

123 FERC ¶ 61,160
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.

MidAmerican Energy Company

Docket No. OA08-41-000

ORDER ON COMPLIANCE FILING

(Issued May 15, 2008)

1. On December 7, 2008, MidAmerican Energy Company (MidAmerican) submitted pursuant to section 206 of the Federal Power Act (FPA)¹ its Attachment M² incorporating into its Open Access Transmission Tariff (OATT) a transmission planning process, as required by Order No. 890. In this order, we accept MidAmerican's compliance filing subject to further compliance filings as directed.

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.³ To remedy the potential for undue discrimination in planning

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² MidAmerican labeled its Attachment K transmission planning process as "Attachment M." See *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats & Regs. ¶ 31,261 (2007).

³ The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability (ATC) 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.

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 OATT.

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.⁴

II. Compliance Filing

4. MidAmerican states that its Attachment M consists of two parts. First, sections 1-12 address the regional planning process to which MidAmerican is a party through the Mid-Continent Area Power Pool (MAPP). Second, section 13 is MidAmerican's local transmission planning process. MidAmerican states that for purposes of regional transmission planning, MidAmerican complies with the transmission planning requirements of Order No. 890 through participation in the regionally coordinated planning process provided for in the MAPP Attachment K template (MAPP Template). That template adopts long-standing transmission planning procedures employed by MAPP members as they have been modified to meet Order No. 890 requirements.⁵ MidAmerican states that its Attachment M conforms to MAPP's

⁴ 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 to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

⁵ We note that the MAPP template is available on its OASIS page, but was never filed with the Commission.

Attachment K template, MAPP's Transmission Planning Subcommittee Procedures Manual and the subregional Planning Group Guidelines (MAPP Procedures Manual/Guidelines).

III. Notice of Filing and Responsive Pleadings

5. Notice of MidAmerican's filing was published in the *Federal Register*, 72 Fed. Reg. 71,885 (2007), with interventions and protests due on or before December 28, 2007. On December 20, 2007, the Commission issued a notice of extension of time to January 7, 2008. Timely motions to intervene were filed by the Electric Power Supply Association, MAPP,⁶ and the Iowa Association of Municipal Utilities and the Municipal Energy Association of Nebraska (Iowa/Nebraska).⁷ A timely motion to intervene and protest was filed by the American Wind Energy Association and Wind on the Wires (together, American Wind). On January 22, 2008, MidAmerican filed an answer to American Wind's protest. On January 22, 2008, Manitoba Hydro filed a motion to intervene out of time and an answer to MAPP's supporting comments. On February 6, 2008, MAPP filed an answer to Manitoba Hydro's answer. Finally, on February 6, 2008, MidAmerican filed an answer to Manitoba Hydro's answer.

IV. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 C.F.R. § 385.214(d) (2007), the Commission will grant Manitoba Hydro's late-filed motion to intervene, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the

⁶ MAPP supports MidAmerican's Attachment M proposal as complying with Order No. 890's requirements.

⁷ Iowa/Nebraska states that it submitted comments on MidAmerican's proposal prior to this filing and states that, while it and MidAmerican were unable to agree on all issues, Iowa/Nebraska is hopeful that MidAmerican's Attachment M provides a solid foundation for parties to work together to plan for the needs of all transmission users on a comparable basis. Iowa/Nebraska urges the Commission to accept MidAmerican's proposed Attachment M.

decisional authority. We will accept Manitoba Hydro's, MAPP's, and MidAmerican's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

8. We find that MidAmerican's Attachment M transmission planning process, with certain modifications to the provisions concerning regional participation, cost allocation, and economic planning studies (discussed below), adequately complies with each of the nine planning principles adopted in Order No. 890. Accordingly, we accept MidAmerican's Attachment M to be effective December 7, 2007 subject to a further compliance filing as discussed below. MidAmerican is directed to file the compliance filing within 90 days of the date of this order.

9. While we accept MidAmerican's transmission planning process in Attachment M, we nevertheless encourage further refinements and improvements to MidAmerican's planning process as MidAmerican and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also 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 which may need improvement.

