

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

Southwest Power Pool, Inc.)	
)	Docket Nos. ER20-1059-000
)	ER20-1060-000
)	

**MOTION TO INTERVENE AND COMMENTS OF THE AMERICAN WIND ENERGY
ASSOCIATION, THE SOLAR ENERGY INDUSTRIES ASSOCIATION, THE
ADVANCED POWER ALLIANCE, INTERWEST ENERGY ALLIANCE,
AND THE SOLAR COUNCIL**

Pursuant to Rules 212, 213, and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),¹ the American Wind Energy Association (“AWEA”), the Solar Energy Industries Association (“SEIA”), the Advanced Power Alliance (“APA”), Interwest Energy Alliance (“Interwest”) and the Solar Council (“Council”) (collectively, “Clean Energy Associations”), hereby move to intervene and submit these comments in response to the Southwest Power Pool, Inc.’s (“SPP”) proposal to implement the Western Energy Imbalance Service Market (“WEIS Market”).² As discussed further herein, the Clean Energy Associations generally support the WEIS Filing given that the expansion of competitive wholesale markets supports the growth of renewable energy, and provides a multitude of benefits to a wide variety of stakeholders, including consumers. Moreover, the Clean Energy Associations urge the Commission to require improvements to the WEIS Market’s governance structure, as well as regular, detailed reporting on the WEIS Market’s operation.

¹ 18 C.F.R. §§ 385.212, 213, 214 (2019).

² Submission of Western Energy Imbalance Service Market Tariff, Western Joint Dispatch Agreements, and the Western Markets Executive Committee Charter, Docket Nos. ER20-1059-000 and ER20-1060-000 (Feb. 21, 2020) (“WEIS Filing”). Unless otherwise noted, all references herein to the WEIS Filing shall be to the filing letter submitted in Docket No. ER20-1059-000.

I. MOTION TO INTERVENE

AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. SEIA is the national trade association of the U.S. solar energy industry, which now employs more than 250,000 Americans. SEIA works with its member companies to build jobs and diversity, champion the use of cost competitive solar in America, remove market barriers and educate the public on the benefits of solar energy. The Advanced Power Alliance is a trade organization representing renewable developers, manufacturers, and public interest organizations interested in renewable development in the SPP and Electric Reliability Council of Texas regions of the United States. Interwest is a non-profit trade association that brings the nation's renewable energy industry together with the West's advocacy community in a consensus-based, collaborative approach to market development in six Western states: Colorado, New Mexico, Wyoming, Arizona, Nevada, and Utah. The Solar Council is a group of companies participating in AWEA's RTO Advisory Council that own, operate, develop, and finance solar projects and act, in coordination with AWEA, to advance joint goals before the Commission and the nation's regional transmission organizations and independent system operators.

Members of the Clean Energy Associations are active participants in current SPP markets and anticipate participating in the WEIS Market once operational. Accordingly, their interests cannot be represented by any other party, and their intervention is in the public interest.

II. COMMENTS

A. *The Clean Energy Associations Generally Support SPP's WEIS Market Proposal*

While the WEIS Market is a narrowly defined service offered by SPP to utilities under a contract and is not provided under SPP's role as a Regional Transmission Organization ("RTO"), but rather as a market administrator,³ the WEIS Market proposal still represents an important and beneficial expansion of competitive wholesale markets in the Western Interconnection. The Clean Energy Associations support the expansion of competitive wholesale markets. Properly designed markets allow renewable energy resources to compete on a more level playing field with all types of generation resources, drive down costs to consumers, and enable safe and reliable integration of renewable energy resources.⁴ Renewable energy resources in the SPP region have experienced tremendous growth since it first became an RTO in 2004 and implemented an Integrated Marketplace in 2014. The amount of wind energy in the footprint has grown from a negligible amount in 2007 to approximately over 20 gigawatts, comprising 23% of SPP's generation.⁵ A further 50 GW of wind, 28.5 GW of solar, and 5.7 GW of storage were in SPP's interconnection queue as of June 2019.⁶ None of this expansion would have been possible without presence of competitive wholesale markets.⁷

³ See WEIS Filing at 2.

