

124 FERC ¶ 61,051
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

El Paso Electric Company	Docket No. OA08-30-000
Public Service Company of New Mexico	OA08-34-000
Tucson Electric Power Company	OA08-47-000
UNS Electric, Inc.	OA08-48-000
Arizona Public Service Company	OA08-33-000
Sierra Pacific Resources Operating Companies	OA08-38-000

ORDER ON COMPLIANCE

(Issued July 17, 2008)

1. On December 7, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ El Paso Electric Company (El Paso), Public Service Company of New Mexico (New Mexico), Arizona Public Service Company (Arizona), Tucson Electric Power Company and UNS Electric, Inc. (collectively, Tucson), and Nevada Power Company and Sierra Pacific Power Company (collectively, Nevada Companies)² submitted their transmission planning processes as proposed attachments to their Open Access Transmission Tariff

¹ 16 U.S.C. § 824e (2006).

² In this combined order, we will refer to these entities collectively as “Transmission Providers.”

(OATT), as required by Order No. 890.³ We address these filings together because, as explained more fully below, in addition to their local transmission planning processes, each transmission provider also coordinates its transmission planning with other transmission providers and stakeholders in the Desert Southwest area through active participation in the Southwest Area Transmission Planning group (SWAT),⁴ membership in WestConnect,⁵ membership in the Western Electricity Coordinating Council (WECC),⁶ and participation in WECC's Transmission Expansion Planning Policy Committee (TEPPC).⁷ In this order, as detailed below, we address those Transmission Providers' Attachment Ks that participate in the SWAT sub-regional transmission planning group and are members of WestConnect. The Commission will accept the Transmission Providers' respective compliance filings to become effective December 7, 2007, subject to further compliance filings, as established in this order.

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007).

⁴ SWAT is comprised of both footprint-wide (which includes Arizona, New Mexico, parts of California, Nevada, and Texas) and smaller geographically-based work groups (the New Mexico work group, Arizona/New Mexico work group and the Southern Arizona Transmission System work group) and those groups address transmission planning issues within their respective geographic areas.

⁵ The WestConnect footprint encompasses the states of Arizona, Colorado, New Mexico, Nevada and parts of California, Texas and Wyoming.

⁶ WECC is responsible for, among other things, coordinating and promoting electric system reliability and providing an environment for coordinating the operating and planning activities of its members. Membership in WECC is voluntary and open to any organization having an interest in the reliability of interconnected system operation or coordinated planning.

⁷ WECC organized TEPPC to provide west-wide study and data services, and to provide coordination and transmission planning leadership across the Western Interconnection. TEPPC performs analyses and studies that focus on plans with west-wide implications and include a high-level assessment of congestion and congestion costs; however, TEPPC does not perform detailed project-specific studies. See Transmission Planning Protocol of the WECC's TEPPC.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* 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.⁸ 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 (discussed below) and to clearly describe that process in a new attachment (Attachment K) to their OATTs.

3. In Order No. 890, the Commission required that each transmission provider's transmission planning process satisfy the following nine principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (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 and to build on transmission planning efforts and processes already underway in many regions of the country. However, although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process and all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.⁹

⁸ The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

⁹ As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need to be codified in the transmission provider's OATT. Rules, standards and practices that relate to, but do not significantly affect, transmission service may be placed on the transmission providers' websites, provided there is a link to those business practices on OASIS. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in the Attachment K, and a reference
(continued...)

II. Compliance Filings

4. The Transmission Providers assert that their Attachment K planning processes comply with the nine planning principles of Order No. 890 and also address the recovery of planning costs.¹⁰ They state that the purpose of their planning processes is to foster the development of electric infrastructure while maintaining reliability and meeting load growth.

5. Three sub-regional planning groups operate in the Desert Southwest region: SWAT, the Colorado Coordinated Planning Group (CCPG) and the Sierra Coordinated Planning Group (Sierra).¹¹ These sub-regional groups are within the WestConnect footprint. WestConnect, pursuant to the WestConnect Project Agreement for Subregional Transmission Planning, (WestConnect Project Agreement) supports and manages the coordination of the SWAT, CCPG and Sierra subregional plans and their respective studies.

