

123 FERC ¶ 61,163
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.

PJM Interconnection, L.L.C.

Docket No. OA08-32-000

ORDER ON COMPLIANCE FILING

(Issued May 15, 2008)

1. On December 7, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ PJM Interconnection, L.L.C. (PJM) submitted its transmission planning process, as required by Order No. 890.² In this order, we accept PJM's compliance filing subject to further compliance filings as directed.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process.³ To remedy the potential for undue discrimination in planning

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

² *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, FERC Status & Regs. ¶ 31,261 (2007).

³ The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability (ATC) and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles (discussed below) and to clearly describe that process in a new attachment (Attachment K) to their OATTs.⁴

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.⁵

4. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as PJM, 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

⁴ PJM submitted its revised Schedule 6 to its Amended and Restated Operating Agreement (Operating Agreement or OA), since Schedule 6 contains PJM's existing planning process, known as the Regional Transmission Expansion Planning Protocol (RTEPP). See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n. 246.

⁵ 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.

modified by Order No. 890.⁶ 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.⁷

II. PJM's Compliance Filing

5. PJM states that its filing satisfies all of the planning principles required by Order No. 890. To satisfy the requirements of the coordination principle, PJM states that it has a Planning Committee and a Transmission Expansion Advisory Committee (TEAC) that both meet on a regular basis and are designed to allow direct customer input into the planning process. PJM also proposes to amend its Amended and Restated Operating Agreement (OA) to create a new Committee—the Subregional Regional Transmission Expansion Planning (RTEP) Committee⁸—to further facilitate opportunities for customer participation in a more localized forum. PJM states that it also proposes to establish initial assumptions meetings and meetings structured according to the three PJM sub-regions: the Mid-Atlantic, West, and South.

III. Notice of Filing and Responsive Pleadings

6. Notice of PJM's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. Allegheny Power; NRG Energy, Incorporated; North Carolina Electric Membership Corporation; Duke Energy Indiana, Incorporated; Long Island Power Authority, Electric Power Supply Association, PPL Electric Utilities Corporation; and American Electric Power Service Corporation filed timely motions to intervene. Baltimore Gas and Electric Company (BGE); Exelon Corporation; Allegheny Electric Cooperative, Incorporated (AEC); American Municipal Power-Ohio, Incorporated (AMP-Ohio); Old Dominion Electric Cooperative (Old Dominion); and Rockland Electric Company (RECO) filed timely motions to intervene and comments. CPV Warren, LLC and CPV Maryland, LLC (CPV); and Dominion Resources (Dominion) filed late motions to intervene.

⁶ 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.

⁷ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

⁸ The Subregional RTEP Committee will assist parties involved with RTEP reliability projects that are rated below 230 kV to participate more fully in the RTEP process.

7. The PSEG Companies (PSEG Companies) filed a timely motion to intervene and protest. PJM Interconnection, L.L.C. (PJM) filed an answer to PSEG Companies' protest.

IV. Discussion

A. Procedural Matters

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

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PJM's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

10. As discussed below, we find that PJM's transmission planning process in Schedule 6 to its OA as revised in its compliance filing, 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 PJM's revisions to its existing transmission planning process found in Schedule 6 to its OA, subject to further compliance filing, effective December 7, 2007. We also direct PJM to file, within 90 days of the date of this order, a further compliance filing as discussed below.

11. While we accept PJM's transmission planning process in Schedule 6 to its OA, we nevertheless encourage further refinements and improvements to PJM's planning process as PJM 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.

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

1. Coordination

12. 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 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 Attachment K planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.⁹

a. PJM's Filing

13. PJM states that its OA sets forth the basic principles for an open and coordinated planning process in the Facilities Planning and Operation Section of the OA.¹⁰ In addition, PJM notes that its RTEP is the process by which PJM members rely upon PJM to prepare a plan for the enhancement and expansion of the transmission facilities.

14. Further, to satisfy the requirements of the coordination principle, PJM states that it has a Planning Committee that is open to all stakeholders and provides technical advice and assistance to PJM in all aspects of the regional planning functions. In addition, PJM has established the TEAC, which PJM says is the primary forum for exchange of RTEP information and discussion.

b. Protests/Comments

15. AEC believes that PJM and the PJM TOs need to ensure that they have sufficient staffing in place to perform the various studies that need to be completed in the timeframes prescribed in the PJM Tariff and PJM TO standards. Old Dominion alleges that PJM failed to meet the Commission's threshold requirement that all transmission providers must include the description of a transmission planning process *in an attachment to their OATT*. Old Dominion avers that customers, neighboring transmission providers, affected state authorities, and other stakeholders will not be able to participate

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451–54.

¹⁰ OA section 11.3.2.

meaningfully in the transmission planning process if all of the rules for that process are not set forth in the OATT. However, Old Dominion reiterates that it does not expect the entirety of the transmission planning detail to be included in the OATT, but instead that the OATT needs to include “sufficient information regarding the process to allow stakeholders to meaningfully participate in an open and collaborative transmission planning process.”¹¹ Old Dominion states that PJM’s compliance filing does not include an OATT attachment and therefore violates the directives of Order No. 890, as specifically clarified in Order No. 890-A.¹² Instead, Old Dominion points out that stakeholders will have to look to various documents, both FERC-filed and non-FERC-filed, in order to piece together PJM’s transmission planning process.

16. Further, Old Dominion states that “the PJM OATT attachment needs to describe the process, responsibility and integration for all transmission planning-related groups and/or committees.”¹³ Old Dominion notes that PJM’s filing does not provide this information, but instead relies on general references to applicable rules and procedures in PJM Manuals. Additionally, Old Dominion contends that, to the extent other groups or committees within PJM have responsibility or a role in the transmission planning process, PJM needs to identify such groups. Old Dominion states that the PJM OATT attachment should include either details or a reference to the document that contains details regarding the frequency of meetings and other planning-related communications, a schedule of stakeholder meetings that allows for stakeholder input, and the procedures used to notice meetings and other planning-related communications.

17. AMP-Ohio is similarly concerned that many of the details surrounding the planning process will be contained in manuals and not the tariff. AMP-Ohio therefore requests clarification that, should a conflict arise between the manuals and the tariff or the Commission’s established principles governing planning, the latter prevails. In addition, AMP-Ohio suggests a requirement for periodic review of the planning process and the relevant results early in its life.

c. Answers

18. In its answer, PJM states that its OA revisions submitted as an attachment to the compliance filing fully comply with the coordination principle in Order No. 890, contrary to Old Dominion’s claims. It states that the newly proposed language for the OA clarifies the openness of the process and specifies the categories of participation available.

¹¹ Old Dominion Jan. 30, 2008 Comments at 5-6.

¹² See Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 177.

¹³ Old Dominion Jan. 30, 2008 Comments at 9.

19. By providing a minimum meeting requirement in its OA, PJM states that it has satisfied the requirements for this principle. It notes that Order No. 890 specifically stated that the Commission would not “prescribe the requirements for coordination, such as the minimum number of meetings to be required each year....”¹⁴ PJM notes that, in addition, it proposed new provisions that will allow parties to propose additional meetings as needed, rather than as prescribed.

20. PJM asks the Commission to avoid Old Dominion’s invitation to micromanage the stakeholder process. PJM argues that Old Dominion’s request to put into the PJM OA the minutiae of committee rules and procedures (including meeting dates, posting etc.) would not enhance the process but rather hamstring it. PJM further argues that to require a tariff filing for every minor change in the operation of a PJM Stakeholder Committee would burden this Commission with countless process filings and potentially hamstring the ability of stakeholders to make changes rapidly to meet the committee’s consensus identification of needs by having to wait for the Commission’s notice and 60-day processing of the proposed change. Moreover, PJM states that the Commission should be cognizant of the cost of engrafting its judicial processes on non-substantive process changes that already are being successfully addressed through PJM’s public process for manual changes.

21. Further, PJM states that providing references to each of the relevant transmission planning documents as an attachment to the OATT is unnecessary because the PJM OA itself contains all such references.¹⁵ In addition, it states that a specific chart is posted on the PJM website.¹⁶

d. Commission Determination

22. We find that PJM has complied with the coordination principle of Order No. 890. The existing language in PJM’s OA, combined with its proposed revisions and clarifications to its OA, bring PJM into compliance with this principle.

¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451.

¹⁵ PJM states that the specific rules of the committees and a further explanation of the logistics of committee participation are provided in the Manual 14 series and the rules and procedures applicable to the PJM Committees specifically referenced in Schedule 6 of the PJM OA.

¹⁶ Incorporating such a chart into the PJM OA as Old Dominion requests would complicate the OA, PJM argues, and it would require numerous, extraneous filings each time a small change to a referenced document was completed.

23. We find unpersuasive Old Dominion's protest that PJM's Tariff attachment needs to describe the process, responsibility and integration for all transmission planning-related groups and/or committees in entirety and do not find that PJM's compliance is deficient in this regard. Rather, the PJM OA provides sufficient information with respect to the responsibilities of each committee, the categories of participation for each committee, and the general rules and processes for these committees.¹⁷ For example, section 1.3 (Establishment of Committees) of the PJM OA provides that the Planning Committee will be open to participation by: (i) all transmission customers; (ii) any other entity proposing to provide transmission facilities to be integrated into the PJM region; (iii) all members; (iv) the electric utility regulatory agencies within the states in the PJM region and the state consumer advocates; (v) and any other interested entities or persons and will provide technical advice and assistance to PJM in all aspects of its regional planning functions. In fact, Old Dominion acknowledges that PJM's planning process complies in significant part with the requirements of Order No. 890, and it does not seek to have PJM undergo revisions to existing documents that are not necessary; instead, Old Dominion simply wants to ensure the transparency of PJM's transmission planning functions.