⁴ See, e.g. Nat'l Renewable Energy Laboratory, *Competitive Electricity Market Regulation in the United States* at pp18-19 (2016), <https://www.nrel.gov/docs/fy17osti/67106.pdf>.

⁵ See Southwest Power Pool, 2018 Annual State of the Market Report at 42, fig. 2-24, (2019), <https://www.spp.org/documents/59861/2018%20annual%20state%20of%20the%20market%20report.pdf>.

⁶ <https://www.utilitydive.com/news/southwest-power-pool-moves-to-boost-reliability-storage-amid-ceo-resignati/559978/>

⁷ It is important to note that SPP has critically important components that are not part of the WEIS proposal. These include: a day-ahead market, consolidation of balancing authorities, the elimination of rate-pancaking, region-wide transmission planning and cost allocation. Without these changes, the WEIS Market cannot replicate the success of the broader SPP region. That being said, the Clean Energy Associations hope that the WEIS Market proposal is an incremental step toward forming a market that eventually incorporates these additional design components in the near term.

As noted by SPP, the WEIS Market will create opportunities for market participants to reduce overall costs to customers.⁸ Additionally, the WEIS Market will provide price transparency for wholesale energy, better optimize use of the transmission system, provide participants with information to help identify needed transmission expansion. The use of SPP as the service provider will allow market participants to take advantage of synergies and cost savings available through the use of existing SPP systems and processes for market implementation and operations.⁹ The Clean Energy Associations agree with SPP that the WEIS Market “offers a more reliable and cost effective energy imbalance management option than the traditional bilateral approach utilized by [Balancing Authorities],”¹⁰ that the Commission “has historically recognized the broad benefits that energy imbalance markets bring to the bulk electric system,”¹¹ and that “[p]ower systems can be operated more reliably and efficiently when coordinated over wide geographic areas, and electricity markets can enhance reliability management.”¹²

The foregoing benefits of the WEIS Market, as well as others discussed in the WEIS Filing,¹³ are desirable to a variety of SPP stakeholders, including the Clean Energy Associations and their member companies. Given the foregoing, the Clean Energy Associations generally support the WEIS Filing.

B. The Commission Should Require Changes To The WEIS Market’s Proposed Governance Structure

While the Clean Energy Associations generally support the WEIS Filing, the Clean Energy Associations have concerns related to SPP’s proposed governance structure for the

⁸ See WEIS Filing at 4.

⁹ See *id.*

¹⁰ See *id.* at 5.

¹¹ *Id.* (citations omitted).

¹² *Id.* (citations omitted).

¹³ See *id.* at 7.

WEIS Market. Effective representative governance is critically important to the formation and improvement of markets that protect against undue discrimination and ensure just and reasonable rates. Any governance structure approved by the Commission in this proceeding should accommodate the initial WEIS Market participants, but also be sufficiently flexible and diverse to accommodate any future geographic expansion or enhanced market functions.

As explained by SPP, the Western Joint Dispatch Agreement (“WJDA”), which has been executed by seven entities (all of which are transmission owners (“TOs”) and/or load serving entities (“LSEs”))¹⁴ includes provisions for the administration of the WEIS Market by SPP and the obligations of customers to pay administrative costs.¹⁵ Meanwhile, the Western Markets Executive Committee (“WMEC”) Charter outlines the stakeholder process involving matters affecting the WEIS Market and how the WMEC will carry out its responsibilities.¹⁶ Notably, the WMEC is comprised of representatives from each non-affiliated signatory to the WJDA.¹⁷ Under the WMEC Charter, the WMEC has the authority to approve or reject proposed amendments to the WEIS Market tariff, establish detailed WEIS Market protocols to support the WEIS Market tariff, provide consultation to SPP in determining the administrative rate charged to participants of the WEIS Market pursuant to the WJDA, and recommend proposed amendments to the WJDA.¹⁸

The Clean Energy Associations note these provisions of the WMEC Charter, and support several other aspects of the proposed WEIS Market governance structure – specifically, that WMEC meetings are open to all interested stakeholders, that the WMEC may receive input from

¹⁴ *See id.* at 2.

