

123 FERC ¶ 61,164
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.

Midwest Independent Transmission
System Operator, Inc.

Docket No. OA08-53-000

ORDER ON COMPLIANCE FILING

(Issued May 15, 2008)

1. On December 7, 2007, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Commission for filing revisions to existing Attachment FF (Transmission Expansion Planning Protocol) of its Open Access Transmission and Energy Markets Tariff (TEMT or tariff), the attachment that contains its existing transmission planning process, in order to comply with the transmission planning principles outlined by the Commission in Order No. 890.¹ In this order, we accept Midwest ISO's filing, as modified, subject to a further compliance filing.

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

¹ *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).

planning process.² To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment (Attachment K) to their OATTs.³

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

² 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.

³ Midwest ISO incorporated its planning provisions into existing Attachment FF of its TEMT, which contains its current transmission planning process.

⁴ As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need 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 provider's website, provided there is a link to those business practices on its Open Access Same-Time Information System. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in Attachment K and a reference to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

4. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as Midwest ISO, the Commission explained that when it approved these processes, it had found them to be consistent with or superior to the existing *pro forma* OATT. Because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO to either reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order No. 890.⁵ RTOs and ISOs were also directed to indicate in their compliance filings how all participating transmission owners within their footprints will comply with Order No. 890's planning requirements.⁶

II. Midwest ISO's Compliance Filing

5. Midwest ISO has proposed revisions to the non-rate terms and conditions of service set forth in its TEMT at Attachment FF and states that these revisions comply with the transmission planning requirements promulgated by the Commission in Order No. 890. Midwest ISO also states that the majority of the participating transmission owners in the Midwest ISO footprint have chosen to comply with Order No. 890's planning principles by integrating their local planning processes into Midwest ISO's planning process.⁷

III. Notice of Filing and Responsive Pleadings

6. Notice of Midwest ISO's filing was published in the *Federal Register*, 72 Fed. Reg. 73,017 (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 and including January 7, 2008, to file comments regarding the December 7, 2007 Order No. 890 Attachment K compliance filings, including Docket No. OA08-53-000.

7. Motions to intervene were filed by: American Municipal Power – Ohio, Inc. (AMP-Ohio); American Transmission Company, LLC (American Transmission Company); the American Wind Energy Association and Wind on the Wires (together,

⁵ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 439; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 174-75.

⁶ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

⁷ Midwest ISO indicates in Attachment FF-4 that two Midwest ISO transmission owners – American Transmission Company and Aquila, Inc. (Aquila) – will have separate local planning processes in order to comply with Order No. 890's planning requirements.

American Wind); Consumers Energy Company (Consumers Energy); Corn Belt Energy Corporation, Madison Gas & Electric Co., Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, and Wisconsin Public Power Inc. (collectively, Midwest TDUs); Dairyland Power Cooperative; the Electric Power Supply Association; Exelon Corporation; Integrys Energy Group for itself and three subsidiaries⁸ (collectively, Integrys); International Transmission Company, jointly with Michigan Electric Transmission Company, LLC (METC) and ITC Midwest, LLC (collectively, International Transmission Company); the Midwest ISO Transmission Owners (Midwest ISO TOs);⁹ and Wisconsin Electric Power Corporation (Wisconsin Electric). The Michigan Public Service Commission (Michigan Commission) filed a notice of intervention.

8. American Wind, Consumers Energy, Midwest TDUs, and Wisconsin Electric also filed protests. AMP-Ohio, American Transmission Company, Integrys, International Transmission Company, and the Michigan Commission filed comments.

9. The Commission also received a number of answers to these protests and comments. Midwest ISO filed an answer to the various comments and protests, as did the Midwest ISO TOs. American Transmission Company filed a limited answer to Consumer Energy's protest. International Transmission Company filed an answer to Consumer Energy's protest. Integrys opposed Midwest ISO's and the Midwest ISO TOs' answers, and Midwest TDUs opposed the Midwest ISO TOs' answer. Lastly, Consumers Energy opposed Midwest ISO's and International Transmission Company's answers.

⁸ The three subsidiaries are: Wisconsin Public Service Corporation; Upper Peninsula Power Company; and Integrys Energy Services, Inc.

⁹ Midwest ISO TOs consist of: Ameren Services Company; Alliant Energy Corporate Services, Inc; American Transmission Systems, Incorporated; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Shared Services; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; Manitoba Hydro; Michigan Public Power Agency; Minnesota Power; Montana-Dakota Utilities Co; Northern Indiana Public Service Company; Northern States Power Company (MN) and Northern States Power Company (WI); Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association; and Wolverine Power Supply Cooperative, Inc.

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 (2007), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. 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 or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

12. As discussed below, we find that Midwest ISO's revised Attachment FF transmission planning process, with certain modifications, complies with each of the nine planning principles and other planning requirements adopted in Order No. 890. Accordingly, we accept for filing Midwest ISO's revisions to its existing transmission planning process found in Attachment FF of the TEMT, as modified below, effective December 7, 2007. We also direct Midwest ISO to file, within 90 days of the date of this order, a further compliance filing as discussed below.

13. While we accept Midwest ISO's transmission planning process in Attachment FF, we nevertheless encourage further refinements and improvements to Midwest ISO's planning process as Midwest ISO 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. Lastly, we also note that Midwest ISO's planning process is subject to a number of reporting requirements imposed in other orders.¹⁰

¹⁰ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209, at P 182 (2007) ("We are satisfied by the Midwest ISO's answer that it will analyze the possible evolution of Attachment FF. . . and direct the Midwest ISO to provide the results of its analysis in its reports to the Commission.").

C. **Midwest ISO's Revisions to its Existing Planning Process in Attachment FF**

1. **Midwest ISO's Filing**

14. Midwest ISO states that Attachment FF of its tariff contains its transmission planning protocols, including definitions of expansion project types (Baseline Reliability Project Network Upgrades¹¹ and Regionally Beneficial Project Network Upgrades¹²), the criteria for establishing reliability or economic expansion, and the methods for allocating the costs of both reliability and economic expansions as part of the process to create the

¹¹ “Baseline Reliability Projects are Network Upgrades identified in the base case as required to ensure that the Transmission System is in compliance with applicable national Electric Reliability Organization (“ERO”) reliability standards and reliability standards adopted by Regional Reliability Organizations and applicable within the Transmission Provider Region. Baseline Reliability Projects include projects that are needed to maintain reliability while accommodating the ongoing needs of existing Market Participants and Transmission Customers.” *See* FERC Electric Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 1836.

¹² “Regionally Beneficial Projects are Network Upgrades: (i) that are proposed by the Transmission Provider, Transmission Owner(s), ITC(s), Market Participant(s), or regulatory authorities; (ii) that are found to be eligible for inclusion in the [Midwest Transmission Expansion Plan] or are approved pursuant to Appendix B, section VII of the ISO Agreement after June 16, 2005, applying the factors set forth in section I.A of this Attachment FF; (iii) that have a Project Cost of \$5 million or more; (iv) that involve facilities with voltages of 345 kV or higher; and that may include any lower voltage facilities of 100 kV or above that collectively constitute less than fifty percent (50%) of the combined project cost, and without which the 345 kV or higher facilities could not deliver sufficient benefit to meet the required benefit-to-cost ratio threshold for the project as established in section II.B.1.c, or that otherwise are needed to relieve applicable reliability criteria violations that are projected to occur as a direct result of the development of the 345 kV or higher facilities of the project; (v) that are not determined to be Baseline Reliability Projects or New Transmission Access Projects; or are determined to be a Regionally Beneficial Project under section III.A.2.g; and (vi) that are found to have regional benefits under the criteria set forth in section II.B.1. of this Attachment FF.” *See* FERC Electric Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 1839.

Midwest Transmission Expansion Plan (MTEP).¹³ Midwest ISO states that, accordingly, it has elected to modify Attachment FF to be consistent with Order No. 890 rather than to create potentially redundant planning process provisions in a new Attachment K to its tariff.

2. Protests/Comments

15. Integrys asserts that Midwest ISO has “failed to file an Attachment K clearly setting forth its Order [No.] 890 planning obligations and responsibilities and instead creates a difficult-to-understand mix of planning provisions commingled with its pre-existing Attachment FF provisions.”¹⁴ Integrys avers, therefore, that Midwest ISO’s planning provisions are “stated without clarity, and that the ability to assess compliance with Order [No.] 890 requirements is needlessly compromised.”¹⁵ Specifically, Integrys argues that the proposed modifications to Midwest ISO’s Attachment FF attempt to avoid the Commission’s requirement that all transmission providers place their planning procedures and processes in a “plainly visible tariff segment” that can be easily understood and directly compared to the planning provisions of other transmission providers.¹⁶

16. To remedy Midwest ISO’s alleged non-compliance with Order No. 890, Integrys states that the Commission should direct Midwest ISO to rescind the planning language Midwest ISO proposed in Attachment FF and re-file these provisions in a new and separate Attachment K. Doing so, avers Integrys, will give parties the “opportunity to evaluate the new Attachment K as an initial filing and submit such comments as are appropriate.”¹⁷

¹³ The MTEP is “[a] long range plan used to identify expansions or enhancements to support competition in bulk power markets and to maintain reliability, developed biennially or more frequently, and subject to review and approval by the Transmission Provider Board.” *See* FERC Electric Tariff, Third Revised Volume No. 1, First Revised Sheet No. 99A.

¹⁴ Integrys Comments at 3.

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Id.* at 8.

3. Answers

17. Midwest ISO disputes Integrys' assertion that placing planning revisions in its Attachment FF rather than filing a separate Attachment K makes the proposed filing deficient. Midwest ISO notes that Order No. 890 states that the transmission provider may file an Attachment K "or the transmission providers' equivalent thereof."¹⁸ Midwest ISO states that the provisions in existing Attachment FF already incorporate the majority of the necessary planning language and that creating a new Attachment K would cause unnecessary overlap. Finally, Midwest ISO states that consolidating all of its related planning topics in Attachment FF is consistent with the Commission's directive to provide more openness and transparency because it eliminates the need to wade through numerous tariff attachments.

18. The Midwest ISO TOs suggest that Midwest ISO's filing of revisions to Attachment FF for the purpose of fulfilling its Order No. 890 obligations is consistent with the Commission's intent that all planning processes be located in a single, easily-identifiable location within the transmission provider's tariff.

4. Commission Determination

19. We reject Integrys' assertion that Midwest ISO failed to delineate its transmission planning procedures and processes in a plainly visible tariff segment that can be easily understood and directly compared to the planning provisions of other transmission providers. We find that Attachment FF is the appropriate section of the TEMT to define Midwest ISO's planning process. We agree with Midwest ISO that creating a new Attachment K would cause unnecessary overlap. Attachment FF includes all planning processes in a single, easily-identifiable location within Midwest ISO's tariff, as required by the Commission. As Midwest ISO notes and as discussed further below, Attachment FF includes its existing MTEP planning process, including criteria to identify regional projects and cost sharing arrangements for the Midwest ISO region, along with revisions to ensure compliance with Order No. 890's planning principles.

D. Compliance With Order No. 890's Planning Principles

1. Coordination

20. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines

¹⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 140.

of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development. In its planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.¹⁹

a. Midwest ISO's Filing

21. Midwest ISO states that it has complied with the coordination requirement by extensively amending section I.A.2 of Attachment FF to include enhanced procedures for stakeholder input into the planning process. Midwest ISO states that it is committed to having all interested parties and stakeholders participate in the planning process at the beginning of, as well as throughout, the annual Midwest ISO MTEP process. Midwest ISO states that stakeholder participation is currently accomplished through the existing Planning Advisory Committee, which is responsible for addressing planning policy issues of importance to stakeholders. The Planning Advisory Committee reports to Midwest ISO's Advisory Committee, and functions subject to the Stakeholder Governance Guide developed by the Stakeholder Governance Working Group, as approved by the Advisory Committee. Midwest ISO states that the Planning Advisory Committee has always been open to stakeholder participation so that entities can actively participate in identifying and evaluating the optimal network upgrades needed as Baseline Reliability Projects and Regionally Beneficial Projects.

