

128 FERC ¶ 61,061
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Xcel Energy Services, Inc. –
Public Service Company of Colorado

Docket Nos. OA08-35-001
OA08-35-002
OA08-35-003
ER09-72-000
ER09-72-001

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued July 16, 2009)

1. On August 18, 2008, Xcel Energy Services, Inc. (Xcel) filed a request for rehearing of an earlier order¹ accepting, as modified, the Order No. 890² compliance filing submitted by Xcel for its operating affiliate, the Public Service Company of Colorado (PSCo).³ On October 15, 2008, Xcel submitted a compliance filing for two of its operating affiliates, PSCo and Southwestern Public Service Company (SPS),⁴ to comply with the Commission's directives in the PSCo Planning Order. On January 12, 2009, Xcel filed a request for rehearing and clarification of an order rejecting a portion of the October Compliance Filing.⁵ In this order, the Commission grants Xcel's request for

¹ *Xcel Energy Services, Inc. – Public Service Co. of Colorado*, 124 FERC ¶ 61,052 (2008) (PSCo Planning Order).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

³ Xcel August 8, 2008 Rehearing Request, Docket No. OA08-35-001.

⁴ Xcel October 15, 2008 Compliance Filing, Docket No. OA08-35-002 (October Compliance Filing).

⁵ *Xcel Energy Services Inc.*, 125 FERC ¶ 61,284 (2008) (Rejection Order).

rehearing of the PSCo Planning Order, and accepts in part, as modified, the October Compliance Filing, as it applies to PSCo, subject to a further compliance filing, as discussed below. The Commission also grants Xcel's request for rehearing of the Rejection Order.⁶

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their OATT (Attachment K).⁷

3. The nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;⁸ (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of

⁶ In a previous order in this docket, the Commission accepted Xcel's filing with regard to one of its affiliates, SPS, subject to a further compliance filing. *See Xcel Energy Services, Inc – Southwestern Public Serv. Co.*, 127 FERC ¶ 61,167 (2009) (SPS Planning Order).

⁷ Xcel labeled its Attachment K transmission planning process for PSCo as "Attachment R – PSCo." This was permitted by the Commission in Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n.246.

⁸ In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

the nine principles in its transmission planning process, and that all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules, as supplemented with web-posted business practices when appropriate,⁹ must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

4. On December 7, 2007, Xcel submitted its initial Attachment K filing (December 7 Filing), pursuant to Order No. 890.¹⁰ In its December 7 Filing, Xcel stated that PSCo is a member of WestConnect.¹¹ Therefore, proposed Attachment R – PSCo is similar to the Attachment K compliance filings submitted by other WestConnect participants. The December 7 Filing indicated that PSCo's planning process occurs on a calendar year cycle and covers a 5-year planning horizon. In addition, PSCo's five-year transmission plan is updated annually.

5. Subsequently, the Commission issued the PSCo Planning Order, accepting the December 7 Filing, subject to a further compliance filing. The Commission found that Attachment R – PSCo adequately addressed the coordination, openness, and transparency principles adopted in Order No. 890. With respect to the dispute resolution principle, the Commission concluded that Xcel complied with this principle, but it encouraged Xcel to

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

¹⁰ While the December 7 Filing contained planning processes of PSCo and SPS, two of Xcel's operating company affiliates, the PSCo Planning Order solely addressed the transmission planning process for PSCo. The transmission planning process for SPS was addressed in the SPS Planning Order.

¹¹ WestConnect is an unincorporated association composed of utility companies providing transmission of electricity in the southwestern United States. The WestConnect footprint encompasses the states of Arizona, Colorado, New Mexico, Nevada and parts of California, Texas, South Dakota and Wyoming. Three major sub-regional technical planning work groups operate within the WestConnect footprint; these are (1) the Southwest Area Transmission Planning Group (SWAT), (2) the Sierra Sub-Regional Planning Group (SSPG), and (3) the Colorado Coordinated Planning Group (CCPG). Xcel states that WestConnect was formed by transmission-providing electric utilities in the Western Interconnection that signed a Memorandum of Understanding (MOU). Its purposes include investigating the feasibility of wholesale market enhancements, working with other Western Interconnection organizations and market stakeholders, and addressing seams issues in the appropriate forums. *See* Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, Original Sheet No. 470.

consider including a mediation step in its dispute resolution process. However, the Commission found that a further compliance filing was necessary to address information exchange, comparability, regional participation, economic planning studies, and cost allocation principles, as well as the recovery of planning costs.¹²