24. While the Commission indicated that nothing in Order No. 890 is intended to upset market designs used by existing ISOs and RTOs, it required RTOs and ISOs to file a transmission planning process in an attachment to their OATT.¹⁸ In Order No. 890-A, where Old Dominion raised a similar concern regarding Attachment K, the Commission clarified that every transmission provider, including RTOs and ISOs, must submit a compliance filing stating its transmission planning process in an attachment to its OATT.¹⁹ We recognize that PJM's RTEP describing its planning process has been maintained in Schedule 6 of the OA over the years and we have no substantive reason to require it to be moved into the OATT. The OA is on file at the Commission and is enforceable as a FERC-filed rate schedule.

¹⁷ See PJM OA, Schedule 6 §§ 1.3 (Establishment of Committees), 1.5.4 (d) (Supply of Data), 1.5.4 (e), 1.5.6 (b) (Development of the Recommended Regional Transmission Expansion Plan).

¹⁸ Order No. 890 at P 439. There, the Commission stated, in part:

As for the application of the Final Rule's coordinated planning requirement to RTOs and ISOs, which already have a Commission-approved transmission planning process on file with us, we note that the intent of our reform in this Final Rule is not to reopen prior approvals, but rather to ensure that the transmission planning process utilized by each RTO and ISO is consistent with or superior to the *pro forma* OATT. . . .

¹⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 177.

25. Contrary to Old Dominion's argument we find that, consistent with Order No. 890, the PJM OA includes sufficient detail to enable transmission customers to understand PJM's planning process. The fact that more specific and detailed rules regarding the governance and procedures for the planning committees are contained in the PJM Manual 14 series does not violate the terms of Order No. 890. Additionally, documents associated with PJM's transmission planning process are available on its website along with other planning materials. For example, PJM Manual 14B (Regional Planning Process) provides a link to various planning related documents including: (i) the most recent version of PJM's RTEP process; (ii) a list of all PJM Open Access Transmission Tariff facilities along with which facilities are included in the real-time congestion management control facility list; and (iii) a list identifying, by Transmission Owner, the facilities that are under PJM's control for coordinating regional and interregional operations.²⁰ Consistent with Order No. 890, the PJM OA clearly identifies the roles and responsibilities of the planning committees. For example, the responsibilities of the TEAC, a pre-existing planning committee, include the scope and assumptions for RTEP studies and the development of recommendations to be proposed to the Board.

2. Openness

26. 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 subregional group, the Commission emphasized that the overall development of the transmission plan and the planning process must remain open.²¹ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage

²⁰ See planning related documents listed in PJM Manual 14B (Regional Planning Process) on PJM's website at: www.pjm.com/planning/reg-trans-exp-plan.html; www.pjm.com/planning/trans-standard.html; and www.pjm.com/services/transm-facilities.jsp.

²¹ The Commission made clear 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 Attachment K 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, 121 FERC ¶ 61,297 at P 194.

confidentiality and CEII concerns, such as confidentiality agreements and password-protected access to information.²²

a. PJM's Filing

27. PJM reiterates in its filing that meetings of all the PJM planning committees are open and accessible to all interested parties. Further, PJM explains that its OA already contains provisions for the management of confidential documents and CEII material, and procedures for the management of protected material are detailed in the PJM manuals.

b. Commission Determination

28. PJM's compliance filing has fulfilled the requirements of this principle by allowing for all affected parties to participate in the transmission planning process. In addition, section 18.17 (Confidentiality) of the PJM OA already contains existing provisions that satisfy the confidentiality and CEII requirements.²³ Therefore, PJM's planning proposal satisfies Order No. 890's openness requirements.

3. Transparency

29. 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 Attachment K the method(s) it will use to disclose the criteria, assumptions, and data that underlie its transmission system plans.²⁴ 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 were also directed to provide information regarding the status of upgrades identified in the transmission plan.

²² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

²³ See, e.g., *PJM Interconnection, L.L.C.*, 107 FERC ¶ 61,322 (2004); *PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,210 (2001).

²⁴ In Order No. 890-A, the Commission made clear 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.

30. 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.²⁵

a. PJM's Filing

31. PJM states that its existing OA and OATT provisions already include transparency in the development and implementation of transmission system plans. PJM further states that information regarding the basic criteria, assumptions, and data that are used to develop the transmission system plans is available through the Planning Committee, the TEAC and other working groups and PJM Committees. In addition, PJM notes that it provides data and information to stakeholders as requested, with the appropriate confidentiality safeguards in place. Finally, specific process plans and related documentation, baseline study reports, full RTEP process plans, and requests for Upgrade Auction Revenue Rights, among other things, are posted on PJM's website.

32. PJM proposes to modify its OA to further ensure that the participants have access to the material and assumptions they require in order to participate effectively in the PJM planning process. For example, PJM proposes to modify the OA language to clarify who may participate in the PJM planning committees where this information is made available. PJM proposes to modify the RTEP Protocol in the OA to define the reliability criteria used in the RTEP. Further, PJM proposes to mandate a minimum of one initial assumptions meeting to be held by the TEAC and by the Subregional RTEP Committee per planning period. According to PJM, further proposed revisions to Schedule 6 of the OA promotes the exchange of information and allows participants access to information intended to allow Committee participants to review and evaluate any identified violations of reliability criteria; analyses of the economic performance of the transmission system; potential transmission solutions; and the proposed RTEP.

33. PJM also emphasizes its commitment to an ongoing effort to update the Manual 14 series, which includes the technical aspects of the PJM planning process, and to review the updates with stakeholders.

²⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471–79.

b. Protests/Comments

34. Since PJM has not included in an OATT attachment what Old Dominion considers sufficient details of its transmission planning process, Old Dominion feels that PJM has not complied with the third principle, transparency. Old Dominion asks for, at the minimum, a chart in PJM's OATT that provides references to the provisions of existing documents that comply with the transmission planning principles. According to Old Dominion, such a chart would greatly enhance transparency.

35. In order to ensure that stakeholders receive the opportunity for meaningful review and comment, AMP-Ohio proposes that the tariff require a minimum sixty-day comment period for the intended planning model(s) and assumptions.

c. PJM's Answer

36. PJM claims Old Dominion is wrong to suggest that the compliance filing lacks sufficient transparency and cites the information it has provided in the PJM OA and the PJM Manual 14 series, which it referenced in Schedule 6 of the OA, as justification for meeting the transparency requirement.

d. Commission Determination

37. We find that PJM has complied with the transparency principle of Order No. 890. To the extent an entity desires to obtain base case information, it may request such material by signing a confidentiality agreement available on PJM's website.²⁶ Additionally, the PJM Tariff contains provisions regarding access to base case data and confidentiality.²⁷

²⁶ See PJM RTEP Base Case Information that includes projects approved by the PJM Board through June 2007 located at: www.pjm.com/planning/project-queues/rtep-info.html.

²⁷ Section 36.1.7 (Base Case Data) of the PJM Tariff states:

Transmission Provider will provide Interconnection Customer with base power flow, short circuit and stability databases, including all underlying assumptions, and contingency list upon request and subject to the confidentiality provisions of Section 223 of the Tariff. Transmission Provider may require Interconnection Customer to sign a confidentiality agreement before the release of commercially sensitive information or Critical Energy Infrastructure Information in the Base Case data. Such databases and lists, herein after referred to as Base Cases, will include all (i) generation projects and (ii) transmission projects, including

(continued...)

38. Similar to our finding on the Coordination principle, we find unpersuasive the argument of protestors that PJM's compliance filing lacks sufficient transparency because of the manner in which PJM has provided the necessary information, i.e., referencing its OA, PJM Manuals and its website.

39. Consistent with Order No. 890, PJM discloses to all customers and other stakeholders the basic criteria, assumptions, and data that underlie its transmission system plans.²⁸ In addition, PJM makes available on its website information regarding the status of upgrades identified in its transmission plans in addition to the underlying plans and related studies. For example, PJM posts baseline study reports, full RTEP process plans and requests for Elective Upgrade Auction Revenue Rights on its website.²⁹ As PJM notes in its answer, the OA itself contains all the necessary references to each of the relevant transmission planning documents.³⁰ The Commission finds that providing a more detailed explanation of the logistics of committee participation in the PJM Manual 14 series meets the transparency planning principle. The existing PJM OA and Tariff provisions, along with its proposed revisions, ensure transparency in the development and implementation of transmission system plans.

40. We also conclude that AMP-Ohio's proposal to require a minimum sixty-day comment period to assure stakeholders the opportunity for meaningful review and comments of planning models and assumptions is inconsistent with the Commission's desire not to prescribe rigid planning timelines. AMP-Ohio, as a participant in the TEAC or Subregional RTEP Committees, has access to data regarding the basic criteria and assumptions used to develop the transmission plans and the opportunity for meaningful review and comment. If AMP-Ohio finds that PJM's process is not providing the opportunity for effective participation, it should bring that to the Commission's attention.

41. Schedule 6 of the PJM OA satisfies the Commission's requirement in Order No. 890 that planning processes should permit demand response resources to participate on a

merchant transmission projects, that are included in the then-current, approved Regional Transmission Expansion Plan.

²⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

²⁹ See PJM planning information at www.pjm.com/planning/rtep-baseline-reports/baseline-report.html; www.pjm.com/planning/reg-trans-exp-plan.html; www.pjm.com/planning/expansion-planning/tran-plan-process.html.