6. Each Transmission Provider participates in the SWAT transmission planning process to ensure that their local plans, together with data and assumptions, are included in and coordinated with the SWAT subregional plan.¹² SWAT also promotes sub-regional planning and transmission development in the Desert Southwest and ensures that all of the transmission plans of the individual transmission providers in the SWAT footprint are coordinated, in order to maximize use of the existing transmission system and identify the transmission expansion alternatives that most effectively meet future needs. SWAT provides an open forum where any stakeholder interested in the planning of the transmission system in the footprint can participate and obtain information

to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

¹⁰ Arizona labeled its Attachment K transmission planning process as Attachment E. We will refer to Arizona's Attachment E filing as an Attachment K filing for purposes of this combined order. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n.246.

¹¹ The Nevada Companies state that Nevada Power Company is a member of SWAT, while Sierra Pacific Power Company will move from SWAT into the Sierra transmission planning group once Sierra has been fully established.

¹² SWAT is comprised of transmission providers, transmission users, transmission operators, state regulatory agencies and environmental entities and its membership is open to all interested stakeholders. *See e.g.*, Arizona and Tucson Attachment Ks, section III.B.

regarding base cases, plans and projects, as well as provide input and ensure that its needs are addressed in transmission planning.

7. Under the WestConnect Project Agreement, the Transmission Providers work through the WestConnect processes with other participants from the CCPG and Sierra sub-regions to create a ten-year regional transmission plan for the WestConnect footprint. The Transmission Providers' Attachment Ks indicate that the WestConnect Project Agreement formalizes the Transmission Providers' relationship with the other signatories and establishes obligations among the signatory Transmission Providers to (i) coordinate subregional transmission planning among the WestConnect participants and the sub-regional planning groups; (ii) participate in the sub-regional transmission planning groups, as appropriate; and (iii) produce a WestConnect transmission plan.¹³ The Transmission Providers also indicate that the WestConnect Project Agreement may be signed by any non-WestConnect transmission provider that participates in transmission planning activities within the WestConnect footprint.¹⁴

8. In addition, the Transmission Providers' Attachment Ks indicate that they will coordinate economic planning on a regional basis using WECC's TEPPC Transmission Planning Protocol regarding regional transmission projects that address congestion on the system.¹⁵ The Transmission Providers state that WECC's broader responsibilities also facilitate the coordination of reliability planning through (1) maintaining the Western Interconnection-wide databases for transmission planning analysis such as power flow, stability and dynamic voltage stability studies; (2) maintaining a database for reporting the status of all planned projects throughout the Western Interconnection; (3) provide for coordination of planned projects through its Procedures for Regional Planning project review; and (4) ensuring that a new project will not adversely affect existing projects through its path rating process.

III. Notice of Filing and Responsive Pleadings

9. Notice of the Transmission Providers' filings was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 19, 2007. Electric Power Supply Association (EPSA) filed timely motions to

¹³ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.1; Nevada Companies Attachment K, section III.D.1; El Paso Attachment K, section II.C.1.

¹⁴ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.1; Nevada Companies Attachment K, section III.D.1; El Paso Attachment K, section II.C.1.

¹⁵ El Paso Attachment K, sections II and III; Nevada Companies, New Mexico, Arizona and Tucson Attachment Ks, section III, respectively.

intervene in the following Docket Nos. OA08-30-000, OA08-33-000, OA08-34-000, OA08-38-000, OA08-47-000 and OA08-48-000. PPM Energy, Inc. filed timely motions to intervene in the following Docket Nos. OA08-33-000, OA08-34-000, and OA08-38-000. Reliant Energy, Inc. and the Office of the Attorney General for the State of Nevada, Bureau of Consumer Protection, respectively, filed timely motions to intervene in Docket No. OA08-38-000.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

11. We find that the Transmission Providers' Attachment K transmission planning processes, with certain modifications to the provisions concerning regional participation, economic planning studies, and cost allocation (discussed below), comply with each of the nine planning principles adopted in Order No. 890. Accordingly, we accept the Transmission Providers' respective Attachment Ks to be effective December 7, 2007 subject to further compliance filings, as discussed below. The Transmission Providers are directed to file compliance filings within 90 days of the date of this order.

12. While we accept the Transmission Providers' transmission planning processes in Attachment K, we nevertheless encourage further refinements and improvements to their respective planning processes as the Transmission Providers and their customers and other stakeholders gain more experience through actual implementation of this process. Commission staff also will periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance filings. 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.