II. Request for Rehearing of PSCo Planning Order

A. Xcel's Rehearing Request

6. Xcel argues that the Commission, in its PSCo Planning Order, treated PSCo differently than other transmission providers that were also relying on the WestConnect MOU and WECC processes to comply with the cost allocation principle of Order No. 890. Xcel contends that the Commission's actions in the PSCo Planning Order were arbitrary and capricious, and that the Commission's ruling unduly discriminated against PSCo. As such, Xcel requests that the Commission grant rehearing and clarify that PSCo has the same compliance obligation with respect to cost allocation as certain WestConnect transmission providers addressed by the Commission in its El Paso Order.¹³ Specifically, Xcel argues that the Commission, in the El Paso Order, considered the proposal of certain WestConnect transmission providers to comply with the cost allocation principle of Order No. 890 through adherence to the WestConnect MOU. According to Xcel, in that order, the Commission concluded that certain transmission providers had not clearly provided a cost allocation methodology and directed those transmission providers "both individually and, if necessary, with WestConnect to further

¹² PSCo Planning Order, 124 FERC ¶ 61,052 at P 19.

¹³ *El Paso Electric Co., et al.*, 124 FERC ¶ 61,051 (2008) (El Paso Order). In the El Paso Order, the Commission addressed Order No. 890 Attachment K compliance obligations of several transmission providers in the Desert Southwest area, including El Paso Electric Company (El Paso), Public Service Company of New Mexico, Arizona Public Service Company, Tucson Electric Power Company, UNS Electric, Inc., Nevada Power Company and Sierra Pacific Power Company. As the Commission explained in that order, these transmission providers coordinate transmission planning through active participation in the Southwest Area Transmission Planning group, as well as membership in WestConnect and WECC, and participation in the WECC TEPPC. In the El Paso Order, the Commission determined that the cost allocation methodologies provided in the transmission providers' respective Attachment K filings did not comply with the cost allocation principle found in Order No. 890, with the exception of El Paso. *Id.* at 1, 42-47.

refine a specific methodology for cost allocation”¹⁴ In contrast, Xcel states, in the PSCo Planning Order the Commission directed Xcel to “collaborate with stakeholders in developing an allocation methodology which best fits its regional needs”¹⁵ despite the fact that, as Xcel contends, PSCo proposed to use the same WestConnect MOU and WECC processes to comply with the cost allocation principle as the transmission providers in the El Paso Order.¹⁶

7. Xcel contends that these two directives are significantly different and argues that the Commission’s directive to the transmission providers in the El Paso Order “suggests that they may achieve compliance with the cost allocation principle through *further refinements* to the existing process,” namely, through the WestConnect MOU.¹⁷ On the contrary, Xcel argues, the Commission’s directive in the PSCo Planning Order “suggest[s] that parties other than the WestConnect MOU signatories must be involved” in the development of a cost allocation methodology which best fits its regional needs.¹⁸ As such, Xcel requests that the Commission grant rehearing and modify paragraph 52 of the PSCo Planning Order to clarify that PSCo’s cost allocation compliance obligations are the same as those of the transmission providers addressed in the El Paso Order, and that PSCo may therefore comply with the cost allocation portion of the PSCo Planning Order by working in collaboration with the other WestConnect transmission providers.

B. Commission Determination

8. We grant Xcel’s request for rehearing of the PSCo Planning Order with respect to PSCo’s transmission planning cost allocation methodology. We did not intend to suggest that other stakeholders other than the WestConnect MOU signatories need to be involved in the development of a cost allocation methodology. As such, we find that PSCo should have had the same compliance obligations with respect to cost allocation as the WestConnect transmission providers addressed by the Commission in the El Paso Order. Accordingly, as discussed more fully below, we agree with Xcel’s approach in its October Compliance Filing to describe its cost allocation methodology consistent with

¹⁴ Xcel August 18, 2008 Rehearing Request at 5; *see also* El Paso Order, 124 FERC ¶ 61,051 at P 47.

¹⁵ Xcel August 18, 2008 Rehearing Request at 5 (citing PSCo Planning Order, 124 FERC ¶ 61,052 at P 52).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 5-6.

the tariff methodologies being submitted by other WestConnect transmission providers in compliance with the El Paso Order. Xcel notes in the October Compliance Filing that its approach was made subject to the Commission granting its rehearing request, which we have done here.

III. Xcel's October Compliance Filing

A. Notice of Filing and Responsive Pleadings

9. Notice of Xcel's October Compliance Filing was published in the *Federal Register*, 73 Fed. Reg. 63,467 (2008), with interventions and protests due on or before November 5, 2008. None were filed with respect to PSCo's compliance demonstration.