³⁰ For example, PJM section 1.2 (e) (Conformity with NERC and Other Applicable Reliability Criteria) of Schedule 6 of the PJM OA states that FERC Form No. 715 material will be posted to its website, subject to the applicable CEII requirements.

comparable basis. Under the PJM OA, annual review of costs and benefits includes but is not limited to changes in load forecasts, anticipated merchant transmission facilities, generation, and demand response. As a result, PJM's economic planning process will include a range of assumptions including demand response in determining the need for economic-based upgrades. The RTEP also provides that demand resources will be included in PJM's market efficiency assumptions. For example, the assumptions used in the annual market efficiency analysis and any review of costs and benefits will include demand response resources that have made commitments as the result of the PJM Reliability Pricing Model Auctions or Fixed Capacity Plan.³¹ Additionally, certified interruptible load for reliability (ILR) resources (formerly Active Load Management) will be included in the assumptions.³² The RTEP also provides an evaluation of the expected level of demand response over the ensuing ten years based on analyses that consider historic levels of demand response, expected demand response growth trends, impact of capacity prices, current and emerging technologies, and sensitivity analyses reflecting the level of demand response needed to address congestion.

42. Accordingly, we find that PJM complies with Order No. 890's transparency principle.

4. Information Exchange

43. 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.³³ Transmission providers, in

³¹ See, *e.g.*, Attachment DD (Reliability Pricing Model) in PJM's Tariff and Schedule 8.1 (Fixed Resource Requirement Alternative) of PJM's Reliability Assurance Agreement.

³² See, *e.g.*, section 5 (Capacity Resource Commitment) Attachment DD of the PJM Tariff. According to PJM, 536 MW of demand response cleared the July 2, 2007 Reliability Pricing Model auction for capacity between June 1, 2008 and May 31, 2009. See also the PJM Press Release entitled "PJM Reliability Pricing Model Producing Results" dated July 13, 2007 located at: www.ferc.gov/market-oversight/mkt-electric/pjm.asp#cap. Additionally, PJM has posted Interruptible Load Reliability forecasts at: www.pjm.com/markets/rpm/downloads/planning-period-parameters.xls.

³³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

44. 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.³⁴

45. 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 relates to planning, not other studies performed in response to interconnection or transmission service requests.³⁵

a. PJM's Filing

46. PJM states that it has met the requirements for the information exchange principle by virtue of the provisions in its OATT that require network customers to provide a description of the network load at each delivery point including a load forecast for 10 years. In addition, PJM notes that network customers do not traditionally provide PJM with a load forecast or a list of resources. Instead, PJM prepares a "Load Forecast Report," a practice which allows PJM to develop an independent forecast. PJM argues that this report is consistent with or superior to the Order No. 890 requirements because it allows PJM to effectively develop an independent forecast that ensures that all market

³⁴ *Id.* P 206.

³⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486–88.

participants are treated equitably. The Load Forecast Report extends to a fifteen-year horizon.

47. To address the demand resource requirements of Order No. 890, PJM states that its OATT requires network customers to identify the amount of interruptible load in the 10-year load forecast required by section 29.9 (iii).

b. Protests/Comments

48. AEC states that, while the PJM section 29.2 OATT provisions may work for new network customers, they do not always work properly for existing network customers, particularly with respect to establishing new load interconnection points. AEC states that it believes a process should be established such that “each network customer in a PJM TO zone is given the opportunity annually to submit its 10-year forecast of load projections by delivery point to the PJM TO where its load is located, as opposed to each network customer submitting such data directly to PJM.”³⁶ AEC believes this load forecast information could be used directly in the local PJM TO zonal planning processes and serve as an independent verification of the PJM load forecast used in the regional planning process. AEC adds that these forecasts of future loads should be used by the PJM TOs in planning future facilities rather than relying solely on historical meter readings in order to ensure more economically efficient outcomes. According to AEC, reliance on historical data could result in significant future load development not being factored into transmission facility planning. AEC states that the PJM TOs should forward these zonal forecasts to PJM in a standardized format for review and input, if appropriate, into PJM’s transmission planning process.

49. Additionally, AEC contends that a uniform interpretation and implementation plan by all PJM transmission owners is critical in order to achieve the Commission’s objectives in issuing Order No. 890. In order to avoid undue discrimination, AEC states that the process of planning local transmission facilities must be blind with respect to which network transmission customer is seeking to serve additional load via a connection to its Commission jurisdictional transmission facilities.

c. PJM’s Answer

50. To address AEC’s concerns, PJM states that despite the vestigial provision in section 29.2 (iii) and (v) of its tariff, network customers do not traditionally provide PJM with a load forecast or a list of resources. PJM states that it fulfills this requirement by preparing an independent “Load Forecast Report.”

³⁶ AEC Jan. 16, 2008 Comments at 6.

d. Commission Determination

51. We find that PJM's existing OATT provisions comply with the information exchange principle. AEC argues that the filing is not compliant with Order No. 890 because it does not include a process under which each network customer in a PJM Transmission Owner zone is given the opportunity to submit its 10-year forecast of load projects by delivery point to the PJM Transmission Owner where the load is located. We find that PJM has complied with Order No. 890 because it has a reasonable methodology for providing a load forecast report.³⁷ This methodology replaces the need for network customers to submit data to PJM. In fact, PJM states that most parties do not provide the information required by the tariff because it is not ordinarily necessary for preparation of the load forecast report. While this information may not be used in the ordinary preparation of the report, we will not require PJM to remove this provision from its tariff because it might prove to be useful in certain circumstances. Nonetheless, we see no need for any further requirement that information be given to individual transmission owners. Therefore, we deny AEC's proposal to require PJM to amend its existing load forecast report process.

5. Comparability

52. 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 historically have planned 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.³⁸

a. PJM's Filing

53. According to PJM, its RTEP process accommodates inputs from all parties, making PJM in compliance with the comparability principle. PJM also states that it

³⁷ See the Load Forecast Report on PJM's website at: www.pjm.com/planning/res-adequacy/previous-load-forecast.html.

³⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494–95.

includes demand response provisions in the RPM, and that it will continue to develop the processes to incorporate demand response, distributed resources, energy efficiency, demand reductions and other related technologies and uses appropriately in the PJM RTEP.

54. PJM states that the RTEP is designed to reflect the transmission enhancements and expansions, local and capacity forecasts and generation additions and retirements for at least the ensuing ten years. PJM also states that the RTEP process accommodates inputs from all parties. PJM explains that its network service provisions allow a PJM member access to all services and all members by participating in the RTEP, and all members are obligated to cooperate in the analysis, formulation, and implementation of plans to prevent or eliminate conditions that impair the reliability of the PJM region.

55. Additionally, PJM states that the 15-year planning process considers long-term load growth, the impacts of generation additions, changes, new technologies and retirements and the delivery needs of “clustered” generation development as it emerges in PJM. PJM observes that Order No. 890 states that demand resources should be assessed in a transmission planning process and that where these resources are capable of providing the functions and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis. PJM states demand response plays an important role in its economic transmission planning process. PJM also states that a certain level of demand response is included in the PJM load forecast, which is updated annually and initiates the annual expansion planning process. PJM explains that load management programs (such as ILR) are explicitly included in the planning analysis and may impact the plans for new transmission depending on the amount and location of ILR. PJM also explains that when undertaking economic planning (i.e., planning to reduce congestion and improve the economics of the grid rather than solely meeting reliability criteria), it includes assumptions regarding anticipated demand response and generation in its market efficiency analysis.

b. Protests/Comments

56. With regard to the comparability principle (as well as the transparency and coordination principles), AEC notes that all load interconnections, including those for existing network service customers, must be treated equally. AEC also notes that all load interconnections must be treated equally with respect to siting transmission facilities within the PJM Transmission Owner (TO) zone and the metering, protection and other interconnection requirements associated with serving additional load for exiting network customers.

c. Commission Determination

57. The Commission agrees that PJM’s RTEP process accommodates inputs from all parties and that its process will lead to a transmission system plan that meets the service requests of its customers and otherwise treats similarly-situated customers comparably in

the planning process. In addition, we find that PJM has sufficiently demonstrated that customer demand resources will be considered on a comparable basis to the service provided by comparable generation resources where appropriate. PJM's integration of its demand response programs into the RTEP is discussed in the transparency section above.

58. Order No. 890-A was issued on December 27, 2007, subsequent to PJM 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."³⁹ Here, PJM 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, PJM and its transmission owners did not have an opportunity to demonstrate that they comply with this requirement of Order No. 890-A. Therefore, PJM 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.

59. We will discuss further the local planning issues in relation to this principle in the Local System Planning section below.

6. Dispute Resolution

60. 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 (DRS) 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.⁴⁰

³⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

⁴⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-503.

a. PJM's Filing

61. PJM states that Schedule 5 of its OA provides the PJM Dispute Resolution Procedures, which are designed to provide a common and uniform procedure for resolving disputes arising under PJM Agreements. It also states that the current TEAC process provides stakeholders the opportunity to provide written comments regarding the development of the RTEP.

62. Although PJM contends that it already complies with the dispute resolution principle, it nevertheless proposes to add additional clarifying language to the OA to ensure these procedures are referenced in Schedule 6 of the OA and thereby apply to the overall planning process. This new language, PJM states, will specify the Dispute Resolution Procedures included in Schedule 5 of the OA are applicable to a dispute arising from the RTEP and its development.⁴¹

b. Commission Determination

63. We find that PJM has provided for an adequate dispute resolution process to manage both procedural and substantive disputes that arise from the planning process. Schedule 5 of the PJM OA already provides Dispute Resolution Procedures that are designed to provide uniform procedures for resolving disputes. In addition, the PJM OA provides for disagreeing parties in the TEAC to submit an alternative to a recommended plan based on a review of the relative costs and benefits using the Dispute Resolution Procedures in Schedule 5 of the OA.⁴² The planning process also specifies that the Dispute Resolution Procedures included in Schedule 5 of the OA may be requested by the parties to a dispute arising from the RTEP or its development.⁴³ Further, consistent with Order No. 890's suggestion, the dispute resolution procedures consist of negotiation, mediation, and arbitration.⁴⁴ Therefore, PJM has complied with this principle of Order No. 890.

