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Sponsoring Party: Empire District
Case No. EO-2011-0128

Before the Public Service Commission
of the State of Missouri

SURREBUTTAL TESTIMONY

of

Lanny Nickell

November 1, 2011

SURREBUTTAL TESTIMONY
OF
LANNY NICKELL
ON BEHALF OF
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. EO-2011-0128

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I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Lanny Nickell. My business address is 415 N. McKinley, Suite 140, Little Rock, AR 72205.

Q. By whom and in what capacity are you employed?

A. I am employed by the Southwest Power Pool, Inc. ("SPP") as Vice President, Engineering.

Q. What are your duties and responsibilities in your current position?

A. I am directly responsible for providing strategic and tactical leadership to the Engineering department necessary to ensure successful completion of goals and essential functions assigned to that group, including the development of transmission expansion plans that ensure reliable and efficient usage of a regional transmission grid covering a nine-state region. As Vice President, Engineering, I also oversee the coordination, tracking, and monitoring of the implementation of approved transmission expansion projects, the performance of technical studies necessary to process requests for interconnection of generation resources and requests for long-term transmission service, and the provision of engineering support as necessary for members, regulators and other departments.

Q. Please summarize your educational and professional background.

A. I earned a Bachelor's Degree in Electrical Engineering from the University of Tulsa. Prior to being named Vice President of Engineering, I served as SPP's Vice President, Operations and, before that, as Director of Operations; Manager, Coordinated Operation;

Supervisor, Tariff Administration; and as an Engineer within the Operations Department. Prior to joining SPP in 1997, I served in various engineering roles with the Public Service Company of Oklahoma and Central and South West Services. I have served on numerous SPP and North American Electric Reliability Corporation (NERC) committees serving to develop and implement both regional and national transmission operation and planning policies.

Q. Please give a brief summary of SPP's organization and operations.

A. SPP is a Federal Energy Regulatory Commission ("FERC") approved Regional Transmission Organization ("RTO"). It is an Arkansas non-profit corporation with its principal place of business in Little Rock, Arkansas. SPP currently has 64 members in nine states and serves more than 6 million households in a 370,000 square-mile area. SPP's members include 14 investor-owned utilities, 11 municipal systems, 12 generation and transmission cooperatives, 4 state agencies, 7 independent power producers, 10 power marketers and 6 independent transmission companies. SPP, in its role as an RTO, currently administers transmission service over 48,930 miles of transmission lines covering portions of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. These services include reliability coordination, tariff administration, regional scheduling, transmission expansion planning, market operations, compliance, and training.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide information on the Joint Operating Agreement ("JOA") between SPP and the Midwest ISO ("MISO") in response to the rebuttal testimony of Staff witness Mr. Adam McKinnie.

Q. Please identify the aspect of Mr. McKinnie's Rebuttal Testimony to which you are responding.

A. On page 37 of his Rebuttal Testimony, Staff witness Mr. McKinnie responded to the following Commission question – "Does Ameren Missouri's continued membership in MISO pose a detriment to any other group of Missouri customers – municipal utilities, cooperatives or investor-owned utilities?" Mr. McKinnie's response was "it could." He then went on to discuss potential outcomes and further stated, in part, that "other utilities in Missouri, including municipal utilities, cooperatives, and utilities in the SPP footprint, would be better able to explain the impact of Ameren Missouri's continued membership in MISO, or lack thereof on them." The Empire District Electric Company ("Empire") has asked me to provide testimony explaining how the JOA relates to this issue.

Q. How does the JOA between SPP and MISO relate to this issue?

A. MISO's interpretation of Section 5.2 of the JOA would allow MISO to "freely" use the transmission system of SPP members, including those SPP facilities in Missouri, for purposes of transacting with other entities with which it is interconnected, no matter how small or weak the interconnection. This is particularly critical in that MISO intends to use a single interconnection Ameren has through a contractual arrangement with Entergy to provide the required "legal" interconnection that combined with their free usage of

SPP facilities will facilitate their plans to integrate Entergy into MISO. SPP members, including Empire, are concerned that MISO's existing uses of those facilities are already a burden to SPP members and are further troubled with MISO's stated intent to use those facilities even more. SPP believes that a renegotiation of the JOA is required and necessary to resolve the burden imposed by MISO's current operations as well as any added burden from a future integration of Entergy.

II. SUMMARY OF JOINT OPERATING AGREEMENT SECTION 5.2 DISPUTE AT FERC

Q. Please summarize the dispute between SPP and MISO regarding Section 5.2 of the JOA and the impact of FERC's July 1, 2011 Order in EL11-34-000.