1. Compliance with the Order No. 890 Planning Principles

10. We find that the coordination elements of MidAmerican's planning processes set forth in sections 1-12 and 13.4 of Attachment M, which require regular stakeholder meetings, advance notice, and milestones, satisfy Order No. 890. MidAmerican's filing likewise satisfies the openness and transparency requirements of Order No. 890 by providing for regional coordinated planning through MAPP and local transmission planning pursuant to sections 13.5 and 13.6 of Attachment M. With respect to the information exchange principle, we find that MidAmerican's proposals in section 1-12 and 13.7 are sufficient to ensure adequate information exchange on a regional, sub-

regional, and local level. MidAmerican's comparability and dispute resolution provisions set forth in sections 1.1, 2.1, 7.1, 7.2, and 12 also satisfy Order No. 890.⁸

2. Regional Participation

11. 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 must 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 must 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 subregions. The Commission also made clear that reliance on existing North American Electric Reliability Council (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 subregions must develop alternative processes.⁹

12. 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

⁸ Order No. 890-A was issued on December 27, 2007, subsequent to MidAmerican submitting its Order No. 890 Attachment K compliance filing. 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 transmission planning." Order No. 890-A, 121 FERC ¶ 61,297 at P 216. Here, MidAmerican has submitted tariff language providing that, as a general matter, demand response resources will be treated comparably. However, since Order No. 890-A was issued subsequent to the filing before us, MidAmerican did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, MidAmerican is directed to file within 90 days of issuance of this order, a compliance filing addressing the necessary demonstration required by Order No. 890-A.

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-528.

processes is not limited to transmission providers and must be open to all interested customers and stakeholders.¹⁰ The Commission also emphasized that effective regional planning must include coordination among regions and subregions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.¹¹

a. MidAmerican's Proposal

13. MidAmerican states that it will continue to participate in the MAPP regional and subregional committees and successor regional groups as needed to coordinate transmission planning with interconnected systems. MidAmerican states that its transmission planning process will also take into account and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. MidAmerican states that it will continue to participate in the MAPP committees and working groups, as well as successor regional groups, in order to share data, information and assumptions, as necessary, to maintain reliability.

b. American Wind's Protest

14. American Wind states that throughout the stakeholder process, it has consistently expressed concern that regional planning will not be effectively accomplished in the Midwest without a formal and coordinated transmission planning process between the MAPP and the Midwest Independent Transmission System Operator (Midwest ISO).¹² American Wind believes there should be just one regional transmission plan for the MAPP/Midwest ISO footprint, but short of this result, American Wind requests that the Commission require the MAPP and Midwest ISO utilities to create a formal joint planning process applicable to both MidAmerican and Midwest ISO.¹³ American Wind argues that Midwest ISO and MAPP should not consider each other in the same manner as other stakeholders in each others' processes, but should formalize a joint transmission planning relationship.¹⁴

15. American Wind states that such a planning process should include details of the responsibilities and duties of each party as well as timelines for stakeholder participation, so that customers know who is responsible for what activity and how each transmission

¹⁰ Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 226.

¹¹ *Id.* P 226.

¹² American Wind Protest at 3.

¹³ *Id.* at 5.

¹⁴ *Id.* at 6.

provider is satisfying its obligations under Order No. 890.¹⁵ American Wind states that the details included in MidAmerican's Attachment M filing do not provide an adequate level of coordination through MAPP with Midwest ISO to accomplish a strong regional transmission plan for the interconnected grid in the Midwest.