B. Substantive Matters

10. We find that Xcel's transmission planning process with respect to affiliate PSCo, as revised, complies with the PSCo Planning Order regarding the information exchange, regional participation, economic planning studies, cost allocation, recovery of planning costs, and dispute resolution principles. As discussed below, Xcel has not fully complied with the comparability principle. Accordingly, we accept Xcel – PSCo's planning process, to be effective October 15, 2008, subject to a further compliance filing, as discussed below.

11. Although we accept Xcel's compliance filing as it relates to PSCo, subject to further compliance filings to address certain discrete issues, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission intends to convene regional technical conferences later this year to determine if further refinements to these processes are necessary. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas that may need improvement. The conferences will examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates. The Commission will also explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of interregional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

C. Compliance With Order No. 890 Planning Principles**1. Information Exchange****a. PSCo Planning Order Requirements**

12. In the PSCo Planning Order, the Commission found that, to the extent Attachment R – PSCo provides that information be submitted by network and point-to-point customers with rollover rights, Xcel’s Attachment R – PSCo is too restrictive and excludes information submitted by other eligible customers. The Commission determined that, by specifying limitations on the types of customers who may submit such information, Xcel is limiting the ability of other customers who do not have rollover rights to provide data for consideration in the transmission expansion plan. Further, the Commission concluded that Attachment R – PSCo does not indicate when this information should be provided or updated in order to ensure its inclusion in the first quarter public meeting. As such, the Commission found that Xcel failed to fully comply with the information exchange principle of Order No. 890. The Commission directed Xcel to revise its Attachment R – PSCo to ensure that customers without rollover rights may also submit information that will be considered in the transmission plan and to describe the schedule for customers to submit data, including when such data should be submitted.¹⁹

b. October Compliance Filing

13. Section II.C.3 (formerly section II.A.4) of Attachment R – PSCo has been revised to clarify that transmission customers without rollover rights may submit information to be considered in the PSCo transmission plan. Attachment R – PSCo has been further revised to include a deadline of September 1 of each year for when this information should be provided by affected transmission customers (including generators and demand response resources) to ensure that such information is included in the first quarter public meeting.²⁰ Further, Xcel adds that, to facilitate this information exchange, Xcel has developed a points-of-contact information sheet, advising customers of the PSCo or Xcel personnel to be contacted with specific transmission planning issues. Xcel states that this points-of-contact information will be posted on the PSCo Open Access Same-Time

¹⁹ PSCo Planning Order, 124 FERC ¶ 61,052 at P 24.

²⁰ Each transmission customer is responsible for timely submittal of written notice to PSCo of material changes to any of the information previously provided to PSCo. In its compliance filing, PSCo specifically notes that such updates would include demand response resources.

Information System (OASIS) and includes a copy of the initial points of contact information in its filing.²¹

c. Commission Determination

14. We find that Xcel's Attachment R – PSCo, as revised in Xcel's October Compliance Filing, complies with the information exchange principle adopted in Order No. 890. Specifically, Xcel has provided that transmission customers without rollover rights may submit information to be considered in PSCo's transmission expansion plan and has indicated when this information should be provided or updated by affected transmission customers (including generators and demand resources) in order to ensure its inclusion in the first quarter public meeting.

2. Comparability

a. PSCo Planning Order Requirements

15. In the PSCo Planning Order, the Commission found that PSCo's transmission system planning process is consistent with the comparability principle stated in Order No. 890. In particular, the Commission concluded that the tariff language in Attachment R – PSCo provided that, as a general matter, demand resources will be treated comparably. However, the Commission noted that Xcel did not have an opportunity to demonstrate that it complies with the comparability requirements of Order No. 890-A because Order No. 890-A was issued on December 28, 2007, after Xcel submitted its initial Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process "how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning."²² The Commission directed Xcel to provide the necessary demonstration required by Order No. 890-A in a compliance filing within 90 days of the date of the order.

b. October Compliance Filing

16. Xcel has revised Attachment R – PSCo to include references to demand response resources and their role in the PSCo transmission planning process. Xcel states that,

²¹ October Compliance Filing at Att. 4.