A. On April 8, 2011, MISO filed a Petition for Declaratory Order at FERC seeking a ruling from FERC that Section 5.2 of the JOA provides for the sharing of transmission capacity on common paths, when the entities using that capacity are transmission-owning members of either RTO. SPP opposed this interpretation because this would allow the free use of SPP transmission facilities at an unreasonable burden to SPP members. On May 9, 2011, SPP filed a Motion to Intervene and Protest in Docket No. 11-34-000.

There have been and remain disagreements on many levels between the SPP and MISO, as well as other interested parties. MISO has taken the position that under the JOA it is entitled to access capacity across the entire SPP transmission system without providing any compensation in order to transact with Entergy. In contrast, SPP asserts that the JOA, which was executed in 2004, could not have contemplated that MISO would be permitted

to add the 22,000-megawatt Entergy system to its grid, using only 1,000 megawatts of its own interconnections with Entergy and therefore requires renegotiation.

FERC issued an Order on July 1, 2011 granting MISO's Petition seeking confirmation that the terms of the JOA in Section 5.2 will remain in effect and applicable to Entergy Arkansas, Inc. (EAI), in the event Entergy becomes a transmission owning member of MISO. Although FERC agreed with MISO and clarified disagreements as to procedure, FERC did not clarify to what extent or under what terms and conditions SPP and MISO may use each other's transmission systems should Entergy join MISO. Most importantly, FERC did not rule that MISO could use SPP's system without compensation. Instead FERC stated that MISO has "an obligation to negotiate in good faith" changes to the JOA due to Entergy's potential membership in MISO. Additionally, FERC recognized that other issues "may need to be renegotiated as a result of EAI's determination to join MISO" under Section 3.1 of the JOA.[1] From the view of SPP members, the amount of compensation MISO and/or Entergy customers will owe SPP and it members for usage of their facilities is critical. This includes both the compensation for the usage of neighboring systems, as well as the cost for necessary upgrades between MISO and Entergy. Regardless of the compensation to SPP members and other Transmission Owners, any excess flows that MISO claims are authorized under the JOA will unquestionably impact the embedded utilities within SPP, including and particularly

[1] Section 3.1 of the JOA provides:

> The Parties expect that these systems and technology applicable to these systems and to the collection and exchange of data will change from time to time throughout the term of this Agreement. The Parties agree that the objectives of this Agreement can be fulfilled efficiently and economically ***only if*** the Parties, from time to time, review and ***as appropriate revise the requirements*** stated herein ***in response to such changes***, including ***deleting, adding, or revising requirements and protocols***. Each Party will ***negotiate in good faith in response to such revisions the other Party may propose*** from time to time. (emphasis added).

those SPP facilities owned by Empire, Kansas City Power & Light ("KCP&L"), KCP&L-Greater Missouri Operations ("KCP&L-GMO") and City Utilities of Springfield.

Q. Please elaborate on the impacts if MISO's interpretation of the JOA was implemented without renegotiations?

A. In pleadings filed in FERC Docket No. EL11-34-000, over 17 parties protested or filed comments documenting these impacts and demonstrating that MISO's proffered interpretation of the JOA, if implemented without appropriate revisions to the JOA, would (i) create intentional and significant loop flow[2] impacts on SPP transmission owners, without compensation and with increased reliability risks; (ii) permit cost-free usage of the substantial new SPP transmission enhancements underway (e.g., Balanced Portfolio and Priority Projects), which SPP members including those in Missouri, not Entergy nor MISO, are funding at billions of dollars of costs; and (iii) allow MISO to avoid any cost responsibility for transmission upgrades on neighboring transmission systems that may be needed to enable MISO to dispatch energy to satisfy Entergy's load.

Because SPP has an obligation to protect its members from being financially harmed and inappropriately exposed to reliability risks, SPP will take any and all actions necessary to protect its members. These actions will include, but are not limited to: (i) seeking fair and equitable compensation for usage of its facilities, (ii) seeking appropriate sharing of redispatch costs necessary to reliably manage the system, (iii) seeking appropriate sharing

[2] Loop flows are flows imposed on transmission facilities that are not owned by the entity creating the flows for which that entity has not reserved transmission service on those facilities nor has scheduled its usage with the entity(ies) owning those facilities. For example, if Party A has an interconnection with Party B and wishes to deliver 100 MW to Party B, it will reserve 100 MW of transmission service under Party A's and Party B's OATTs and schedule the transaction in real-time with Party B. Let's assume, however, that 30 MWs of that transaction actually flows over Party C's transmission facilities. In that case, 30 MWs of the 100 MW transaction are considered loop flows for which no reservation or schedule exists with Party C.

of costs for currently planned and any future transmission upgrades that will facilitate MISO's dispatch of energy to Entergy, and, (iv) considering potential transmission solutions that redirect MISO's flow away from SPP's system onto MISO's system in order to appropriately impose costs and impacts on the "causer" of those costs and impacts.

