

127 FERC ¶ 61,173  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwestern Power Administration

Docket No. NJ08-3-001

ORDER ON COMPLIANCE FILING

(Issued May 21, 2009)

1. On December 16, 2008, Southwestern Power Administration (Southwestern) submitted a revised Attachment O (Transmission Planning Process) to its Open Access Transmission Tariff (OATT), as required by the Commission in the Southwestern Planning Order.<sup>1</sup> In this order, we will accept Southwestern's compliance filing, as modified, subject to a further compliance filing.

**I. Background**

2. In Order No. 890,<sup>2</sup> the Commission reformed the *pro forma* 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 OATTs (Attachment K).

---

<sup>1</sup> *Southwestern Power Admin.*, 124 FERC ¶ 61,261(2008) (Southwestern Planning Order).

<sup>2</sup> *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).

3. 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;<sup>3</sup> (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,<sup>4</sup> must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

4. In Order No. 888, the Commission established a safe harbor procedure for the filing of reciprocity tariffs by non-public utilities.<sup>5</sup> Under this procedure, non-public utilities may voluntarily submit to the Commission a transmission tariff and petition for declaratory order requesting a finding that the tariff meets the Commission's comparability (non-discrimination) standards. If the Commission finds that the terms and conditions of such a tariff substantially conform or are superior to those in the *pro forma* OATT, the Commission will deem it to be an acceptable reciprocity tariff, and will require public utilities to provide open access transmission service upon request to that

---

<sup>3</sup> 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.

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

<sup>5</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,760 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,281-87, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

particular non-public utility.<sup>6</sup> Order No. 890 requires that a non-public utility that already has a safe harbor OATT must amend its OATT so that its provisions substantially conform or are superior to the new *pro forma* OATT in Order No. 890 if it wishes to continue to qualify for safe harbor treatment.<sup>7</sup>

5. Southwestern is a federal power marketing administration within the United States Department of Energy and, therefore, Southwestern is not a public utility subject to sections 205 and 206 of the Federal Power Act (FPA). After the issuance of Order No. 888, Southwestern sought and obtained a determination by the Commission that it had an acceptable reciprocity tariff.<sup>8</sup> Subsequently, Southwestern submitted additional filings to ensure that its OATT would continue to qualify for safe harbor status. To date, Southwestern has not yet filed a complete revised OATT to comply with Order No. 890. However, on December 6, 2007, Southwestern submitted original tariff sheets for the addition of Attachment O, "Transmission Planning Process," to its OATT, in accordance with the planning-related requirements of Order No. 890 (December 6 Filing). The Commission ruled on the December 6 Filing in the Southwestern Planning Order, finding that a further compliance filing was necessary in order for Southwestern to satisfy the planning-related requirements of Order No. 890.

6. On December 16, 2008, Southwestern submitted a revised Attachment O to address the guidance provided in the Southwestern Planning Order. In its filing, Southwestern notes that Southwestern Power Pool, Inc (SPP) is the entity that will: (1) facilitate the local planning summits provided by SPP, including the confidentiality measures to ensure compliance with all security requirements; (2) coordinate and oversee the regional model development; and (3) perform sub-regional and regional transmission studies and assessments and integrate results of local planning, sub-regional planning, and regional planning. Southwestern states that any differences that remain between the Order No. 890 transmission planning requirements and its Attachment O reflect Southwestern's obligation to comply with certain Federal statutes, regulations, and Executive Orders. Southwestern explains that such obligations include requirements under the National Environmental Policy Act, advanced funding provisions complying

---

<sup>6</sup> In Order No. 888-A, the Commission clarified that, under the reciprocity condition, a non-public utility must also comply with the Open Access Same-Time Information System (OASIS) standards of conduct requirements, or obtain waiver of them. *See* Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,286.

<sup>7</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 191.

<sup>8</sup> *See United States Department of Energy – Southwestern Power Administration*, Docket No. NJ98-2-000 (May 13, 1998) (unpublished letter order).

with the Anti-Deficiency Act, budgetary authority, and provisions pertaining to Southwestern's responsibilities under the Flood Control Act of 1944.