1. Compliance with the Order No. 890 Planning Principles

13. The Transmission Providers explain how their respective Attachment Ks comply with the planning principles of Order No. 890. Generally, the Transmission Providers' planning processes occur on a biennial calendar year and cover a 10-year horizon,¹⁶ with the exception of Nevada Companies' process, which occurs on a triennial, 20-year plan basis.¹⁷ As explained more fully below, the Transmission Providers state that their plans will be coordinated with WestConnect, SWAT and WECC's TEPPC. They will also each conduct at least two meetings for purposes of developing the transmission plan that are open to the public and occur within the twelve month period in which the transmission plan is developed. Notices and agendas of these meetings and other pertinent information (such as data submittal and study request due dates and their contact information) is posted on their respective OASIS in advance of meetings and, if requested, e-mailed to the stakeholder.¹⁸

14. Regarding the openness principle, the Transmission Providers state that their processes allow all affected and interested parties to provide input and comments throughout the development of the transmission plan.¹⁹ The Transmission Providers state that they will post copies of publicly available information such as planning studies,

¹⁶ El Paso Attachment K, section I.A.2.a; Arizona, New Mexico, and Tucson Attachment K, section II.A.3, respectively.

¹⁷ Nevada Companies Attachment K, section II.A.3.

¹⁸ El Paso Attachment K, sections I.A.2.a-d; Nevada Companies Attachment K, section II.B.2; Tucson, New Mexico, and Arizona Attachment Ks, section II.B.2, respectively. El Paso's Attachment K defines stakeholders as all affected and interested parties, including, without limitation, potential and current transmission customers, interconnection customers, regulatory and state authorities and other stakeholders. Tucson's Attachment K defines stakeholders as including, but not limited to, native and network customers; point-to-point customers; interconnected transmission providers; load serving entities and generators; independent power producers; regulatory entities; state bodies and local jurisdictions; industry consultants; and vendors; local, sub-regional and regional utility entities; and other stakeholders. New Mexico, Arizona and Nevada Companies respective Attachment Ks state that participation in their planning process is open to all affected parties, including but not limited to, all network and point transmission customers, interconnected neighbors, regulatory and state bodies and other stakeholders.

¹⁹ El Paso Attachment K, section I.A; Nevada Companies Attachment K, section II.B; Tucson, New Mexico, and Arizona Attachment Ks, section II.B, respectively.

certain data and meeting notes on their OASIS. According to the Transmission Providers, in some instances, the release of certain information will be subject to confidentiality requirements to protect confidential and proprietary information and Critical Energy Infrastructure Information (CEII). The Transmission Providers' individual tariffs outline the process by which parties can obtain access to confidential information and CEII.²⁰

15. With respect to the transparency principle, the Transmission Providers state that their Attachment Ks meet the transparency principle because they specify sources of data, assumptions and reliability criteria used by the Transmission Providers in their respective planning processes. They also state that their Attachment Ks meet the transparency principle because they describe the Transmission Providers' respective methodology and protocols used to disclose such data, assumptions and criteria (i.e., through their respective OASIS, web postings, or upon request).²¹ As set forth above, this data will be made available to all stakeholders subject to applicable confidentiality, CEII and standards of conduct requirements.

16. Additionally, the Transmission Providers state that their respective Attachment Ks meet the information exchange principle because their Attachment Ks detail the obligations, guidelines (e.g., types of data and format), methods and timelines for stakeholders to submit planning information and data.²² In addition, the Transmission Providers commit to post and distribute certain information to allow stakeholders with a meaningful opportunity to engage in transmission planning in conjunction with the Transmission Providers.²³

17. Further, the Transmission Providers assert that they satisfy the comparability principle because the comparability principle is embedded within the other planning principles in that the interests of the respective Transmission Providers and similarly-

²⁰ El Paso Attachment K, section I.B; Nevada Companies, Tucson, New Mexico, and Arizona Attachment Ks, section II.A.1, respectively.

²¹ El Paso Attachment K, section I.A.9; Nevada Companies Attachment K, sections II.A.7(b)(iii), II.A.7(g) and IV.1; Tucson, New Mexico, and Arizona Attachment Ks, section II.B.2, respectively.

²² El Paso Attachment K, sections I.A.3 and I.A.8; Tucson, New Mexico, and Arizona Attachment Ks, section II.A.3, respectively; Nevada Companies Attachment K, section II.A.4.

²³ Nevada Companies Attachment K, section A.9; El Paso Attachment K, section I.C; Tucson, New Mexico, and Arizona Attachment Ks, section II.B.2, respectively.

situated customers are treated on a comparable basis during the planning process. According to the Transmission Providers, rules, such as confidentiality measures, are applied uniformly to the Transmission Providers and their stakeholders.