Q. Did Empire make a filing that corroborated SPP's concerns regarding potential operational impacts?

A. Yes. In comments filed in response to MISO's Petition for Declaratory Order, in FERC Docket No. EL11-34-000, Empire filed a protest in response to MISO's Petition. Empire embraced and reiterated many of the specific arguments advanced by SPP.

Q. Did Empire elaborate on the "adverse economic and operational impacts" that it attributed to MISO's JOA interpretation and the related proposal for integrating Entergy into MISO?

A. Yes. Noting the lack of significant direct interconnection capacity between Entergy and MISO, Empire warned that the planned MISO-Entergy integration threatened to impose large unscheduled parallel flows on neighboring utilities and would likely require increased redispatch by intervening generation owners. Empire further explained that the lack of adequate electrical contiguity between Entergy and MISO could impair congestion management, system reliability and result in new and higher seams charges. Empire identified several other specific operational concerns, including potential impacts to Empire's Plum Point Power Station entitlements, effects on SPP's Reserve Sharing

Group, and implications for SPP and its members with respect to transmission planning and cost allocation for "mutually beneficial" regional projects.

III. CURRENT LOOP FLOW ISSUES

Q. You mentioned the occurrence of loop flows as an important consideration. Is it not correct that loop flows already exist and that entities already have to deal with this phenomenon?

A. Yes, loop flows exist, but the fact that loop flows already exist on the system today should not downplay this phenomenon as necessarily being a routine, trivial matter. The distinction is that the loop flows at issue cannot be considered incidental loop flows. SPP does not ignore the fact that loop flows already exist and SPP experiences loop flows today. SPP is also aware that our neighbors occasionally experience loop flows on their systems.

Loop flows that are incidental and mutual are typically considered reasonable. Significant loop flows that are unilaterally imposed are not reasonable. In those situations, compensation is fair and reasonable. Without compensation, certain transmission customers will consistently receive unfair advantages at the expense of others. This undue discrimination does not just occur during congestion. It can also occur in future provision of transmission service, when the transmission service provider assumes loop flows will exist in its transmission service studies and, as a result, either cannot provide transmission service or improperly assigns costs to customers willing to properly obtain the right to use the transmission system, again at the benefit of those who do not properly pay for their usage. Additionally, any future plans for transmission

expansion would be complicated or thwarted because of the "free riders." Thus, compensation is also an appropriate consideration for any significant loop flows, not just during times of congestion.

Neither Entergy nor MISO disputes that their proposal will impose loop flows on neighboring transmission systems. Depending on the magnitude of the loop flows and operational circumstances affecting the grid, loop flows can cause or aggravate constraints on discrete portions of a transmission system. Reliably managing the system is a challenge when loop flows are significant and unilaterally imposed. This challenge results from the fact that the party owning the constrained facility must rely upon the parties imposing loop flow impacts to satisfactorily mitigate their impacts on a constraint they do not own and, as such, may not be properly motivated to resolve.

Q. Has SPP already seen unequal burdens on its system caused by MISO loop flows?

A. Yes. SPP is already seeing unequal burdens on its system from MISO. For example, SPP has already experienced significant amounts of congestion on facilities in the Nebraska and Kansas City, Missouri areas that can be largely attributed to MISO parallel flows. Thus far in 2011, MISO flows have been observed to contribute between 30% and 65% of the allowable flow on these facilities during congestion and as high as 75% in 2010. Using transfer distribution factors found in the Interchange Distribution Calculator ("IDC"), a credible source for such data, SPP has determined that this congestion will nearly double at transfers of 1,000 MW between MISO and Entergy. In contrast, SPP has small amounts of loop flow impacts, approximately 10% of the allowable flow, on MISO

flowgates in Missouri that experienced approximately 67 hours of Transmission Loading Relief ("TLR") over the period between January 2010 and June 2011.