²² PSCo Planning Order, 124 FERC ¶ 61,052 at 27 (quoting Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216).

typically, PSCo would model verifiable demand response programs as a reduction in load.²³

17. Section I and II state affirmatively that all interested parties, including, but not limited to, Network Integration Transmission Service (NITS) and Point-to-Point (PTP) transmission service customers, sponsors of transmission solutions, generation solutions and solutions utilizing demand response resources, interconnected transmission providers, state and local regulatory bodies and other stakeholders, are allowed to provide input into and participate in all stages of development of the PSCo transmission plan. Additionally, in developing base-line assumptions and models for the planning cycle, Attachment R – PSCo at section II.C.3 indicates how throughout the planning process stakeholders or any project sponsors have the opportunity to provide their input regarding base-line assumptions.²⁴

18. Section II.C.1 states that PSCo will assess its needs and, where feasible, integrate proposed alternatives such as demand response resources that could meet or mitigate the need for transmission additions or upgrades.²⁵ Section II.C.4.a states that at the first public planning meeting, PSCo will provide an opportunity for stakeholder input on any aspect of PSCo's current study plan, including, but not limited to, methodology, study inputs and study results.²⁶ Additionally, at the first public planning meeting, PSCo will review any stakeholder proposals previously submitted to PSCo for study plan alternatives and invite the submittal of additional stakeholder study plans for review and discussion.²⁷ At the second public planning meeting, PSCo will review and discuss study requests received during the prior year.²⁸

19. In addition, section II.D provides that any PSCo transmission customer or other stakeholder, including sponsors of transmission solutions, generation solutions and solutions utilizing demand response resources may submit a study request for an

²³ October Compliance Filing at 5-6.

²⁴ Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet Nos. 472-473.

²⁵ *Id.* at 471.

²⁶ *Id.* at 473.

²⁷ *Id.* at 474.

²⁸ *Id.* at 473-74.

economic planning study directly to PSCo or the Transmission Expansion Planning Policy Committee (TEPPC).

c. Commission Determination

20. We find that Xcel has partially complied with the Commission's directives in the PSCo Planning Order. Attachment R – PSCo indicates when and where in the planning process sponsors of transmission, generation and demand resources have an opportunity to provide input into PSCo's base-line assumptions and models. It also indicates where and when sponsors of transmission, generation and demand resources may propose alternatives to those in the transmission plans. It also states that any stakeholder can submit an economic study request to study potential upgrades or other investments, including transmission, generation or demand resources. However, Xcel does not explain how PSCo will analyze and select the preferred solution from competing alternatives such that all types of resources are considered on a comparable basis. Therefore, we direct Xcel to revise Attachment R – PSCo, in a compliance filing due within 60 days of the date of this order, to identify how PSCo will evaluate and select from among competing solutions such that all types of resources are considered on a comparable basis.²⁹

3. Regional Participation

a. PSCo Planning Order Requirements

21. In the PSCo Planning Order, the Commission determined that Xcel generally complied with the regional participation principle based upon its descriptions of PSCo's participation in the sub-regional and regional participation processes outlined in Attachment R – PSCo. However, the Commission concluded that while the Xcel provided a general overview of the CCPG, WestConnect, and WECC's TEPPC processes, it did not provide sufficient detail to allow customers and other interested stakeholders to fully understand how the data and inputs they provide on the local transmission plan will be integrated into the sub-regional plans being developed by CCPG and WestConnect and incorporated into WECC TEPPC studies; nor did it provide the controlling documents for each of these processes. Therefore, the Commission directed Xcel to revise Attachment R – PSCo to provide additional detail on each of the

²⁹ Tariff language could, for example, state that solutions will be evaluated against each other based on a comparison of their relative economics and effectiveness of performance. Although the particular standard a transmission provider uses to perform this evaluation can vary, it should be clear from the tariff language how one type of investment would be considered against another and how the transmission provider would choose one resource over another or a competing proposal.

regional processes on which it relies or include additional links (i.e., URL) to the appropriate documents on the CCPG and WECC websites where the processes to coordinate information and planning efforts are discussed.³⁰

b. October Compliance Filing

22. Xcel has revised Attachment R – PSCo to incorporate by reference a hyperlinks list.³¹ This list provides links (i.e., URLs) to controlling documents on the CCPG and WECC websites where the process to coordinate information and planning can be found. Xcel commits to post this hyperlink list on the PSCo OASIS and update it as needed.³² Additionally Attachment R – PSCo includes a link to the PSCo OASIS where there are references to outside documents or processes.³³ Xcel adds that PSCo has collaborated with other participants in the CCPG, WestConnect and WECC to develop common compliance tariff provisions regarding regional participation as well as use of hyperlinks.

c. Commission Determination

23. We find that Xcel's revised Attachment R – PSCo complies with directives in the PSCo Planning Order regarding the regional participation principle. Specifically, Xcel has provided a direct link, via its hyperlink list, to the processes WestConnect, CCPG and WECC's TEPPC use to coordinate information and planning efforts. Xcel has modified Attachment R – PSCo to include direct links to its hyperlink list which contains hyperlinks (i.e., URLs) to, among other things, PSCo points of contact, and planning meeting notices and documents. The PSCo hyperlink list also contains direct hyperlinks (i.e., URLs) to similar WestConnect, CCPG and WECC TEPPC documents and materials. Xcel's hyperlinks list creates an organized method for finding documents associated with PSCo's transmission planning process. These modifications satisfy the directives of the PSCo Planning Order and meet the requirements of the regional participation principle. Finally, we accept Xcel's commitment to ensure that the hyperlink list remains current.