18. Regarding the dispute resolution principle, the Transmission Providers refer to the dispute resolution provisions under their respective OATTs.²⁴ According to the Transmission Providers, this complies with the dispute resolution principle in Order No. 890 because it identifies the process to manage disputes that arise from the planning process.²⁵

Commission Determination

19. Having reviewed the respective filings, we find that the Transmission Providers' respective Attachment K transmission planning processes comply with the coordination, openness, transparency, information exchange, and dispute resolution principles adopted in Order No. 890.

20. With respect to comparability, we note that while the Transmission Providers address comparability in their respective Attachment K filings, the Commission issued Order No. 890-A on December 27, 2007, subsequent to the Transmission Providers submitting their Order No. 890 Attachment K compliance filings. In Order No. 890-A, the Commission provided additional guidance, among other things, 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

²⁴ El Paso's Attachment K, section IV references section 12 of its OATT. Tucson, New Mexico, Arizona, and Nevada Companies Attachment Ks, section V, each reference section 12 of their OATTs.

²⁵ We note that New Mexico, Arizona, Tucson, and Nevada Companies omitted the second step, mediation, of a three-step dispute resolution process consisting of negotiation, mediation and arbitration. While we are not directing New Mexico, Arizona, Tucson, and Nevada Companies to include mediation, we strongly encourage them to consider including a mediation step in their dispute resolution process. We have found that a high percentage of disputes sent to the Commission's Dispute Resolution Service or another mediator or an Administrative Law Judge serving as a Settlement Judge settle without adjudication. If New Mexico, Arizona, Tucson, and Nevada Companies desire to include the mediation step, they should do so in the compliance filing required at the end of this order. El Paso included a three-step process of negotiation, mediation, and arbitration.

transmission planning.”²⁶ Here, the Transmission Providers have submitted tariff language providing that, as a general matter, demand response resources will be treated comparably.²⁷ However, since Order No. 890-A was issued subsequent to the filings before us, the Transmission Providers did not have an opportunity to demonstrate that they comply with this requirement of Order No. 890-A. Therefore, the Transmission Providers are directed to file, within 90 days of the date of this order, respective compliance filings addressing the necessary demonstration required by Order No. 890-A.²⁸

21. Additionally, we will require the Transmission Providers to modify in a further compliance filing the provisions in their respective Attachment Ks addressing the regional participation, economic planning studies, cost allocation principles, and recovery of planning costs, as further discussed below.

2. Regional Participation

22. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data, and (ii) identify system enhancements that could relieve congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and sub-regions.

²⁶ See Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216; *see also* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479, 487, 494 and 549.

²⁷ See *e.g.*, El Paso’s Attachment K, section I.A.3.d.v.b; Nevada Companies Attachment K, section II.A.4.d(ii); New Mexico Attachment K, section II.A.3.c(iv), Tucson and Arizona Attachment Ks, section II.A.3.c(iii), respectively provide that demand response resources should provide information to the Transmission Providers concerning existing and planned demand response resources and their impacts on demand and peak demand.

²⁸ For example, tariff language should provide for participation throughout the transmission planning process by sponsors of transmission solutions, generation solutions, and solutions utilizing demand resources.

The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes is not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.²⁹

23. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.³⁰ In Order No. 890-A, the Commission also emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.³¹

Filings

24. The Transmission Providers state that their respective Attachment Ks describe: (i) the roles of the sub-regional geographic transmission planning groups, SWAT and WestConnect, in developing a 10-year sub-regional transmission plan; (ii) the roles of the WECC in collecting the planning data and conducting sub-regional/regional economic planning studies;³² and (iii) the Transmission Providers' participation and coordination with SWAT, WestConnect, and WECC.³³ The Transmission Providers also state that they encourage stakeholder participation in the SWAT, WestConnect and WECC meetings. They each note that information for these organizations may be found on the SWAT, WestConnect, and WECC websites.

²⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

³⁰ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

³¹ *Id.*

³² Economic planning studies are conducted by TEPPC in an open stakeholder process that holds region-wide stakeholder meetings on a regular basis.

³³ El Paso Attachment K, sections II and III; Nevada Companies, Tucson, New Mexico, and Arizona Attachment Ks, sections III and IV, respectively. WECC organized TEPPC to provide west-wide study and data services, and to provide coordination and transmission planning leadership across the Western Interconnection. *See* Transmission Planning Protocol of the Western Electric Coordination Council TEPPC, section 3.4.