22. Furthermore, Midwest ISO proposes revisions at new section I.A.2.b to detail the tasks and roles of the Planning Subcommittee, which is a stakeholder-chaired subcommittee of the Planning Advisory Committee. In addition, Midwest ISO proposes revisions at new section I.A.2.c of Attachment FF to address the new Sub-Regional Planning Meetings to be held in various locations throughout the regional footprint, to meet at least twice yearly, that will provide additional opportunities for stakeholders to provide input into the planning process on a more localized or sub-regional basis.

b. Protests/Comments

23. AMP-Ohio states that section I.A.7 of Attachment FF provides that Midwest ISO will provide "an opportunity for stakeholders to review and comment on the posted models before commencing planning studies" but is silent with regard to the duration of that review opportunity, except to note that the "schedules for such reviews" will be in

¹⁹ *Id.* P 451-54.

the Business Practice Manuals.²⁰ Furthermore, AMP-Ohio states that, similarly, sections I.A.1.a.i and I.A.1.b.1 relegate “model development” to the Business Practice Manuals. AMP-Ohio asks the Commission to require that the tariff be modified to state expressly that stakeholders must be given a minimum of 60 days to review and comment on the posted models, data and assumptions.

24. Integrys recommends that the Commission direct Midwest ISO to take the following actions: (1) publish a “scope of study” report before starting each planning cycle; (2) publish an additional two-part memorandum detailing planning data provided by stakeholders (at the onset of the planning cycle) and the extent to which Midwest ISO’s MTEP adopts the stakeholders proposals (concurrent with completing the preliminary MTEP); (3) establish an online log to chronicle Midwest ISO’s adherence to planning milestones and memorializing stakeholder participation in the planning process; (4) establish an annual Midwest ISO self-evaluation highlighting the achievements and failings of the completed planning cycle; (5) develop a log to include disputes that arose during the planning process, the method by which the disputes were resolved, how the disputes were resolved and the impact of the resolution on the plan; and (6) adopt procedural provisions ensuring that its decisional processes are conducted expeditiously and fairly.²¹

25. International Transmission Company states that active participation of stakeholders in transmission planning is important and is required by Order No. 890. International Transmission Company cautions, however, that the process for the participation of stakeholders in transmission planning should not permit market participants with vested interests in the results of transmission planning to perform transmission planning. International Transmission Company argues that Midwest ISO cannot permit the participation of stakeholders to result in the *de facto* delegation of transmission planning from Midwest ISO to those stakeholders because some have vested interests in the transmission projects that the planning process is required to analyze. International Transmission Company avers that this is consistent with the Commission’s reaffirmation in Order No. 890-A that transmission plans are not to be developed on a co-equal basis with customers.²² International Transmission Company also states that the stakeholder participation process should not become another barrier to the construction of

²⁰ AMP-Ohio Protest at 5.

²¹ Integrys Comments at 14-18.

²² International Transmission Company Comments at 6 (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 188).

transmission projects. International Transmission Company states that too much process will result in “paralysis by over-analysis.”²³

c. Answers

26. In response to AMP-Ohio’s proposal that stakeholders be given a minimum of 60 days to review and comment on posted models, data, and assumptions, Midwest ISO states that it would be unreasonably restrictive to make such a requirement in all instances and that doing so would “hamstring Midwest ISO’s ability to meet timetables and to evaluate transmission projects.”²⁴

27. Midwest ISO also requests that the Commission reject Integrys’ proposal to “micro-manag[e]” the MTEP process.²⁵ Midwest ISO states that while it is willing to consider incorporating some of Integrys’ suggestions into the Business Practices Manuals, requiring Midwest ISO to produce the type of study reports Integrys requests is unnecessary and unduly burdensome since all stakeholders are given numerous opportunities to participate in the development of the MTEP. To ensure communication between Midwest ISO and the stakeholders, section I.A.13 of Attachment FF requires that Midwest ISO solicit input and comments from all stakeholders during and *after* stakeholder planning meetings and “use reasonable efforts to reply to comments that the Transmission Provider does not elect to implement, together with reasons for such action.”²⁶ In their answer, the Midwest ISO TOs also ask the Commission to reject Integrys’ request to require various reports because they are burdensome and unnecessary.

d. Commission Determination

28. We find that Midwest ISO’s Attachment FF clearly identifies the details of how its planning process will be coordinated with interested parties. With respect to AMP-Ohio’s request that stakeholders be given a minimum of 60 days to review and comment on posted models, data and assumptions, we agree with Midwest ISO that it may be too restrictive in all instances. We do believe, however, that it is imperative that stakeholders have adequate time to fully review proposals. Therefore, we find that it is appropriate to

²³ *Id.* at 6.

²⁴ Midwest ISO Answer at 23.

²⁵ *Id.* at 20.

²⁶ *Id.* at 21 (citing proposed Original Sheet No. 1834P).

allow Midwest ISO reasonable discretion to set deadlines for stakeholder reviews on a case-by-case basis.

29. With respect to Integrys' recommendations to require, among other things, Midwest ISO to publish a scope of study report and establish online logs chronicling the planning process, we agree with Midwest ISO that requiring all of Integrys' recommendations would be unnecessary and unduly burdensome. We do, however, encourage Midwest ISO to work with Integrys, the transmission owners, and other stakeholders to determine which, if any, of Integrys' suggestions could be incorporated into the Midwest ISO Business Practice Manuals. We also encourage Midwest ISO to work with the transmission owners, and other stakeholders, to evaluate the achievements and shortcomings of the planning process after one full planning cycle has been completed. We note that Midwest ISO also "recognizes the need for periodic evaluation of the effectiveness of the MTEP procedures to ensure that the Attachment FF process is meeting the needs of all of the stakeholders."²⁷

30. We agree with International Transmission Company that although stakeholders should be allowed to participate in the planning process, transmission plans should not be developed on a co-equal basis. In Order No. 890, the Commission stated that the planning process is intended to provide for meaningful input by stakeholders, but that "the ultimate responsibility for planning remains with the transmission provider."²⁸ In this instance, Midwest ISO has delegated certain local planning functions to transmission owners who will continue to have planning responsibilities for meeting their respective transmission needs in collaboration with Midwest ISO, but, as revised below, will be subject to an open and transparent planning process through which stakeholders will provide input and feedback on proposed plans.

2. Openness

31. The openness principle requires that transmission planning meetings be open to all affected parties, including but not limited to all transmission and interconnection customers, state authorities, and other stakeholders. Although the Commission recognized in Order No. 890 that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a sub-regional group, the Commission emphasized that the overall development of the

²⁷ Midwest ISO Answer at 21.

²⁸ The local planning conducted by participating transmission owners will be discussed more fully later in this order (section IV.F.2.b.).

transmission plan and the planning process must remain open.²⁹ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.³⁰

a. Midwest ISO's Filing

32. Midwest ISO states that it has complied with the openness requirement in Attachment FF, including, for example, section I.A.2.c.i, which expressly provides that Sub-Regional Planning Meetings are open to any parties interested in and/or impacted by the planning process. In addition, Midwest ISO proposes to add section I.A.2.c.ii.f to clarify that the definition of stakeholders is intended to include such diverse entities as regulators, environmental agencies, and load and generation developers and that all can participate in the Sub-Regional Planning Meeting process.

33. Midwest ISO states that it has also developed specific confidentiality provisions in section I.A.12 of Attachment FF to address protection of confidential data, including CEII data. Midwest ISO states that this section discusses, for example, the need for Non-Disclosure and Confidentiality Agreements to protect CEII information, while ensuring that most discussions that do not involve such information will remain fully open.

b. Protests/Comments

34. Consumers Energy states that the Commission should order Midwest ISO to insert "Local Distribution Company" between "Neighboring Transmission Owning Utilities" and "Regulatory Participants" in the proposed Sub-Regional Planning Meeting (section I.A.2.c.i) to reflect the need of Consumers Energy, a transmission dependent utility, to participate in the planning process and to coordinate with METC. Consumers Energy states that such interconnected distribution systems should be added to the list of participants in the transmission planning process. In the alternative, Consumers Energy requests that the Commission provide specific language in the order to clarify that nothing in the order or the approved tariff language modifies the rights that Consumers Energy has under its Commission approved Distribution Transmission Interconnection

²⁹ The Commission stated in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

³⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

Agreement with METC.³¹ Consumers Energy states that Article 7 of Consumers Energy DTIA with METC currently provides Consumers Energy the right to coordinate with METC. Consumers Energy states that the Commission should reject any proposal that “would dilute a transmission dependent utility from providing input into the planning process.”³²

c. Commission Determination

35. We find that Midwest ISO’s Attachment FF provides an opportunity for all affected parties to participate in its transmission planning process.³³ As such, we find it unnecessary to require Midwest ISO to revise section I.A.2.c.i to specifically state that local distribution companies are able to participate in the planning process, as proposed by Consumers Energy. We note that nothing precludes local distribution companies from participation, nor does Attachment FF limit the rights of Consumers Energy to coordinate with METC under their Distribution Transmission Interconnection Agreement.

3. Transparency

36. The transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in its planning process the method(s) it will use to disclose the criteria, assumptions and data that underlie its transmission system plans.³⁴ The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers also were directed to provide information regarding the status of upgrades identified in the transmission plan.

³¹ Consumers Energy Comments at 6-7.

³² *Id.* at 7.

³³ As noted above, issues associated with participation in the local planning conducted by participating transmission owners will be addressed later in this order (section IV.F.2.b.).

³⁴ In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

37. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand response resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.³⁵

a. Midwest ISO's Filing

38. Midwest ISO states that it has complied with the transparency requirement in many areas of Attachment FF, including, for example, sections I.A.3 through I.A.13 of Attachment FF. These sections describe the basis for planning decisions and how Midwest ISO makes the basic methodology, criteria, and processes used to develop the MTEP available, in order to ensure that planning standards are consistently applied. Midwest ISO states that section I.A.7 describes in detail the procedures that Midwest ISO will employ to collaborate with all stakeholders to develop appropriate planning models that reflect expected system conditions for the planning horizon. Furthermore, Midwest ISO states that section I.A.8 describes the planning assumptions that Midwest ISO will utilize to conduct the planning process, including the requirement that load probability models be treated consistently in the planning for transmission owners' native load and other customers' transmission access requests in section I.A.8.b. Midwest ISO states that these tariff provisions are further supported with additional detail in the Transmission Planning Business Practices Manual.

b. Protests/Comments

39. AMP-Ohio states that the Commission should clarify that Midwest ISO's frequently claimed reliance on its Business Practice Manuals for "transmission planning rules, standards and practices that relate to, but do not significantly affect, transmission service" must be subordinate to the Midwest ISO TEMT.³⁶ Furthermore, AMP-Ohio argues that it is essential that parties deeming themselves disadvantaged by provisions in the Business Practice Manuals, whose provisions have not been reviewed and/or

³⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

³⁶ AMP-Ohio Protest at 4 (citing Midwest ISO December 7 Transmittal Letter at 2).

approved by the Commission, have meaningful recourse. AMP-Ohio states that if that recourse requires Commission involvement, it should be understood that the Business Practice Manuals do not have the same status as the Midwest ISO TEMT.

40. Consumers Energy states that the Commission should order Midwest ISO to specifically identify how load is modeled or, in the alternative, Midwest ISO should add a process, such as dispute resolution, that allows stakeholders to provide input or challenge transmission owner assertions. In addition, Consumers Energy argues that the proposed language regarding modeling of transmission owners' native load and other customers' transmission needs is not sufficient to protect the transmission dependent utility's customers from unreasonable criteria. Consumers Energy states that the Commission should recognize that transmission-only companies do not have native load customers and argues that there is too much discretion without any qualifications.³⁷

41. Consumers Energy states that the Commission should reject Midwest ISO's proposal to include "Non-Cost Attributes" among evaluation criteria used by transmission owners when identifying alternative projects in the proposed Project Coordination section I.B.1.a.vii. Consumers Energy argues that Midwest ISO should require transmission owners to quantify the benefits of the attributes used in local planning and require least cost planning to be the primary determinant. Consumers Energy states that their DTIA with METC requires the parties to use least-cost planning principles in planning. Consumers Energy urges the Commission to reject inclusion of "Non-Cost Attributes" among evaluation criteria since that term is too broad. In the alternative, Consumers Energy requests that the Commission provide specific language in the order to clarify that nothing in the order modifies the rights that Consumers Energy has under its Commission approved DTIA with METC to follow least-cost planning principles.

