

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

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

Maine Public Service Company

Docket No. OA08-21-001

ORDER ON COMPLIANCE

(Issued May 21, 2009)

1. On August 13, 2008, Maine Public Service Company (MPS), submitted revisions to its transmission planning process to comply with the Commission's May 15, 2008 order in this proceeding.¹ In this order, we accept MPS's compliance filing effective December 7, 2007.

I. Background

2. In Order No. 890,² 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. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their OATT (Attachment K).

3. The Commission in Order No. 890 directed each transmission provider to address in its Attachment K planning process the following nine planning principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange;

¹ *Maine Public Service Co.*, 123 FERC ¶ 61,162 (2008) (May 15 Order).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

(5) comparability;³ (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. 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. The Commission also explained, however, 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, as supplemented with web-posted business practices when appropriate,⁴ must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

4. MPS filed its Attachment R⁵ in response to Order No. 890, and in the May 15 Order the Commission accepted the filing in part, requiring a further compliance filing to address several issues. Specifically, the Commission accepted the filing subject to MPS: (1) identifying how comparability will be determined for purposes of transmission planning; (2) removing binding arbitration provisions from the Attachment R dispute resolution procedures and eliminating restrictions on the exercise of any interested person's rights to file a complaint; and, (3) including additional detail regarding how the "beneficiaries pay" approach regarding economic projects will be applied under the Attachment R cost allocation provisions.

5. Although the Commission accepts MPS's compliance filing below, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and

³ In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

⁵ Although Order No. 890 indicated that the transmission planning process should be described in a new "Attachment K," it also recognized that some transmission providers may already have attachments to their OATTs labeled with the letter "K," and in which case transmission providers are free to label their planning process OATT attachment with the next available letter. MPS labeled its Attachment K transmission planning process as "Attachment R." *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n.246.

improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission intends to convene regional technical conferences later this year to determine if further refinements to these processes are necessary. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas that may need improvement. The conferences will examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates. The Commission will also explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of interregional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

II. Notice of Filing and Responsive Pleadings

6. Notice of MPS's filing was published in the *Federal Register*, 73 Fed. Reg. 50,805 (2008), with interventions and protests due on or before September 3, 2008. None was filed.

III. Discussion

A. Comparability

7. In the May 15 Order the Commission found that, because Order No. 890-A was issued on December 28, 2007, subsequent to MPS submitting its Order No. 890 Attachment K compliance filing, MPS did not have an opportunity to demonstrate that it complies with the comparability requirement of Order No. 890-A.⁶ Order No. 890-A required that the transmission provider needs 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."⁷ Therefore, the Commission directed MPS to make a compliance filing addressing the necessary demonstration required by Order No. 890-A.

8. In its compliance filing, MPS identifies how it will treat resources comparably for purposes of transmission planning. MPS states that it will include demand resources and

⁶ May 15 Order, 123 FERC ¶ 61,162 at n.6.

⁷ *Id.* (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216).

other resources in load flow studies and will evaluate and analyze potential expansions and enhancements, including demand resources and other resources, using appropriate parameters, comparing the benefits of each option. Specifically, sections 4.4.3 and 5 of Attachment R provide that MPS shall use industry standard assumptions in developing its transmission plan, but that the Planning Advisory Group (in which potential sponsors of transmission, generation and demand resources can participate) is able to augment those assumptions and MPS's study methodology as necessary. Section 4.8 provides that MPS then performs studies to identify system needs and develops a draft plan with recommended enhancement and expansion projects. The Planning Advisory Group may provide comments on the draft plan and recommended projects and offer alternatives for consideration. Upon consideration of the input and advice from the Planning Advisory Group, MPS will develop a final plan and supporting briefing paper. Sections 4.4.1 and 4.8.1 provide that MPS's evaluation of alternative solutions will be evaluated on a least-cost basis, premised on the goals of maintaining reliability and reducing congestion where economically justified.

Commission Determination

9. We find that MPS has sufficiently described how it will treat resources on a comparable basis and identified how it will determine comparability for purposes of transmission planning. MPS's Attachment R identifies where and when in the planning process sponsors of transmission, generation, and demand resources have an opportunity to provide their input regarding the development of assumptions used by MPS in transmission planning activities and the potential solutions, including alternatives, being evaluated by MPS to address system reliability and market efficiency needs. In addition, the Attachment R clearly indicates how MPS will evaluate competing alternatives to ensure that all types of resources (i.e., transmission, generation, and demand resources) are considered on a comparable basis. Finally, MPS clearly states that economic planning studies may be requested for the evaluation of potential upgrades or other investments that could integrate new resources or loads on an aggregated or regional basis.⁸ We therefore find that MPS's planning process complies with the comparability requirements of the May 15 Order.

B. Dispute Resolution

10. The May 15 Order directed MPS to remove binding arbitration from the dispute resolution provisions of Attachment R, as well as remove the limitations on parties' ability to initiate section 206 complaints regarding planning-related disputes.⁹ In

⁸ See section 8.4 (Economic Planning Studies) of MPS's Attachment R.

⁹ May 15 Order, 123 FERC ¶ 61,162 at P 16-17.

accordance with the May 15 Order, MPS revised its Attachment R to remove binding arbitration and to remove the limitations on parties' ability to initiate section 206 complaints during the arbitration step of dispute resolution.

Commission Determination

11. We reviewed MPS's revisions regarding dispute resolution, and we find that the proposed revisions satisfy the requirements of the May 15 Order.

C. Cost Allocation

12. The May 15 Order accepted MPS's proposal to allocate the cost of economic projects that specifically benefit individual customers to the entities that benefit from the project. The Commission found that MPS's Attachment R does not provide sufficient detail regarding how its "beneficiaries pay" approach will be applied to economic projects, and directed MPS to provide this detail in a compliance filing.¹⁰ In response, MPS has revised its Attachment R to state that there is a first presumption that the party that requires or requests an economic project is the beneficiary of the project and will pay all costs associated with the economic project. However, if the production cost benefits related to an economic project exceed the costs of the economic project, then the presumption is that transmission customers will be beneficiaries and the costs shall be allocated to all transmission customers on a load-ratio share basis.

Commission Determination

13. We reviewed MPS's revisions regarding cost allocation for economic projects, and we find that the proposed revisions satisfy the requirements of the May 15 Order.

The Commission orders:

MPS's compliance filing is hereby accepted to become effective December 7, 2007.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁰ *Id.* P 21.