16. American Wind takes issue with section 3.2 (Availability of Plans and Information), which provides:

Each [Regional Transmission Committee (RTC)] Member shall make its transmission plan available upon request to any other RTC Member, independent Regional Transmission Organization or relevant non-MAPP neighboring transmission owning utilities.¹⁶

American Wind states that Midwest ISO should not need to request such transmission plans, but should receive them through a well-coordinated planning process. Similarly, American Wind states that Midwest ISO should provide its transmission plan and any member local plans to MAPP utilities through the same process.¹⁷

17. American Wind also takes issue with section 8.0 of MidAmerican's Attachment M, which provides:

Members of the [Transmission Planning Subcommittee (TPSC)] who also are members of the MAPP [Design Review Subcommittee], [Midwest Reliability Organization (MRO)] and neighboring [Regional Transmission Organizations (RTOs)] will be responsible to coordinate the activities of mutual interest. Such a liaison member will report on the relevant activities of these MAPP RTC, MRO and neighboring RTO subcommittees. In the event there are no TPSC members on the MAPP RTC, MRO and RTO subcommittees, the TPSC will select a TPSC member who will be responsible for reporting on the relevant activities of these subcommittees at each TPSC meeting. The TPSC correspondent may attend the MAPP RTC, MRO and

¹⁵ *Id.* at 5, American Wind citing FERC Staff White Paper "Order No. 890 Transmission Planning Process," August 2, 2007 ("White Paper"), p.13.

¹⁶ MidAmerican Attachment M, section 3.2.

¹⁷ American Wind Protest at 6.

neighboring RTO subcommittee meetings or employ other effective means to obtain the required information.¹⁸

American Wind observes that section 8.0 does not contain details of how MidAmerican plans to coordinate with other regional entities, that it does not identify the Midwest ISO specifically, and that it does not mention a process to develop a coordination plan. American Wind states that this section is inadequate to address transmission planning requirements detailed above on a regional basis between MAPP utilities and Midwest ISO.¹⁹ American Wind therefore requests that the Commission require MidAmerican to provide a more detailed and coordinated regional planning process in its Attachment M. American Wind states that such process and any related regional agreements should be detailed, not just referenced in Attachment M for parties to understand the transmission planning process and how to participate.²⁰

18. Finally, American Wind states that creation of such a joint planning process takes time and should include appropriate opportunities for affected transmission providers and other stakeholders to provide feedback about the proposed process. American Wind therefore did not expect MidAmerican and the other MAPP utilities to complete that process by the December 7, 2007 filing deadline. However, American Wind states that it did expect that these entities would commit in its filings to engage in such a process. The Commission should instruct MidAmerican to initiate that process now.²¹

c. MidAmerican's Answer

19. MidAmerican states that a requirement for joint participation is contrary to Order No. 890-A where the Commission recently declined to expressly require regions to adopt interregional planning processes, instead stating that there should be necessary coordination on an interregional basis.²² MidAmerican states that it made a number of changes to its Attachment M to address American Wind's concerns with regard to the MidAmerican stakeholder process, including changes to sections 13.4(a) and (c) of its Attachment M. Specifically, section 13.4(a) provides that the MidAmerican Energy Transmission Planning Stakeholder meetings are open to Midwest ISO, and section 13.4(c) provides that Midwest ISO representatives will be invited to MidAmerican

¹⁸ MidAmerican Attachment M, section 8.0.

¹⁹ American Wind Protest at 6.

²⁰ *Id.*

²¹ *Id.*

²² MidAmerican Answer at 3, *citing* Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 224, 226.

stakeholder meetings. Further, MidAmerican states that Attachment M provides that Midwest ISO representatives will be able to fully participate in all MidAmerican transmission planning activities – the stakeholder meetings, working groups, and ad hoc study groups formed as part of the MidAmerican stakeholder process. Also, MidAmerican states that American Wind may request MidAmerican to coordinate its economic studies with Midwest ISO. MidAmerican states that under section 13.8(g), a stakeholder may ask MidAmerican for such coordination with a “directly connected transmission provider.”