³⁷ Consumers Energy Comments at 8-9. Consumers Energy requests that the word "generally" be deleted from the first sentence of section I.A.8.b and the entire second sentence be deleted. The second sentence states: "Specific studies may model alternative Load probabilities or peak Load for areas within a Transmission Owner's service territory as dictated by operation and planning experience and/or local planning criteria, but in any case shall be treated consistently in the planning for native Load and transmission access requests." Consumers Energy also states that the Commission should require Midwest ISO to add "Subject To Dispute Resolution" between "Owner," and "Must Be Consistently Applied," in the first sentence of the proposed Facility Design section I.A.10. As drafted, Consumers Energy argues that proposed section I.A.10 gives transmission owners total discretion over system configuration and design.

c. **Commission Determination**

42. We find that Midwest ISO's Attachment FF reduces to writing and makes available the basic methodology, criteria, and processes used to develop transmission plans. Attachment FF describes the process for model development and the planning assumptions used to develop the MTEP. For instance, Midwest ISO will collaborate with transmission owners, other transmission providers, transmission customers, and other stakeholders to develop appropriate planning models, and post those models on their website. Furthermore, Midwest ISO will provide opportunities for stakeholders to provide input on load projections.

43. Accordingly, we disagree with commenters that Midwest ISO improperly relegates certain transmission planning details to the Transmission Planning Business Practices Manuals and fails to provide an adequate level of detail in Attachment FF. As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need be codified in the transmission provider's OATT.³⁸ These 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. Transmission providers can therefore use a combination of tariff language in their OATT and a reference to planning manuals on their websites to satisfy their planning obligations under Order No. 890. In response to AMP-Ohio's concerns, we note that the Commission has stated that Business Practice Manuals do not take precedence over the TEMT.³⁹

44. We also reject the revisions proposed by Consumers Energy regarding load modeling. We find that Midwest ISO's method of modeling load demand is appropriate given the flexibility that Midwest ISO needs to model each transmission owner's service territory. Furthermore, we reject the revisions proposed by Consumers Energy to section I.B.1.a.vii to remove "Non-Cost Attributes." The purpose of an open and transparent planning process is to allow stakeholders to question data, models, and assumptions used to formulate transmission plans, and Consumers Energy can raise concerns about any non-cost attributes that Midwest ISO proposes to use but that Consumers Energy believes are not appropriate. We note that nothing in Attachment FF limits the rights of Consumers Energy and METC to follow least-cost planning principles in accordance with their Distribution Transmission Interconnection Agreement. We also find it unnecessary to require additional dispute resolution processes given that the entire

³⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

³⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 at P 657.

planning process in Attachment FF is subject to the dispute resolution process in section I.A.14 of Attachment FF.

4. **Information Exchange**

45. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.⁴⁰ Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

46. The Commission also provided that, to the extent applicable, transmission customers should provide information on existing and planned demand resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand response resources if they wish to have them considered in the development of the transmission plan. The Commission stressed that information collected by transmission providers to provide transmission service to their native load customers must be transparent and equivalent information must be provided by transmission customers to ensure effective planning and comparability. In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information. To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.⁴¹

47. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange

⁴⁰ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

⁴¹ *Id.* P 206.

relates to planning, not other studies performed in response to interconnection or transmission service requests.⁴²

a. Midwest ISO's Filing

48. Midwest ISO states that it has complied with the information exchange principle in many areas of Attachment FF, including, for example, in section I.A.8, which provides details regarding the elements of the planning assumptions that Midwest ISO will utilize in the planning process. Midwest ISO states that section I.A.8.b, for example, provides details regarding the coincident peak load projection methods that Midwest ISO will employ to model load demand for each entity, for the season under study. In addition, Midwest ISO states that section I.A.8.d addresses how Midwest ISO will deal with demand response resources as part of the planning process by incorporating such information into the planning assumptions. Midwest ISO also states that demand response resources (both nondispatchable (Type I) and dispatchable (Type II)) are an integral part of Midwest ISO's Ancillary Services Market (ASM) filing.⁴³

b. Protests/Comments

49. Consumers Energy states that the Commission should require Midwest ISO to delete "major end-use" from proposed section I.B.1.a.iii.b. and simply refer to "customers" so that transmission owners cannot contact major end-use customers that are not also customers of the transmission owner.⁴⁴ Consumers Energy states that in the case where a transmission dependent utility is served by an independent transmission company, the independent transmission company's customer is the transmission dependent utility, not the transmission dependent utilities' end-use customers. Consumers Energy states that the proposed tariff language would prohibit METC from contacting Consumers Energy but would give METC authority to contact Consumers Energy's customers directly.

⁴² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

⁴³ Midwest Indep. Transmission Sys. Operator, Inc., 122 FERC ¶ 61,172 (2008).

⁴⁴ Consumers Energy comments at 10. (As proposed, Section I.B.1.a.iii.b states that the Transmission owner shall "[o]btain Load forecasts from major end use customers in study area....")

c. Answers

50. International Transmission Company argues against Consumers Energy's proposal to preclude transmission owners from seeking load data directly from major end-use customers claiming that this would undermine sound transmission planning.

51. With regard to International Transmission Company's answer, Consumers Energy states that International Transmission Company fails to bring any new information on Consumers Energy's request that "major end-use" be struck from proposed Attachment FF section I.B.1.a.iii.b., and that International Transmission Company is attempting to circumvent its commitment to Consumers Energy under its distribution and transmission interconnection agreement.⁴⁵

d. Commission Determination

52. We find that Midwest ISO's Attachment FF, with the following modification, provides clear guidelines and schedules for the submittal of customer information as required by Order No. 890. We find Consumer Energy's request to remove "major end-use" from section I.B.1.a.iii.b reasonable. As proposed, transmission owners are limited to obtaining load forecasts from only major end-use customers in the study area. We find that that criterion may be too restrictive. By removing this limitation, transmission owners will be able to obtain load forecasts from all customers, including major end-use customers and transmission dependent utilities such as Consumers Energy. Therefore, we will require Midwest ISO to include in the compliance filing directed below revisions to section I.B.1.a.iii.b to make this change. However, we do not agree with Consumers Energy that a transmission owner should be prohibited from contacting major end-use customers that are not also customers of the transmission owner. We expect the transmission owner to consult with all affected parties in making such a request (e.g., the transmission owner should consult with or include a transmission dependent utility if the transmission owner contacts one of the transmission dependent utility's customers).

5. Comparability

53. The comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In Order No. 890, the Commission expressed concern that transmission providers have historically planned

⁴⁵ Consumers Energy Motion to Strike Answers to Protest, and Conditional Motion to Answer Impermissible Answers at 4.

their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. Through the comparability principle, the Commission required that the interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.⁴⁶

a. Midwest ISO's Filing

54. Midwest ISO states that it has complied with the comparability requirement in many areas of Attachment FF, including Section I.A.13, which expressly provides that stakeholder comments and suggestions to the MTEP will be treated with equal importance no matter whether the suggestions come from a transmission owner or a transmission customer. In addition, Midwest ISO states that section I.A.8.d provides that demand response resources will be evaluated comparably with generation resources to evaluate the amount of energy that can reliably be expected to be provided by such resources during emergency conditions. Midwest ISO explains that demand response resources will not be treated as merely an "input" into the planning process as a potential load modifier. Rather, where appropriate, demand response resources will be evaluated as equivalent to a Generator Resource as part of the solution to address peak load conditions.

b. Commission Determination

55. We find that Midwest ISO's Attachment FF describes how the planning process will satisfy the comparability principle. For instance, transmission planning models will reflect not only the projected growth of existing network customers, but also other transmission and interconnection commitments. Moreover, transmission planning models will include any transmission projects identified in service agreements or interconnection agreements.⁴⁷

⁴⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

⁴⁷ "Planning solutions will be based upon the best available information regarding the expected amount and location of Load that can be effectively and efficiently reduced by demand response or energy efficiency programs, as well as the amount of behind-the-meter generation that can reliably be expected to produce Energy that could impact planning solutions. The Transmission Provider shall perform and report on sensitivity analyses that indicate the effectiveness of potential demand response as alternative planning solutions, to the extent that appropriate methodology for such analyses is developed with stakeholders and documented in the T[ransmission] P[lanning] B[usiness]

(continued...)

56. Order No. 890-A was issued on December 27, 2007, subsequent to Midwest ISO and its transmission owners submitting their 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.”⁴⁸ Here, Midwest ISO and its transmission owners have 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, Midwest ISO and its transmission owners did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, Midwest ISO 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.

6. Dispute Resolution

57. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission’s Dispute Resolution Service to help develop a three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider’s dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.⁴⁹

P[ractice] M[annual].” See FERC Electric Tariff, Third Revised Volume No. 1, Original Sheet No. 1834M.

⁴⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

⁴⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

a. Midwest ISO's Filing

58. Midwest ISO states that it has complied with the dispute resolution requirement in many areas of Attachment FF, including, for example, section I.A.14 which specifically addresses how these procedures will be used for transmission planning disputes. Section I.A.14 of the TEMT provides for a three-step dispute resolution process of negotiation, mediation, and arbitration. Midwest ISO states that these dispute resolution procedures are in addition to section 12 of the TEMT⁵⁰ and Appendix D to the Transmission Owners Agreement,⁵¹ which generally discuss alternate dispute resolution procedures under the tariff. In addition, Midwest ISO states that the Transmission Planning Business Practices Manual describes an Issue Resolution Process for resolving planning issues that arise in the development of an MTEP, or the cost allocation associated with projects.

b. Commission Determination

59. We find that Midwest ISO's Attachment FF provides for a dispute resolution process to manage both procedural and substantive disputes that arise from the planning process.

7. Regional Participation

60. 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 subregions. 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

⁵⁰ Section 12 of the TEMT cross-references Midwest ISO's dispute resolution procedures in Attachment HH of the TEMT.

⁵¹ Agreement of Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc., A Delaware Non-Stock Corporation (Transmission Owners Agreement).

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.⁵²

61. 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.⁵³ In Order No. 890-A, the Commission also emphasized that effective regional planning should 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.⁵⁴

a. Midwest ISO's Filing

62. Midwest ISO states that it has complied with the regional participation requirement in many areas of Attachment FF, including section I.C, which provides that Midwest ISO will collaborate with and incorporate input from adjacent regional transmission organizations into the planning process. Midwest ISO states that these planning procedures supplement, but do not replace, existing regional stakeholder planning advisory groups that are part of the joint operating agreements (JOAs) that Midwest ISO currently has with PJM Interconnection, LLC (PJM), Southwest Power Pool (SPP), and the Tennessee Valley Authority (TVA).

b. Protests/Comments

63. American Wind objects to the lack of a formal coordinated transmission planning process with the utilities in the Mid-Continent Area Power Pool (MAPP) in Midwest ISO's proposed Attachment FF. American Wind requests that the Commission require Midwest ISO to work with its utility members, MAPP members, and other stakeholders to develop and detail such a process in Attachment FF. American Wind states that, due to the significantly overlapped and integrated service territories of MAPP utilities and Midwest ISO, 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 Midwest ISO and MAPP utilities to create a formal joint planning process applicable to both Midwest ISO and MAPP utilities outlining the responsibilities and

⁵² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

⁵³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

⁵⁴ *Id.*

duties of each party. American Wind argues that a mere reference in a JOA to collaborate in developing long-term inter-regional plans lacks the detail required in Order No. 890 for regional planning.⁵⁵

c. Answers

64. With respect to American Wind's contention that there should be one regional transmission plan for the combined MAPP/Midwest ISO footprint, Midwest ISO states that it is committed to engaging in regional coordination and that its recent invitation to MAPP to participate in the Joint Coordinated System Plan (JCSP) study between Midwest ISO, PJM, SPP, and TVA is indicative of that commitment.

d. Commission Determination

65. 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 Midwest ISO's regional participation and its compliance with these two requirements is sufficient with respect to the transmission owners in the Midwest ISO footprint. However, with respect to Midwest ISO's inter-regional coordination, we find it insufficient for Midwest ISO to simply reference JOAs with certain neighboring utilities without elaborating on how the obligations of the 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.⁵⁶ We therefore direct Midwest ISO, in the compliance filing directed below, to describe how the provisions of each of the JOAs and other agreements with its neighboring regions, with the exception of its JOA with PJM, meet the inter-regional coordination requirement of the regional participation principle of Order No. 890 (and, if necessary, include propose revised Attachment FF language). Similarly, we direct Midwest ISO to describe the procedures it will use to coordinate with MAPP and its members to meet this Order No. 890 requirement. Although Midwest ISO also did not describe how the provisions of its JOA with PJM meet the inter-regional participation requirement, we note that in the order in Docket No. OA08-32-000 addressing PJM's planning process compliance filing,

⁵⁵ American Wind also notes that it has not been able to find a joint planning agreement with MAPP on Midwest ISO or MAPP web sites, or such a reference in the MAPP Attachment K template.