⁴¹ PJM notes that section 12 of its OATT also provides extensive provisions for dispute resolution, including arbitration. PJM states that the dispute resolution procedures in section 12 are applicable to disputes arising regarding the interconnection process and other PJM OATT related matters.

⁴² Section 1.5.6 (j) (Development of the Recommended Regional Transmission Expansion Plan) Schedule 6 of the PJM OA.

⁴³ Section 1.5.6 (k) (Development of the Recommended Regional Transmission Expansion Plan) Schedule 6 of the PJM OA.

⁴⁴ Order No. 890 FERC Stats. & Regs. ¶ 31,241 at P 503.

7. Regional Participation

64. 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 North American Electric Reliability Corporation (NERC) planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes are not appropriate for such economic issues, individual regions or subregions must develop alternative processes.⁴⁵

65. 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.⁴⁶ 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.⁴⁷

a. PJM's Filing

66. PJM states that its RTEP significantly complies with the regional participation principle. PJM states that the Commission's determination in the PJM RTO Order⁴⁸

⁴⁵ *Id.* P 523–28.

⁴⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

⁴⁷ *Id.*

⁴⁸ *See PJM Interconnection, L.L.C., et al.*, 96 FERC ¶ 61,061 (2001).

implies that PJM's region is already the appropriate size and scope over which regional planning is performed for purposes of Order No. 890 compliance.

67. In addition to the regional requirements of Order No. 890, PJM states that it also addresses seams issues and coordinates its planning process with neighboring systems to address issues of mutual concern. It notes that it participates in interregional planning under joint operating agreements (JOA) with the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the New England Independent System Operator (ISO-NE), the New York Independent System Operator (NYISO), the Tennessee Valley Authority (TVA) and Progress Energy Carolinas (PEC). PJM states that each of these JOAs includes a planning coordination requirement. PJM also states that OA Schedule 6 requires that it perform system planning and develop plans in coordination with surrounding transmission systems and regional reliability councils.⁴⁹

68. With regard to coordinating its planning with that of Midwest ISO, PJM explains that the RTEP requires PJM to take into account in transmission planning for PJM the processes for coordinated regional transmission expansion planning established under the Midwest ISO JOA. For example, PJM explains that the Midwest ISO JOA established the Joint RTO Planning Committee (JRPC) which consists of representatives from both PJM and Midwest ISO, and that the duties of the JRPC include all aspects of facilitating the joint planning effort as well as the requirement to prepare a Coordinated System Plan on at least a tri-annual basis. PJM states that the Coordinated System Plan will ensure that coordinated analyses occur across the regions for Midwest ISO and PJM, including the preparation and exchange of load flow cases, stability cases, load forecasts, and planning models. PJM states that the goal of this plan is to maintain reliability, improve operational performance and enhance the competitiveness of electricity markets. PJM indicates that Schedule 6, section 1.5.5 (b) (Coordination of the Regional Transmission Expansion Plan) of the OA provides that the RTEP shall incorporate the results and take into account the process under the Midwest ISO JOA's Coordinated System Plan. In addition to the JRPC, PJM explains that the Midwest ISO JOA established the Inter-regional Planning Stakeholder Advisory Committee to facilitate stakeholder review and input into coordinated system planning between Midwest ISO and PJM.

69. With regard to coordinating its planning with that of NYISO and ISO-NE, PJM states that each entity is a signatory to the Northeastern ISO/RTO Planning Coordination Protocol (NPCP). PJM explains this protocol provides, among other things, that the parties to it will produce, on a periodic basis, a Northeastern Coordinated System Plan that integrates the system plans of the parties, as well as other factors, such as the transmission upgrades identified, jointly, by the parties to resolve seams issues or to enhance the coordinated performance of the systems. PJM explains that the NPCP

⁴⁹ OA Schedule 6 section 1.5.5(a).

includes an Inter-area Planning Stakeholder Advisory Committee open to all interested parties. In addition to the NPCP, PJM states that it and NYISO have also entered into a JOA that, among other things, requires them to coordinate transmission planning studies.

70. With regard to coordinating its planning with TVA, PJM explains that it has entered into a Joint Reliability Coordination Agreement (JRCA) with TVA and Midwest ISO, which is similar to the Midwest ISO JOA. PJM states, among other things, that the JRCA establishes the Joint Planning Committee which is required to meet at least semi-annually to review and coordinate transmission planning activities.

71. With regard to coordinating its planning with PEC, PJM explains that it has entered into a JOA with PEC (PEC JOA) that has provisions for the parties to perform coordinated transmission planning studies, if mutually agreed, including the exchange of data and information necessary to perform coordinated transmission planning studies. PJM also states that the PEC JOA provides for the sharing of relevant data and an annual meeting of the parties to review issues that may impact long range planning and the coordination of planning.

72. PJM proposes additional language to its OA to strengthen its commitment to regional participation and to ensure that regional coordination continues to be a fundamental aspect of transmission planning. Specifically, new language states that PJM will strive to maintain consistency in planning data and assumptions in order to relieve congestion across multiple regions.⁵⁰ In addition, PJM proposes to modify language concerning the coordination of the RTEP to reflect its commitment to developing the RTEP in accordance with the principles of interregional coordination.

b. Protests/Comments

73. Old Dominion argues that while PJM's filing thoroughly addresses existing agreements for coordination with interconnected systems, it does not sufficiently address the interaction between local planning and regional planning, thus failing to comply with the regional participation principle. Specifically, Old Dominion states that PJM's filing does not describe *how* the local planning will be integrated into the regional planning.

c. Commission Determination

74. 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 PJM's regional participation and its

⁵⁰ OA, Schedule 6, section 1.4(d), *proposed*.

compliance with these two requirements is sufficient with respect to the transmission owners in the PJM footprint.

75. We also find that PJM complies with the interregional 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.⁵¹ PJM has adequately explained in its compliance filing how each of the JOAs it has entered into with its neighboring transmission systems provides a forum for the sharing of data, information, and assumptions in order to coordinate planning among the regions. For example, the Midwest ISO JOA provides, among other things, for the preparation of a Coordinated System Plan for Midwest ISO and PJM, the goal of which is to maintain reliability, improve operational performance and enhance the competitiveness of electricity markets. The NPCP will also provide for the development of a Northeastern Coordinated System Plan among PJM and NYISO and ISO-NE, which will integrate the system plans of the parties in order to resolve seams issues and enhance the coordinated performance of the systems. The JOAs with TVA and PEC provide for similar coordination in planning among PJM and those entities. Lastly, PJM has also added language to the PJM OA to strengthen the commitment to regional participation and ensure that regional coordination continues to be a fundamental aspect of transmission planning. For example, section 1.5.5 (a) (Coordination of the Regional Transmission Expansion Plan) provides that the RTEP will be developed in accordance with the principles of interregional coordination with the transmission systems of the surrounding regional reliability councils.

76. Additionally, PJM's open and inclusive RTEP process will be developed taking into account the processes for coordinated regional transmission expansion planning established under the JOAs discussed above. Section 1.5.5 (b) of the PJM OA states its coordinated RTEP will also incorporate input from parties that may be impacted by the coordination efforts, including but not limited to, the Members, Transmission Customers, electric utility regulatory agencies in the PJM region, and State Consumer Advocates, in accordance with the terms and conditions of the applicable regional coordination agreements. For example, in the JOA between Midwest ISO and PJM, the Interregional Planning Stakeholder Advisory Committee (IPSAC) will facilitate stakeholder review and input into coordinated system planning with respect to the development of the coordinated system plan. IPSAC members will be the members of the Midwest ISO Planning Advisory Committee and the PJM TEAC. Other stakeholders will be permitted to become members of IPSAC, including stakeholders created by change of geographic

⁵¹ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

scope of a party's region.⁵² Under the NPCP, parties will form a Joint ISO/RTO Planning Committee (JIPC), comprised of representatives of the staff of the parties, for the purpose of coordinating planning activities, identifying issues related to the Inter-area planning process, and facilitating the resolution of such issues. In addition, ad hoc committees will be established to resolve specific planning coordination issues. Such ad hoc committees may include representatives of the JIPC, the affected transmission owners, and other interested stakeholders.⁵³ Therefore, we find that PJM satisfies Order No. 890's regional participation requirement, subject to the modifications discussed below in the local planning section of this order.

77. Old Dominion's concerns regarding the interaction between local and regional planning are discussed in the section below pertaining to local planning.

8. Economic Planning Studies

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

79. 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

⁵² See section 9.1.2 (Interregional Planning Stakeholder Advisory Committee) in the JOA between the Midwest ISO and PJM.

⁵³ See section 2.2 (Joint ISO/RTO Planning Committee) of the Northeastern ISO/RTO Planning Coordination Protocol.

overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.⁵⁴

80. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.⁵⁵ 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 Attachment K.⁵⁶ 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. 890.⁵⁷

a. PJM's Filing

81. PJM contends that its planning process encompasses both reliability and economic considerations and is fully compliant with the economic planning studies principle. It states that its economic transmission planning protocol filed and accepted in Docket No. ER06-1474-000 *et al.* is compliant with Order No. 890 and achieves the primary objective of this principle.

82. PJM states that it will study congestion routinely and efficiently as a part of its regular transmission planning process; that its economic planning process is consistent with Order No. 890 because it provides market participants the opportunity to provide input to PJM regarding the assumptions to be used in the studies that will be approved by the PJM Board; and that its market efficiency analysis will include assumptions regarding the potential availability of resources, including merchant transmission facilities, demand response resources, and generation resources.