## **II. Notice of Filing and Responsive Pleadings**

7. Notice of Southwestern's filing was published in the *Federal Register*, 73 Fed. Reg. 80,386 (2008), with interventions and protests due on or before January 6, 2009. Oklahoma Municipal Power Authority (OMPA) submitted a motion to intervene and protest. Southwestern filed an answer to OMPA's protest. City Water and Light Plant of Jonesboro, Arkansas (City Water) and Associated Electric Cooperative, Inc. (Associated Electric Cooperative) filed motions to intervene out-of-time.

## **III. Discussion**

### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant City Water's and Associated Electric Cooperative's motions to intervene out-of-time given the early stage of the proceedings, their interests, and the absence of undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Southwestern's answer because it provided information that assisted us in our decision-making process.

### **B. Substantive Matters**

9. Although the Commission accepts Southwestern'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 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.

**1. Coordination**

**a. Southwestern Planning Order**

10. In the Southwestern Planning Order, the Commission found that Southwestern's proposed planning process partially satisfied the requirements of the coordination principle stated in Order No. 890. Southwestern's proposed tariff provisions did not provide sufficient detail explaining what role SPP will play in Southwestern's local planning activities and how stakeholders have the opportunity for timely and meaningful input and participation in the development of transmission studies, including in the early stages of development. In order to satisfy the coordination requirements of Order No. 890, the Commission found that Southwestern must clarify: (1) whether stakeholders will be given an opportunity to provide comment or input regarding Southwestern's annual reliability assessments before they are finalized; (2) what matters will be discussed at local planning meetings facilitated by SPP; (3) the role that SPP and Southwestern, respectively, will play in those meetings; (4) the distinction, if any, between SPP's participation in Southwestern's local planning activities and SPP's own regional planning activities; (5) whether materials to be discussed at local planning meetings will be made available sufficiently in advance of the meetings to provide for meaningful review; (6) whether stakeholders will have the ability to review and comment on data used in model development before it is incorporated into SPP's models; and (7) the process for stakeholder review and comment on planning criteria before it is finalized.

**b. Southwestern's Proposal**

11. Southwestern states that it has provided new details in its OATT about the processes that it will offer to its stakeholders for providing input, submitting suggestions, and offering changes to Southwestern's annual assessment and the Southwestern planning criteria. Southwestern adds that stakeholders can provide input at the Local Transmission Planning Forum and the Transmission Planning Criteria Development Forum, and that Southwestern will announce those meetings on its website and OASIS. Southwestern notes that stakeholders may also provide input regarding the information incorporated into SPP models through processes provided by SPP and that materials prepared by Southwestern for the SPP local planning meetings will be provided in advance on Southwestern's website and OASIS as soon as practicable once available. Southwestern states that, as a general rule, all meeting materials prepared by Southwestern will be provided thirty calendar days in advance.

12. Southwestern also includes on its website and OASIS links to the SPP transmission planning webpage and planning documents for reference. Southwestern states that there is no difference between the Southwestern local planning process and its participation in SPP's regional planning in accordance with section 14 (Transmission Expansion, Interconnections, Modifications, and Additions) of Article I of the SPP/Southwestern Agreement.<sup>9</sup> Southwestern explains that it does not have retail load to plan for and only owns high voltage transmission facilities that are integral to the regional transmission system. Southwestern states that SPP performs its local planning as an essential part of SPP's regional planning.

**c. Commission Determination**

13. We find that Southwestern's tariff revisions adequately address the concerns of the Southwestern Planning Order regarding the coordination principle of Order No. 890. As provided in section 3.4.2 (Transmission Planning Criteria) of Attachment O, Southwestern commits to hold a forum to discuss any changes in its planning criteria with stakeholders. Section 3.4.4 (Stakeholder Participation) explicitly outlines stakeholders' opportunities for input and the process for stakeholder review and comment on the models and data used for the annual assessment. Under section 4.1 (Scope of Regional Planning), Southwestern has clarified its role and that of SPP in local planning meetings, and stated that there is no distinction between SPP's regional planning process and its participation in Southwestern's local planning activities.

**2. Openness**

**a. Southwestern Planning Order**

14. In the Southwestern Planning Order, the Commission found that Southwestern's definition of stakeholder appeared to exclude certain interested parties that may not fit within that definition, such as resource developers and regulators. Southwestern also failed to identify mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns for planning-related information beyond that which is maintained by SPP on its website, such as information provided by stakeholders for use in Southwestern's planning activities and information provided by Southwestern to stakeholders in response to inquiries.