⁵⁶ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

issued concurrently with this order, we find that the PJM-Midwest ISO JOA, as described by PJM, provides the necessary inter-regional coordination between Midwest ISO and PJM.⁵⁷ We therefore make the same finding here and will not require Midwest ISO to address in its compliance filing the PJM-Midwest ISO JOA.

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

8. Economic Planning Studies

67. 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.

68. The Commission also stressed that existing regional processes conducted by RTOs and ISOs are not exempt from 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 study.⁵⁸

⁵⁷ See *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,163 (2008).

⁵⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

69. 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 can be requested and how they will be prioritized.⁵⁹ 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.⁶⁰ 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. 890.⁶¹

a. Midwest ISO's Filing

70. Midwest ISO states that it has complied with the economic planning studies principle in many areas of Attachment FF, and the Transmission Planning Business Practices Manual including, for example, the provisions concerning Regionally Beneficial Projects in section II.B of Attachment FF, which were previously approved by the Commission.⁶² Midwest ISO states that via the Planning Advisory Committee it conducts, with stakeholders, long-range economic planning. Midwest ISO states that its planning process that it developed with stakeholders has a planning horizon of up to 20 years and considers a multitude of economic, policy, and operational factors in seeking to identify an optimal expansion plan for the long-term. Midwest ISO states that this long-term planning process provides a blueprint for resolving future congestion and reliability needs associated with generation expansion scenarios.

71. In addition to this long-term view, Attachment FF provides the opportunity for stakeholders to provide input concerning more near-term congestion issues impacting

⁵⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Midwest ISO Transmittal Sheet at 8 (Citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209 (RECB II Order), *order on reh'g*, 120 FERC ¶ 61,080 (2007), *order on reh'g*, 122 FERC ¶ 61,127 (2008) (collectively, RECB II Orders) (Docket No. ER06-18); *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106 (RECB I Order), *order on reh'g, technical conference and compliance*, 117 FERC ¶ 61,241 (2006), *order on reh'g*, 118 FERC ¶ 61,208 (2007), *appeal pending sub nom. Pub. Serv. Comm'n of Wisconsin v. FERC*, Case No. 06-1408 (D.C. Cir., filed Dec. 13, 2006) (collectively, RECB I Orders) (Docket No. ER06-18)).

customers. Through the Sub-regional Planning Meeting process, Midwest ISO reviews stakeholder's historical congestion data and evaluates the expected impact of the approved upgrades, and develops prioritized study scopes to address the most significant and persistent congestion or generation integration issues within their footprint. Midwest ISO states that it wants to ensure that the most problematic issues, identified and prioritized collectively with all stakeholders, are addressed rather than addressing issues on a request by request basis. Midwest ISO states that this transmission planning process addresses customers' economic planning needs in an efficient manner and is superior to the requirements of Order No. 890 to respond to a select number of economic studies that may be requested by customers.

b. Protests/Comments

72. Integrys states that Midwest ISO's tariff provides for Midwest ISO to make a unilateral determination of the costs and benefits of economic projects. Integrys argues that, to the extent a project is proposed as an economic project, Midwest ISO should be required to prepare a detailed analysis showing the basis for its agreement or disagreement with the proposal. Furthermore, Integrys states that since time may be of the essence in terms of a need for prompt completion of such a project, any dispute regarding the need for such a project should be resolved expeditiously. Integrys states that Midwest ISO should be required to adopt, as part of its tariff, appropriate procedural and substantive provisions ensuring that the decisional process with regard to such projects is conducted in an expeditious and fair manner and will produce results that will benefit electricity consumers.⁶³

c. Answers

73. With respect to Integrys' assertion that Midwest ISO is somehow able to make unilateral decisions regarding the costs and benefits of proposed economic projects, Midwest ISO reminds all parties that the Commission approved "a detailed process for determining whether or not a proposed transmission expansion project satisfie[s] specific Tariff requirements to be treated as a 'Regionally Beneficial Project.'"⁶⁴ Midwest ISO also states that "[t]o the extent that Integrys may be seeking to collaterally challenge the [RECB II Order], Integrys is estopped based upon long-standing FERC precedent."⁶⁵

⁶³ Integrys Comments at 18-19.

⁶⁴ Midwest ISO Answer at 22.

⁶⁵ *Id.* at 22.

d. Commission Determination

74. We find that Midwest ISO's Attachment FF complies with the Order No. 890 economic planning studies principle. As the Commission required in Order No. 890, Midwest ISO factors into its planning process both economic and reliability concerns. Midwest ISO considers the needs of the entire region when it coordinates its stakeholders' routine short-term reliability needs and short to mid-term range congestion and generation integration needs with the long-term developmental needs of the entire Midwest ISO footprint. We find that Midwest ISO's approach of addressing the most significant congestion or generation integration issues, identified and prioritized collectively with all stakeholders, is consistent with or superior to Order No. 890's requirement of responding to a select number of economic studies on a request-by-request basis. In addition, in RECB II, the Commission accepted certain criteria to identify Regionally Beneficial Projects.⁶⁶ Lastly, with respect to Integrys' protest regarding Midwest ISO's role in determining cost allocation for economic projects, we find that this issue has been fully litigated in the RECB proceedings and we will not relitigate the issue here.

9. Cost Allocation

75. The cost allocation principle requires that transmission providers address in their planning process 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 fits 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.

76. 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 relitigated each

⁶⁶ See *supra* note 12.

time a project is proposed.⁶⁷ 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.⁶⁸

a. Midwest ISO's Filing

77. Midwest ISO states that it has complied with the cost allocation requirement via the previously approved RECB I and RECB II cost allocation provisions which address regional cost sharing for reliability and economic expansions. Specifically, Midwest ISO states that Attachment FF provides in section III.A that cost allocation for regional projects that involve more than one transmission owner is to be conducted in accordance with Baseline Reliability Project and Regionally Beneficial Project procedures. In addition, Midwest ISO states that it is working with PJM to address cross-border cost allocation for network upgrades.⁶⁹

b. Commission Determination

78. We find that Attachment FF's adoption of Midwest ISO's previously accepted cost allocation methodology to allocate costs of new facilities meets the requirements of Order No. 890.⁷⁰ Midwest ISO's pricing for new transmission facilities was determined in the RECB proceedings, where the Commission approved Midwest ISO tariffs in the RECB I and RECB II Orders.⁷¹

E. Recovery of Planning Costs

79. 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

⁶⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

⁶⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁶⁹ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,084 (2008).

⁷⁰ On January 31, 2008, the Commission approved the cost allocation methodology from RECB I and RECB II. *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,081 (2008).

⁷¹ See *supra* note 62.

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.⁷²

1. Midwest ISO's Filing

80. Midwest ISO states that it has complied with the requirement of Order No. 890 to address the recovery of the costs of participation in planning activities. Midwest ISO states that, as an RTO with fundamental planning responsibilities, existing mechanisms are in place to recover the costs of all of its activities through Commission approved schedules, including any costs of performing the collaborative and coordinated planning responsibilities under the TEMT and the Transmission Owners Agreement.

2. Protests/Comments

81. Wisconsin Electric states that the Commission should require Midwest ISO to fairly address the allocation of costs associated with the local planning process. Wisconsin Electric states that Midwest ISO's filing does not acknowledge stakeholders' concerns that any local planning costs set forth in Attachment FF that are separate from Midwest ISO's regional planning costs should be calculated annually and apportioned only to those transmission owners that do not file their own Attachment K. Wisconsin Electric argues, however, that Midwest ISO denies that its local and regional planning costs are separate on the basis of the "considerable improvements" of its integrated proposal. Wisconsin Electric states that, as a customer of American Transmission Company, it will be responsible for the local planning costs that American Transmission Company incurs, and that there is no justification for American Transmission Company's customers to be assessed local planning costs by both American Transmission Company and Midwest ISO.⁷³

82. Wisconsin Electric argues that certain revisions to Midwest ISO's schedule 10 could permit the appropriate separation of local and regional planning costs. Wisconsin Electric states that, for example, section III.A.3 of schedule 10, which addresses RTO Long-Term Planning Services for Independent Transmission Companies, could exclude any costs associated with Midwest ISO's local planning activities undertaken for other

⁷² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁷³ Wisconsin Electric Comments at 4-5.

transmission owners and enable this unbundling of services to apply beyond independent transmission companies.

83. Integrys states that “[a]ny Midwest ISO assignment of planning cost[s] to [American Transmission Company] should recognize the planning activity carried on by [American Transmission Company] and the extent to which that activity results in a cost saving[s] to [the] Midwest ISO.”⁷⁴ Thus, Integrys posits that “[American Transmission Company] directly and [American Transmission Company’s] customers indirectly should pay a smaller share of Midwest ISO’s costs than other [transmission owners] and their customers.”⁷⁵

3. Answers

84. In response to Integrys’ and Wisconsin Electric’s argument that American Transmission Company and its customers will bear a disproportionate share of planning costs because they will be liable for their allocation of both American Transmission Company’s and Midwest ISO’s planning costs, Midwest ISO states that regardless of American Transmission Company’s decision to submit its own local planning process, it is equitable for Midwest ISO to “collect its planning costs from all participants, whether they have developed their own local plans or not, because the entire Midwest ISO footprint benefits from efficient development of a coordinated plan for a well-integrated and planned Transmission System.”⁷⁶

85. The Midwest ISO TOs state that Midwest ISO’s revisions to Attachment FF set forth one process that integrates both regional and local planning and that this fosters greater planning efficiency and coordination among all Midwest ISO transmission owners. Thus, the Midwest ISO TOs do not agree that American Transmission Company’s customers should be exempt from equally sharing the costs of Midwest ISO’s planning. The Midwest ISO TOs state that “[t]he decision by a particular transmission owner to file an individual Attachment K should not entitle that transmission owner’s customers to a discount for costs that Midwest ISO incurs for the benefit of all users of the grid. That transmission owner could have joined the Attachment FF procedures, thereby alleviating this issue.”⁷⁷

⁷⁴ Integrys Comments at 19.

⁷⁵ *Id.*

⁷⁶ Midwest ISO Answer at 12.

⁷⁷ Midwest ISO TOs Answer at 14.

4. Commission Determination

86. We find that Midwest ISO's Attachment FF does not address the recovery of planning costs because Attachment FF fails to stipulate the specific tariff schedule(s) through which Midwest ISO will recover planning costs (i.e., schedule 10). Therefore, Midwest ISO must include in the compliance filing directed below revisions to Attachment FF to provide that specificity. Furthermore, we will deny the requests of Wisconsin Electric and Integrys. We find that Wisconsin Electric and Integrys have not demonstrated that Midwest ISO will experience cost savings that can be attributed to American Transmission Company's filing of a separate planning process in Attachment FF-ATCLLC. Based on the record before us, we find it equitable for Midwest ISO to collect its planning costs from all participants.

F. Midwest ISO Transmission Owner Local Planning

87. In Order No. 890, the Commission found that in order for an RTO's or ISO's planning process to be open and transparent, transmission customers and stakeholders must be able to participate in each underlying transmission owner's planning process. Accordingly, as part of their Order No. 890 compliance filings, RTOs and ISOs were directed to indicate how all participating transmission owners within their footprints will comply with Order No. 890's planning requirements. The Commission emphasized that while it left the mechanics of such compliance to each RTO and ISO, it would nevertheless find an RTO's or ISO's planning process to be insufficient if its underlying transmission owners are not also obligated to engage in transmission planning that complies with Order No. 890.⁷⁸ In Order No. 890-A, the Commission made clear that each RTO and ISO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, their transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. The Commission concluded, however, that in the end each RTO and ISO was responsible for demonstrating compliance with each of the nine planning principles adopted in Order No. 890 since it is the entity with the planning process on file.⁷⁹ This includes ensuring that any plans developed by an RTO's or ISO's transmission-owning members, and relied upon by the RTO or ISO, are developed through a process that also complies with the requirements of Order No. 890.⁸⁰

⁷⁸ Order No. 890, FERC Stats.& Regs. ¶ 31,241 at P 440.

