the responsibility of the “[Market Participant] operating resources.” Here, Xcel is not the operator of the J.D.Wind resources and has no clear means of ensuring that the operations of the J.D.Wind resources are conducted “in accordance with all applicable SPP market rules and guidelines” as required under these sections. Therefore, in the absence of an operating agreement establishing Xcel having operational information and sufficient control over the J.D.Wind facilities, Xcel cannot be held to be a “[Market Participant] operating resources”¹⁷ Consequently, because Xcel is not operating the J.D.Wind facilities, it cannot be deemed “capable of performing the functions of a Resource” as described in the Market Protocols.¹⁸

22. Although SPP argues that resolution of this dispute should not turn on whether SPP can “register” these facilities or whether Xcel fulfils the definition of “operating” the J.D.Wind facilities, we do not agree that we can overlook the clear language of the SPP

¹⁷ Xcel argues that SPP conceded the point that Xcel does not operate the J.D.Wind facilities in an e-mail on November 17, 2006 sent from Pat Bourne, SPP Director of Transmission and Regulatory Policy, to Terri Eaton, XES Manager of Market Operations. Xcel complaint, Attachment A, Exhibit 4.

¹⁸ While some of the operational information concerning the J.D.Wind facilities may be available to Xcel as a matter of public record, there is no obligation on the part of J.D.Wind subsidiaries to provide real time operational information concerning the facilities’ current status, such as outage information to Xcel. (*See also* P 24.)

OATT and Market Protocols.¹⁹ These terms are controlling and must be applied to these circumstances.

23. Similarly, we do not accept SPP's argument that section 12.2.1.1 is applicable only to "resources" and not to "operating resources." The resource responsibilities designated in these sections are operating responsibilities and include supplying operating characteristics such as capability, ramp rate, location of physical resources, legal owner and availability and conducting operations in accordance with the applicable SPP market rules and guidelines. These are implicitly the responsibilities of the "operating Resources." Further, the issue of which entity is authorized under the SPP OATT to register resources is central to this controversy. We will not circumvent the authority of the SPP OATT, as SPP seeks, and consequently, we do not accept SPP's theory that we should look beyond the SPP OATT and consider whether these QFs constitute a resource of Xcel.²⁰

24. SPP also argues that pursuant to section 30.1 of the SPP OATT,²¹ if a network customer designates a resource as its network resource, SPP would be required to give effect to this designation. At this time, Xcel is not seeking to designate the J.D.Wind facilities as a resource. In fact, Xcel represents that it specifically asked SPP not to include the J.D.Wind facilities as a resource and only agreed to doing so for the limited purpose of SPP testing its network model of the imbalance market.

¹⁹ See *City of Holland v. Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,076, *reh'g denied* 112 FERC ¶ 61,105 (2005) (granting complaint against Midwest ISO for failure to comply with OATT provisions).

²⁰ SPP answer at 10.

²¹ Under section 30.1 of the SPP OATT, a network customer may designate a resource as one of its network resources if the generation is "owned, purchased or leased," and may not include resources that are "committed for sale to non-designated third party load or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis." SPP Tariff Fourth Revised Vol. No. 1, Original Sheet No. 75.

Docket No. EL07-28-000

11

25. Registration of a market resource requires the registrant to have specific information about the market resource.²² The parties disagree as to whether Xcel is privy to all the information required for the registration process. J.D.Wind argues that Xcel has sufficient information to register these wind facilities because Xcel provided information to SPP for its network modeling. However, J.D.Wind also admits that “it would be helpful to have a reasonable agreement in place by which to facilitate the registration by [Southwestern Public Service Company] of the J.D.Wind QF as resources of SPS as well as other coordination issues.”²³ J.D.Wind subsequently offered to provide essential registration information to Xcel. This offer of cooperation confirms that the parties do not have arrangements in place for Xcel to serve as the registrant for the J.D.Wind facilities. J.D.Wind’s offer does not, without more, bind Xcel.

26. Further, SPP’s Market Protocols contemplate specific documentation be completed by both parties where one party is to serve as the other’s designee. The registration forms included in Appendix A to the SPP Market Protocols include

²² These registration forms are contained in Appendix A to the SPP Market Protocols. They include:

- a. Application as a Transmission Customer for Market Operations
- b. Point of Contact Form
- c. Local Security Administrator (LSA) form
- d. Application for Generation Company (GenCo)
- e. Generation Assets Form
- f. Application for Load Serving Entity (LSE)
- g. Load Asset Form
- h. Metering Agent (MA) Form
- i. Designated Agent Form
- j. Third Party Scheduler Form

²³ J.D.Wind Opposition to Complaint, P 18, citing to J.D.Wind Exhibit Nos. 2 and 3.

instructions specifying that “a Transmission Customer is the only entity that has a legal and financial relationship with SPP.” Included in the registration package is a form entitled “Designated Agent Form” that is to be completed by the Market Participant. The form requires the designation of an agent who would be responsible for scheduling the resource, managing settlements and submitting bid curves on behalf of another entity. This form must also be signed by the designated party. Once executed, this agreement allows SPP to accept information from the transmission customer or its designated agent, which in this case would be Xcel. In this instance, we are without evidence that this form has been completed and signed by Xcel. In fact, the evidence indicated that it has not. This designation would also offer protection to SPP, as the transmission provider, in the event that it received misinformation that adversely impacts the market resource, or J.D.Wind.