¹⁵ *See id.* at 1.

¹⁶ *See id.* at 1-2.

¹⁷ *See id.* at 14.

¹⁸ *See id.* at 14-15.

state regulatory commission liaisons in an advisory capacity, and that SPP's Board of Directors provides certain independent oversight of SPP's administration of the WEIS Market under the WJDA.¹⁹ Notwithstanding the foregoing, the proposed governance process for the WEIS Market still has several shortcomings that the Commission should require SPP to address.

First, a disproportionate amount of authority over the WEIS Market's rules resides with TOs and LSEs. There is no initial representation in the WMEC - the WEIS Market's main governing body - from other types of entities, such as independent power producers, power marketers, or demand response providers, that may, in the future, be interested in participating in the WEIS Market, or other interested groups such as consumer advocates. The Commission has recognized that the interests of such entities frequently may not align with incumbent utilities. At present, the WMEC does not have representatives that are power marketers, independent power producers, developers, environmental groups, or consumer advocates. The Clean Energy Associations are hopeful that representation can be expanded because the current makeup of the WMEC does not ensure that WEIS Market rules will be developed that produce a fair playing field for non-TO, non-LSE interests.

Second, the voting structure in the WEIS Market reinforces this dynamic. The WEIS Filing creates a so called bi-cameral structure that provides the founding utilities with complete control over one of the two WMEC governance groups. Because any change of rules must pass both bodies by 75% of the vote,²⁰ these members possess *de facto* veto authority over any proposed change to the market rules.²¹ While the governance structure appears to provide a

¹⁹ *See id.* at 15.

²⁰ *See* Western Markets Executive Committee Charter, Voting Structure, submitted in Docket No. ER20-1060 ("WMEC Charter").

²¹ "For modifications to Attachment D and Schedule 2 of the WEIS Tariff, approval of 100% of the voting representatives who are also NERC-registered Transmission Service Providers would also be required." *See id.*

degree of protection against disproportionate control over the development of WEIS Market rules via appeals to the SPP Board of Directors, this protection as written does not clearly provide how entities can ensure that any decision of the WMEC may be appealed to the Board by any stakeholder. The WMEC appears heavily weighted toward incumbent members' interests. Because of the lack of representation from non-utility interests, and the inability of entities who may not have signed the WJDA to directly participate in the market (or may not even be eligible to sign it, including the Clean Energy Associations as well as environmental and consumer groups), this appeal structure is insufficient to ensure the creation of just and reasonable, not unduly discriminatory or preferential market rules. To remedy this issue, the Clean Energy Associations request that FERC require that all WEIS Market tariff revisions go to the SPP Board for approval, and that any interested entity have a right to appeal other changes – or denial of proposed changes, if the WMEC rejects a stakeholder proposal - to the SPP Board. This mechanism will help assure independent oversight of the rules governing the WEIS Market.²²

Third, Clean Energy Associations are also concerned about the lack of specificity as to when committee meetings may be closed. The WMEC Charter provides no objective standard for the closure of meetings. A standard provision that states that meetings may be closed only when addressing legal, personnel, or information that is appropriately determined to be confidential should be added to the WMEC Charter language. Ensuring that committee meetings are presumptively open to stakeholders is critical to ensuring confidence in the WEIS Market.

²² Having all proposed tariff changes go to the SPP Board for approval before being filed with the Commission will provide for an assessment of market rules that may impact nonmember stakeholders who would not otherwise have the right to appeal the outcome of a WMEC decision. This will also likely lower the number of disputes and filings that the Commission will have to adjudicate related to the WEIS Market rules. For those changes that do not require Commission filings, such as changes to criteria or business practices, the Clean Energy Associations would support a change to its proposal that would allow a member or customer to appeal WMEC decisions to the SPP Board.