⁷⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175.

⁸⁰ *Id.* P 175-77.

1. Midwest ISO's Filing

88. Midwest ISO states that the majority of Midwest ISO transmission owners concluded that the best way to insure compliance with Order No. 890, while balancing the requirements of Midwest ISO's Transmission Owners Agreement,⁸¹ was to standardize the local planning process of each transmission owner by integrating it with the regional planning process of Midwest ISO's Attachment FF rather than to file individual planning attachments. Midwest ISO states that these transmission owners will retain their existing obligations and rights to plan but have agreed to do so by integrating their local planning processes with Midwest ISO's regional planning process proposed in section I.B.1 of Attachment FF. Section I.A.2.c of Attachment FF provides that the transmission owner's local plans will be subject to the review and approval of stakeholders beginning with the Sub-Regional Planning Meetings.

89. As proposed, sections I.B.1 and I.B.1.a of Attachment FF require transmission owners that are integrating their local planning process with that of Midwest ISO to follow specific local planning steps in order to develop their local plans for potential inclusion in Midwest ISO's MTEP. Attachment FF provides that these local plans will be evaluated and discussed with stakeholders through the annual regional planning process. Each transmission owner will submit its proposals for transmission projects to Midwest ISO prior to the start of each regional planning cycle, and each transmission owner will be required to participate in Sub-Regional Planning Meetings. The Sub-Regional Planning Meetings will serve as a forum for identifying customer and stakeholder needs, setting the scope of work for planning studies to address those needs, reporting on and receiving interim study results, and developing final recommendations for transmission solutions. Participants in the Sub-Regional Planning Meeting for each of three sub-regions⁸² will consist of the transmission owners in that sub-region, stakeholders, neighboring transmission-owning utilities, and any other interested party.

90. Midwest ISO states that it believes it is important that the process that the transmission owners go through to develop plans within their local systems be well coordinated with, and benefit from review by and input from stakeholders both within and outside of the local planning area. Midwest ISO states that this is important because proposed transmission expansions developed by a transmission owner can range from

⁸¹ "Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc.," FERC Electric Tariff, First Revised Rate Schedule No. 1 (Transmission Owners Agreement).

⁸² "Planning Sub-regions shall be defined based upon the Transmission Provider Planning Sub-regions: West, Central, and East as defined in Attachment FF-3." *See* FERC Electric Tariff, Third Revised Volume No. 1, Original Sheet No. 1834F.

modest upgrades to 34.5 kV transmission facilities to proposals for substantial upgrades to 345 kV or 765 kV facilities. Midwest ISO states that the Attachment FF provisions that fully integrate the local planning processes of electing transmission owners ensures that expansions proposed by the transmission owner are introduced into the regional planning process at the front end of their development, so that they can be fully vetted with stakeholders, modified as appropriate to best address stakeholder needs, and coordinated well with plans proposed by others.

2. Protests/Comments

a. Stakeholder Involvement at Local Planning Level

91. The Midwest TDUs state that the transmission owners will continue to engage in local planning, even if they have integrated their local planning process into Midwest ISO's regional MTEP planning process, and that local planning processes must also comply with Order No. 890. Moreover, the Midwest TDUs state that the process in Attachment FF that each transmission owner must follow prior to the commencement of the Sub-Regional Planning Meetings constitutes transmission planning and therefore must comply with Order No. 890. The Midwest TDUs note that Attachment FF requires that transmission owners follow "specific local planning steps" in developing proposals for plans to be included in the MTEP process.⁸³ The Midwest TDUs state that these steps encompass the key components of transmission planning: determination of study areas and horizons, development of system models, performing contingency analyses, determining violations and developing possible solutions, and analyzing those potential solutions to select the most appropriate one to implement.⁸⁴ The Midwest TDUs argue that these pre-Sub-Regional Planning Meeting activities cannot be separated from the concept of transmission planning that the Commission addressed in Order No. 890.

92. The Midwest TDUs state that Midwest ISO's Attachment FF does not bring openness and transparency to individual planning processes. The Midwest TDUs argue that instead Attachment FF offers only broad (three regions), infrequent (semi-annual), after-the-fact review of already developed transmission plans, which the Commission recognized in Order No. 890 would be too little, too late to satisfy the nine planning principles. The Midwest TDUs request that the Commission reject Midwest ISO's compliance filing or, if the Commission declines to reject the filing, the Commission should establish a technical conference.

⁸³ Midwest TDUs Comments at 17.

⁸⁴ *Id.*

93. The Midwest TDUs also argue that involving stakeholders only at the Sub-Regional Planning Meeting stage is too late and fails to comply with the requirement in Order No. 890 that transmission planning processes be collaborative and involve stakeholders from the early stages of planning. The Midwest TDUs argue that, for example, the Sub-Regional Planning Meeting process does not correct the failure of the transmission owners to, as required by the information exchange planning principle, to make available basic criteria, assumptions, and data that underlie their transmission system plans while those plans are being developed. The Midwest TDUs maintain that some of the most critical decisions are made during the first stages of the transmission planning process, such as deciding on appropriate assumptions and models. The Midwest TDUs argue that excluding stakeholders from these stages of the planning process denies them access to many of the most important parts of transmission planning, which cannot be effectively remedied by *post hoc* review. The Midwest TDUs state that given the amount of work done by the transmission owners in developing their proposed transmission plans before presenting them to the Sub-Regional Planning Meeting, the Sub-Regional Planning Meeting review and comment period obviously is not one of the early stages of plan development.

94. The Midwest TDUs state that Attachment FF should be rejected because it does not satisfy the requirements of Order No. 890 regarding the level of detail transmission providers must include in their compliance filings. The Midwest TDUs argue that, for instance, Attachment FF includes essentially no detail about the planning that transmission owners will carry out, except for a generic list of steps that transmission owners are supposed to follow in preparing their submissions to the Sub-Regional Planning Meetings. The Midwest TDUs state that this list contains broad and non-specific instructions, such as “[d]evelop appropriate power system models,” “perform contingency analysis using applicable Transmission Owner planning criteria,” and “select alternative based on cost and non-cost attributes”⁸⁵ In addition, with respect to Midwest ISO’s Sub-Regional Planning Meeting process, the Midwest TDUs state that Attachment FF and the Transmission Planning Business Practices Manual lacks the required detail and that the information provided in the Transmission Planning Business Practices Manual must also be provided in Attachment FF itself.

95. The Midwest TDUs suggest that to involve customers and other stakeholders in individual transmission owners’ local planning, each transmission owner should establish a local stakeholder planning committee comprised of stakeholders in each transmission owner’s area that meet more than twice a year. The Midwest TDUs state that these local planning committees would work with the transmission owner during the development of its plan (before submission to the Sub-Regional Planning Meeting) and would be an

⁸⁵ Midwest TDUs Comments at 25.

ongoing and collaborative way for stakeholders to be involved in the local planning process. The Midwest TDUs argue that such local committees would make the planning process more efficient, allowing stakeholder input to be more informed and productive and to allow for stakeholders to express concerns and make suggestions before studies are conducted or decisions are made. Furthermore, the Midwest TDUs suggest creating additional, smaller subregions for Sub-Regional Planning Meetings that meet more frequently to allow for more focused attention on local planning issues.

96. The Midwest TDUs suggest creating enforcement mechanisms that would give both Midwest ISO and stakeholders recourse in the event transmission owners do not comply with the Commission's Order No. 890 principles. The Midwest TDUs state that, for example, Attachment FF could: (1) require the transmission owners to submit to the Sub-Regional Planning Meeting with their annual local plan a detailed description of the process that went into creating that plan and to demonstrate that that process involved stakeholders in an Order No. 890 compliant fashion; (2) allow Midwest ISO, where a transmission owner has not addressed local planning needs, to require transmission owners to revisit those issues; and (3) designate a specific point of contact within Midwest ISO where stakeholders could bring grievances with particular local planning situations.⁸⁶

97. Furthermore, the Midwest TDUs state that under the Transmission Owners Agreement, transmission owners, and not Midwest ISO, have ultimate responsibility for planning for under 100 kV facilities and for facilities that have not been transferred to Midwest ISO's control. The Midwest TDUs argue, however, that Attachment FF requires that transmission owners electing to integrate their transmission planning with that of Midwest ISO must submit all transmission plans (for both transferred and non-transferred facilities, including, presumably, low voltage facilities) to Midwest ISO for review. The Midwest TDUs state that they are not confident that Midwest ISO will ensure local planning issues are addressed due to Midwest ISO's lack of familiarity and authority to plan for these types of projects. The Midwest TDUs state that Midwest ISO does not identify an enforcement mechanism to ensure that planning of facilities under 100 kV, for which the Transmission Owners Agreement makes transmission owners responsible, will occur in accordance with the Commission's Order No. 890 planning principles. The Midwest TDUs state that this undermines Midwest ISO's ability to oversee local planning because it appears that Midwest ISO may only accept or reject MTEP projects, while seemingly having no authority to alter non-MTEP projects. The Midwest TDUs argue that Midwest ISO appears to have no recourse against transmission owners who fail to meet this requirement, leaving transmission owners free to be unduly discriminatory in planning non-transferred or non-MTEP facilities. The Midwest TDUs

⁸⁶ *Id.* at 29-30.

state that if Midwest ISO had included, as required by Order Nos. 890 and 890-A, tariff language creating an open, transparent and coordinated planning process at the local level, stakeholders would have direct recourse with the transmission owners.⁸⁷

98. Integrys states that even if the Commission were to deem Midwest ISO's revisions to Attachment FF acceptable (in the context of including a planning process in its tariff), the specific language Midwest ISO has included in its Attachment FF is "vague and ambiguous in the critical areas involving TO planning and stakeholder participation in the planning process."⁸⁸ Integrys claims that, as submitted, Midwest ISO's proposed language "conveys the impression" that Midwest ISO is planning for the entire Midwest ISO footprint when, in fact, "extensive transmission planning will continue to be undertaken by transmission owners within their own transmission service areas."⁸⁹

99. Regarding grassroots participation in the planning process, Integrys states that Midwest ISO's proposed language is "fatal[ly] flaw[ed]" and that the Commission should direct Midwest ISO to "supplement its Order [No.] 890 planning filing to delineate the methods and procedures that will ensure that local sentiments are considered and have a full voice in the overall planning process."⁹⁰ Integrys states that the Planning Advisory Committee/Planning Subcommittee/Sub-Regional Planning Meeting structure does not relate to the planning processes of local transmission owners. Integrys argues that the current structure does not provide for input by and information exchanges with local interest groups and local property owners at the grassroots level. Integrys states that such persons should not be expected to attend Planning Advisory Committee, Planning Subcommittee and Sub-Regional Planning Meetings.

100. The Michigan Commission recommends adding a new section I.A.2.d to Attachment FF to allow Midwest ISO to form focused study groups to address specific system needs or issues that may be more narrow or local than typically covered by the Sub-Regional Planning Meeting process. The Michigan Commission proposes the following language:

The Transmission Provider, on its own behalf or upon request and in consultation with the Sub-Regional Planning Meeting Participants, Planning Subcommittee or Planning Advisory Committee, may form

⁸⁷ *Id.* at 22-24.

⁸⁸ Integrys Comments at 8.

⁸⁹ *Id.* at 9.