25. The Transmission Providers' tariffs indicate that participation within SWAT and related work groups is open to all interested stakeholders on a voluntary basis. The Transmission Providers will participate in SWAT and relevant SWAT work groups and will submit their plan to the relevant work group. The Transmission Providers' plan will then be incorporated within the sub-regional transmission plan in accordance with the WestConnect Project Agreement. The Transmission Providers state that these groups provide an open forum where (i) anyone interested in the planning of the transmission system in the SWAT footprint, which includes Arizona, New Mexico, and parts of California, Nevada, and Texas, can go to obtain information regarding base cases, plans, and projects and to provide input or express their needs as they relate to the transmission system; (ii) project sponsors can introduce their specific projects to interested stakeholders and potential partners; and (iii) initiation of joint studies of these projects, coordination with other projects, and project participation, including ownership from other interested parties, may occur.³⁴ They also indicate that upon request by a stakeholder, the Transmission Providers will assist the stakeholder in contacting the appropriate SWAT work group representatives for transmission planning purposes.³⁵ The Transmission Providers state that the SWAT work groups meet or have conference calls on a regular basis. These meetings and conference calls are open to all stakeholders and are posted on the WestConnect website. The SWAT Oversight Committee conducts an open meeting at least once each quarter.³⁶

26. The Transmission Providers' tariffs indicate that the WestConnect Project Agreement formalizes the Transmission Providers' relationship with the other signatories and establishes obligations among the signatory Transmission Providers to: (i) coordinate sub-regional transmission planning among the WestConnect participants and the sub-regional planning groups; (ii) participate in the sub-regional transmission planning groups, as appropriate; and (iii) produce a WestConnect transmission plan.³⁷ The Transmission Providers also indicate that the WestConnect Project Agreement may be signed by any non-WestConnect transmission provider that participates in

³⁴ Tucson, New Mexico, and Arizona Attachment Ks, section III.B.4; Nevada Companies Attachment K, section III.B.1; El Paso Attachment K, section II.B.2.

³⁵ Tucson, New Mexico, and Arizona Attachment Ks, section III.B.6; Nevada Companies Attachment K, section III.B.7; El Paso Attachment K, section II.B.3.

³⁶ El Paso Attachment K, section II.B.4.

³⁷ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.1; Nevada Companies Attachment K, section III.D.1; El Paso Attachment K, section II.C.1.

transmission planning activities within the WestConnect footprint.³⁸ The Transmission Providers' tariffs state that pursuant to the WestConnect Objectives and Procedures for Regional Transmission Planning (as posted on the WestConnect website), each Transmission Provider will work through the sub-regional planning group planning processes, as applicable, to integrate its plan into one ten year sub-regional transmission plan developed under the WestConnect Project Agreement.³⁹ The Transmission Providers also indicate that WestConnect hosts at least two open public stakeholder meetings for transmission planning per year - one in the 1st quarter and one in the 4th quarter of each calendar year.⁴⁰ The meeting times and agendas are posted on the WestConnect website prior to the meetings. Finally, in their Attachment K, the Nevada Companies provide a schedule identifying the local and sub-regional transmission planning meetings conducted each quarter.⁴¹ This timeline delineates the specific objectives of each quarterly meeting at the local and sub-regional levels. The Nevada Companies assert that this timeline is timed to allow projects to escalate from local to regional councils in a timely fashion.

Commission Determination

27. We have reviewed the Transmission Providers' respective filings, and find that the Transmission Providers have generally complied with the regional participation principle based upon their descriptions of their participation in the sub-regional and regional participation processes outlined in each of the Transmission Providers' respective tariffs. However, while the Transmission Providers have provided a general overview of the SWAT, WestConnect, and WECC's TEPPC processes, they have not provided in their Attachment Ks 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 plan being developed by SWAT and WestConnect and then incorporated into WECC TEPPC studies. For example, none of the proposed Attachment Ks provide the timelines and milestones between the time that the Transmission Providers submit their individual local plans to SWAT and/or WestConnect

³⁸ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.1; Nevada Companies Attachment K, section III.D.1; El Paso Attachment K, section II.C.1.

³⁹ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.2; Nevada Companies Attachment K, section III.D.2; El Paso Attachment K, section II.C.2.

⁴⁰ Tucson, New Mexico, and Arizona Attachment Ks, section III.C.3; Nevada Companies Attachment K, section III.D.3; El Paso Attachment K, section II.C.3.

⁴¹ Nevada Companies Attachment K, section III.E.

and the time that a final sub-regional plan will be developed.⁴² Further, the timing of any specific opportunities customers and stakeholders will have to provide input into the elements of the sub-regional and regional plans have not been identified.