IV. EXPECTED IMPLICATIONS ON THE SPP SYSTEM

Q. Are there cost implications associated with the expected loop flows if Entergy joins MISO?

A. Yes. However, neither Entergy nor MISO acknowledges any cost or compensation responsibility in their proposals. In their view, Section 5.2 of the JOA allows MISO, at no cost, to schedule transmission service in excess of the 1000 MW contract path that it currently has to Entergy over AECI's Interchange Facilities. MISO defended this position in its Answer filed in FERC Docket No. EL11-34-000, where it claimed that it was authorized to approve transmission requests above the nominal rating of the Interchange Facilities because, according to MISO, "…energy will not flow on that discrete segment in those volumes."

In other words, MISO plans to schedule transmission service in excess of the ability of the 1000 MW path and to impose these excess flows on neighboring transmission systems without arranging appropriate transmission service from the intervening or compensating those affected transmission systems.

In light of FERC's ruling, SPP believes the compensation issue must be addressed by MISO and Entergy and that the dollar amounts are significant. Let me illustrate the potential significance of the compensation. MISO has stated in a hearing held at the Arkansas Public Service Commission on September 14, 2010 that it would utilize up to 4000 MW of transfer capability between it and Entergy. Under a contract path

compensation approach, considering MISO has a 1000 MW path to Entergy, the remaining 3,000 MW when purchased using long-term firm transmission service from SPP would cost approximately $42 million per year assuming SPP's base transmission service rate.

Q. Has SPP analyzed the anticipated flows from MISO to Entergy, when MISO dispatches energy from the existing MISO footprint to serve the Entergy system load?

A. Yes. Based on an evaluation of a representative snapshot of the transmission grid, SPP estimates that roughly 8% of that energy today will flow over the Interchange Agreement facilities from Ameren to Entergy, while the rest will flow over other parties' systems, including 30% flowing over the SPP transmission system. Another estimated 42% of the dispatched energy will flow over TVA's system (and a quarter of this also will flow over the Southern Company's system), and 17% over AECI's facilities. Of course, when the single interconnection between MISO and Entergy is out of service, 100 percent of the MISO market energy flows to Entergy will use SPP and other systems.[3]

Q. Please describe how these anticipated flows adversely affect third-party systems.

A. Simply put, when MISO places flows on a non-MISO transmission system and does not provide any compensation for such use, the owner of the affected transmission system is denied the opportunity to schedule transmission service over those facilities and recover the rates associated with such service.

[3] Exhibit F to SPP's protest filing in EL11-34 depicts the flows of energy from MISO's market dispatch to Entergy under the Entergy-MISO proposal, and is available at: http://www.spp.org/publications/Intervention%20and%20protest%20FINAL.pdf.

Q. In addition to lost opportunity costs, how will these anticipated flows impact third party systems?

A. The Entergy-MISO proposal may cause market distortions through increases in locational marginal prices due to increased congestion. The locational marginal price is increased in response to congestion because the dispatch of higher-cost generation is required to alleviate the constraints which results in increased costs to that region. Some mitigation of these costs might be possible in coordination with MISO through the renegotiation of the JOA.

Q. Have you studied how flows would travel from MISO to Entergy across SPP?

A. Yes. Because approximately 75% of the interconnection capacity between MISO and SPP is north of Kansas City, moving energy from MISO to Entergy would require using a portion of the SPP system between Nebraska, Missouri, and Kansas that is already congested. As discussed, these added flows will affect the cost of energy in these regions. MISO stated at the September 14, 2010 hearing that it expects to have *at least* 4000 MW of capacity between MISO and Entergy by way of SPP's transmission system available to serve Entergy.

Q. What other comments and observations do you have regarding loop flows?

A. While I agree that loop flows are an issue on adjacent systems if Entergy joins either MISO or SPP, the data from the CRA simulations demonstrates that loop flows on SPP and neighboring systems are much worse if Entergy were to join MISO, than the impact on MISO and adjacent systems if Entergy were to join SPP.

Q. You mentioned the reliance upon SPP, TVA and AECI that will occur should EAI/Entergy join MISO. Does this have any reliability implications?

A. Absolutely. The loop flows created on three other parties' systems will have reliability implications in excess of what exists today or what would exist if Entergy were to join SPP. As stated above, SPP has already seen how rapidly flows on its facilities can increase beyond their reliability limits mostly due to large, highly fluctuating amounts of wind in MISO. Because SPP has no control over those flows and the congestion management actions necessary to control these flows requires transmission loading relief ("TLR") and coordination with MISO, it can take a considerable amount of time to reduce these flows down to reliable operating levels. Further, SPP has noted large amounts of flow from MISO's market operations that are not reported to the IDC as a result of the manner in which MISO calculates their market flows. SPP has attempted to work with MISO over the last year to improve these calculations but has not yet been successful in achieving a satisfactory resolution.