³⁰ PSCo Planning Order, 124 FERC ¶ 61,052 at P 33-34.

³¹ October Compliance Filing at Att. 3.

³² October Compliance Filing at 6-7; *see* Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet Nos. 471, 474-76, 478, 480-82, 484, 487.

³³ October Compliance Filing at 6-7.

4. Economic Planning Studies

a. PSCo Planning Order Requirements

24. In the PSCo Planning Order, the Commission determined that PSCo generally complied with the economic planning studies principle but did not indicate the minimum number of local priority economic planning studies per year that PSCo will perform. Accordingly, the Commission directed Xcel to file a further compliance filing providing this information.

25. In addition, the Commission concluded that, while Attachment R – PSCo indicates that the WECC’s TEPPC planning process and protocols are posted on the WECC website at www.wecc.biz, Xcel has not provided sufficient detail describing the TEPPC process for prioritizing and completing economic studies. Therefore, the Commission directed Xcel to provide more detail in its Attachment R – PSCo on the TEPPC process or to provide direct links (URLs) to the appropriate documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed.³⁴

b. October Compliance Filing

26. In its October Compliance Filing, Xcel states that it has revised its Attachment R – PSCo to provide further detail on the WECC TEPPC planning process, as well as to incorporate by reference a hyperlinks list to be posted on the PSCo OASIS and updated as needed.³⁵ Xcel adds that PSCo’s hyperlinks list will contain links (i.e., URLs) to documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed.³⁶

27. Attachment R – PSCo at section II.D has been revised to include information regarding the economic planning study process. The revised tariff language at section II.D.1 states that any PSCo transmission customer or other stakeholder, including sponsors of transmission or generation solutions, or solutions utilizing demand response resources, may submit a request for an economic planning study.³⁷

³⁴ PSCo Planning Order, 124 FERC ¶ 61,052 at P 41-42.

³⁵ October Compliance Filing at 7-8; Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 475.

³⁶ October Compliance Filing at 7-8.

³⁷ Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 475.

28. The revised tariff at section II.D.2.a provides that all economic planning study requests received by September 1 shall be reviewed by PSCo prior to the fourth quarter open planning meeting. In its review, PSCo shall consider specified criteria to determine whether it believes the request is for a local economic planning study request or a regional economic planning request. Requests for economic planning studies that PSCo determines are local study requests are presented at the fourth quarter meeting. PSCo will seek input from stakeholders on whether the local study requests should be considered a local priority request and facilitated by PSCo.³⁸

29. The revised tariff at section II.D.2.d provides that PSCo will facilitate up to three priority local economic planning studies each year as a PSCo system cost.³⁹ If PSCo receives more than three requests for local economic planning studies that are determined to be priority local requests, stakeholders and PSCo will prioritize the requests to determine which three PSCo will facilitate. However, Attachment R – PSCo also permits PSCo to, at its discretion, facilitate one or more additional studies (beyond three). Finally, if PSCo elects not to perform any additional studies, it may assist the requester in having a third party perform the local economic planning study at the expense of the requester.⁴⁰

30. Regarding clustering or batching of local economic planning study requests, Attachment R – PSCo at section II.D.5 has been revised to state that PSCo may decide to study any number of economic planning studies together, either on its own initiative, upon request, or to comply with state regulatory requirements. Should PSCo propose to cluster certain priority local economic planning studies “on any reasonable grounds, including, without limitation, upon [PSCo’s] determination that the proposed cluster studies are significantly similar, from an electrical perspective, to be feasibly and meaningfully studied as a group, PSCo will provide notice to each Requester⁴¹ whose

³⁸ *Id.* at 476 and 477.

³⁹ *Id.* at 477.

⁴⁰ *Id.* at 479.

⁴¹ Attachment R – PSCo defines “Requester” as any PSCo transmission customer or other stakeholder, including sponsors of transmission solutions, generation solutions and solutions utilizing demand response resources. *See Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 475.*

study it proposes to include in the cluster study.”⁴² Each Requester will have the opportunity to opt out of a cluster within ten days of written notice from PSCo.