28. In addition, the Transmission Providers generally provide links in their respective Attachment Ks to SWAT and WestConnect websites in support of their sub-regional participation, but fail to provide the controlling documents that describe and govern these processes. We direct the Transmission Providers to revise their respective tariffs to provide additional detail on these processes or include a direct link (URL) to the appropriate documents on the SWAT, WestConnect and WECC websites where the processes to coordinate information and planning efforts are discussed. We direct the Transmission Providers to file, within 90 days of the date of this order, further compliance filings addressing our concerns as discussed above.

3. Economic Planning

29. The economic planning studies principle requires transmission providers to account for economic as well as reliability considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically-integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for OATT customers as well. The Commission emphasized that the scope of economic studies should not just be limited to individual requests for transmission service. Customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

30. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.⁴³

31. In Order No. 890-A, the Commission made clear that the transmission provider's planning process must clearly describe the process by which economic planning studies

⁴² With the exception of the Nevada Companies, as discussed above.

⁴³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

can be requested and how they will be prioritized.⁴⁴ In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's planning process.⁴⁵

Filings

32. The Transmission Providers state that pursuant to their respective Attachment Ks, a stakeholder may request an economic planning study to identify significant and recurring congestion on the Transmission Providers' respective transmission systems or relief of the congestion through system enhancements. As explained below, the Transmission Providers state that they will perform local priority economic planning studies for their own systems, and they will forward any sub-regional or regional economic planning study requests to the WECC's TEPPC, which in turn will determine which studies to perform.⁴⁶ The Transmission Providers also state that they will consult with stakeholders to determine which local studies will be considered to be a local priority.⁴⁷

33. The Transmission Providers' respective Attachment Ks indicate that they will pay for local priority economic planning studies and that these costs will be recovered through the Transmission Providers' respective transmission rates. With respect to economic planning studies performed by the WECC's TEPPC, the costs of these studies will be funded by WECC.⁴⁸ For those economic studies that are neither a Transmission

⁴⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

⁴⁵ *Id.*

⁴⁶ El Paso Attachment K, section I.A.5(f); Nevada Companies Attachment K, section II.A.6.b(ii); Tucson, Arizona, and New Mexico Attachment K, section II.A.4.b(ii), respectively.

⁴⁷ El Paso Attachment K, section I.A.5(e). New Mexico, Tucson, Arizona Attachment K, section II.A.4(b), respectively; Nevada Companies Attachment K, section II.A.6.b(iii).

⁴⁸ El Paso's Attachment K indicates that these study costs will be recovered through WECC's membership dues. *See* El Paso Attachment K, section I.A.7.

Provider local priority study nor a TEPPC priority, the stakeholder requesting the study will pay for any such study costs.⁴⁹

34. The Transmission Providers' tariffs indicate that any stakeholder may submit a study request for an economic planning study directly to the Transmission Provider or TEPPC.⁵⁰ The Transmission Providers also indicate that all economic planning study requests, whether or not the study work is performed by the Transmission Provider, will be forwarded to TEPPC for inclusion in a master list of economic planning studies for the Western Interconnection. Requests for economic planning studies, responses to such requests and copies of resulting studies will be available to stakeholders, subject to CEII and confidentiality requirements. If an economic planning study request is sent directly to the Transmission Provider, it will review the request with input from its stakeholders in a public meeting called for that purpose and noticed on the Transmission Providers' OASIS. The Transmission Provider will determine whether the study should be considered a local request (i.e., if the study request does not appear to affect the interconnected transmission systems outside of the Transmission Providers' balancing authority area or local area, and if any new facilities would be confined to the Transmission Providers' balancing authority area). If the study request appears to involve a sub-regional or regional area, the Transmission Provider will transfer the request to TEPPC for consideration as a priority request, to be performed by TEPPC.⁵¹

35. The Transmission Providers' tariffs also indicate that if the Transmission Provider determines, with input from stakeholders, that the economic planning study request is a local study request, then the Transmission Provider (or its third party contractor for some Transmission Providers) will conduct the study and coordinate assumptions and results with its stakeholders. Examples of factors considered in the determination as to whether the study request is a local priority study are: (i) the number of pending local study requests; (ii) the expected effect on reliability; (iii) whether the modification proposed to be studied would affect multiple system users; (iv) whether the study will provide information of broad value to customers, regulators, transmission providers, and other

⁴⁹ El Paso Attachment K, section I.A.7.; Nevada Companies Attachment K, section II.A.6(f); Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(f), respectively.