During TLR, it is essential that sufficient and accurate amounts of market flow be reported to the IDC to facilitate both reliable and equitable congestion management. If Entergy joins MISO, the significant increase in load to MISO's economic dispatch engine further south of these already congested facilities will increase loading on these facilities and make it even more difficult to reliably manage flows on SPP's system, particularly if a large portion of those flows are not even reported to the IDC.

Finally, the lengthening of the MISO seam along the SPP, AECI, and TVA borders will require even more coordination than exists today and certainly more than would be

needed if Entergy were to join SPP. Notwithstanding the fact that flows are expected to increase on SPP's, AECI's and TVA's systems causing increased TLR activity, the need to coordinate activities on a seam of the magnitude that would exist if Entergy were to join MISO will increase the potential for errors to occur.

Q. Has Entergy and/or MISO addressed this problem?

A. Only in a dismissive way. They argue that the JOA's Congestion Management Process ("CMP") will provide adequate protection by requiring that when a reciprocally coordinated flowgate becomes congested each party must return its usage to its historical firm allocations. Of course, this assertion side-steps entirely the likelihood that the significant new flows caused by the Entergy-MISO proposal will require, absent successful renegotiation of the JOA, SPP to include these changes to the system models that dictate when and where reliability and economic upgrades are needed that would be only funded by SPP members including Missouri customers.

Q. Is there currently a dispute between SPP and MISO related to the issue of Market Flow calculation accuracy under the CMPs?

A. Yes. SPP has repeatedly informed MISO of its concerns about high, rapidly fluctuating flows on a critical set of facilities in Nebraska since at least October of 2009 and asked for help monitoring and analyzing the situation. SPP, in an attempt to work in a coordinated, collaborative fashion, had several discussions with MISO and entities in Nebraska and Missouri to identify and resolve concerns about MISO market flow impacts on certain SPP facilities over the next eleven to twelve months. One outcome of SPP's and its members' persistence was that MISO ultimately discovered an error in their

calculations that resulted in over 150 MW of MISO's market flows incorrectly reported as firm instead of non-firm. This error was corrected on June 4, 2010. This, however, was not the same issue that SPP continued to raise about an apparent under-accounting of market flows by MISO. This issue did not receive serious consideration until September 17, 2010, when the Congestion Management Process Council formed a task force that ultimately became the Market Flow Task Force.

SPP has accumulated voluminous data and performed numerous analyses demonstrating that significant flows easily correlated to MISO's operation activities are not and have not been properly accounted for in the IDC on certain SPP facilities. SPP has been patient and has made every effort to work with MISO in a collaborative fashion to resolve the market flow calculation accuracy issue but unfortunately that has not provided satisfactory resolution. As a result of the stalemate existing between SPP and MISO, SPP issued MISO a notice of dispute under the JOA on August 9, 2011.[4] SPP and MISO held an initial meeting under dispute resolution procedures of the JOA on September 29th to better understand each other's positions and to establish a general action plan to work toward resolution. A second meeting has been tentatively scheduled for the late November/early December time frame.

[4] Attached hereto as Schedule LN-1.

V. RENEGOTIATION AND COMPENSATION

Q. Do you believe that FERC's Order[5] on MISO's Petition for Declaratory Order resolved all issues regarding the use of SPP transmission for market flows under the Entergy/MISO Proposal?

A. FERC stated that the JOA "should be renegotiated" to accommodate EAI joining MISO (in the event EAI does join MISO) and did not state any limitation on the issues and provisions subject to renegotiation under section 3.2 of the JOA.[6] In FERC's words, "MISO and SPP have an obligation to negotiate in good faith in response to revisions (including deleting, adding, or revising requirements or protocols) either MISO or SPP may propose."[7]

In addition, I note that the FERC JOA Order did not describe any parameters for SPP and MISO's shared use of contract path capacity – i.e., whether such use would be non-firm only and only for up to the amount of contract path capacity that MISO has to Entergy. FERC merely stated that Section 5.2 permits such shared use of contract path capacity. Thus, how SPP will be compensated for the excess flow required for MISO to provide market service under the Entergy/MISO proposal is an issue that will need to be addressed as part of any renegotiation.