83. Each year PJM will perform a market efficiency analysis (i.e., economic planning) following the completion of the reliability plan for the PJM region. Under Schedule 6 of the PJM OA, in June of each year, concurrent with the PJM Board's consideration and approval of the reliability-based transmission enhancement and expansions to be included

⁵⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542–51.

⁵⁵ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

⁵⁶ *Id.* P 237.

⁵⁷ *Id.* P 238.

in the RTEP, PJM will obtain from the Board approval of the assumptions to be used in performing the market efficiency analysis to identify enhancements or expansions that could relieve transmission constraints that have an economic impact.

84. In addition, prior to the Board's consideration of such assumptions, the assumptions will be presented to the TEAC for review and comment.⁵⁸ Following PJM Board approval of the assumptions, PJM will perform a market efficiency analysis to compare the costs and benefits, such as accelerating reliability-based enhancements already included in the RTEP that could relieve one or more economic constraints. Further, the assumptions used in the market efficiency analysis include, but are not limited to: (i) timely installation of qualifying transmission upgrades; (ii) availability of generation capacity resources; (iii) availability of demand resources; (iv) availability of Interruptible Load Reliability resources; (v) additional of customer facilities pursuant to a executed interconnection service agreement; and (vii) addition of customer-funded upgrades pursuant to a executed construction service agreement.

b. Protests/Comments

85. PSEG Companies disagree with PJM that the pending market efficiency proposal in Docket No. ER06-1474-004⁵⁹ satisfies the eighth principle, economic planning, in Order No. 890. First, according to PSEG Companies, market participants will have only theoretical transparency and input on economic planning assumptions. PJM states that it will present to the TEAC for review and comment a description of the economic based transmission projects that will be recommended to the board for inclusion in the RTEP; however, since the TEAC is an advisory committee that has no voting authority, PSEG Companies argue that this review and comment procedure does not equate to an actual ability to vote down a specific project.

86. Second, PSEG Companies argue that merchant projects will have difficulty competing against rate-based projects since sponsors of rate-based projects bear no cost risk associated with the project. While acknowledging PJM's contention that its members will have the opportunity to evaluate the viability of resolving congestion through merchant transmission, generation and demand response solutions, PSEG

⁵⁸ Section 1.5.7 Development of Economic Transmission Enhancements and Expansions Schedule 6 (RTEP) of the PJM OA.

⁵⁹ See PJM October 9, 2007 filing, Docket No. ER06-1474-004. PSEG Companies and other parties protested this filing, arguing that the metrics proposed to be used by PJM for determining when economic rate-based transmission should be built would likely result in the construction of "economic" transmission that was not in fact economically justified.

Companies suggest that the mere proposal of rate-based economic transmission projects will discourage alternative competitive solutions.

87. Additionally, PSEG Companies contend that although PJM states its market efficiency analysis will include assumptions regarding the potential availability of resources, including merchant transmission facilities, demand response resource, and generation resources, there is no “linking mechanism” in PJM’s market efficiency proposal that harmonizes the assumptions with the planning and construction of economic rate-based transmission projects. PSEG Companies state that PJM’s proposal will consider the costs and benefits of a project over the first 15 years of the life of the expansion or enhancement, yet this time frame does not, for example, align with the current three-year time period for PJM’s Reliability Pricing Model (RPM) auctions, thus it threatens to undermine what RPM was intended to accomplish. PSEG Companies argue that there can be no meaningful ability to “evaluate the viability of resolving congestion alternatively” without a “halting” mechanism for re-verifying, and potentially changing, a decision to build economic transmission, or for re-modeling an economic transmission project to change its scope or in-service date, based on RPM auction results or other generation (or demand response) developments that change the “economics” of a particular project.⁶⁰

88. Third, PSEG Companies argue that PJM’s proposal to provide market participants with various categories of information⁶¹ to enable them to consider congestion solutions is ineffective. Specifically, PSEG Companies point out that PJM has designed a construct in its market efficiency proposal that will only rely on certain types of data to ascertain the benefits of an economic rate-based transmission project rather than using data from across the entire PJM system.

89. In addition, according to PSEG Companies, while PJM states in the instant Compliance Filing that it will provide data regarding FTR credits, in its market efficiency proposal PJM has proposed to look at change in load payments on a gross basis – i.e., without netting out the degraded value of FTRs resulting from the construction of economic transmission across a particular constrained path. PSEG Companies argue that PJM’s provision of data is only valuable if it will actually be considered as part of the

⁶⁰ PSEG Companies Jan. 7, 2008 protest at 8.

⁶¹ PSEG Companies state that these categories of information include changes in production costs, change in load payments, generator revenue, FTR credits and capacity payments.

metrics used to evaluate the economics of a particular project, and under PJM's pending market efficiency proposal that will not be the case.⁶²

90. Lastly, PSEG Companies contend that PJM does not appear to assume a reliable system throughout the 15-year economic planning analysis horizon.

91. RECO similarly states that PJM cannot fully comply with Order No. 890 with respect to economic planning until the matters raised in Docket No. ER06-1474 are decided by the Commission. RECO requests that the Commission decide the issues in that case before making a determination on PJM's compliance with Order No. 890.

92. Old Dominion states that PJM's OA Schedule 6 provides that the RTEP to be recommended by PJM "shall include proposed Merchant Transmission Facilities within the PJM Region and any other enhancement or expansion of the Transmission System requested by a participant which PJM finds to be compatible with the Transmission System, though not required pursuant to section 1.1, provided that...." Old Dominion argues that nowhere does the OA require that such Merchant Transmission projects, which are to be included in the recommended RTEP, undergo the same open and collaborative process as all other RTEP projects.

93. Old Dominion contends that the proposed OA Schedule 6, section 1.5.6 Merchant AC transmission projects that are included in the RTEP could replace or prevent the development of alternative projects that might be more beneficial and, thus, could have a significant impact on the development of reliability-based or economic-based projects for inclusion in the RTEP. Therefore, Old Dominion argues that it is imperative that these projects be included in the open and collaborative transmission planning. It believes this could be achieved by revising the proposed OA Schedule 6, section 1.5.6(a) to include "Merchant Transmission Facilities within the PJM region and any other enhancement or expansion of the Transmission system requested by any participant which the Office of the Interconnection finds to be compatible with the Transmission system, though not required pursuant to section 1.1."

c. PJM's Answer

94. PJM states in its answer that PSEG Companies' objections focus on the RTEP selection process that determines whether economic-based transmission projects should be constructed, not the process for studying congestion, which PJM says is the focus of this principle. PJM cites Order No. 890 where the Commission clarified that the "purpose of [Principle 8] is to ensure that customers may request studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new

⁶² PSEG Companies Jan. 7, 2008 protest at 9.

resources and loads on an aggregated or regional basis (e.g. wind developers), not to assign cost responsibility for those investments or otherwise determine whether they should be implemented.”⁶³

95. Further, according to PJM, PSEG Companies’ argument⁶⁴ that PJM fails to meet the necessary requirements to satisfy Principle 8 amounts to a challenge of the process for determining which upgrades should be included in the PJM RTEP, not the relevant concern of Order No. 890, which is the process for studying congestion and possible congestion solutions. In fact, PJM contends that most of PSEG Companies’ other criticisms contain the same flaw (i.e., they do not address the process for studying congestion).

d. Commission Determination

96. Importantly, the purpose of this principle is not to assign cost responsibility for transmission investments or to determine which projects will get constructed, but instead to ensure that customers have the opportunity to request studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.⁶⁵ Therefore, protests concerning the RTEP selection process, which determines which economic-based transmission projects should actually be constructed, are beyond the scope of this principle. Moreover, issues related to this selection process for inclusion of economic-based upgrades in the RTEP were resolved in Docket No. ER06-1474.⁶⁶

97. PSEG Companies claim that merchant projects may have difficulty competing with rate-based projects as options to resolve congestion problems, and thus they contend that PJM’s planning process discriminates in favor of rate-based market solutions. We disagree. Under Schedule 6 of the PJM Operating Agreement, for each new economic-

⁶³ Order No. 890 at P 544. PJM also notes that the selection process for determining which economic-based upgrades are to be included in the PJM RTEP is the subject of another proceeding in Docket No. ER06-1474.

⁶⁴ PSEG Companies argue that the process for presenting to the TEAC a description of the economic-based transmission projects that will be recommended to the Board for inclusion in the RTEP does not equate to the ability to vote down a particular project.

⁶⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 544.

⁶⁶ *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,051 (2008) (April 17, 2008 Order).

based enhancement or expansion included in the RTEP, PJM will provide to the TEAC the level and type of new generation demand response that could eliminate the need for the enhancement or expansion.⁶⁷ Similarly, Schedule 6 provides that at any time, market participants may submit to PJM requests to interconnect merchant transmission facilities or generation facilities that could address an economic constraint.⁶⁸ Further, in the event PJM determines that the interconnection of such facilities would relieve an economic constraint, it may designate the project as a market solution.

98. Additionally, in the April 17, 2008 Order, the Commission determined that the PJM economic planning process provides a backstop in the event market solutions do not come forward and in that process, PJM evaluates all projects (market and regulated).⁶⁹ There, the Commission also found that PJM's economic planning process is transparent with opportunities for market-based project developers to review and comment on all potential RTEP projects at multiple stages of development. Moreover, as the Commission previously explained, while in the past, only market solutions to transmission congestion were evaluated in the first year after congestion was identified, PJM's economic planning process allows rate-based solutions to be considered right away. Thus, we found, market and rate-based solutions are on par.⁷⁰ Further, we have determined that PJM's economic planning process provides opportunities for merchant investments by providing additional information and forecasts about future market conditions that will aid market participants in identifying profitable and efficient market-based investment. Pursuant to PJM's economic planning process, market participants will have the opportunity to propose market-based solutions to congestion at any time. We find that nothing in the revisions proposed in this proceeding to PJM's existing planning process in order to comply with Order No. 890 changes this. We note that in ER06-1474, the Commission approved a metric formula that will account for the benefits to customers from reductions in both energy prices and capacity prices as a result of a proposed economic-based project.⁷¹ Therefore, for these reasons, we find that PJM's planning process provides opportunities for market solutions to be proposed.