---

<sup>9</sup> The SPP/Southwestern Agreement generally provides for: (i) reciprocal use of each party's transmission system; (ii) SPP's administration of Southwestern's OATT and OASIS; and (iii) SPP's study of transmission service requests on Southwestern's transmission system.

**b. Southwestern's Proposal**

15. Southwestern has revised its Attachment O to explicitly include generation resources, demand resources, and regulators as stakeholders in Attachment O. Responding to CEII concerns, Southwestern explains that data submitted by stakeholders will be tendered using a Local Transmission Planning Participation Form, which contains a section for the stakeholder submitting the data to declare that the information is not to be shared with additional parties except for appropriate SPP staff or when Southwestern is legally obligated to do so. Southwestern states that a stakeholder must submit a request in accordance with the Freedom of Information Act (FOIA) to obtain data and information, and in that case the requested information will only be released if it is not exempt under FOIA. Southwestern states that any request for information provided to Southwestern by a third-party requires a request submitted in accordance with FOIA requirements related to third-party documents, and that stakeholders may refer to Southwestern's website for information about submitting such a request.

**c. Commission Determination**

16. We find that Southwestern has partially addressed the concerns of the Southwestern Planning Order regarding the openness principle of Order No 890. With regard to the treatment of confidential data and CEII, we find that the revisions to Attachment O satisfy the requirements of the Southwestern Planning Order. However, with regard to Southwestern's definition of stakeholder, the Commission found in the Southwestern Planning Order that the definition appeared to exclude certain interested parties, such as resource developers and regulators. In response, Southwestern revised its definition of stakeholder to add generation resources, demand resources and regulators, but continues to exclude third-party developers of transmission resources in its definition of stakeholder. Southwestern must revise its proposed transmission planning process so that the definition of stakeholder includes developers of all resources, including transmission, within 60 days of this order in order to satisfy the openness requirements of Order No. 890.

**3. Transparency**

**a. Southwestern Planning Order**

17. In the Southwestern Planning Order, the Commission directed Southwestern to clarify whether modified criteria or assumptions would be posted for stakeholder review. The Commission also reiterated the finding in Order No. 890 that the information provided in Form 715 was insufficient to provide customers and others with adequate information to ensure that planning is being conducted on a comparable basis. We also directed Southwestern to address how it will provide information regarding the status of upgrades identified in transmission plans.

**b. Southwestern's Proposal**

18. Southwestern states that it has identified the planning criteria in its OATT, and that planning information and documents, including the SPP Criteria, are posted on its website and OASIS. Southwestern notes that, if there is planning information that is inadvertently not provided on its website and OASIS, there is an e-mail address on Southwestern's website and OASIS where any questions regarding Southwestern's planning can be submitted. Southwestern states that it will respond to questions no later than 30 days after receipt. Regarding the status of upgrades, Southwestern notes that all project tracking is performed by SPP, and Southwestern has included a link to the SPP webpage for project tracking.

**c. Commission Determination**

19. We find that Southwestern's tariff revisions adequately address the concerns of the Southwestern Planning Order regarding the transparency requirements of Order No. 890. Southwestern has clarified in section 3.4.4 (Stakeholder Participation) that modified criteria will be posted for stakeholder review, and has included on its OASIS page a link to the webpage where SPP tracks the status of upgrades identified in the transmission expansion plan.

**4. Information Exchange**

**a. Southwestern Planning Order**

20. In the Southwestern Planning Order, the Commission found that the scope of information sought by Southwestern was limited and did not include, for example, the opportunity to submit forecasts regarding resource investments made by entities that are not currently customers. In addition, we directed Southwestern to identify the timeframe for submitting information on projected loads and resources.

**b. Southwestern's Proposal**

21. Southwestern states that entities may submit data and information that is not included in the scope of information asked for by Southwestern by using the Local Transmission Planning Participation Form. Southwestern states that it will respond to such data submittals within thirty days, and that such information will be treated comparably with data specifically requested by Southwestern. According to Southwestern, the time frame for submission of information about projected loads and resources will be thirty days after Southwestern tenders the formal request for such data.