20. MidAmerican states that these changes were made in response to American Wind’s concerns and that they provide reasonable and meaningful opportunities for full Midwest ISO participation in MidAmerican’s transmission planning process. These provisions open appropriate lines of communication between MidAmerican and its transmission-providing neighbors.²³ MidAmerican further states that it is committed to pursuing collaborative transmission planning efforts, including the coordination of studies with parties such as Midwest ISO in order to make such studies useful to interested parties, including customers, and neighboring transmission providers. MidAmerican states, however, that the transmission planning process should not be the place for binding commitments between stakeholders.²⁴ MidAmerican states that as the Commission has said in Order No. 890, a transmission provider cannot meet with parties that choose not to meet.²⁵

21. MidAmerican states that it has been and will continue to be proactive in pursuing additional coordination with Midwest ISO. MidAmerican states that there are many existing coordinated activities between MidAmerican, MAPP members, and Midwest ISO. MidAmerican states that enhanced cooperation in transmission planning should be a logical outgrowth of this long-term cooperative relationship.²⁶

22. MidAmerican states that a number of MAPP members are also Midwest ISO members. MidAmerican states that due to the considerable overlap between these organizations, substantial coordination already exists between the MAPP and Midwest ISO planning processes.²⁷ MidAmerican states that most MAPP/Midwest ISO members have representatives involved in both the MAPP and Midwest ISO transmission planning

²³ *Id.* at 3.

²⁴ *Id.* at 4.

²⁵ *Id.*, citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 453.

²⁶ *Id.* at 4.

²⁷ *Id.* at 4-5.

processes. Also, MidAmerican states that MAPP utilities, Midwest ISO utilities, and Midwest ISO itself are members of the Midwest Reliability Organization, which results in coordination of regional reliability standards, as well as the coordination of the enforcement of NERC Reliability Standards.²⁸

d. Commission Determination

23. The regional participation principle requires that transmission providers: (1) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data; and (2) identify system enhancements that could relieve significant and recurring transmission congestion. We find that MidAmerican's active participation in MAPP, as described, is sufficient to comply with the regional participation principle. However, with regard to inter-regional coordination between MidAmerican and Midwest ISO, we find it insufficient for MidAmerican to simply reference certain agreements and future commitments to coordinate with Midwest ISO without elaborating on how the obligations of these agreements will meet the inter-regional coordination requirement found in the regional participation principle. Specifically, Order No. 890 requires that regions should coordinate as necessary to share data, information and assumptions to maintain reliability and allow customers to consider resource options that span the regions.²⁹ MidAmerican's commitments to make studies available upon request³⁰ and invite Midwest ISO to bi-annual meetings³¹ are insufficient to satisfy this obligation. We therefore direct MidAmerican, in the compliance filing directed below, to describe how the provisions of each of its agreements with its neighboring regions meet the inter-regional coordination requirement of the regional participation principle of Order No. 890 (and, if necessary, include proposed revised Attachment M language).

24. Lastly, with regard to American Wind's request that there should be just one regional transmission plan for the combined MAPP/Midwest ISO footprint, we note that Order No. 890 did not require this. It required each transmission provider 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. Accordingly, we will not grant American Wind's request here but do

²⁸ *Id.* at 5.

²⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

³⁰ MidAmerican Attachment M, section 3.2.

³¹ *Id.* at 13.4(c).

encourage MAPP and its members to participate with Midwest ISO, among others, in inter-regional planning endeavors.

3. Cost Allocation

25. The cost allocation principle requires that transmission providers address in their Attachment K 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.

26. 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 must provide adequate incentives to construct new transmission. Third, the cost allocation proposal must be generally supported by state authorities and participants across the region. The Commission stressed that each region must address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.³² 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.³³

a. MidAmerican's Proposal

27. MidAmerican states that section 12 of Attachment M describes how MidAmerican will coordinate the assignment of cost responsibility for identified network upgrades within the MidAmerican transmission system that provide reliability and economic benefits to MidAmerican and other entities. MidAmerican states that it will be the host transmission owner for sponsoring local planning economic projects in accordance with section 12 of proposed Attachment M. Also, MidAmerican states that it, along with the Midwest Municipal Transmission Group, have established certain joint transmission

³² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-561.

³³ Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 251.

investment principles that the parties have mutually agreed to preserve, and nothing in its filing should disturb existing consensus pertaining to joint transmission investment principles.

