

123 FERC ¶ 61,165
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System
Operator, Inc. and American Transmission
Company, LLC

Docket No. OA08-42-000

ORDER ON COMPLIANCE FILING

(Issued May 15, 2008)

1. On December 7, 2007, American Transmission Company LLC (American Transmission Company) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) jointly submitted to the Commission for filing proposed revisions to Attachment FF-ATCLLC of Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT or tariff),¹ to comply with the transmission planning principles outlined in Order No. 890.² As explained more fully below, this joint compliance filing is intended to satisfy the requirement in Order No. 890 that Midwest ISO ensure that the local transmission planning conducted by American Transmission Company, as an underlying transmission owner of Midwest ISO, complies with Order No. 890.³ In this

¹ American Transmission Company is a transmission-owning member of Midwest ISO and Midwest ISO provides for service over its facilities under the TEMT. As administrator of the TEMT, Midwest ISO joined American Transmission Company in this compliance filing to amend the tariff; however, in this order, we refer to the proposed revisions as American Transmission Company's proposals.

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, 73 Fed. Reg. 2984 (Jan. 16, 2008) FERC Stats. & Regs. ¶ 31,261 (2007).

³ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

order, we accept American Transmission Company's filing, as modified, subject to a further compliance filing, and subject to the outcome of Docket No. OA08-53-000.

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.⁴ To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles (discussed below) and to clearly describe that process in a new attachment (Attachment K) to their OATTs.⁵ In a subsequent order, the Commission required transmission providers to submit their transmission planning process for Commission review on or before December 7, 2007.⁶

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

⁴ The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

⁵ American Transmission Company placed its Attachment K transmission planning process in "Attachment FF-ATCLLC." Throughout this order, however, the transmission planning process required by Order No. 890 is sometimes referred to generically as the "Attachment K" process.

⁶ See *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103 (2007).

principles in its transmission planning process and all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission has also explained that tariff rules must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.⁷

4. In Order No. 890, regional transmission organizations (RTOs) and independent system operators (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.⁸ In Order No. 890-A, the Commission clarified that the filing and posting requirements associated with the planning-related reforms adopted in Order No. 890 apply only to the transmission provider, which in the case of RTOs and ISOs, is the RTO or ISO itself and not the transmission-owning RTO or ISO members without an OATT.⁹ Each RTO and ISO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, its transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. In the end, however, it is 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 only entity with the Attachment K on file. This includes ensuring that any plans developed by an RTO's or ISO's transmission-owning members and relied upon by the RTO or ISO are developed through a process that also complies with the requirements of Order No. 890.¹⁰

⁷ 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 providers' website, provided there is a link to those business practices on OASIS. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in the Attachment K, and a reference to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

⁸ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

⁹ 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.

¹⁰ *Id.* P 175-77.

II. Notice of Filing and Responsive Pleadings

5. Notice of American Transmission Company's filing was published in the *Federal Register*, 72 Fed. Reg. 73,016 (2007), with interventions and protests due on or before December 28, 2007. On December 20, 2007, the Commission issued a notice of extension of time to and including January 7, 2008, to file comments regarding Attachment K compliance filings in a number of dockets, including Docket No. OA08-42-000.

6. Wisconsin Electric Power Company, the Midwest ISO Transmission Owners (Midwest ISO TOs),¹¹ Consumers Energy Company, PPM Energy, Inc., the Electric Power Supply Association, and International Transmission Company (International Transmission), jointly with Michigan Electric Transmission Company (Michigan Electric) and ITC Midwest, LLC (collectively ITC Companies) filed motions to intervene. The Michigan Public Service Commission (Michigan Commission) submitted a notice of intervention and comments. Integrys Energy Group, Inc., along with its subsidiaries Wisconsin Public Service Corporation, Upper Peninsula Power Company, and Integrys Energy Services, Inc. (collectively, Integrys) filed a motion to intervene and comments.