**c. Commission Determination**

22. We find that Southwestern has adequately addressed the concerns of the Southwestern Planning Order regarding the information exchange principle of Order No. 890. Southwestern outlines a thirty-day data submittal window in section 3.4.1.1 (Data Collection for Model Development) of Attachment O, and adds language under section 3.4.4 (Stakeholder Participation) providing:

Stakeholders wishing to provide additional data to be considered in the model development other than that requested by Southwestern as identified in Section 3.4.1.1 may do so by submitting the Local Transmission Planning Participation Form....Southwestern will provide a response to all data submitted within thirty (30) calendar days.

**5. Comparability**

**a. Southwestern Planning Order**

23. In the Southwestern Planning Order, the Commission found that Southwestern's proposed tariff language providing that, as a general matter, all similarly situated customers will be treated comparably satisfied the comparability principle of Order No. 890.<sup>10</sup> However, the Commission noted that Southwestern had not had an opportunity to demonstrate that its proposal satisfies the comparability requirements of Order No. 890-A since Order No. 890-A was issued after Southwestern made its initial transmission planning 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."<sup>11</sup> Therefore, the Commission directed Southwestern to address the necessary demonstration required by Order No. 890-A.

**b. Southwestern's Proposal**

24. Southwestern states that it has addressed the Commission's concerns by revising its definition of stakeholder, as discussed above, and modifying the definition of its local

---

<sup>10</sup> Southwestern Planning Order, 124 FERC ¶ 61,261 at P 31.

<sup>11</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

planning region to include generation resources and demand response. Specifically, section 3.4.1.1 of Attachment O identifies resource-related information that will be requested by Southwestern to support Southwest Power Pool's (SPP) development of the models used in Southwestern's and SPP's transmission planning activities, while section 3.4.4 provides that any stakeholder may provide additional data to be considered in model development.<sup>12</sup> Southwestern states that any such additional information will be treated in a comparable manner to data explicitly requested by Southwestern pursuant to section 3.4.1.1. Section 4.4.3 provides that Southwestern will use the models SPP develops to perform assessments of its transmission system and that, as part of those assessments, Southwestern will evaluate potential alternatives to mitigate deficiencies in the transmission system. Southwestern will then provide its assessments to SPP for use in developing its Transmission Expansion Plan.

**c. Comments**

25. OMPA argues that Southwestern takes the position that Southwestern's planning responsibilities are limited by its mission of distributing the output of its existing hydro resources to a pre-existing group of customers. OMPA contends that this position subordinates the needs of other resources and other SPP customers. OMPA states that Southwestern's response to OMPA's request, as an SPP customer, to designate its share of the output of the John W. Turk generating plant (Turk Plant) as a network resource highlights that Southwestern's approach falls short of achieving the comparable treatment of resources required by Order No. 890.<sup>13</sup>

26. In its answer, Southwestern notes that the Commission already found in the Southwestern Planning Order that Southwestern commits to treat all similarly-situated customers equally in its planning process. Southwestern also contends that it does not subordinate the needs of other resources to the needs of Federal resources and adds that no new Federal resources have been incorporated into its system since 1974. Southwestern argues that, to the extent allowed by statute, any new Federal resources would be subject to the same SPP planning process and criteria as non-Federal resources. In addition, Southwestern notes that OMPA's dispute regarding Turk Plant is not related

---

<sup>12</sup> As discussed below, Southwestern has included its transmission system as part of the SPP footprint for purposes of SPP's planning activities, with Southwestern supporting SPP's development of its Transmission Expansion Plan through the gathering of data to be used in model development and the performance of assessments evaluating potential alternatives to mitigating deficiencies in the Southwestern transmission system.

<sup>13</sup> OMPA Protest at 16. OMPA states that the dispute over its portion of output of the Turk Plant is pending before the Commission in Docket No. ER08-1206-000, in which SPP filed the relevant service agreement as unexecuted. *Id.* at 2-3.

to Southwestern's OATT but rather SPP's OATT. It notes that OMPA's request to designate the Turk Plant as a network resource is related to a SPP network transmission service request and Southwestern does not process SPP transmission service requests, nor does it determine how resources included in SPP service agreements are treated.