99. Old Dominion requests that PJM clarify in Schedule 6 of the OA that merchant transmission projects will undergo the same open process and collaborative stakeholder

⁶⁷ Section 1.5.7 (g) Schedule 6 of the PJM Operating Agreement.

⁶⁸ Section 1.5.7 (j) Schedule 6 of the PJM Operating Agreement.

⁶⁹ April 17, 2008 Order, 123 FERC ¶ 61,051 at P 26-30.

⁷⁰ *See PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,218, at P 36-38 (2006).

⁷¹ *Id.*

process as all other RTEP projects. We note, however, that merchant transmission projects are already part of PJM's open and collaborative stakeholder planning process. The PJM planning process, which includes stakeholder participation through the TEAC, includes the evaluation of merchant transmission projects in determining whether there is a market solution to an economic constraint. We see no need for PJM to further clarify this.

9. Cost Allocation

100. The cost allocation principle requires that transmission providers address in their Attachment K the allocation of costs of new facilities that do not fit under existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. 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. 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.

101. The Commission 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 time a project is proposed.⁷² 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.⁷³

a. PJM's Filing

102. PJM argues that it complies with the cost allocation principle by relying on the cost allocation methods recently approved by the Commission⁷⁴ and further detailed in its

⁷² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-561.

⁷³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁷⁴ *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,063 (2007).

OA, OATT, and Manuals. Specifically, PJM contends that its cost allocation methodologies contained in Schedule 6 of the OA and Schedule 12 of its OATT meet or exceed the cost allocation reforms specified in Order No. 890.

b. Protests/Comments

103. RECO asks the Commission to require PJM to clarify its tariff to indicate that projects planned to meet local reliability or economic criteria are not eligible for PJM OATT Schedule 12 cost allocation and should solely be paid for by the customers in the transmission owner zone for which they are needed.

104. Exelon emphasizes to the Commission that the intent of the instant filing was not to make determinations as to cost allocation, or as to which new projects would be eligible for incentives under Order No. 679, but rather to facilitate a coordinated, open and transparent planning process. Exelon states that it believes the formation of the Subregional RTEP Committee accomplishes this goal. The choice of 230 kV for the classification of Subregional RTEP Projects, Exelon states, is an administrative convenience and is not intended to have any bearing on or application to cost allocation.⁷⁵

105. BGE states that it continues to support the framework developed by PJM and its stakeholders. In particular, BGE believes that the elimination of the “Transmission Owner Initiated” classification of projects will expand the category of projects that will be made subject to PJM Board approval. Moreover, BGE believes that the introduction of the more limited category of “Supplemental” projects⁷⁶ that are affirmatively determined by PJM to fail to satisfy criteria identified in section 1.42A.02 (Supplemental project) is also a significant improvement in the transparency and regional participation involved in PJM’s transmission system planning processes under its OATT.

106. PSEG Companies suggest complying with the cost allocation principle by examining NYISO’s compliance filing, in which NYISO amended and included in Attachment Y of its Tariff language providing for a super-majority vote by the identified beneficiaries of a particular economic project in order for an economic transmission project to receive funding under the NYISO tariff. PSEG Companies state that they have consistently advocated for the adoption of a similar voting mechanism in PJM for

⁷⁵ See *supra* at n 8.

⁷⁶ As discussed below in the Local System Planning section, Supplemental Projects will be defined in the OA as a Regional or Subregional RTEP Project(s) that is not required for compliance with the following PJM criteria: system reliability, operational performance, or economic criteria, pursuant to a determination by PJM.

economic transmission projects, but PJM has failed to include this voting concept in the instant filing.

107. PSEG Companies note that Order No. 890 states, with regard to cost allocation, that the “beneficiaries of any [economic projects] should agree to support the costs of such projects.”⁷⁷ PSEG Companies argue that a voting mechanism such as that proposed in NYISO⁷⁸ makes sense for economic projects, as market participants should not be forced to pay for an economic project they did not ask for and may not want—and which may not even be an economic project from their own cost/benefit perspective. Without a voting mechanism in place, PSEG Companies point out an example in which a market participant may already have paid to hedge against congestion on a specific transmission path and would then have to pay again to address the same congestion issue if forced to pay for a new project aimed at alleviating this congestion.

108. Old Dominion raises two issues regarding the cost allocation principle. First, Old Dominion contends that PJM’s filing does not adequately address cost allocation for interregional coordination. Old Dominion suggests that PJM should include in its OATT principles for cost allocation of interregional projects now, to be addressed in tandem with the interregional transmission planning process.

109. Second, Old Dominion notes the ongoing proceedings to address cost allocation for transmission projects in PJM, but emphasizes that there is not a pending cost allocation methodology or principles for local economic-based transmission projects. Old Dominion states that cost allocation for such local projects should be addressed in the PJM OATT.

c. PJM’s Answer

110. PJM states that nowhere in Order No. 890 did the Commission mandate (or even suggest) that a voting mechanism, such as the one suggested by PSEG Companies, is required to comply with the order. PJM notes that with regard to the allocation of costs for economic-based PJM RTEP transmission enhancements and expansions that operate below 500 kV, the Commission last year instituted a section 206 investigation.⁷⁹ Interested parties, including PSEG Companies, entered into a settlement that is pending

⁷⁷ PSEG Companies cite Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 561.

⁷⁸ The “super-majority” required to proceed that NYISO proposes, and which PSEG Companies endorses, would equal 80 percent of the weighted vote of the beneficiaries associated with the project that are present at the time of the vote.

⁷⁹ PJM Interconnection, L.L.C. 119 FERC ¶ 61,067 (2007).

before the Commission, which sets forth the cost allocation procedures for most economic-based projects, without any voting mechanism.⁸⁰ This settlement, PJM states, occurred after the issuance of Order No. 890 and included an agreement to a three-year moratorium on changing the cost allocation agreements set forth in the settlement. PJM asks the Commission not to disrupt the certainty provided by the settlement.

111. PJM also notes that PSEG Companies put forth its voting proposal in PJM's economic planning proceeding in Docket No. ER06-1474 as well as throughout the stakeholder processes for the Order No. 890 compliance filing. While considered, PJM states that the proposal did not garner majority support from the stakeholders.

112. In addition, PJM clarifies in its answer that Supplemental projects will not be approved by the PJM Board of Managers and are not eligible for PJM OATT Schedule 12 cost allocation.

d. Commission Determination

113. Section 1.5.6 (Development of the Recommended Regional Transmission Expansion Plan) of the PJM OA provides that Supplemental projects may not be required for compliance with the following criteria: system reliability, operational performance, or economic efficiency, pursuant to a determination by PJM. As PJM indicates, Supplemental projects will be listed separately in the RTEP but will not be approved by the PJM Board of Managers. Therefore, as PJM clarifies, these projects are not eligible for PJM Tariff Schedule 12 cost allocation.⁸¹ For these reasons, we find that PJM has clarified the issues of cost allocation for Supplemental projects in its answer. However, we require PJM to revise its tariff to clearly state that Supplemental projects are not eligible for Schedule 12 cost allocation.

114. PSEG's argument in favor of requiring a "super-majority" voting mechanism in the cost allocation process is unpersuasive. The Commission agrees with PJM that Order No. 890 does not mandate any type of voting mechanism in this context. While we found in Order No. 890-A that such a mechanism could be adopted *if stakeholders desire*,⁸² the voting mechanism proposal offered by PSEG was considered by PJM members but failed to garner majority support among stakeholders. Further, we emphasize our finding in Order No. 890 that "regional solutions that garner the support of stakeholders, including

⁸⁰ The pending settlement requires a filing for projects below 500 kV within a year after the settlement is approved by the Commission.

⁸¹ PJM January 22, 2008 Answer at 7.

⁸² Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 242-243 and 252.

affected state authorities, are preferable.”⁸³ However, as PJM notes,⁸⁴ PSEG is free to suggest a voting mechanism in the upcoming stakeholder process for economic-based projects below 500 kV.

115. Additionally, the Commission finds that PJM’s cost allocation methodologies currently on file with the Commission provide certainty as to who will pay for investments in transmission projects, adequately incentivize the pursuit of new transmission investment, and avoid relitigation each time costs are allocated. Further, PJM explains that it will make a filing prescribing a methodology for economic-based PJM RTEP transmission expansions that operate below 500 kV no later than one year after Commission approval of the settlement agreement.⁸⁵

116. We also find that Order No. 890 did not explicitly require a transmission provider to include in its OATT principles for cost allocation of interregional projects, as Old Dominion requests. In Order No. 890-A, where Old Dominion requested that the Commission require interregional cost allocation, the Commission declined Old Dominion’s suggestion to define cost allocation factors in more detail.⁸⁶ Rather, the Commission allows regional flexibility regarding cost allocation and will consider each proposal on a case-by-case basis. Additionally, the Commission found that issues regarding cross-border allocation or potential cost-shifting are best addressed in the context of a particular proposal.⁸⁷

117. However, with respect to the allocation of costs for system upgrades required to resolve cross-border impacts stemming from inter-area planning efforts, section 4.4 of the Northeastern ISO/RTO Planning Coordination Protocols provides for the allocation of costs for elements of the Northeastern Coordinated System Plan (NCSP) to be addressed consistent with applicable provisions of each party’s tariff. In addition, under the Midwest ISO and PJM Joint Operating Agreement, the cost of new cross-border facilities will be allocated to customers that are built in one of the RTOs but provide benefits in the other RTO.⁸⁸ The Coordinated System Plan of the Joint Operating Agreement between

⁸³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 561.