⁵⁰ Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(a); Nevada Companies Attachment K, section II.A.6(a); El Paso Attachment K, section I.A.5(a).

⁵¹ Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(b); Nevada Companies Attachment K, section II.A.6(b); El Paso Attachment K, section I.A.5(d).

interested stakeholders; and (v) whether the request raises fundamental design issues of interest to multiple parties.⁵²

36. In addition, the Transmission Providers' tariffs indicate that when an economic planning study is transferred to TEPPC, TEPPC will review the economic planning study requests received from transmission providers, sub-regional transmission planning groups, and stakeholders during its open stakeholder meeting, pursuant to the meeting schedules on the TEPPC website, and, together with its stakeholders, prioritize requests for economic planning studies. Both the Transmission Provider and the requesting stakeholder will have an opportunity to participate in the TEPPC prioritization process and provide input as to why the study should be included in the TEPPC study plan. The Transmission Providers' tariffs indicate that more details regarding the TEPPC economic planning study process and study request window, such as the TEPPC Transmission Planning Protocol, are available at www.wecc.biz.⁵³

37. The Transmission Providers' tariffs also indicate that if either the Transmission Provider or TEPPC determine, after reviewing through an open stakeholder process, that the request for an economic planning study is not a local priority study or TEPPC priority, the requesting stakeholder may perform, or request that the Transmission Provider assist it in having a third party perform, the economic planning study at the requesting stakeholder's expense. The requesting stakeholder will have use of the TEPPC economic study data base, subject to any disclosure policy of WECC, and the Transmission Provider will support the requesting stakeholder in ensuring that the study is coordinated through local, sub-regional or regional planning groups.⁵⁴

38. In addition, the Transmission Providers' tariffs indicate that the Transmission Provider may determine that any number of economic planning study requests should be studied together or a stakeholder may request that the transmission provider study its

⁵² Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(b); El Paso Attachment K, section I.A.5(e).

⁵³ Tucson, and Arizona Attachment Ks, section II.A.4(b)(v); New Mexico Attachment K, section II.A.4(b)(iv); Nevada Companies Attachment K, section II.A.6(c); El Paso Attachment K, section I.A.5(f).

⁵⁴ Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(d); Nevada Companies Attachment K, section II.A.6(d); El Paso Attachment K, section I.A.5(g).

request together with other requests. The Transmission Provider will combine such studies as it deems appropriate.⁵⁵

39. El Paso states it will conduct up to three local priority economic planning studies per year and asserts that this is a reasonable number given the limited size of the El Paso's planning staff and its transmission system. The remaining Transmission Providers do not specify a minimum number of local priority economic planning studies per year that they will perform.

Commission Determination

40. We have reviewed the Transmission Providers' respective filings and have determined that the Transmission Providers have generally complied with the economic planning study principle with the following exceptions. The Transmission Providers, with the exception of El Paso, have not indicated the minimum number of local priority economic planning studies per year that they will perform. Each Transmission Provider must also provide an explanation of how it will address additional study requests above the number that it states that it will perform (and include in its rates) during the year, including those that are anticipated to only have local effects, as well as those that are candidates for subregional or regional studies. Further, the Transmission Providers have not explained how they intend to batch or cluster transmission study requests. Accordingly, the Transmission Providers are directed to make a compliance filing, within 90 days of the issuance of this order, addressing these concerns.

41. Further, it is also unclear from the Transmission Providers' Attachment Ks the role that SWAT and WestConnect will play in conducting economic studies, or if they participate in the process at all. Additionally, we find that the Transmission Providers have provided insufficient information in their Attachment Ks on the WECC's TEPPC processes to prioritize and complete regional economic studies. In Order No. 890, the Commission stated that regional congestion studies can be used as part of regional transmission planning processes required by the Final Rule.⁵⁶ Here, the Transmission Providers Attachment Ks reference the WECC's TEPPC processes but do not provide sufficient detail on those processes. Further, as discussed above in the context of regional participation, the Attachment Ks reference the general WECC website but do not provide links to the appropriate TEPPC documents in which those processes are discussed. Accordingly, the Transmission Providers are directed to submit compliance filings providing more detail in their Attachment Ks on the WECC's TEPPC processes or

⁵⁵ Tucson, New Mexico, and Arizona Attachment Ks, section II.A.4(e) Nevada Companies Attachment K, section II.A.6(e); El Paso Attachment K, section I.A.5(h).