31. Customers may also propose that certain requests be studied in a cluster. Attachment R – PSCo at section II.D.5.b states that, prior to submitting a request to cluster, the Requester must contact all other customers whose request it proposes to cluster and obtain their written consent that they are willing to be included in the cluster study. All written consents must be provided to PSCo prior to PSCo beginning a local economic planning cluster study. PSCo states that it reserves the right to reject a Requester-proposed cluster on any reasonable ground, including, without limitation, PSCo’s determination that the proposed cluster cannot be feasibly studied as a group, the proposed clustering is not likely to provide a result significantly different than separate studies, or if the proposed clustering impairs administration or timely processing of the economic study process. PSCo further states that it will make the determination whether to reject a proposed cluster, and provide notice of any decision to reject, within twenty days of receipt of all written consents.⁴³

32. Regarding the role that TEPPC will play in PSCo’s transmission planning process, Attachment R – PSCo at section II.D.2.e states that PSCo will forward to TEPPC any economic planning request that is not a local study request, for inclusion in the TEPPC master list of economic planning studies for the Western Interconnection and for consideration by TEPPC as a priority request.⁴⁴ Xcel states that PSCo shall participate in the TEPPC prioritization process and provide input as to whether a study request should be included in the TEPPC study plan. Xcel has also included a link in its OASIS to documents containing the TEPPC processes for prioritizing and completing regional economic studies.

c. Commission Determination

33. We find that Xcel has complied with the directives in the PSCo Planning Order concerning the economic planning studies principle. Specifically, PSCo “will facilitate, at PSCo’s cost, up to three priority local economic planning studies per calendar year,”⁴⁵ adding that PSCo “will have no obligation to facilitate more than three priority local

⁴² Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 478.

⁴³ *Id.* at 479.

⁴⁴ *Id.* at 477.

⁴⁵ *Id.* at 479.

economic planning studies per calendar year,”⁴⁶ at PSCo’s expense; any additional local planning studies will be paid for by the Requester. However, PSCo will provide assistance in having a third party perform the planning study if requested.⁴⁷ PSCo will cluster priority local economic planning studies, either at their own determination or if requested by a customer and will cluster such studies “on reasonable grounds, including, without limitation, upon its determination that the proposed cluster studies are significantly similar, from an electrical perspective, to be feasibly and meaningfully studied as a group.”⁴⁸ Finally, Attachment R – PSCo includes a direct link, via its hyperlinks list, to the process TEPPC uses for prioritizing and completing regional economic studies, as directed in the PSCo Planning Order.⁴⁹

5. Cost Allocation

a. PSCo Planning Order Requirements

34. In the PSCo Planning Order, the Commission stated that Xcel’s Attachment R – PSCo provides that PSCo will seek input from stakeholders in proposing cost allocation methods on a case-by-case basis for any economic or reliability projects developed through the PSCo transmission planning process. The Commission determined that this did not comply with the cost allocation principles of Order No. 890 because Xcel must clearly define PSCo’s cost allocation methodology, as opposed to developing allocation methodologies on a case-by-case basis. The Commission emphasized the importance of providing participants seeking to pursue new transmission investment with certainty regarding the allocation of costs for new potential transmission projects. As such, the Commission directed Xcel to collaborate with stakeholders in developing an allocation methodology which best fits its regional needs, and ordered

⁴⁶ *Id.* at 477, 479.

⁴⁷ We interpret the commitment for Xcel to “provide assistance in having a third party perform studies beyond the three they commit to perform each year” to mean that it will provide the third-party any information and assistance necessary for the third-party to complete the studies.

⁴⁸ Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 478.

⁴⁹ PSCo Planning Order, 124 FERC ¶ 61,052 at P 42.

Xcel to file a further compliance filing that revises its Attachment R – PSCo to provide for an up-front cost allocation methodology.⁵⁰

b. October Compliance Filing

35. Xcel states that, subject to the outcome of its request for rehearing with respect to the Commission’s cost allocation determination in the PSCo Planning Order, Attachment R – PSCo has been revised to describe its cost allocation methodology consistent with the tariff methodologies being submitted by other WestConnect transmission providers in compliance with the El Paso Order. Xcel adds that the revised cost allocation provisions contained in Attachment R – PSCo are based on the methodologies submitted by El Paso, another WestConnect entity, and accepted by the Commission in the El Paso Order.

36. According to Xcel, Attachment R – PSCo provides for an open season solicitation process that allows interested stakeholders to participate in the process in an open and transparent manner. Specifically, section VI.C.1 states that, for any project entered into where an open season solicitation process is used, project costs and associated transmission rights will be allocated proportionally to project participants using an agreed upon allocation method such as capacity. Moreover, section VI.C.2 provides that, for projects wholly on the PSCo system that are undertaken for economic reasons or congestion relief in response to a request, the project costs will be allocated to that requester or requesters. Section VI.A states that PSCo may also share ownership, and associated costs, of any new transmission project, based upon mutual agreement between the parties, in the event of existing joint ownership of facilities in the area of the new facilities, overlapping service territories, or other relevant considerations.