⁸⁴ PJM Jan. 22, 2008 Answer at n. 39.

⁸⁵ See *PJM Interconnection, L.L.C.*, 121 FERC ¶ 63,012, at P 30 (2007). The Settlement is pending.

⁸⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 253.

⁸⁷ *Id.*

⁸⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 113 FERC ¶ 61,194 (2005).

the Midwest ISO and PJM has been added to Schedule 6 of the OA and allows PJM transmission owners to recover for cross-border projects.⁸⁹ Therefore, the existing PJM planning process already provides for cross-border cost allocation and future transmission enhancement and expansion projects can be addressed pursuant to the applicable provisions of the PJM OA and Tariff.

118. Accordingly, we find that PJM's filing, as modified, complies with the cost allocation principle. We find that PJM's filing requires modification because it does not provide a sufficient cost allocation methodology because it does not clearly indicate that Supplemental projects are not eligible for Schedule 12 cost allocation. Therefore, we direct PJM to file within 90 days of issuance of this order, a further compliance filing that revises its filing to provide the clarification to its planning process.

10. Recovery of Planning Costs

119. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁹⁰

120. PJM costs associated with the implementation of the transmission planning process and associated studies are recovered pursuant to Schedule 9 (PJM Interconnection, L.L.C., Administrative Services) of the PJM Tariff, which contains the provisions regarding the recovery of administrative expenses. The costs of operating PJM will be recovered from users of the various PJM services pursuant to the stated rates set forth in Schedule 9 of the Tariff. PJM collects expenses through user fees, including the application and membership fees.⁹¹ However, other costs such as the expense collected for the Organization of PJM States, Inc. (OPSI), the Regional State Commission for the PJM region; NERC, the Electric Reliability Organization certified by the Commission; and Reliability First Corporation, one of the Regional Reliability

⁸⁹ Section 1.8 (a) and (b) (Interregional Expansions Schedule) 6 of the PJM OA.

⁹⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁹¹ *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257 at 62,265 (1997).

Organizations of NERC are recovered through a formula rate design. Therefore, consistent with Order No. 890's cost recovery requirement, PJM has a process that provides an opportunity for all relevant parties, including state agencies, to recover the costs of participating in the process.⁹²

D. PJM Transmission Owner Local System Planning

121. 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. 890.⁹³ In Order No. 890-A, the Commission made clear 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 RTOs or ISOs is the RTO or ISO itself and not the transmission-owning RTO or ISO members who have turned the operational control of their transmission facilities over to the RTO or ISO.⁹⁴ The Commission explained 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 was each RTO's and ISO's responsibility to demonstrate compliance with each of the nine planning principles adopted in Order No. 890 since it is the entity with the planning process on file.⁹⁵ This includes the responsibility of ensuring that any plans developed by an RTO's or ISO's transmission-owning members, and

⁹² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁹³ *Id.* P 440.

⁹⁴ 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.

⁹⁵ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175.

relied upon by the RTO or ISO, are developed through a process that also complies with the requirements of Order No. 890.⁹⁶

1. PJM's Filing

122. PJM states that its compliance filing satisfies these concerns and directives with respect to PJM's transmission owners who do not have their own OATTs on file and who have turned over to PJM the operational control of their transmission facilities.⁹⁷ PJM notes that it routinely relies on the expertise of the transmission owners of localized facilities to develop necessary system reinforcements.

123. Under Schedule 6 of its Operating Agreement, PJM proposes to establish a new committee known as the Subregional RTEP Committee which will assist parties involved with RTEP reliability projects that are rated below 230 kV to participate more fully in the RTEP process and ensure their specific requirements are adequately addressed from the initiation of the process. The Subregional RTEP Committee will be responsible for providing the initial review of the Subregional RTEP projects and to provide recommendations to the TEAC concerning the Subregional RTEP projects.⁹⁸

124. PJM explains that in the PJM footprint, regional locations may have priorities, planning criteria, generation resources, and other concerns that differ based on the region. PJM also explains that in order to address this need, the Subregional RTEP Committee will be initially compartmentalized into three PJM subregions: the Mid-Atlantic, West and South subregion. PJM further explains that each subregion must meet a minimum of

⁹⁶ *Id.* P 175–77.

⁹⁷ PJM December 7, 2007 filing at 34.

⁹⁸ According to PJM, a Subregional RTEP project is defined as a reliability transmission expansion or enhancement rated below 230 kV, and a Regional RTEP project is defined as a transmission expansion or enhancement rated at 230 kV or above. PJM states that the definitions of Regional versus Subregional RTEP projects are used as a categorical separation for RTEP projects. PJM also states that for administrative convenience, the 230 kV voltage was chosen solely to separate the RTEP projects into Regional and Subregional RTEP projects for presentation and discussions, respectively, at the TEAC and Subregional RTEP Committee meetings. PJM emphasizes that the creation of two project categories is not intended to have any bearing on or application to cost allocation or project definition beyond recognition of the rating and size of the transmission line. PJM notes that these categories are not applicable to the market efficiency projects in section 1.5.7 (Development of Economic Transmission Enhancements and Expansions) of the Operating Agreement.

once per planning period to discuss planning assumptions at the beginning of each RTEP cycle and may need subsequent meetings to review analysis results and transmission solution alternatives. Additionally, PJM states that more localized planning meetings may be facilitated by PJM as well, in order to further review and evaluate the reliability and economics of the transmission system.

125. PJM states that in order to address reliability issues associated with a small number of local transmission facilities and the interconnection of wholesale loads, it routinely relies on the expertise of the transmission owners of these localized facilities. PJM assigns these transmission owners the responsibility to develop necessary system reinforcements. This category of local plan is submitted to PJM for review, concurrence, coordination, and integration into the RTEP.

126. PJM states that in order to meet the specific service requests for certain transmission customers, and treat all customers comparably, a new category will be created for system reinforcements developed under the local transmission owner planning process. PJM will evaluate these local transmission owner planning standards and criteria to determine if these local reinforcements are needed to optimally meet the local transmission owner planning criteria and to determine whether these reinforcements may be categorized as PJM RTEP baseline projects or as Supplemental Projects.

127. According to PJM, an RTEP baseline project will be subject to approval by the PJM Board of Managers. As a result, an RTEP baseline project is considered required for compliance with PJM criteria: system reliability, operational performance, or economic efficiency pursuant to a determination by PJM. PJM indicates that such criteria are regional rather than local. PJM indicates that such baseline regional projects will be eligible for PJM Tariff Schedule 12 cost allocation.

128. Conversely, PJM states that the Supplemental Projects will be defined in the OA as a Regional RTEP project or Subregional RTEP project that is not required for compliance with the PJM criteria.⁹⁹ Thus, PJM indicates that Supplemental Projects are planned to meet local reliability or economic criteria and are not eligible for PJM Tariff Schedule 12 cost allocation. PJM explains that the Supplemental Project category will ensure that projects planned to meet local reliability or economic criteria (i.e., a localized Transmission Owner Initiated project) will be processed through the Order No. 890 compliant procedures. PJM notes that all projects associated with the interconnection of retail or wholesale load will be classified as Regional RTEP projects, Subregional projects or Supplemental Projects.

⁹⁹ PJM's OA, Schedule 6, section 1.42A.02 *proposed*.

129. PJM also proposes to amend its OA to create a new Committee—the Subregional RTEP Committee¹⁰⁰—to further facilitate opportunities for customer participation in a more localized forum. As noted above, this committee will be compartmentalized into the three PJM subregions (Mid-Atlantic, West and South) to address the fact that regional locations may have priorities, planning criteria, generation resources, and other concerns that differ based on the region. Each subregion, PJM states, will have a minimum of one meeting per planning period to discuss planning assumptions at the beginning of each RTEP cycle and subsequent meetings to review analysis results and transmission solution alternatives.¹⁰¹ PJM notes that the Subregional RTEP Committee may refer specific Subregional RTEP Projects to the TEAC for further review, advice and recommendations. This committee will be open to participation by: (i) all transmission customers; (ii) any other entity proposing to provide transmission facilities to be integrated into the PJM region; (iii) all members; (iv) the electric utility regulatory agencies within the states in the PJM region and the state consumer advocates; and (v) any other interested entities or persons.

2. Protests/Comments

130. While supporting the creation of the Supplemental Projects category, PSEG Companies seek clarification regarding the scope of this category and the manner in which costs for these projects will be allocated.

131. PSEG Companies state that they understand the rationale for creating the three categories of projects (Regional, Subregional (below 230 kV) and Supplemental): to foster openness and transparency of the planning process and to ensure comparability with respect to transmission planning. Moreover, PSEG Companies state they support the creation of a separate category for Supplemental Projects, as this will enable transmission owners, working within the PJM transmission planning process, to plan for purely local projects that are not needed to satisfy PJM regional criteria. However, PSEG Companies seek clarification regarding the scope of this category, and the manner in which costs for these projects will be allocated.

¹⁰⁰ According to PJM's transmittal letter, the Subregional RTEP Committee will assist parties involved with RTEP reliability projects that are rated below 230 kV [Subregional RTEP Project] to participate more fully in the RTEP process. However, the PJM OA defines Subregional RTEP Projects "as a transmission expansion or enhancement rated below 230 kV." As discussed below, we will require PJM to revise the definition to include "reliability" consistent with its transmittal or provide an explanation why such a distinction is not necessary.