28. Section 12.2 of MidAmerican's OATT sets forth a procedure through which the MAPP transmission owner on whose system the economic network upgrade is located shall solicit participation and funding for the desired upgrade. This procedure, set forth in subsections 12.2.3.1 through 12.2.3.12, creates three bidding rounds in which eligible customers may acquire subscription rights to the transmission upgrade. A subscription right entitles the holder to offer on its OASIS, transmission service to load serving entities (LSEs) on its transmission system, including merchant load-serving affiliates. The first round of subscription rights is limited to LSEs within the host transmission owner's zone, including its merchant load-serving affiliate, to any Affected Generator,³⁴ to other MAPP Affected System Operators,³⁵ and to any Affected System Operators participating in the economic planning studies under section 11 of the OATT.³⁶ If capacity remains available after the first round of bidding, MidAmerican's OATT establishes a second round of bidding which is open to participating Affected System Operators and participating Affected Generators. If, after the second round, capacity is still available on the transmission upgrade, MidAmerican's OATT establishes a third round of bidding which is open to any eligible transmission customer.

b. American Wind's Protest

29. American Wind takes issue with MidAmerican's cost allocation methodology for regional and subregional transmission projects identified in the MAPP regional plan. Specifically, American Wind is concerned that there may be a possibility for discrimination in the subscription process outlined for economic upgrades in section 12.2.3. American Wind requests that the Commission review this process with a specific

³⁴ MidAmerican Attachment M, section 2.1 (defining an Affected Generator as a "generator whose existing or proposed generating unit(s) is directly affected by a proposed Economic Network Upgrade as demonstrated in the study analysis performed in conjunction with Section 11").

³⁵ MidAmerican Attachment M, section 2.3 (defining an Affected System Operator as "the transmission owner/operator that operates an Affected System"). *See also* MidAmerican Attachment M, section 2.2 (defining an Affected System as "the transmission owner's system, including the Host TO, that is affected by the allocations in an economic benefits study performed by the MAPP RTC in accordance with section 11" of Attachment M).

³⁶ MidAmerican Attachment M, section 12.2.3.3.

focus on section 12.2.3.4 (Second Round Offer of Subscription Rights).³⁷ American Wind states that additional capacity subscription in this second round is limited to those system operators and generators that participated in the first round of subscription. American Wind states that it understands that this second round of subscription is intended as an expeditious way to fully subscribe the capacity of a proposed transmission project, without the administration burden of running another full round of subscription such as is contemplated in the third round. American Wind, however, argues that the capacity remaining for subscription during this second round should be made available to all parties to increase participation in funding the project and reduce opportunities for discrimination.

c. MidAmerican's Answer

30. MidAmerican argues that the cost allocation methodology outlined in section 12 meets the requirements for cost allocation contained in Order No. 890 and will result in the development of those economic projects that are supported by adequate subscription. MidAmerican states that the cost allocation subscription rights process was initially drafted as a consensus product of MAPP membership to jointly extend to the affected transmission owners and their load-serving entities. MidAmerican states that through American Wind's participation and input, the process was expanded to include affected generators, such as the type of membership represented by American Wind. MidAmerican clarifies that the purpose of the subscription rights process is not to displace the OATT's process for transmission customers to obtain or gain new transmission capacity through the tariff's transmission service products.³⁸

31. MidAmerican states that the subscription rights process does not become a mechanism for bypassing the Commission's long-standing policy of first-come, first-served queue order processing. MidAmerican states that American Wind does not explain how its point of inquiry would maintain the integrity of the queuing order. MidAmerican states that the purpose of the subscription rights process is to obtain project funding for economic network upgrades and to achieve this funding, the first round of subscription-right offers is extended to affected system operators and affected generators.³⁹ MidAmerican states that while American Wind is concerned with the second round of subscription-right offerings potentially having the possibility of discrimination, it does not suggest how the process could have the possibility of discrimination. MidAmerican states that American Wind has offered no description as to

³⁷ American Wind Protest at 7.

³⁸ MidAmerican Answer at 6-7.