⁹⁰ *Id.* at 13.

targeted study groups of representatives of affected stakeholders based on the scope of a particular proposed project or need assessment. The intent of such a study group is to encourage active and early participation of stakeholders in the Transmission Provider planning process and to focus on specific planning issues and solutions that may be more narrow or detailed than typically covered by the Sub-Regional Planning Meeting. The study group must coordinate with the applicable Sub-Regional Planning Meeting processes.⁹¹

101. AMP-Ohio states that section B of Attachment FF defines the local planning process for transmission owners developing and submitting proposed expansions. AMP-Ohio states that step one in section B.1.a.i—Define local study area and study horizon—should be expanded to include an obligation on the part of transmission owners to solicit the comments of stakeholders within its service area. AMP-Ohio also argues that there should be a new step between B.1.a.iii and B.1.a.iv in which the transmission owner provides feedback to stakeholders showing the model and assumptions used for local planning purposes. AMP-Ohio argues that this revision is necessary to assure that transmission owners do not favor their own loads, as opposed to the loads of other stakeholders, when planning for their transmission needs.

b. Integration of Transmission Owners' Local Plans at the Sub-Regional Planning Meeting Level

102. American Transmission Company states that specific clarifications are needed regarding Midwest ISO's coordination, review and consideration of projects developed by transmission owners that have filed separate planning processes (i.e., American Transmission Company). Specifically, American Transmission Company states that Attachment FF is unclear as to how projects developed by a transmission owner, such as American Transmission Company, with its own local transmission planning process, will be included in the MTEP and also fulfill its responsibilities under Appendix B of the Transmission Owners Agreement.⁹²

103. American Transmission Company also states that several sections of Midwest ISO's Attachment FF specifically allow transmission owners to fulfill the local planning requirements of Order No. 890 solely through incorporation in Midwest ISO's process, but notes inconsistencies that require clarification to ensure that transmission projects developed by transmission owners that have their own Commission-approved local transmission planning process are properly reviewed and included in the MTEP. As a

⁹¹ Michigan Commission Comments at 3.

⁹² American Transmission Company Comments at 6.

result, American Transmission Company states that section I.A. should be revised to state:

This [MTEP] analysis and planning process shall integrate into the development of the MTEP among other things: (i) the transmission needs identified from Facilities studies carried out in connection with specific transmission service requests; (ii) transmission needs associated with generator interconnection service; (iii) the transmission needs, including proposed transmission projects, identified by the Transmission Owners in connection with their planning analyses in accordance with the local planning process described in section I.B.1.a to this Attachment FF and the coordination processes of section 1.B.1.b, or developed by Transmission Owners utilizing their own FERC-approved local transmission planning process, as applicable, to provide reliable power supply to their connected load customers and to expand trading opportunities, better integrate the grid and alleviate congestion;⁹³

104. American Transmission Company also states that the Sub-Regional Planning Meeting provisions should be clarified to prevent duplication of local transmission planning processes. American Transmission Company argues that the Sub-Regional Planning Meeting provisions in section I.A.2.c of Attachment FF should more clearly provide that projects developed by transmission owners with their own local planning process will only be further evaluated by Midwest ISO for regional coordination purposes. Therefore, American Transmission Company proposes to revise the Sub-regional Planning Meetings section I.A.2.c.ii.b as follows:

Review and comment on proposed Transmission Owner plans identified in local planning processes described in section 1.B.1.a of their Attachment FF, for additions and modifications to the sub-regional transmission system, as potential solutions to identify system needs, except that the transmission projects developed through a Transmission Owner's own FERC-approved local transmission planning process will only be considered in [Sub-Regional Planning Meetings] to coordinate such projects with the plans or projects of other Transmission Owners and not re-evaluated to determine the projects' ability to address local system needs.⁹⁴

⁹³ *Id.* at 6-7.

⁹⁴ *Id.* at 8.

105. American Transmission Company also states that transmission owners should be permitted to apply out-of-cycle project review procedures to their own local transmission planning processes. American Transmission Company notes that section VII—Planning Responsibilities of Owners—of Appendix B of the Transmission Owners Agreement states that “Midwest ISO shall develop a streamlined approval process for reviewing and approving projects proposed by the [transmission owner] so that decisions will be provided to the [transmission owner] within thirty (30) days of the projects submittal to Midwest ISO unless a longer review period is mutually agreed upon.”⁹⁵ American Transmission Company states that a corresponding provision is included in Attachment FF to allow this out-of-cycle review. American Transmission Company argues, however, that this provision in Attachment FF is only applicable to transmission owners who have elected to integrate their own local planning process into Midwest ISO’s Attachment FF. American Transmission Company states, therefore, that Midwest ISO should revise section I.B.2 to ensure there is a comparable process for transmission owners electing to keep their own local planning process. American Transmission Company proposes to revise section I.B.2, as follows:

With the exception of ~~Section I.B.1~~ sections I.B.1.a. and I.B.1.b. the provisions of the Attachment FF remain applicable to all Transmission Owners notwithstanding the filing by any Transmission Owner of an Attachment K pursuant to the Order 890 Final Rule.⁹⁶

106. American Transmission Company also notes that section I.B.2 states that, for transmission owners that filed their own Attachment K, “[t]hese Transmission Owners have an Attachment K that is part of their Commission-approved tariffs that describes how the Transmission Owner will comply with the Order No. 890 Planning Principles for all transmission facilities that they plan for, regardless of whether those facilities are ultimately transferred to the functional control of the Transmission Provider.”⁹⁷ American Transmission Company requests that Midwest ISO delete the phrase “that is part of their Commission-approved tariffs” because it is not necessarily correct that all transmission owners that filed their own Attachment K will have their own tariff. American Transmission Company states that transmission service is provided over American Transmission Company’s transmission system under the terms of Midwest ISO’s TEMT.

⁹⁵ *Id.* at 9.

⁹⁶ *Id.*

⁹⁷ *Id.* at 10.

107. The Michigan Commission states that Attachment FF is not clear in several respects, including: (1) how proposed projects of transmission owners with their own Commission-approved planning process will have projects reviewed and approved by Midwest ISO for inclusion in the MTEP; and (2) how transmission owners with their own Commission-approved planning process should coordinate with the Sub-Regional Planning Meetings. The Michigan Commission recommends that the Commission direct Midwest ISO to submit revised tariff sheets to specify, in section I.B.2 of Attachment FF: (1) how individual transmission owner plans will be received and approved by Midwest ISO; and (2) how individual transmission owners should coordinate their Commission-approved planning process with the Midwest ISO-wide planning process.⁹⁸

108. Consumers Energy states that proposed section I.A.5 provides that projects included in the MTEP may be based on any applicable planning criteria, including “local planning reliability or economic planning criteria of the Transmission Owner.”⁹⁹ Consumers Energy argues that a transmission owner, especially an independent transmission company, should not be allowed to unilaterally specify its own economic planning criteria. Furthermore, Consumers Energy states that Midwest ISO should conduct the planning according to specific reliability planning criteria (i.e., NERC and Regional Reliability Organization standards) and economic planning criteria as filed in Attachment FF for Regionally Beneficial Projects. Consumers Energy argues that allowing transmission-only companies, which do not have to justify overbuilding, to unilaterally specify their own economic planning criteria will result in customers being harmed by unnecessary projects and expenditures.

109. Wisconsin Electric states that it is not apparent from Midwest ISO’s filing what local planning responsibilities, if any, Midwest ISO contemplates will remain with individual transmission owners. In addition, Wisconsin Electric states that it is concerned about the continuing rights of transmission owners, such as American Transmission Company, that choose to engage in local planning. Wisconsin Electric states that it does not object to Midwest ISO’s assumption of local planning responsibilities for those transmission owners that wish to cede their local planning. However, Wisconsin Electric states that it would object to any Commission action submitting local planning within the American Transmission Company footprint to Midwest ISO’s authority.¹⁰⁰

110. Furthermore, Integrys argues that the proposed language in Attachment FF fails to adequately describe the process by which planning information flows from transmission

⁹⁸ Michigan Commission Comments at 5.

⁹⁹ Consumers Energy Comments at 8.

¹⁰⁰ Wisconsin Electric Comments at 4.

owners, to Midwest ISO, and then back to the transmission owners. Most importantly, according to Integrys, is that Midwest ISO's tariff should "detail the circumstances and conditions under which Midwest ISO can override [transmission owner] determinations and provide for a transparent process for the consideration of [transmission owner] findings in its own planning process."¹⁰¹

3. Answers

111. With respect to the Midwest TDUs' protest that stakeholders are precluded from meaningful participation in local planning processes, Midwest ISO states that its proposed revisions to Attachment FF provide numerous opportunities for stakeholder contribution throughout the planning process, including the front-end of the planning cycle. For example, it asserts, Attachment FF provides for working groups "to perform specific tasks supporting the planning processes, such as model development and detail review of study results and draft plan reports."¹⁰²

112. Midwest ISO disagrees with the Midwest TDUs' allegation that the Sub-Regional Planning Meeting process is inadequate. Midwest ISO states that the duties of Sub-Regional Planning Meeting participants include: (1) providing recommendations for a coordinated sub-regional plan; (2) reviewing and commenting on proposed transmission owner plans identified in local planning processes; (3) creating technical study task forces to carry out sub-regional planning; and (4) recommending proposed sub-regional plans to the Planning Subcommittee for inclusion in the MTEP, among other things.¹⁰³ Additionally, Midwest ISO states that "Attachment FF provided for a *minimum* of twice-yearly [Sub-Regional Planning Meetings], with the opportunity to meet more frequently to provide input, review plans and recommend changes when needed."¹⁰⁴

113. Regarding the Midwest TDUs' protest that Attachment FF should be modified to bolster enforcement mechanisms in the event a transmission owner fails to comply with the principles of Order No. 890, Midwest ISO states that it has no reason to believe that a transmission owner would opt not to comply with Order No. 890, but that, in any event, section I.A.14 of Attachment FF already contains adequate dispute resolution procedures, and, thus, no Commission action is required.

¹⁰¹ Integrys Comments at 12.

¹⁰² Midwest ISO Tariff at Original Sheet No. 1834E.

¹⁰³ Midwest ISO Answer at 16.

¹⁰⁴ *Id.* (emphasis in original).

114. Midwest ISO disagrees with protesters' claims that the proposed revisions to Attachment FF fail to address how Midwest ISO will incorporate projects identified during local transmission planning processes into the MTEP. Midwest ISO notes that section I.B.1.b of Attachment FF—Integration of Local Planning Processes of Transmission Owners—describes the process for incorporating transmission owner-identified projects in the overall regional planning process.

115. Midwest ISO also states that the Midwest TDUs' claim that its concerns regarding the incorporation of low voltage facilities have been ignored is disingenuous. Midwest ISO states that it invited the Midwest TDUs to discuss their concerns and to provide Midwest ISO with some of its own proposals for Attachment FF. Midwest ISO states that it made substantial changes to Attachment FF in response to comments and suggestions that the Midwest TDUs made at the October 15, 2007 technical conference in Boston and in their subsequent comments.

116. The Midwest ISO TOs argue that Midwest ISO's proposed revisions to Attachment FF sufficiently integrate the local planning processes of transmission owners and that the planning processes are in compliance with Order No. 890. The Midwest ISO TOs state that, despite claims to the contrary, the planning processes found in Attachment FF are not merely a *post hoc* review of decisions already made but rather an up-front examination of submitted proposals.¹⁰⁵

117. In addition to its support of Midwest ISO's proposed revisions to Attachment FF, the Midwest ISO TOs take exception to the Midwest TDUs' request for what they characterize as the overly-intrusive inclusion of outside parties into the transmission owner's data gathering, development of technical models, and the evaluation of the system requirements prior to the submittal of a proposal into Midwest ISO's planning process. The Midwest ISO TOs aver that stakeholders already have the ability to fully review proposed projects and that including these changes would "paralyze" the transmission owner's consideration of system upgrades and expansions.¹⁰⁶

118. In its own answer, the Midwest TDUs claim that the Midwest ISO TOs mischaracterize the proposal to have more stakeholder input before the Sub-Regional Planning Meeting meetings begin as an effort to gain "co-equal control" over the transmission planning process. Furthermore, the Midwest TDUs state that they only seek

¹⁰⁵ Midwest ISO TOs Answer at 8.