¹⁰¹ PJM Dec. 7, 2007 Filing at 15. See OA, Schedule 6, section 1.5.4(d) and (e) *proposed*.

132. PSEG Companies explain that they have two concerns regarding PJM's approach to Supplemental Projects. First, PSEG Companies express their concern that which projects fall into the Supplemental Projects category is left to the determination of PJM. PSEG Companies contend that while PJM states these projects are "not required for compliance with the following PJM criteria: system reliability, operational performance, or economic criteria," PJM does not adequately distinguish between regional and local criteria. Thus, PSEG Companies argue that a local transmission owner could propose local economic criteria to PJM, and if PJM adopts those "criteria," then a project providing purely local economic benefits within a particular transmission zone could be considered a Required Transmission Enhancement and made eligible for cost allocation to other zones under Schedule 12 of the PJM Tariff. PSEG Companies argue that to prevent such a result, PJM should clarify that the criteria to which it is referring in connection with the Supplemental Project definition are regional criteria only; this would ensure that local economic projects are always paid for by the customers within the local zone. PSEG Companies explain that while this result can be inferred by PJM's reference to the fact that these projects will be subject to approval by the PJM Board of Managers, PSEG Companies believe that cost allocation for these projects needs to be made explicit by inclusion of appropriate cost allocation language in the compliance filing. Moreover, PSEG Companies state that, for sake of clarity, PJM should be required to provide examples of projects that would fall within the "Supplemental" category, such as reconducting of circuits and wave trap replacements.

133. Second, PSEG requests that PJM be ordered to clarify that Supplemental Projects will not be subject to cost allocation under PJM Tariff Schedule 12 but will instead be paid for by customers located within the zone in which the project is built. PSEG states while this can be inferred by PJM's reference to the fact that these projects will not be subject to approval by the PJM Board of Managers, PSEG believes that cost allocation for these projects needs to be made explicit by inclusion of appropriate cost allocation language in the compliance filing.

134. Old Dominion contends that PJM's filing falls short with respect to the local planning requirement. Old Dominion argues that PJM has not clarified whether and how the PJM evaluation of locally planned transmission projects will fit into the open and collaborative transmission planning process required by the Commission. As an example, Old Dominion asks how the RTEP process will be applied to local transmission projects that will presumably be put forth by a transmission owner. Old Dominion is concerned that stakeholders have the same notice and opportunity to participate in the development and inclusion of these projects into the RTEP as they are afforded for regional transmission plans.¹⁰²

¹⁰² *Id.* at 12.

135. Old Dominion expresses its concern that the transmission planning process, with respect to local economic-based transmission planning and merchant transmission facilities, needs clarification. Old Dominion emphasizes that the RTEP Protocol in OA Schedule 6 must make clear that all projects that will be included in the RTEP undergo the same open and collaborative process. Old Dominion states that nowhere does the OA require that Merchant Transmission projects undergo the same open and collaborative process as all other RTEP projects. Accordingly, Old Dominion suggests adding language¹⁰³ to the proposed OA Schedule 6, section 1.5.6(a) to make clear that these projects will be included in the open and collaborative transmission planning process.

136. Further, AMP-Ohio expresses concern about the lack of any meaningful detail about how local modeling, assumptions and planning will be handled and the scope of the local versus regional planning process. At the very least, AMP-Ohio says, the Commission should require facilities whose costs are recovered under the tariff to be subject to the planning principles

3. PJM's Answer

137. PJM disagrees in its answer with protestors that its filing falls short with respect to the local planning requirement. PJM contends that its filing and the proposed revisions to its OA already provide the clarity and specificity with respect to locally planned transmission projects and how they will fit into the PJM regional planning process.

138. With regard to the evaluation process of locally planned transmission projects, PJM notes that it assigns the transmission owners of localized facilities the responsibility to develop necessary system reinforcements, and that these local plans are submitted to PJM for review, concurrence, coordination, and integration in the RTEP.¹⁰⁴ Under the PJM OA, all members are obligated to cooperate in the analysis, formulation and implementation of plans to prevent or eliminate conditions that impair the reliability of the system.¹⁰⁵ In addition, the PJM OA requires the RTEP to reflect transmission enhancements and expansions; load forecasts; expected demand response; and capacity forecasts, including generation additions and retirements, for at least the ensuing ten years.¹⁰⁶ Further, PJM clarifies that Supplemental Projects will be subject to the same

¹⁰³ *See Id.* at 14-15.

¹⁰⁴ PJM Dec. 7, 2007 Filing at 34.

¹⁰⁵ Section 11.3.2 (g) (Facilities Planning and Operation) of the PJM OA..

¹⁰⁶ Section 1.4 (b) (Contents of the Regional Transmission Expansion Plan) Schedule 6 of the PJM OAT.

regional planning process under the RTEP as baseline regional projects. PJM states that its underlying transmission owners are obligated under Order No. 890 to engage in transmission planning that complies with the Final Rule.¹⁰⁷

139. PJM clarifies that the Supplemental Projects category (i.e., a Regional RTEP Project or Subregional RTEP Project that is not required for compliance with PJM criteria: system reliability, operational performance or economic criteria)¹⁰⁸ was created to allow PJM to “evaluate local transmission owner planning standards and criteria to determine if local reinforcements are needed to optimally meet the local transmission owner planning criteria and to determine whether these reinforcements may be categorized as PJM RTEP baseline projects or as Supplemental Projects.”¹⁰⁹ PJM states that consistent with Order No. 890, the PJM planning process incorporates local planning into the open and collaborative transmission planning process, as Schedule 6 of the PJM OA provides that the recommended RTEP will separately identify enhancements and expansions that are classified as Supplemental Projects.¹¹⁰

4. Commission Determination

140. We find that PJM’s compliance filing lacks sufficient clarity and specificity with respect to locally planned transmission projects and how they will fit into the PJM regional planning process. Under the existing planning process, according to PJM, in order to address reliability issues associated with a small number of local transmission facilities and the interconnection of wholesale loads, it routinely relies on the expertise of the transmission owners of localized facilities to develop necessary system reinforcements and integrates this information into the RTEP planning process. Here, PJM has proposed a new category referred to as “Supplemental Projects” to evaluate local transmission projects. While PJM will evaluate local transmission owner planning standards and criteria to determine if local reinforcements are needed to meet local transmission planning criteria and determine whether these reinforcements will be categorized as PJM RTEP baseline projects or as Supplemental Projects, PJM’s RTEP provisions should clearly state how such Supplemental Projects will fit into the regional planning process.

¹⁰⁷ Order No. 890, FERC Stats.& Regs. ¶ 31,241 at P 440.

¹⁰⁸ Section 1.42.02 (Supplemental Projects Schedule 6 of the PJM OA).

¹⁰⁹ PJM Jan. 22, 2008 Answer at 6-7.

¹¹⁰ Section 1.5.6 (c.01) (Development of the Recommended Regional Transmission Expansion Plan) Schedule 6 of the PJM OA.

141. PJM notes that it assigns the transmission owners of localized facilities the responsibility to develop necessary system reinforcements—and that these local plans are submitted to PJM for review, concurrence, coordination, and integration in the RTEP. However, the Commission is not convinced that such local planning procedures will allow stakeholders to participate at an early stage in the transmission planning associated with these local plans. Customers must not be excluded from the development of aspects of what eventually will become the regional plan implemented by the RTO or ISO. Accordingly, we find that Schedule 6 of PJM's OA fails to adequately describe how its planning process will satisfy Order No. 890. We direct PJM to file within 90 days of the issuance of this order a further compliance filing that revises its OA to include language that will ensure that stakeholder input will be incorporated at an early stage in its development into the planning process for local or other transmission planning conducted by PJM's transmission owners. Therefore, in order to comply with Order No. 890's local planning requirements, the Commission directs PJM to modify the Operating Agreement to: (i) require each transmission owner's local plan to be made available on a website for review by the Planning Committee, the TEAC and the Subregional RTEP Committee subject to CEII and existing OA confidentiality provisions; (ii) provide links to each transmission owner's local plan on PJM's website; (iii) require transmission owners to post the planning criteria and assumptions used in its current local plan; and (iv) provide links to each transmission owner's planning criteria and assumptions on PJM's website; and (v) require transmission owners to provide a reasonable opportunity for written comments after the posting of their local plan. The Commission will also require PJM to update its manuals (e.g., Manual 14B Regional Planning Process) to include descriptions of the Subregional RTEP Committee, Regional and Subregional RTEP Projects and Supplemental Projects.

142. Some commentors ask for clarification with regard to cost allocation for the Supplemental Projects. Section 1.5.6 (Development of the Recommended Regional Transmission Expansion Plan) of the PJM OA provides that Supplemental Projects may not be required for compliance with the following criteria: system reliability, operational performance, or economic efficiency, pursuant to a determination by PJM. As PJM indicates, Supplemental Projects will be listed separately in the RTEP but will not be approved by the PJM Board of Managers. Therefore, as PJM clarifies, these projects are not eligible for PJM OATT Schedule 12 cost allocation.¹¹¹ For these reasons, we find that PJM has clarified the issues of cost allocation for Supplemental Projects in its Answer. However, as noted above, we require PJM to revise its planning process to clearly reflect that the costs of Supplemental Projects are not eligible for Schedule 12 cost allocation.

¹¹¹ PJM January 22, 2008 Answer at 7.

143. With regard to PSEG Companies' request that the Commission require PJM to provide an example of a Supplemental Project, we find that whether a Regional or Subregional Project is classified as a Supplemental project (i.e., such project is not required for compliance with PJM criteria: system reliability, operational performance or economic) would be based on the specific factual circumstances of the project.

The Commission orders:

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

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.