Fourth, the Clean Energy Associations are concerned about the apparent inability of entities that are impacted by the WEIS Market, but do not participate as load or generation, to participate in governance. The WJDA and WMEC structure does not provide opportunities for groups representing the public interest, consumers, clean energy advocates, or other parties impacted by the decisions of the governing structure to fully participate as voting members. The Clean Energy Associations believe that such representation is critically important to the development of markets, and should be provided for from the outset of the WEIS Market.

Finally, the Clean Energy Associations are concerned about the relative lack of state involvement in the WEIS Market stakeholder process, compared to other settings such as the SPP Regional State Committee (RSC) and the Organization of MISO States (OMS). While state representatives are allowed in the meetings, their authority is comparable to any other stakeholder without a membership. The Clean Energy Associations' experience has been that states can and do provide important insights into regional markets, and that their involvement can be instrumental in obtaining necessary approvals at the state commission level. Accordingly, the Clean Energy Associations encourage the Commission to consider a more robust role for the states in this process; such a role might include (but not be limited to) a dedicated forum such as the Body of State Regulators for the California Independent System Operator Energy Imbalance Market ("CAISO EIM").²³

C. The Commission Should Require SPP to Report on the Launch of the WEIS Market, and its Interaction with CAISO's Energy Imbalance Market and the Eastern Interconnection

The Clean Energy Associations generally support the WEIS Filing as consistent with their priorities of market expansion. However, the Commission should maintain visibility into

²³ <https://www.westerneim.com/Pages/Governance/EIMBodyofStateRegulators.aspx>

the long-term prospects for further wholesale market development in the Western Interconnection. The potential expansion of SPP's WEIS Market, combined with the continuing expansion of the CAISO EIM, may impact the development of competitive wholesale markets in the Western Interconnection generally. The specific pathways of the SPP WEIS and CAISO EIM expansions will impact the development of all generation resources, including renewable energy resources. Development of renewable energy resources will be far more cost-effective with open, modern markets that consolidate balancing areas, eliminate rate pancaking, allow sharing of reserves and capacity, and provide for cost beneficial transmission planning, construction and cost-sharing. The ongoing discussions in the Western Interconnection in CAISO and SPP may generate healthy competition that helps move the process of Western market improvement forward, and the Clean Energy Associations believe that the CAISO-SPP Reliability Coordination Agreement is a positive first step.²⁴ However, as experience in the Eastern Interconnection has shown, the development of RTOs can also create seams that are inefficient and costly to consumers. The Clean Energy Associations accordingly encourage the Commission to continue oversight over interactions between both the CAISO EIM and SPP WEIS, as well as both markets individually.

More specifically, the Commission should require detailed reporting as a condition of accepting the WEIS Filing. The Commission should require regular reports over at least the first two years of operation, assessing whether market power is present within the WEIS Market footprint, and identifying any congestion at transmission ties between the WEIS Market and CAISO EIM entities, as well as between the WEIS Market and the Eastern Interconnection. Reports should also include information on price divergence between WEIS Balancing Authority

²⁴ https://www.spp.org/Documents/60263/CAISO-SPP%20RC%20Coordination%20Agreement_20190715.pdf

Areas (“BAAs”) and neighboring BAAs belonging to a market. These requirements would be consistent with CAISO’s compliance obligations when the Commission approved the CAISO EIM.²⁵ Additionally, detailed reports would provide market participants, stakeholders, and prospective entrants with valuable information on the efficacy of – and potential for improvement to – the WEIS Market.

IV. CONCLUSION

For the aforementioned reasons, the Clean Energy Associations respectfully request that the Commission grant their intervention and accept the WEIS Filing, while requiring improvements to the WEIS Market’s governance structure and regular and detailed reporting on the WEIS Market’s operation.

Respectfully submitted,

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²⁵ See *California Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 (2014) at P 219 (requiring informational status reports every six months for two years regarding structural market power at interties), P312 (accepting CAISO commitment to include EIM benefits such as congestion management and redispatch cost savings as part of existing quarterly market reports).

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Document Content(s)

2020-03-20 - ER20-1059 - SPP WEIS Comments.PDF.....1-11