⁵⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 551.

providing direct links (i.e., URLs) to the appropriate documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed within 90 days of the date of this order. We also direct the Transmission Providers to file, within 90 days of the date of this order, further compliance filings addressing our concerns identified above.

4. Cost Allocation

42. The cost allocation principle requires that transmission providers address in their OATT planning attachments the allocation of costs of new facilities that do not fit under existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fit their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

43. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them re-litigated each time a project is proposed.⁵⁷ In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁵⁸

Filings

44. El Paso states that it will use a case-by-case approach for reliability and/or economic projects that may involve an open season solicitation of interest for additional

⁵⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-561.

⁵⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

project participants in the event El Paso is the project sponsor. According to El Paso, in the case of a project with more than one participant resulting from a solicitation of interest, the project costs and associated transmission rights would be allocated proportionally to the project participants. In addition, El Paso states that under its planning process it may proceed at its own expense without an open season. According to El Paso, this is appropriate in some cases, such as those concerning small and/or reliability projects that are wholly within El Paso's balancing area authority, consistent with its responsibilities as a transmission provider. Also, El Paso states that the costs for any project entirely on El Paso's system undertaken for economic or congestion reasons will be allocated to the requestor of the project. El Paso contends that these provisions satisfy the cost allocation principle because these arrangements fairly assign costs among participants, provide adequate incentives to construct new transmission, and are generally accepted and utilized throughout the WestConnect footprint.⁵⁹

45. The Transmission Providers, with the exception of El Paso, state that for development, construction, ownership and operation of bulk power facilities, they will abide by the WestConnect Memorandum of Understanding, which states "to the maximum extent practical, [they agree] to use open season solicitation, multiparty transmission ownership, and the potential co-existence of both physical and financial transmission rights for transmission projects planned under the WestConnect processes."⁶⁰

Commission Determination

46. We have reviewed the Transmission Providers' respective filings and find that the cost allocation methodologies provided in the Transmission Providers' respective Attachment Ks do not comply with the cost allocation principle found in Order No. 890, with the exception of El Paso. Section V.A. 4a-d in El Paso's tariff indicates that, for any project entered into where an open season solicitation process has been used, project costs and associated transmission rights would be allocated proportionally to project participants. This section also indicates that, for projects wholly on the El Paso system that are undertaken for economic reasons or congestion relief in response to a request, the project costs will be allocated to that requestor. In contrast, the remaining Transmission Providers do not clearly provide a cost allocation methodology for how project costs will be allocated.

⁵⁹ El Paso Attachment K, section V.

⁶⁰ New Mexico, Tucson, Arizona and Nevada Companies Attachment K, section VI, respectively.

47. Order No. 890 requires a specific cost allocation methodology that is reflected up front in the Attachment K, rather than considered on a case-by-case basis. While we recognize that the Transmission Providers' planning processes are new, Order No. 890-A nevertheless made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁶¹ Therefore, we direct the Transmission Providers, excluding El Paso, both individually and, if necessary, with WestConnect to work to further refine a specific methodology for cost allocation to provide more certainty for transmission providers and market participants to support new transmission infrastructure investment. Accordingly, we direct the Transmission Providers to file, within 90 days of the date of this order, further compliance filings that address the cost allocation principle, as set forth in Order No. 890.

5. Recovery of Planning Costs

48. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁶²

Filings

49. The Transmission Providers did not address the recovery of costs associated with participating in the transmission planning process.

Commission Determination

50. We find that the Transmission Providers did not address how costs for planning activities pursuant to their Attachment K planning processes will be recovered. Therefore, we direct Transmission Providers to submit within 90 days of the date of this order, a further compliance filing explaining how they intend to recover Attachment K transmission planning activity costs.

⁶¹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁶² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

6. Other Issues

51. In addition, we note that Tucson and the Nevada Companies requested an effective date of February 6, 2008, and February 5, 2008, respectively. The effective date for Attachment K compliance filings is the date the Transmission Providers were directed to submit their filings. Each Transmission Provider submitted their filing on this date, and therefore, the effective date shall be December 7, 2007. As a result, the Nevada Companies and Tucson are directed to file revised tariff sheets reflecting the corrected effective date in a compliance filing, within 90 days of the date of this order.

The Commission orders:

(A) The Transmission Providers' compliance filings are hereby accepted effective December 7, 2007, subject to further compliance filings, as directed in the body of this order.

(B) The Transmission Providers' are hereby directed to submit respective compliance filings, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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