¹¹ Midwest ISO TOs consist of: Ameren Services Company; Alliant Energy Corporate Services, Inc; American Transmission Systems, Incorporated; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Shared Services; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; Manitoba Hydro; Michigan Public Power Agency; Minnesota Power; Montana-Dakota Utilities Co; Northern Indiana Public Service Company; Northern States Power Company (MN) and Northern States Power Company (WI); Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association; and Wolverine Power Supply Cooperative, Inc.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.¹²

B. American Transmission Company's Revisions to Existing Attachment FF-ATCLLC

8. American Transmission Company states that the proposed revisions to existing Attachment FF-ATCLLC to the TEMT are intended to fulfill Order No. 890's planning requirements by ensuring that the transmission planning conducted by American Transmission Company, as a Midwest ISO transmission owner, complies with the nine planning principles and other planning requirements in Order No. 890. American Transmission Company also states that the revisions to Attachment FF-ATCLLC are consistent with the Attachment FF revisions that Midwest ISO has proposed in Docket No. OA08-53-000, in order to ensure that the planning process for Midwest ISO on the whole complies with Order No. 890's planning requirements.¹³ American Transmission Company states that the planning functions and the manner in which it meets the transmission needs of its interconnected distribution and generation customers are key elements of its basic operations. American Transmission Company states that its planning process has incorporated the Commission's nine planning principles, and that its process is structured to include all interested parties and treat all similarly situated interconnected transmission and generation customers in a similar manner. American Transmission Company states that it identifies the nature and number of meetings with transmission customers and/or stakeholders associated with each planning function, the nature of the output associated with each planning function, the basis upon which American Transmission Company develops the planning models that it uses, including

¹² Integrys filed a joint answer in the instant proceeding and in Midwest ISO's Attachment K Order No. 890 compliance proceeding in Docket No. OA08-53-000 opposing Midwest ISO's and the Midwest ISO TOs' motions to submit answers to protests. We are rejecting Integrys' answer in this instant proceeding because Midwest ISO and the Midwest ISO TOs did not file their motions to submit answers in this proceeding.

¹³ In an order issued in Docket No. OA08-53-000 concurrently with the instant order, the Commission accepts Midwest ISO's Attachment FF filing, as modified, as in compliance with Order No. 890's planning requirements. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164 (2008).

the manner in which interested parties can participate in the development of the assumptions used in those planning models, and the means to address disputes related to the local planning function that may arise.

Protest/Comment

9. Although generally supporting American Transmission Company's compliance filing, Integrys argues that American Transmission Company should have placed its planning provisions in a stand-alone Attachment K instead of revising its existing Attachment FF-ATCLLC.

Commission Determination

10. We disagree with Integrys regarding the need for American Transmission Company to place its planning provisions in a stand-alone Attachment K. Requiring American Transmission Company to create a separate Attachment K would create unnecessary overlap. Attachment FF and Attachment FF-ATCLLC to the TEMT both describe the relevant planning processes in a single, easily identifiable location within Midwest ISO's tariff. As discussed more fully below, after reviewing American Transmission Company's compliance filing for each of the planning principles, we find that, while American Transmission Company neglected to address the recovery of planning costs, it otherwise complied with the planning principles outlined in Order No. 890. As a result, we accept American Transmission Company's proposed Attachment FF-ATCLLC, as modified below, to be effective December 7, 2007; however, we direct American Transmission Company to file, within 90 days of the date of this order, a further compliance filing addressing how it plans to recover its planning costs.

11. While we accept American Transmission Company's transmission planning process in Attachment FF-ATCLLC, we nevertheless encourage further refinements and improvements to American Transmission Company's planning process as American Transmission Company 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 (or in this case, transmission owner) 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 or owner'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.¹⁴

Commission Determination

13. We find that the planning process outlined in American Transmission Company's proposed Attachment FF-ATCLLC satisfies the coordination principle outlined in Order No. 890. Order No. 890 provides the transmission provider with flexibility when developing the coordination principle by allowing them to determine the appropriate number and scope of meetings that are appropriate for the transmission provider as well as their stakeholders.¹⁵ American Transmission Company coordinates with its customers and stakeholders in a variety of ways, as discussed below. For instance, American Transmission Company will hold one or more meetings per year with all stakeholders to incorporate stakeholder input into its Ten Year Assessment and to discuss the assumptions, models and assessment tools that it will use in developing that Ten Year Assessment as part of their Network Adequacy Planning function. In addition, Attachment FF-ATCLLC provides that American Transmission Company will hold meetings with individual owners of distribution facilities, either collectively, individually or in small groups to assess the need for specific load interconnection requests and to assess whether the current load interconnection requests are appropriate to meet the needs of an owner, prior to the commencement of studies and stakeholder participation to formulate the Ten Year Assessment. Attachment FF-ATCLLC also provides that American Transmission Company will meet with owners of transmission facilities as frequently as necessary in order to ensure that it has sufficient information to appropriately study or assess the impact of changes, modifications, additions or

¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

¹⁵ *Id.* P 451

supplements to interconnection facilities, prior to the commencement of studies and stakeholder participation to formulate the Ten Year Assessment. American Transmission Company uses these initial meetings with owners of distribution and transmission facilities to assess the needs of specific entities, but provides an opportunity for stakeholders to review and discuss results prior to completing the Ten Year Assessment.¹⁶ Furthermore, American Transmission Company states that it will participate in the Sub-Regional Planning Meetings proposed in Attachment FF of the Midwest ISO TEMT.