¹⁰⁶ *Id.* at 10.

to include measures that would make the Attachment FF process fulfill the Commission's vision rather than to "paralyze" the planning process.¹⁰⁷

119. In response to the protests of Integrys and Wisconsin Electric, Midwest ISO states that the proposed revisions to Attachment FF clearly delineate the responsibilities that will be assigned to Midwest ISO and those that will be assigned to the transmission owners. Midwest ISO states that Attachment FF specifies that transmission owner proposals developed through local planning processes will be included in the beginning of each regional planning cycle as potential alternatives to local system needs and that transmission owners, together with Midwest ISO and its stakeholders, will develop planning models that reflect expected system conditions for the planning horizon. Furthermore, Midwest ISO reiterates that transmission owners will continue to have the planning responsibilities provided in Appendix B of the Midwest ISO Transmission Owners Agreement and that nothing in its proposal is meant to modify or usurp any existing obligations.¹⁰⁸

120. American Transmission Company states that Midwest ISO's proposed Attachment FF sufficiently addresses Consumers Energy's contention that a transmission-only company will have an unfettered right to plan and construct whatever it chooses using whatever criteria it cares to select. Additionally, American Transmission Company states Midwest ISO, as required by Appendix B of the Transmission Owners Agreement, must allow each transmission owning member to plan for its respective system and to employ the planning criteria established by the respective transmission owner and thus, the proposed changes to Attachment FF are appropriate.¹⁰⁹

121. American Transmission Company also disputes the notion of Consumers Energy that mandatory planning standards developed by NERC and other regional entities should displace American Transmission Company's local planning processes. Specifically, American Transmission Company states that because it alone is responsible for its transmission system, American Transmission Company should be empowered to develop its own planning processes while acknowledging that American Transmission Company will bear any and all responsibility should it fail to comply with mandatory standards.¹¹⁰ American Transmission Company states that under the terms of Appendix B of the Transmission Owners Agreement, individual transmission owners have the right to

¹⁰⁷ Midwest TDUs Answer to the Answer of The Midwest ISO TOs at 3-4.

¹⁰⁸ *Id.* at 10.

¹⁰⁹ American Transmission Company Answer at 4-5.

¹¹⁰ *Id.* at 7-8

propose their own local planning criteria. American Transmission Company states that it exercised that right and filed an individual planning process.

122. American Transmission Company also challenges the assertion put forth by Consumers Energy that rate allocation methods (i.e., criteria for identifying Regionally Beneficial Projects) can be used as a proxy for economic analysis. Specifically, American Transmission Company argues that the methodology approved by the Commission for assessing the construction costs of economic projects should not be the basis for evaluating proposed projects because the cost sharing provisions of Attachment FF were designed to allocate costs rather than evaluate the propriety of a project.¹¹¹

123. In its Answer responding to Consumers Energy, International Transmission Company supports Midwest ISO's proposed revisions to Attachment FF that allow for local planning processes as part of the greater regional planning process. International Transmission Company also denigrates Consumers Energy's explicit criticism that providing for the participation of independent transmission owners in the planning process, which do not have any responsibility to justify overbuilding, will result in customers being harmed. International Transmission Company asserts that this criticism is based on false premises and is unsupported by fact.¹¹²

4. Commission Determination

124. We find that Midwest ISO's proposal to integrate the majority of its transmission owners' local planning functions into Midwest ISO's Attachment FF regional planning process, in place of each transmission owner filing a separate planning process attachment, is permissible under Order No. 890.¹¹³ However, we find that the method the Midwest ISO has used to accomplish this integration is not in compliance with the planning principles of Order No. 890. We find that the proposed process would result in transmission owners' local plans being developed without participation and input from stakeholders, which puts stakeholders at a disadvantage by not allowing them to provide timely and effective feedback in the transmission planning process. Stakeholders should have information about the scope of the individual transmission owner's plan, as well as the assumptions and models, as they are formulated by the transmission owners, prior to

¹¹¹ *Id.*

¹¹² International Transmission Company Answer at 3-4.

¹¹³ As discussed above, American Transmission Company declined to adopt this approach and will engage in local planning through a separate American Transmission Company-specific local planning process provided in Attachment FF-ATCLLC to the TEMT, which will be addressed by the Commission in Docket No. OA08-42-000.

the submittal of the local plans to the Sub-Regional Planning groups. As the Commission explained in Order No. 890, local planning issues may be critically important to transmission customers embedded within the service areas of individual transmission owners.¹¹⁴

125. Specifically, in Order No. 890, the Commission determined that in order for RTOs and ISOs to have an open and transparent planning process, transmission customers and stakeholders must be able to participate in each underlying transmission owner's planning process.¹¹⁵ The Commission stated that the intent of Order No. 890 "will not be realized if only the regional planning process conducted by the RTOs and ISOs is shown to be consistent with or superior to the Final Rule."¹¹⁶ Furthermore, the Commission stated that individual transmission owners must, to the extent that they perform transmission planning within an RTO or ISO, also comply with planning requirements. The Commission determined that RTOs and ISOs, as part of their planning compliance filings, must indicate how all participating transmission owners within their footprint will comply with the planning requirements. However, the Commission stated that the "mechanics" of such compliance will be left to each RTO and ISO.¹¹⁷

126. In Order No. 890-A, the Commission clarified that the filing and posting requirements associated with the planning-related reforms adopted in Order No. 890 apply only to the transmission provider, which in the case of an RTO, is the RTO itself and not the transmission-owning members without an OATT.¹¹⁸ Each RTO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, their transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. It is the responsibility of each RTO, however, to demonstrate that it complies with each of the nine planning principles adopted in Order No. 890 since the RTO is the transmission provider with a

¹¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ A transmission-owning RTO or ISO member that continues to have an OATT on file under which it provides service over jurisdictional facilities not under control of the RTO or ISO must file an Attachment K to that OATT covering planning for those facilities. This would apply equally to a transmission provider that has retained operational control of facilities governed by other non-OATT arrangements. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175 & n.71.

tariff on file with the Commission. This responsibility includes ensuring that any plans developed by an RTO's transmission-owning members as part of a local planning process integrated into the RTO's tariff meet the requirements of Order No. 890.¹¹⁹

127. Accordingly, in order for Midwest ISO's planning process to comply with the planning principles of Order No. 890, the transmission owners' local planning processes must also meet these principles. Therefore, transmission owners that have decided to incorporate their local planning process into the overall Midwest ISO process (i.e., all transmission owners except American Transmission Company) in Attachment FF must provide stakeholders with an adequate level of formal participation in the transmission owners' local planning process. This stakeholder involvement in the local planning process must occur prior to the transmission owners submitting their draft plans for review at the Sub-Regional Planning Meeting.

128. We note that Midwest ISO indicates that it already expects stakeholders to have input very early on in the planning process:

Whenever a proposed project is brought into the regional planning process, it has to be brought in at the conceptual level, very early on in the process. Otherwise, the Transmission Owners would likely be required to submit their own individual Attachment Ks, because the planning would no longer take place at the Midwest ISO level under revised Attachment FF.¹²⁰

The requirement that Attachment FF provide for stakeholder involvement earlier in the transmission owner's planning process, therefore, simply makes explicit what Midwest ISO expected. In addition, we conclude that it is appropriate to allow relevant stakeholders to provide input into the local planning process *before* the Sub-Regional Planning Meeting. This will provide transmission owners the opportunity to address questions and concerns that may be more easily resolved at the local level. This will also allow the Sub-Regional Planning Meetings to be more narrowly focused on issues related to the larger sub-region and may make the Sub-Regional Planning Meetings more productive since stakeholders that were already involved at the local level will have been given information that will allow them to provide informed input.

129. Therefore, in the compliance filing directed below, Midwest ISO must revise the local planning process incorporated into Attachment FF to fully comply with the planning principles of Order No. 890. Because we are requiring these revisions, we will reject as unnecessary the Midwest TDUs' request for a technical conference. We encourage

¹¹⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175-77.

¹²⁰ Midwest ISO Answer at 9.

Midwest ISO to consider the helpful suggestions of the Midwest TDUs and the Michigan Commission regarding smaller geographic regions or focused study groups.

130. We also reject as unnecessary the Midwest TDUs' suggestion to create enforcement mechanisms in the event transmission owners do not comply with Order No. 890. As discussed above, we are requiring Midwest ISO to revise its process to ensure that stakeholders will have the opportunity to be involved in the planning process beginning with the development of the transmission owner's local plans. We also find, with regard to the Midwest TDUs' concerns about the planning and review by Midwest ISO of low voltage and non-transferred facilities, that the integrated local planning processes, as revised above, will allow stakeholders to review and comment on plans for these facilities at the local level, before transmission owners submit any plans to Midwest ISO. Moreover, after it is revised as discussed above, the local planning process will give stakeholders input into the transmission owners' development of models and assumptions used in local planning.

131. We also agree with commenters that Attachment FF is unclear with respect to how specific plans and projects submitted by transmission owners that choose to have a separate local planning process (i.e., American Transmission Company) will be evaluated as part of the Sub-Regional Planning Meetings for potential inclusion in the MTEP, and to what extent local plans developed by American Transmission Company will be subject to further review and approval by stakeholders and Midwest ISO. Midwest ISO appears to agree that projects that American Transmission Company proposes as a result of American Transmission Company's individual local planning process will "only be considered in [Sub-Regional Planning Meetings] to coordinate such projects with the plans or projects of other Transmission Owners."¹²¹ We agree that it may be unnecessary for American Transmission Company's proposed projects to be evaluated at the Sub-Regional Planning Meetings for their ability to address American Transmission Company's local system needs, as this is vetted with stakeholders at the local level through Attachment FF-ATCLLC accepted concurrently in Docket No. OA08-42-000. However, we find that American Transmission Company's proposed local plans should be subject to the same level of scrutiny that other transmission owners' transmission plans face before being included in the MTEP. Accordingly, we direct Midwest ISO to revise Attachment FF to state specifically how projects submitted by a transmission owner with a separate local planning process will be evaluated as part of the Sub-Regional Planning Meeting process. As discussed further below, stakeholders must have the opportunity to review and comment on transmission plans submitted by American Transmission Company for inclusion in the MTEP at Sub-Regional Planning Meetings.

¹²¹ Midwest ISO Answer at 15 (citing American Transmission Company Comments at 8).

Midwest ISO must include these revisions as part of the compliance filing directed below.

132. Therefore, in order to comply with Order No. 890's local planning requirements, the Commission directs Midwest ISO to modify Attachment FF to: (i) require each transmission owner's local plan to be made available on a website for review by the Planning Advisory Committee, the Planning Subcommittee and the Sub-regional Planning group (subject to CEII and existing Attachment FF confidentiality provisions); (ii) provide links to each transmission owner's local plan on Midwest ISO's website; (iii) require transmission owners to post the planning criteria and assumptions used in its current local plan; (iv) provide links to each transmission owner's planning criteria and assumptions on Midwest ISO's website; and (v) require transmission owners to provide a reasonable opportunity for written comments after the posting of their local plan.

133. Furthermore, we find that stakeholders should not be precluded from reviewing proposed low voltage and non-transferred facilities at the Sub-Regional Planning Meetings for both American Transmission Company and all other transmission owners, even though the costs associated with these projects will be recovered through Attachment O formula rates and issues related to these projects will be evaluated on a more localized basis, prior to the Sub-Regional Planning Meetings, as revised above. We expect, however, that many of the concerns relating to distribution level projects will be fully vetted at the local level, leaving Sub-Regional Planning Meetings to more narrowly focus on proposed plans to be included in the MTEP. Midwest ISO states, with regard to even 34.5 kV facilities, that:

The Midwest ISO process will provide for sub-regional meetings with customers where even 34[.]5 kV issues can be raised to the Midwest ISO by customers that do not feel that their local transmission issues are being adequately addressed by the Transmission Owner. Under the Midwest ISO proposal, Transmission Owners will report to the Midwest ISO any system modifications that are proposed to all transmission level systems. These proposed system modifications will be fair game for discussion by stakeholders in the [Sub-Regional Planning Meeting] public forums organized by the Midwest ISO, just as for higher voltage plans.¹²²

134. We disagree with Consumers Energy that allowing MTEP to include projects proposed by transmission owners, especially an independent transmission company, using their own local planning reliability or economic planning criteria will result in customers being harmed by unnecessary projects and expenditures. We find that under the terms of Appendix B of the Transmission Owners Agreement, transmission owners

¹²² Midwest ISO Transmittal Letter at 13.

posses the right to propose their own local planning criteria. The Transmission Owners Agreement states:

To fulfill [the transmission owners'] roles in the collaborative process for the development of the [MTEP], the [transmission owners] shall develop expansion plans for their transmission facilities while taking into consideration the needs of (i) connected loads, including load growth, (ii) new customers and new generation sources within the [transmission owner's] system, and (iii) known transmission service requests.¹²³

135. Furthermore, once a project is submitted to Midwest ISO for inclusion in the MTEP, it becomes subject to the criteria established for Baseline Reliability Projects or Regionally Beneficial Projects for regional cost sharing, including the process of stakeholder review and comment. Stakeholders will also have the opportunity to evaluate and comment on a transmission owner's proposed criteria as part of their earlier inclusion in the local planning process that we mandate above and again at the Sub-Regional Planning Meetings. The Commission finds that Midwest ISO's planning procedures will sufficiently protect stakeholders against unnecessary projects and expenditures while still allowing transmission owners (e.g., American Transmission Company) to exercise their rights under the Transmission Owners Agreement.

