Dear Members of the Board:

The undersigned organizations write to respectfully request and encourage you not to adopt the recent Staff proposal to increase SPP’s annual membership from $6,000 to $20,000. More than tripling the current annual membership fee would prevent SPP from diversifying its membership, would be unjust and unreasonable, and would discriminate against the same type of entities that have been prevented from joining SPP by SPP’s exit fee.

In its April 18, 2019 Order in docket EL19-11-000, the Federal Energy Regulatory Commission (FERC) directed SPP to eliminate its exit fee provisions for non-transmission owners. We were therefore pleased to see the Staff’s recommended compliance revisions presented at the June 17, 2019 Corporate Governance Committee Meeting that would implement the FERC’s directive and eliminate the exit fee. However, we are concerned that at the same meeting, Staff recommended an increase in the annual membership fee from $6,000 to $20,000. Staff justified the increase as necessary to recoup SPP’s expenses for operating its governance structure, including the expenses of Board compensation, meeting management, and other expenses. We are also concerned that Staff recommended making a Section 205 filing concurrently with the compliance filing that would impose a new $100,000 exit fee on all members.

We strongly urge the Board approve the Staff’s recommended “Exit Fee Compliance Revisions,” but decline to make any additional tariff revisions – including the proposed increase to the membership fee and the proposed $100,000 exit fee – that would increase membership costs. SPP instead should explore other changes to its governance structure, including fee reduction, necessary to improve membership diversity and participation.

FERC directed SPP to eliminate its exit fee for non-transmission owners because it found that the exit fee “creates a barrier to membership for non-transmission owners.” April 18 Order, ¶ 52. FERC further found that removing the exit fee entirely for non-transmission owners “will result in a more diverse membership and a stakeholder process that takes into account the interests of a wider spectrum of entities, including smaller entities and new market entrants that were previously discouraged from membership by the high exit fee.” Id. at ¶ 65. Contrary to these goals, the proposed $20,000 annual membership fee and proposed $100,000 minimum exit fee would erect new barriers to membership and will continue to deny SPP the value of a diverse membership and a diverse stakeholder process. The Board should not use the compliance filing as an opportunity to replace one membership barrier with new ones.
We encourage the Board to heed both the letter and the intent of FERC’s April 18 Order. The only tariff revision needed to comply with the letter of FERC’s order is to eliminate the exit fee for non-transmission owners. The Board should therefore decline to make additional revisions at this time.

Notably, the proposed $20,000 annual fee would far exceed the annual membership fees charged by other RTOs or ISOs, which range from $0 to $5,000, depending on member entity type. That fact alone underscores that SPP’s current annual fee is above the norm, and that any increase would increase barriers to participation. SPP instead should be assessing whether to reduce the annual membership fee and create a more equitable fee structure based on entity type.

As the data on membership fees in other RTOs and ISOs suggests, no other grid market operator has shifted such a substantial portion of the costs of administering its membership and governance activities into its annual fees. Rather, these activities are paid for through administrative fees that the RTO or ISO charges all customers to run its market. Allocating the cost of membership and governance activities to all customers is consistent with the FERC’s and courts’ cost-causation principle, which requires that those entities that benefit from a capital investment or an operational expense should pay for it. Decoupling governance costs from membership fees, and establishing affordable member fees, would lead to a more just and reasonable annual fee and ensure a more diverse membership, and produce a more meaningful stakeholder process.

An annual membership fee of $20,000 would be unjust and discriminatory, especially as applied to many smaller entities and prospective new market entrants – the same group that the FERC found was foreclosed from membership by SPP’s exit fee in its April 18 Order. April 18 Order, ¶ 65. Likewise, a new $100,000 exit fee would be discriminatory for the reasons that the FERC found in the April 18 Order. As the Staff’s analysis acknowledges, the FERC found that there is “insufficient evidence of a financial need for an exit fee for non-transmission owners.” Id. at ¶ 59. It would be unjust and discriminatory to subject non-transmission owners to an exit fee for which there is no financial need.

Rather than create new barriers to membership, we encourage the Board to address FERC’s concerns about the lack of diversity in SPP’s membership by taking affirmative steps to broaden and diversify its membership. To do so, we suggest that the Board work with the Corporate Governance Committee to initiate a process to address the need for more open membership and more open governance in SPP. SPP also should consider how continuing barriers to meaningful, diverse, and open stakeholder participation could negatively affect development and acceptance of its Western Energy Imbalance Service market and other initiatives.

For all of these reasons, the Board should reject the Staff’s June 2019 proposals to increase SPP’s annual membership fee from $6,000 to $20,000 and to institute a $100,000 exit fee. Instead, the Board should initiate a process to address the need for more open membership and more open governance in SPP.
Sincerely,

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