2. Openness

14. 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 stated that the overall development of the transmission plan and the planning process must remain open.¹⁷ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.¹⁸

Commission Determination

15. We find that American Transmission Company's Attachment FF-ATCLLC provides an opportunity for all affected parties to participate in the transmission planning process. Specifically, American Transmission Company states that all interested parties are entitled to participate in the meetings to discuss the models and assumptions to be used in the network assessment and the Ten Year Assessment, including interconnection customers, transmission customers, owners of distribution or transmission facilities, as well as any stakeholder, state regulator, local, state and federal governmental officials and members of interested community organizations. American Transmission Company

¹⁶ See *infra* note 17.

¹⁷ 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. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

¹⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

states it will take into account the Commission's Standards of Conduct and CEII requirements when obtaining and verifying information from its stakeholders. American Transmission Company also states that any party may request copies of its studies and assessments, as well as the models used in those studies and assessments, under appropriate confidentiality agreements. Therefore, American Transmission Company complies with the openness principle described in Order No. 890.

3. Transparency

16. 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.¹⁹ 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.

17. 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.²⁰

¹⁹ In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

²⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

Commission Determination

18. We find that American Transmission Company's Attachment FF-ATCLLC makes the basic methodology, criteria, and processes used to develop transmission plans available to interested parties. American Transmission Company states that it employs a number of planning assessment tools to evaluate proposed transmission projects and that those planning assessment tools will be available on its external website. In addition, each year, American Transmission Company will meet with all stakeholders to discuss the assumptions, models and assessment tools to be used to perform its Ten Year Assessment, which will explain the studies of its transmission facilities it has made in the past year, make assessments of construction projects over a ten-year planning horizon, and determine if projects are provisional, proposed or planned. Lastly, American Transmission Company states that, as part of the Ten Year Assessment, transmission customers provide demand forecasts as well as information concerning their respective demand response programs, initiatives and requirements and that American Transmission Company factors these demand response elements into its Ten Year Assessment. Therefore, American Transmission Company's Attachment FF-ATCLLC adequately describes the methods that it will use to disclose criteria, assumptions, and data underlying its transmission system plans and complies with the transparency principle described in Order No. 890.

4. Information Exchange

19. 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.²¹ Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

20. 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

²¹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

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.²²

21. The Commission stated 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.²³

Commission Determination

22. We find that American Transmission Company's Attachment FF-ATCLLC provides clear guidelines and schedules for the submittal of customer information, and complies with the information exchange principle described in Order No. 890. Specifically, American Transmission Company proposes to solicit information, at least annually, from all interconnection customers, transmission customers and the owners of all distribution facilities that are interconnected to its transmission system for purposes of the Ten Year Assessment and the network assessment. American Transmission Company states that each party should provide information via form letters concerning its current and projected use of American Transmission Company's transmission facilities or the needs of their respective interconnection or distribution facilities. American Transmission Company also states that once information is solicited from all interconnected parties, then American Transmission Company will contact parties for additional information such as load forecasts, generation requirements, generation outage schedules and distribution construction programs. With respect to requests for the interconnection of new generating capacity or an increase in the generating capacity of an existing point of interconnection, American Transmission Company states such interconnection requests are governed under the terms of Attachment R and X of Midwest ISO's tariff. American Transmission Company states that at the direction of

²² *Id.* P 206.

²³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

Midwest ISO, it will perform the studies required. American Transmission Company states that results of all studies will be incorporated into their planning functions, as appropriate.

5. Comparability

23. 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.²⁴

Commission Determination

24. We find that American Transmission Company's planning process complies with the comparability principle described in Order No. 890. American Transmission Company complies with this principle by, among other things, soliciting information from and including the needs of similarly situated customers as part of its planning process. In particular, American Transmission Company will solicit information from all similarly situated interconnected transmission customers (i.e., interconnected distribution systems, interconnected generation facilities and load), including information about their current and projected use of American Transmission Company's transmission facilities and the need of their respective interconnection or distribution facilities. American Transmission Company will take all of the information it receives into account in any models and assessment tools that it uses to study and make assessments about its transmission facility requirements.²⁵ This includes the Ten Year Assessment that American Transmission Company develops each year to provide for efficient and reliable service to all of its customers throughout the planning horizon.²⁶ American Transmission

²⁴ *Id.* P 494-95.