136. However, in the case where a proposed project does not meet the criteria for regional cost-sharing or the transmission owner does not seek cost sharing, the Commission found in the ITC Order that "[n]othing in Attachment FF of the Midwest ISO [t]ariff precludes parties, including [transmission owners] from supporting the construction of projects where either the reliability or economic benefit criteria necessary for regional cost sharing in Attachment FF are not satisfied, or where no regional cost sharing is sought by the parties, if the projects provide benefits that are sufficient for the parties to support the project financially without regional cost-sharing."¹²⁴ In this instance, the open and transparent planning local planning process of the transmission owners, as revised above, and that of American Transmission Company, provides an opportunity for stakeholder involvement to question the data, models and assumptions used to collaboratively develop plans. However, in instances where these transmission plans significantly affect Available Transfer Capability, Appendix B of the Transmission Owners Agreement requires approval from Midwest ISO to ensure there is no regional impact on the system. In this regard, Appendix B of the Transmission Owners Agreement states:

¹²³ Midwest ISO, FERC Electric Tariff, First Revised Rate Schedule No. 1, Original Sheet No. 114.

¹²⁴ *ITC Holdings Corp.*, 121 FERC ¶ 61,229, at n.62 (2007) (ITC).

Any [transmission owner's] plans that call for modifications to the [t]ransmission [s]ystem which would significantly affect [available transfer capability] must be approved by Midwest ISO before being implemented.¹²⁵

137. In response to the concerns of Wisconsin Electric regarding the continuing rights of transmission owners to plan for local needs, we note, consistent with our discussion above, that nothing in the revised Attachment FF will displace the existing rights and/or obligations of transmission owners to plan for their respective systems in collaboration with Midwest ISO.

138. We do, however, agree with American Transmission Company that several inconsistencies exist in Attachment FF that require clarification to ensure that transmission projects developed by American Transmission Company are included in the Attachment FF processes. First, as discussed above, we will require Midwest ISO to delete from section I.B.2 the phrase "that is part of their Commission-approved tariffs." Second, we will require Midwest ISO to revise section I.A to state:

(iii) the transmission needs, including proposed transmission projects, identified by the Transmission Owners in connection with their planning analyses in accordance with the local planning process described in Section I.B.1.a to this Attachment FF and the coordination processes of Section I.B.1.b, or developed by Transmission Owners utilizing their own FERC-approved local transmission planning process [described in section I.B.2], as applicable, to provide reliable power supply to their connected load customers and to expand trading opportunities, better integrate the grid and alleviate congestion;

Finally, we will require Midwest ISO to revise section I.B.2 to allow for out-of-cycle review procedures to apply to American Transmission Company, as follows:

With the exception of sections I.B.1.a and I.B.1.b, the provisions of the Attachment FF remain applicable to all Transmission Owners notwithstanding the filing by any Transmission Owner of an Attachment K pursuant to the Order [No.] 890 Final Rule.

¹²⁵ Midwest ISO, FERC Electric Tariff, First Revised Rate Schedule No. 1, Original Sheet No. 114.

G. Failure to Properly Redline Tariff Sheets**1. Midwest ISO Filing**

139. Midwest ISO has proposed revisions to the non-rate terms and conditions of service set forth in its TEMT at Attachment FF, which is where its existing transmission planning process is located, and states that these revisions comply with the transmission planning requirements promulgated by the Commission in Order No. 890.

2. Protests/Comments

140. Consumers Energy states that the Commission should reject the filing and require Midwest ISO to make a revised filing with redline strikeout that is based on the current tariff, pursuant to section 35.10(c) of the Commission's regulations. Consumers Energy argues that the attached redline is not based on the current tariff, but instead, the redline contains language that has been proposed in other dockets, but has not been approved by the Commission. Similarly, Integrys argues that Midwest ISO has not clearly redlined all of its tariff additions, deletions, and modifications.

3. Answers

141. In its answer, Midwest ISO disputes arguments put forth by protestors that it failed to properly redline all of the new provisions in Attachment FF in accordance with section 35.10(c) of the Commission's rules. Specifically, Midwest ISO states that it interprets section 35.10(c) of the Commission's regulations, as detailed in Order No. 568,¹²⁶ as requiring parties to "only submit redline pages for *existing* tariff sheets that are being modified in some way; new tariff sheets, by definition, are not already existing sheets and thus cannot be 'modified.'"¹²⁷

142. In its answer to Midwest ISO's answer, Consumers Energy also notes that language the Commission expressly rejected in a previous proceeding is included on

¹²⁶ Filing Requirements for Public Utility and Interstate Natural Gas Company Rate Schedules and Tariffs, Order No. 568, 59 Fed. Reg. 40,238 (August 8, 1994).

¹²⁷ Midwest ISO Answer at 3.

tariff sheet No. 1836 without any notice or indication that would alert a reader that a change has occurred.¹²⁸

4. Commission Determination

143. At issue here are the circumstances that require submission of redline versions of tariff sheets to indicate additions and deletions to tariff language. We find that Midwest ISO, except as discussed below, properly submitted redline strikeout versions of tariff sheets in accordance with section 35.10(c) of the Commission's Regulations.¹²⁹ Section 35.10(c) states:

At the time a public utility files with the Commission and posts under this part to supersede, supplement, or otherwise change the provisions of a rate schedule previously filed with the Commission under this part, in addition to the other requirements of this part, it must file and post a marked version of the pages to be changed showing additions and deletions. The new language must be marked by either highlighted text, background shading, bold text, or underlined text. Deleted language must be marked by strikethrough. A marked version of the pages to be changed must be included in each copy of the filing required to be filed or posted by this part.

With regard to new tariff sheets filed by Midwest ISO,¹³⁰ we find that tariff language submitted on original sheets does not require redline since these do not contain modifications to Commission-accepted tariff sheets. We note that redline strikeout, under section 35.10(c), is required when an existing tariff sheet is modified to add or delete language not previously approved by the Commission. Since Midwest ISO proposed tariff language on original tariff sheets, it was not modifying tariff sheets already on file with the Commission, and thus there was nothing to redline.

144. In addition, we note that Commission-accepted tariff language now contained on Original Sheet Nos. 1834Q¹³¹ and 1835H¹³² was previously contained on Substitute

¹²⁸ Consumers Energy Answer at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,081 (2008), where the Commission rejected, among other proposed language in Attachment FF, the phrase "other than Enhanced High Voltage Projects" on Second Revised Sheet No. 1836).

¹²⁹ 18 C.F.R. § 35.10(c) (2007).

¹³⁰ Original Sheet Nos. 1834A-1834Q and 1835A-1835I.

¹³¹ Section I.B—Project Coordination.

Original Sheet Nos. 1834 and 1835, respectively. We find that Midwest ISO, in revising Attachment FF to comply with the planning principles of Order No. 890, inserted new language between two existing sections, resulting in Commission approved tariff language being moved to subsequent tariff sheets. In this instance, we note that Midwest ISO properly provided redline strikeout of proposed revisions to Commission-accepted tariff language on Original Sheet Nos. 1834Q and 1835H.

145. We do, however, agree with Consumers Energy that Midwest ISO's instant filing contains tariff language that was previously rejected by the Commission.¹³³ We will therefore require Midwest ISO to revise Attachment FF to remove language that the Commission previously rejected and to include these changes in the compliance filing directed below.

H. Other Issues

146. International Transmission Company states that Attachment FF-4—Transmission Owners Integrating Local Planning Processes Into Transmission Provider Processes for Order No. 890 Compliance— should be revised to substitute ITC Midwest for Alliant Energy Corporate Services, Inc. on behalf of Interstate Power and Light Company (Interstate Power) due to ITC Midwest acquiring the jurisdictional transmission assets of Interstate Power.¹³⁴

147. American Transmission Company states that Midwest ISO should include a separate Attachment FF-5 to clearly identify the transmission owners that have filed their own local transmission planning process with the Commission, and Attachment FF should reference these transmission owners as being listed in Attachment FF-5. American Transmission Company states that this would provide clarity by separating these transmission owners from those identified in Attachment FF-4 that have integrated their local planning process into Midwest ISO's planning process.

148. AMP-Ohio states that the Commission should impose, as it did with the OATT development and, for example, in Order No. 2003 (with respect to large generator

¹³² Sections I.C—Joint Regional Planning Coordination and section II—Development Process for MTEP Projects.

¹³³ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,081 (2008) (rejecting proposed tariff language in Attachment FF).

¹³⁴ International Transmission Company comments at 4 (On December 3, 2007, the Commission authorized ITC Midwest to acquire the jurisdictional transmission assets of Interstate Power.) See *ITC.*, 121 FERC ¶ 61,229.

interconnection rules), a requirement for periodic review of the planning process and its results early in its life, perhaps after two or three planning cycles have been completed.

Commission Determination

149. With regard to International Transmission Company's request to substitute ITC Midwest for Interstate Power, we will require Midwest ISO to make that revision. In response to American Transmission Company's request to separately list and reference transmission owners with their own local transmission planning process filed with the Commission in a new Attachment FF-5, we find that this will provide needed clarity. Therefore, we direct Midwest ISO to make these changes in the compliance filing directed below.

150. With respect to AMP-Ohio's recommendation, we find it reasonable to periodically monitor Midwest ISO's planning process. As noted above, Commission staff will periodically monitor the implementation of Midwest ISO's planning process and will also convene regional technical conferences in 2009 for this purpose. As we also noted earlier, Midwest ISO "recognizes the need for periodic evaluation of the effectiveness of the MTEP procedures to ensure that the Attachment FF process is meeting the needs of all of the stakeholders."¹³⁵ We also note that Midwest ISO is currently subject to certain reporting requirements as required in RECB II.¹³⁶ Furthermore, we note that Midwest ISO's tariff provides for transmission customers and market participants to pursue grievances through informal and formal dispute resolution processes. In addition, stakeholders have the opportunity to identify concerns with the planning process by making a formal filing with the Commission, and the Commission can evaluate whether any changes to Midwest ISO's planning process are needed at that time.

151. We will also require Midwest ISO to clarify why Aquila is listed as a transmission owner filing separate transmission planning processes in Attachment FF-4. We note that Aquila has filed its transmission planning processes in Docket No. OA08-18-000¹³⁷ to comply with Order No. 890.

¹³⁵ Midwest ISO Answer at 21.

¹³⁶ *See supra* note 10.

¹³⁷ On December 6, 2007, Aquila, on behalf of its three operating divisions, Aquila Networks-MPS (MPS), Aquila Networks-L&P (L&P), and Aquila Networks-WPC (WPC), submitted its transmission planning process as a proposed attachment to its OATT. In its filing, Aquila states that MPS and L&P are members of the Southwest Power Pool, Inc. (SPP). As a transmission owning member, Aquila states that it has

(continued...)

The Commission orders:

(A) Midwest ISO's compliance filing, as modified, is hereby accepted, effective December 7, 2007, subject to a further compliance filing, as discussed in the body of this order.

(B) Midwest ISO is hereby directed to submit a further compliance filing, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Moeller concurring with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

placed its transmission system under the functional control of SPP and fully participates in the SPP transmission planning process as outlined in Attachment O of the SPP OATT. Attachment K for WPC, Aquila's operating division in Colorado, sets forth detailed information describing its transmission planning process.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission
System Operator, Inc.

Docket No. OA08-53-000

(Issued May 15, 2008)

MOELLER, Commissioner *concurring*:

In authorizing an effective planning process, this order will encourage construction of the transmission investments that are needed to ensure reliable and efficient energy delivery in this nation. This order should not be viewed, however, as a means to delay needed investment in transmission. In particular, this order allows for a coordination between local and regional planning, yet that does not mean that an issue already resolved at the local level should be subject to needless delay at the regional level.

Transmission planning should not be an endless process. The goal of planning is to build needed facilities, and those facilities will not be built if participants can indefinitely delay the process.

Philip D. Moeller
Commissioner