37. According to Xcel, the methodology described in Attachment R – PSCo provides up-front guidance of the PSCo cost allocation model. Xcel clarifies that while PSCo will rely on this process, it will nonetheless remain open to other methods if those methods are shown to be workable or superior to the open season methodology currently proposed. Finally, Xcel states that, to avoid any potential discrepancies between Attachment R – PSCo and Xcel’s load interconnection policy, section VI.C.4 of Attachment R – PSCo expressly provides that, in the event of inconsistency between Xcel’s OATT (including Attachment R – PSCo) and Xcel’s load interconnection cost allocation policy, Xcel’s OATT would control.

⁵⁰ *Id.* P 52. As noted above, we have granted Xcel’s request for rehearing regarding this compliance obligation clarifying that PSCo has the same compliance obligation with respect to cost allocation as certain WestConnect transmission providers addressed by the Commission in its El Paso Order. Specifically, we clarify above that Xcel need only to have collaborated with WestConnect, and not stakeholders, in developing an allocation methodology which best fits its regional needs.

c. Commission Determination

38. As discussed above, we grant Xcel's request for rehearing of the PSCo Planning Order with respect to PSCo's transmission planning cost allocation methodology. As a member of WestConnect and a signatory to the WestConnect MOU, PSCo should work alongside other WestConnect transmission providers in developing and refining a cost allocation methodology that best fits its regional needs.

39. We find that Xcel has complied with the requirements in the PSCo Planning Order regarding cost allocation, as they relate to PSCo. Xcel has proposed a cost allocation methodology similar to El Paso's, which was accepted by the Commission in the El Paso Order. Specifically, where any transmission project is entered into by more than one participant from a solicitation of interest, project costs and associated transmission rights will be allocated proportionally to project participants. For projects resulting from the open season process which result in a single participant, the full costs and transmission rights will be allocated to that participant. For projects without an open season, Xcel may elect to proceed at its own expense. In addition, the proposed cost allocation methodology is generally accepted and utilized throughout the WestConnect footprint. Consistent with the Commission's acceptance of El Paso's cost allocation methodology,⁵¹ we accept Xcel's proposed methodologies here, with respect to PSCo.

6. Recovery of Planning Costs

a. PSCo Planning Order Requirements

40. In the PSCo Planning Order, the Commission found that Xcel did not address how its local planning costs will be recovered for PSCo, and directed Xcel to file a further compliance filing detailing its plan to recover planning costs for PSCo.⁵²

b. October Compliance Filing

41. Xcel has revised Attachment R – PSCo to provide that costs related to transmission system planning activities for PSCo are recovered through existing rate structures including: (1) PSCo's Commission-approved formula transmission rates, (2) Commission-approved transmission charges under certain grandfathered transmission contracts, (3) PSCo's Colorado retail base rates, and (4) a Colorado retail Transmission

⁵¹ El Paso Order, 124 FERC ¶ 61,051 at P 46-47.

⁵² PSCo Planning Order, 124 FERC ¶ 61,052 at P 54.

Cost Adjustment Rider.⁵³ Xcel further states costs for any local economic planning study beyond the three priority studies funded by PSCo will be paid for by the requester of those studies, as set forth in section II.D.6.⁵⁴ Moreover, any costs incurred by stakeholders for their participation in the PSCo local planning processes will be funded by those stakeholders. Finally, as revised, Attachment R – PSCo states that the actual costs of customer-specific studies requested by an individual customer are recovered from that customer.⁵⁵

c. Commission Determination

42. We find that Xcel's Attachment R - PSCo, as revised in Xcel's October Compliance Filing, complies with the recovery of planning costs principle adopted in Order No. 890.

7. Dispute Resolution

a. PSCo Planning Order Requirements

43. In the PSCo Planning Order, the Commission concluded that Xcel sufficiently addressed the dispute resolution principle with respect to PSCo, but noted that Xcel's dispute resolution procedure omits the second step, mediation, of a three step dispute resolution process consisting of negotiation, mediation, and arbitration. While the Commission did not direct Xcel to include a mediation step, it strongly encouraged Xcel to do so.⁵⁶

b. October Compliance Filing

44. In its October Compliance Filing, Xcel states that it has revised the dispute resolution procedure in Attachment R – PSCo and Xcel's OATT to include a mediation step in the dispute resolution process for disputes arising under any provision of Xcel's OATT. Section V provides that disputes arising under Attachment R – PSCo would be subject to the dispute resolution procedures in section 12 of Xcel's OATT, which, according to Xcel, may include negotiation, mediation or arbitration. Xcel states that

⁵³ See Xcel Energy Operating Companies, FERC Electric Tariff, First Revised Vol. No. 1, First Revised Sheet No. 487-88.