²⁵ TEMT at Attachment FF-ATCLLC at section D.2., Original Sheet No. 1852Z.11.

²⁶ *Id.* at section D.1., Original Sheet No. 1852Z.09.

Company also states that its Ten Year Assessment factors in its customers' demand response elements to determine what transmission projects may be necessary to meet their overall needs.

25. Order No. 890-A was issued on December 27, 2007, subsequent to American Transmission Company submitting its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process "how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning."²⁷ Here, American Transmission Company has submitted tariff language providing that, as a general matter, demand response resources will be treated comparably. However, since Order No. 890-A was issued subsequent to the filing before us, American Transmission Company did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, American Transmission Company is directed to file, within 90 days of issuance of this order, a compliance filing addressing the necessary demonstration required by Order No. 890-A.

6. Dispute Resolution

26. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.²⁸

²⁷ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

²⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

Commission Determination

27. We find that American Transmission Company's Attachment FF-ATCLLC and related agreements referenced in that attachment comply with the dispute resolution principle in Order No. 890. Specifically, American Transmission Company explains that disputes related to generation interconnection and transmission service requests will be handled in accordance with the Midwest ISO TEMT Article 12 and Attachment HH. American Transmission Company also explains that disputes related to network assessment, the evaluation of economic projects, and its Ten Year Assessment will be handled in accordance with the provisions of Appendix B of its operating agreement. American Transmission Company states that disputes with a party making a distribution interconnection request will be handled in accordance with the provisions of the interconnection agreement between American Transmission Company and that party.

7. Regional Participation

28. 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: (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 congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and subregions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and 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.²⁹

29. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.³⁰ In Order No. 890-A, the Commission also stated that

²⁹ *Id.* P 523-28.

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

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.³¹

Protest/Comment

30. The Michigan Commission recommends that the Commission direct Midwest ISO and American Transmission Company to clarify how Midwest ISO's regional planning process under Attachment FF will be coordinated with the processes set forth in Attachment FF-ATCLLC. The Michigan Commission acknowledges that because American Transmission Company chose to submit its own local planning process, Michigan's Upper and Lower Peninsula customers will be subject to two different Order No. 890 compliance models.³² The Michigan Commission states that both International Transmission and Michigan Electric must comply with certain planning steps before submitting transmission projects or proposals to Midwest ISO and must engage in a new stakeholder process through Sub-Regional Planning Meetings. However, the Michigan Commission states that provisions of Midwest ISO's Attachment FF that detail the sub-regional planning process and review of transmission projects as part of the Midwest ISO Transmission Expansion Plan (MTEP) do not apply to transmission owners with their own planning process, such as American Transmission Company. While the Michigan Commission is not opposed to having different transmission planning processes for the transmission owners operating in Michigan, the Michigan Commission argues that, as currently drafted, it is not clear how transmission owners with their own planning process should coordinate with sub-regional planning groups or have projects reviewed by Midwest ISO for inclusion in the MTEP.

Commission Determination

31. As an initial matter, we find that American Transmission Company can meet the regional participation principle through participation in both the Midwest ISO planning process and through its own planning process under Attachment FF-ATCLLC. However, American Transmission Company has not provided us with enough information about how this two-tiered process will work for us to find that its proposal fully complies with

³¹ *Id.*

³² In this proceeding, American Transmission Company, which provides transmission service to Michigan's Upper Peninsula, proposes its own Attachment FF-ATCLLC, but International Transmission and Michigan Electric, which provide transmission service to the majority of Michigan's Lower Peninsula, elected to fully integrate their local transmission planning process into Midwest ISO's planning process, as outlined in Docket No. OA08-53-000.

the planning principles of Order No. 890. In particular, we agree with the Michigan Commission that it is not clear how American Transmission Company's individual planning process will be incorporated into the Midwest ISO regional process. However, that issue is more appropriately addressed as part of Midwest ISO's proposal in Attachment FF as the Michigan Commission raised the same concern in comments filed in Docket No. OA08-53-000. Therefore, we address the issue of how transmission owners with their own local planning process, such as American Transmission Company, will be incorporated into the overall Midwest ISO planning process in the concurrently issued order discussing Midwest ISO's Attachment FF filing in Docket No. OA08-53-000.³³ Accordingly, we will make this issue subject to the outcome of Docket No. OA08-53-000.