³⁹ *Id.* at 7.

why standard tariff safeguards would not be effective against discriminatory conduct by transmission providers in the first instance.⁴⁰

32. MidAmerican clarifies that the second round of subscription is offered to affected systems that may not have been able to obtain their full desired level of participation in the first round and this includes extending the offers to affected generators such as those that are the clients of American Wind. MidAmerican states that it was a strong regional consensus preference that “affected parties” be given a thorough opportunity for participation before regional transmission owners would seek a general auction. MidAmerican states that the Commission’s clarifications concerning planning redispatch and conditional firm service under Order No. 890-A⁴¹ define the need to consider such customers when upgrades occur. MidAmerican states that both rounds 1 and 2 of the subscription rights process will consider affected systems to be those transmission providers that have existing customers contending with planning redispatch and/or conditional firm service. MidAmerican states, however, that eliminating the second round of subscription rights would circumvent the opportunity to fully consider planning redispatch or conditional firm provisions. While MidAmerican states that the parties did not have the benefit of Order No. 890-A when drafting their filings, clarifications provided by Order No. 890-A support the need for the subscription rights process as proposed and should adequately address any concerns that American Wind raised concerning round 2 of the subscription rights process.

33. Finally, MidAmerican states that American Wind ignores the provisions in the subscription process for resale and reassignment of subscription rights. Section 12.2.3.6 (Resale and Reassignment of Subscription Rights) requires the transmission owner to provide such rights as are comparable to those associated with point-to-point service under the tariff. MidAmerican states that a party not participating in the first round could enter the second round through purchase or taking assignment of subscription rights. MidAmerican states that the subscription process was developed with substantial stakeholder input. MidAmerican states that the Commission should not disturb the difficult-to-obtain regional consensus, which includes numerous non-jurisdictional transmission owners, and should provide the subscription right process an opportunity to be implemented as filed.

d. Commission Determination

34. We find that MidAmerican’s cost allocation proposal is not adequately supported. Although we generally support the fact that section 12.2 was derived through stakeholder processes, MidAmerican has not adequately explained why its subscription rights process

⁴⁰ *Id.*

⁴¹ Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 584.

excludes certain eligible customers during the first two rounds of subscription offer rights or why, as American Wind points out, participation in the second round is limited to those who participated in the first round. Since these subscription rights carry with them capacity rights, we agree with American Wind that MidAmerican's limiting of rights to participate in the early subscription offer rounds could result in discrimination with respect to access to transmission service. Moreover, if the purported purpose of the subscription process is to ensure financing, we see no reason why limiting the potential pool of eligible customers in the first two subscription rights rounds would enhance this goal. Accordingly, we reject MidAmerican's proposal and require MidAmerican to submit a new proposal or additional support for this proposal within 90 days of the issuance of this order.

4. Economic Planning Studies

35. 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 be limited just 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.

36. The Commission also stressed that existing regional processes conducted by RTOs and ISOs are not exempt from the economic planning study requirements. 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 studies.⁴²

37. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.⁴³ In Order No. 890-A, the Commission

⁴² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-551.

⁴³ *Id.* P 236.

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 Attachment K.⁴⁴

Additionally, in Order No. 890-A, the Commission clarified that to the extent an RTO or ISO delegates any of its responsibilities in the context of economic planning, it will be the obligation of the RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.⁴⁵

a. MidAmerican's Proposal

38. MidAmerican states that section 11 of its proposed Attachment M provides for appropriate economic planning studies. MidAmerican states that some of the key provisions for conducting studies include allowing stakeholders, prior to the first stakeholder meeting of the year, to request that MidAmerican perform studies to evaluate potential upgrades or other improvements to the MidAmerican transmission system that could reduce congestion or integrate new resources and loads on an aggregated basis. MidAmerican also states that the scope of the studies will primarily be aimed at resolving continuing congestion on MidAmerican transmission facilities and/or reviewing the integration of large levels of proposed generation facilities to the MidAmerican transmission system. Also, MidAmerican states that the cost of up to two high priority annual studies to address congestion and/or integration of new resources or loads may be recovered as part of the overall cost of service under its OATT. Stakeholders may also request that additional studies be conducted at their own expense. Finally, MidAmerican states that it will facilitate a registered stakeholder discussion of proposed economic planning studies to determine which stakeholder study requests provide the greatest value to stakeholders. MidAmerican states that based on this discussion, it will determine the two high priority studies to be conducted that year. MidAmerican states that the studies will be ranked in order of priority based upon indications of registered stakeholder input and the method of ranking study priority will be based on registered stakeholder input.