⁵⁴ *Id.* at 487.

⁵⁵ *Id.*

⁵⁶ PSCo Planning Order, 124 FERC ¶ 61,052 at P 18, n.15.

including a mediation step in its dispute resolution process in section 12 of its OATT, rather than in Attachment R – PSCo, makes the mediation option available for all disputes arising under the OATT, rather than only disputes related to the planning process.

c. Commission Determination

45. Consistent with the Commission’s encouragement in the PSCo Planning Order, Xcel voluntarily filed a dispute resolution provision which includes a mediation step for disputes arising under the transmission planning process in Attachment R – PSCo. We accept the revisions filed herein regarding dispute resolution, effective October 15, 2008.

D. Other Revisions and Request for Rehearing of Rejection Order

1. October Compliance Filing

46. In the October Compliance Filing, Xcel revised Attachment R – PSCo to reflect that the overall transmission planning horizon is ten years, rather than five. Xcel stated that the ten year planning horizon is consistent with the coordinated planning processes of other WestConnect members. Furthermore, Xcel stated that it has reorganized Attachment R – PSCo to be more consistent with the Attachment K format of other WestConnect members.⁵⁷ Specifically, Xcel added more detail regarding stakeholder participation in the PSCo study process. According to Xcel, these additional revisions which reorganize Attachment R – PSCo result in no substantive changes to the Attachment R – PSCo transmission planning process. Finally, Xcel stated that it has made certain “clean-up” revisions (i.e., slight revisions to formatting, corrections to typographical errors, and consistent usage of terms and abbreviations).

2. Commission Determination

47. In the Rejection Order, the Commission rejected these additional revisions to Attachment R – PSCo, as submitted by Xcel in its October Compliance Filing. Specifically, in the Rejection Order, the Commission rejected the portions of Xcel’s October Compliance Filing that revised the planning horizon and reorganized Attachment R – PSCo because those portions of Xcel’s filing went beyond the specific directives ordered by the Commission in the PSCo Planning Order.⁵⁸ On January 12, 2009, Xcel submitted a request for rehearing or clarification of the Rejection Order. Among other things, Xcel states that the revisions the Commission rejected relate specifically to the

⁵⁷ October Compliance Filing at 11-12.

⁵⁸ Rejection Order, 125 FERC ¶ 61,284 at P 4-5.

PSCo planning process and that by including these revisions in the October 15 Filing, rather than creating a separate filing, Xcel ensured that the stakeholders who had already intervened in Docket No. OA08-35-000 would take notice of these revisions, along with the compliance revisions directed by the SPS and PSCo Planning Orders. Xcel notes that no party protested the proposed revisions to Attachment R – PSCo. In addition, certain of the rejected revisions in the October 15 Filing are so closely interwoven with the specific compliance directives of the PSCo Planning Order that it is impracticable to separate the reorganization of Attachment R – PSCo into an independent filing from the compliance directives.⁵⁹

48. On rehearing, we find that these additional tariff changes initially proposed by Xcel in its October Compliance Filing are appropriate revisions, as they are needed both to implement the modifications directed in the PSCo Planning Order and to ensure the effective operation of Xcel's transmission planning process in conjunction with the transmission planning processes of neighboring transmission systems in the Western Interconnection, as accepted for filing by the Commission. Therefore we will grant rehearing of the Rejection order to accept the additional tariff revisions proposed in the October Compliance Filing as necessary to implement the PSCo Planning Order and to harmonize Attachment R-PSCo with the planning processes of neighboring transmission systems in the Western Interconnection. We waive our 60-day notice requirements in order to permit these proposed provisions to become effective October 15, 2008, as requested.

The Commission orders:

(A) Xcel's compliance filing is hereby accepted, as modified, effective October 15, 2008, subject to a further compliance filing, as discussed in the body of this order.

(B) Xcel is hereby directed to submit a compliance filing, within 60 days of the date of issuance of this order, as discussed in the body of this order.

(C) Xcel's request for rehearing of the PSCo Planning Order is hereby granted, as discussed in the body of this order.

⁵⁹ Xcel January 12, 2009 Request for Rehearing at 7.

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(D) Xcel's request for rehearing of the Rejection Order is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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