8. Economic Planning Studies

32. The economic planning studies principle requires transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for OATT customers as well. The Commission required that the scope of economic studies 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.

33. The Commission also stated that existing regional processes conducted by RTOs and ISOs are not exempt from economic planning study requirements. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.³⁴

34. In Order No. 890-A, the Commission stated that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can

³³ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164, at P 131-36 (2008).

³⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

be requested and how they will be prioritized.³⁵ In Order No. 890-A, the Commission also required that a transmission provider's affiliates be treated like any other stakeholder and, therefore, that their requests for studies be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.³⁶ 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. 890.³⁷

Commission Determination

35. We find that American Transmission Company's Attachment FF-ATCLLC complies with the economic planning studies principle described in Order No. 890. American Transmission Company states that an interconnected party may recommend that American Transmission Company assess a constrained element of its transmission facilities or a node within its region in which a constraint may exist and that these proposed projects will be posted to its external website. Then, each year American Transmission Company will select two economic projects based on the preliminary determination that the proposed projects have the potential to provide the greatest economic value by reducing the delivered cost of energy or reducing congestion costs for customers and interconnected parties when compared to the preliminary estimated transmission facilities' construction costs. American Transmission Company states that it will provide the reasons as to why it chose the two economic projects for further evaluation and that customers and stakeholders have the right to comment on the proposed economic projects. American Transmission Company states that it will post all of the comments to its website. In the event that American Transmission Company receives comments on the two projects that it proposes to study, American Transmission Company states that it could revise its determination on the economic projects to be evaluated and that if it does change its determination then the new projects to be studied will be posted.

9. Cost Allocation

36. 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

³⁵ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

³⁶ *Id.* P 237.

³⁷ *Id.* P 238.

include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fit their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

37. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.³⁸ In Order No. 890-A, the Commission clarified 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.³⁹

Commission Determination

38. We find that American Transmission Company's proposal complies with the cost allocation principle described in Order No. 890. American Transmission Company states that if transmission facilities are required to render adequate service under an interconnection agreement with a distribution customer, then American Transmission Company will bear the cost of the facilities and recover those costs under Attachment O of the Midwest ISO TEMT. To the extent that any facilities that are required to meet the needs of a distribution interconnection request qualify as a Baseline Reliability Project in the MTEP, then the costs associated with those facilities shall be allocated in accordance with the provisions of Attachment FF of the Midwest ISO TEMT. In addition, American Transmission Company explains that transmission facilities constructed to fulfill requests involving new generating capacity or an increase in existing generation capacity shall be allocated according to the provisions of (1) Attachment R, X, or FF of the Midwest ISO TEMT or (2) the large or small generator interconnection agreement.

³⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

³⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

10. Recovery of Planning Costs

39. 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.⁴⁰

Protest/Comment

40. Integrys argues that American Transmission Company will bear a disproportionate share of planning costs relative to other Midwest ISO transmission owners who will rely on Midwest ISO for planning, and that Midwest ISO's assignment of planning costs should be more closely examined. Integrys argues that Midwest ISO should recognize the planning activity that American Transmission Company provides and the extent to which that activity results in a cost savings to Midwest ISO, and that because of this cost savings, American Transmission Company should pay a smaller share of Midwest ISO's costs than other transmission owners.

Commission Determination

41. We find that American Transmission Company has not addressed how its planning costs will be recovered. American Transmission Company does not explain in Attachment FF-ATCLLC whether it will allocate the planning cost it incurs or the costs it incurs plus a share of the Midwest ISO planning costs. Therefore, we direct American Transmission Company to file, within 90 days of issuance of this order, a further compliance filing detailing its plan to recover planning costs. In response to Integrys' specific concerns related to Midwest ISO's allocation of planning costs to American Transmission Company, which were also raised in Docket No. OA08-53-000, we find that issue is more appropriately addressed in the order discussing Midwest ISO's Attachment FF filing that is being issued concurrently with this order.⁴¹

⁴⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁴¹ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164, at P 86 (2008).

The Commission orders:

(A) American Transmission Company's compliance filing, as modified, is hereby accepted, effective December 7, 2007, subject to a further compliance filing, and subject to the outcome of Docket No. OA08-53-000, as discussed in the body of this order.

(B) American Transmission Company 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.