b. American Wind's Protest

39. American Wind states that it is confused by section 13.8, which covers economic studies coordinated with directly connected transmission providers. American Wind argues that the MAPP regional economic planning studies should already cover any needed studies that affect MidAmerican and neighboring transmission providers. American Wind also expresses concern that such coordinated studies will be counted in place of one or more of the local planning studies that MidAmerican has already committed to completing.

⁴⁴ *Id.* P 237.

⁴⁵ *Id.* P 238.

c. MidAmerican's Answer

40. MidAmerican states that the provision in section 13.8 does not provide an opportunity to use the same study twice – once to meet regional requirements for economic studies and once to meet local requirements for economic studies.

d. Commission Determination

41. We accept MidAmerican's economic planning provisions as proposed. As MidAmerican clarifies in its answer, section 13.8(i) does not provide an opportunity to use the same study twice.⁴⁶ Rather, section 13.8(i) provides that economic planning studies are not to be the subject of a recent ongoing local or regional study.⁴⁷ Therefore, we find that MidAmerican has provided adequate assurances that its economic planning studies will supplement those being conducted by MAPP and will not be double-counted in place of the local requirements for economic studies.

5. The MAPP Template

a. Manitoba Hydro's Protest

42. Manitoba Hydro states that it does not object to MidAmerican's filing and does not want to delay Commission action. It instead focuses on the MAPP regional procedures.⁴⁸ It contends that not all MAPP transmission providers have complied, and that without each member implementing a local planning process, the MAPP regional transmission planning process cannot be found compliant.⁴⁹ It asserts that without consideration of the MAPP regional procedures and the local procedures together, the Commission does not have the necessary information to find the MAPP regional transmission planning process compliant with Order No. 890. Therefore, Manitoba Hydro requests that the Commission not accept the MAPP Template in this MidAmerican proceeding, but instead convene a separate proceeding to do so.

b. Answers

43. MidAmerican responds that Manitoba Hydro should have addressed its concerns in the MAPP stakeholder process and should not attempt to use this docket as an

⁴⁶ MidAmerican Answer at 9.

⁴⁷ MidAmerican Attachment M, section 13.8(i).

⁴⁸ *Supra* at P 4.

⁴⁹ Manitoba Hydro also alleges that Minnkota Power Cooperative, Inc. (Minnkota) failed to make a proper Attachment K compliance filing.

opportunity for further review. MidAmerican also notes that it does not seek approval of the MAPP regional process in this filing. Further, it states that it is inappropriate to use this docket as a forum to address the alleged non-compliance of Minnkota.

44. MAPP answers that Manitoba Hydro has misunderstood the purpose behind the MAPP Template. MAPP contends that its template was designed to help its members each comply with Order No. 890 and is incomplete without each member's local process. With respect to Minnkota, it recommends that Manitoba Hydro seek recourse through section 211A of the FPA rather than in this proceeding.

c. Commission Determination

45. We agree with MidAmerican and MAPP that this is not the proper forum for addressing Minnkota's compliance with the Attachment K planning requirements of Order No. 890. In addition, we will not grant Manitoba Hydro's request to convene a separate proceeding to address the MAPP Template. We clarify that in this proceeding, we examine only the filing made by MidAmerican. While MidAmerican's Attachment M incorporates the MAPP Template as sections 1-12 thereof, it also includes a separate section 13 addressing local issues along with a detailed filing describing how the process in Attachment M complies with Order No. 890. MAPP did not submit an Attachment K compliance filing, and therefore, the MAPP Template standing alone is not before us.

The Commission orders:

(A) MidAmerican's compliance filing is hereby accepted subject to a further compliance filing as directed in the body of this order.

(B) MidAmerican is hereby directed to submit a compliance filing, 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.