27. While PURPA and our regulations implementing PURPA impose on Xcel an obligation to interconnect with the J.D.Wind QFs,²⁴ to sell energy and capacity to the QFs,²⁵ and to purchase any energy and capacity made available from the J.D.Wind QFs²⁶ at avoided cost rates,²⁷ the implementing regulations do not, absent more, also require Xcel to serve as the registrant for such facilities. While purchasing utilities are not required under PURPA and related regulations to register QF facilities as resources under coordination arrangements, such as those contemplated by J.D.Wind, such agreements are consistent with the PURPA purchase obligation, and we expect utilities, such as Xcel, that are requested to enter into such arrangements, will in good faith negotiate and enter into such arrangements. In this regard, failure to enter into such arrangements will not excuse utilities from the obligations to interconnect with and purchase from QFs, imposed by PURPA and our regulations implementing PURPA. Accordingly, this order

²⁴ 18 C.F.R. § 292.303 (c) (2006).

²⁵ 18 C.F.R. § 292.303(b) (2006). In addition, an electric utility must sell a QF, upon request, supplementary power, back-up power, maintenance power, and interruptible power. 18 C.F.R. § 292.305(b) (2006).

²⁶ 18 C.F.R. § 292.303 (a) (2006).

²⁷ 18 C.F.R. § 292.304 (2006). The PUCT determines avoided costs, pursuant to our regulations.

should in no way be taken as permission for Xcel to refuse to purchase from or to discontinue its purchases from the J.D.Wind facilities.²⁸

28. Thus, because the parties do not now have such arrangements in place, SPP cannot act to impose upon the parties obligations that they have not established. To do otherwise would hold Xcel responsible for operating the J.D.Wind facilities without the necessary arrangements in place.

29. SPP also argues that the circumstances presented by this complaint are not addressed or contemplated by the SPP OATT or Market Protocols because here the Market Participant holds exclusive purchase rights to generation and effectively controls, but does not operate, an energy resource. SPP does not offer any other OATT provisions or other sources of authority upon which it bases its actions. Instead, SPP explains that it registered the J.D.Wind facilities because it is responsible for accounting for all load requirements and resource commitments within this service territory. SPP argues that its registration was “nominal” and reasonable to effectuate the commencement of the imbalance market, and should be endorsed by the Commission. No party in this proceeding contends that the J.D.Wind facilities should not be accounted for within the imbalance market. However, we are not persuaded that SPP can operate outside the clear language of its OATT, regardless of the justification it offers for its action. Rather, SPP is obligated to implement and adhere to the provisions of its OATT and, in conjunction, its Market Protocols.

30. Finally, SPP argues that Xcel does not offer an alternative for enabling SPP to obtain the resource-related information necessary to account for the J.D.Wind energy output, nor how to manage these resources in the SPP imbalance market. While we note that J.D.Wind has offered to make necessary information available, we are unaware that Xcel has accepted this arrangement. Further, SPP’s argument overlooks the function of the SPP OATT. SPP’s efforts to commence and manage the imbalance market must comply with the SPP OATT.

31. Because we find that SPP lacks authority under its OATT and Market Protocols to register resources for its imbalance market, we will not address SPP’s request that the Commission take action to ensure that SPP receives the data and information it seeks.

²⁸ The dispute between Xcel and J.D.Wind concerning the rate for and the terms and conditions governing this sale are a matter to be resolved pursuant to Texas’ implementation of PURPA.

Docket No. EL07-28-000

14

The Commission orders:

The complaint filed by Xcel is granted.

By the Commission. Commissioner Moeller not participating.

(S E A L)

Philis J. Posey,
Acting Secretary.

ATTACHMENT D

LIST OF PARTIES SERVED WITH COMPLAINT

- (1) Stacey Duckett, Esq.
General Counsel
Southwest Power Pool, Inc.
415 North McKinley, #140
Little Rock, AR 72205

- (2) Michael Small, Esq.
Wright & Talisman, PC
1200 G Street, NW, Suite 600
Washington, DC 20005-3802

- (3) Richard S. Free
Manager, Energy Market Development
John Deere Wind Energy
6400 NW 86th Street
Johnston, IA 50131

- (4) Lane Lanford
Executive Director
Public Utility Commission of Texas
1701 N. Congress Avenue
PO Box 13326
Austin, TX 78711-3326

ATTACHMENT E

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

Xcel Energy Services Inc.

)

Docket No. EL07-__

**NOTICE OF FILING
(August __, 2007)**

Take notice that on August 13, 2007, Xcel Energy Services Inc., on behalf of Southwestern Public Service Company (SPS), filed a complaint against the Southwest Power Pool, Inc. (SPP) relating to registration of certain wind generating units operated by John Deere Wind to SPS for purposes of the SPP energy imbalance service market.

Any person wishing to become a party must file a motion to intervene with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 21 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Interventions will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make intervenors parties to the proceeding. All interventions should be filed on or before the intervention deadline, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's website at <http://www.ferc.gov>, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlinesupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659). Interventions may be filed electronically via the Internet in lieu of paper, *see* CFR 385.2001(a)(1)(iii) and instructions on the Commission's website under the "e-Filing" link. The Commission strongly encourages electronic filings.

Intervention Deadline: _____

Kimberly D. Bose
Secretary