Q. In your opinion, does the FERC JOA Order[8] clarify the circumstances in which compensation will be due to SPP?

[5] See FERC JOA Order.
[6] See FERC JOA Order, paragraph 64.
[7] See FERC JOA Order, paragraph 64.
[8] *Midwest Independent Transmission System Operator, Inc.*, 136 FERC ¶ 61,010 (2011) ("FERC JOA Order").

A. No. The issue of compensation for loop flows was not considered by FERC in that order. FERC was merely petitioned to interpret the meaning of Section 5.2 of the JOA. That section of the JOA has nothing to do with compensation and FERC made it clear that all other matters, including compensation, were outside the scope of MISO's Petition. What is important to note about the order is that FERC recognized that the JOA can and should be renegotiated in response to revisions SPP or MISO may propose.

Q. Has FERC issued any prior guidance on compensation for loop flow impacts?

A. Yes, when impacts to neighboring systems adversely and economically affect operations, i.e., through the creation of congestion or by threatening system reliability, FERC has acknowledged the right of the impacted utility to seek compensation if an entity demonstrates that loop flows are a burden on its system.[9]

Q. Does a basis for compensation for loop flows exist?

A. I have identified the anticipated impacts of the Entergy/MISO proposal on SPP. These impacts are neither mutual nor incidental. To the contrary, the lack of meaningful transmission interconnectivity between MISO and Entergy will necessarily require the imposition of unprecedented power flows on the transmission system of SPP members and adjacent systems like TVA and AECI. As a consequence, SPP members, including the SPP member utilities serving customers in Missouri, including Empire, KCP&L, KCP&L-GMO and City Utilities of Springfield, are entitled to be equitably compensated and needed for the proper incentives for transmission expansion.

[9] *Northern Indiana Public Service Co. v. MISO and PJM Interconnection, LLC*, Docket No. EL-05-103-001, Order Denying Rehearing, Issued July 5, 2006, p. 6.

Without a doubt, this level of loop flows on SPP's system diminishes SPP's ability to utilize its system in the most economical manner.[10] Such claims for equitable compensation are not attempts to leverage an unwarranted "benefit," but rather justifiable demands to be kept whole for the lost value and incremental costs associated with the large volume of unplanned flows that will be imposed on SPP's system. As I previously explained, without fair compensation for usage of SPP's and others' transmission systems, there is no incentive to proactively manage flows on the transmission system or to expand the transmission system in order to reduce operational and cost risks, as well as share benefits.

Q. Have the FERC JOA Proceedings concluded?

A. Not necessarily. Many parties, including SPP, filed for rehearing or, in the alternative, clarification of the FERC JOA Order.[11] On August 26, 2011, FERC issued an Order Granting Rehearing For Further Consideration in Docket No. EL11-34-001. This is what is commonly referred to as a tolling order, which extends the time FERC has to consider these filings.

Q. What is the current status of negotiations between SPP and MISO?

[10] *Id*. quoting *American Electric Power Service Corporation*, 49 FERC ¶ 61,377 at 62,381 (1989).

[11] In its rehearing request, SPP contends that FERC failed to engage in reasoned decision making in the FERC JOA Order by interpreting the term "contract path" in a manner that is inconsistent with the common industry meaning ascribed to these words. SPP Rehearing Request at 3-13. In SPP's view, FERC failed to support its interpretation of the key phrase "contract paths to the same entity" and ignored crucial evidence presented by SPP that contradicted FERC's findings with respect to that issue. *Id.* at 6-8, 10-12. SPP's rehearing request also highlighted the agency's apparent misunderstanding regarding the parties' prior reliance on section 5.2. *Id.* at 8-10. SPP requested that if FERC fails to reverse its decision and interpret section 5.2 of the JOA consistent with the common industry usage of the term "contract path," FERC should set this issue for hearing to consider extrinsic evidence concerning the original negotiation of the provision. *Id.* at 12-13.

A. On July 19, 2011, SPP received a letter from MISO CEO John Bear offering to renegotiate "the operational issues" related to the JOA. As I have explained, SPP believes that the issues which need to be negotiated are much more expansive than only the operational issues. SPP is awaiting more clarity from regulatory proceedings and from ongoing discussions between MISO and certain SPP members operating in Arkansas, including Empire, intended to clarify understanding of the issues before entering into negotiations with MISO.

Q. Does this conclude your testimony?

A. Yes

Schedule LN-1

Notice of Dispute
August 9, 2011