**d. Commission Determination**

27. We find that Southwestern has partially addressed the concerns of the Southwestern Planning Order regarding the comparability principle of Order No. 890. With the modification required above regarding the definition of stakeholder, Attachment O identifies where and when in the planning process sponsors of transmission, generation and demand resources have an opportunity to provide input regarding the development of assumptions used by Southwestern in transmission planning activities. In addition, Southwestern also commits to evaluating potential alternatives when performing assessments of system needs. However, Attachment O does not affirmatively state that such alternatives can be proposed by sponsors of all types of resources, including transmission, generation, and demand resources. Attachment O also does not outline how Southwestern will evaluate and select alternatives. In order to satisfy the comparability requirements of Order No. 890, Southwestern must revise its proposed transmission planning process within 60 days of this order to permit sponsors of all types of resources, including transmission, generation, and demand resources, to propose alternatives to system needs identified in assessments performed by Southwestern. In addition, Southwestern must identify in Attachment O how it will evaluate and select from among competing alternative solutions such that all types of resources are considered on a comparable basis.<sup>14</sup>

28. With regard to economic planning studies requested by stakeholders, as discussed below and in our order addressing SPP's transmission planning process, we find that Southwestern satisfies the requirement to study potential upgrades or other investments necessary to integrate any resource, whether transmission, generation or demand resources, identified by the stakeholder.

29. OMPA's disagreement with Southwestern over the Turk Plant is beyond the scope of this proceeding, which concerns only whether or not Southwestern has satisfied the compliance requirements of the Southwestern Planning Order.

---

<sup>14</sup> Tariff language could, for example, state that solutions will be evaluated against each other based on a comparison of their relative economics and effectiveness of performance. Although the particular standard a transmission provider uses to perform this evaluation can vary, it should be clear from the tariff language how one type of investment would be considered against another and how the transmission provider would choose one resource over another or a competing proposal.

## 6. Dispute Resolution

### a. Southwestern Planning Order

30. In the Southwestern Planning Order, the Commission found that Southwestern had not identified a process for resolving disputes that may arise with or among stakeholders, SPP, or other entities with which Southwestern interacts in the transmission planning process.

### b. Southwestern's Proposal

31. Southwestern states that it has included new language in section 6.0 (Dispute Resolution) of Attachment O applicable to transmission planning and Southwestern's stakeholders, as well as entities affected by Southwestern's planning. Section 6.0 provides that the process for resolving disputes with or among stakeholders shall be referred to a senior representative of Southwestern and a senior representative of the stakeholder for informal resolution. In the event the representatives cannot resolve the dispute within thirty days, section 6.1 provides detail regarding the external dispute resolution procedures that will be used.

### c. Commission Determination

32. We find that Southwestern has adequately addressed the concerns of the Southwestern Planning Order regarding the dispute resolution principle of Order No. 890.

## 7. Regional Participation

### a. Southwestern Planning Order

33. In the Southwestern Planning Order, the Commission found that Southwestern did not clearly explain the relationship between the reliability assessment that SPP performs for the Southwestern system and Southwestern's participation in the development of SPP's transmission expansion plan. Also, to the extent Southwestern intends to rely on SPP procedures for coordinating its local reliability assessments or planning criteria, the Commission found that Southwestern should specifically refer to those procedures, as provided for in Attachment O to SPP's OATT. Finally, the Commission found that Southwestern's proposed definition of stakeholder for purposes of regional planning may unduly restrict the ability of all interested parties to participate in regional planning activities, such as resource developers and regulators.

### b. Southwestern's Proposal

34. Southwestern states that its regional planning is part of SPP processes because Southwestern has contractually included its transmission system as part of the SPP transmission planning footprint through the SPP/Southwestern Agreement. Southwestern

explains that there is no difference between the reliability assessments performed by Southwestern and Southwestern's participation in the development of the SPP Transmission Expansion Plan. Specifically, Southwestern states that its planning staff performs assessments of the Southwestern transmission system using the models developed and used by SPP for the transmission expansion planning process facilitated by SPP and, as noted above, Southwestern's planning engineer evaluates potential alternatives to mitigate any deficiencies in the Southwestern system. Southwestern adds that it provides feedback to SPP regarding various alternatives based on the results of these assessments.

35. According to Southwestern, SPP distributes data files to transmission owners, including Southwestern, that contain a list of facilities that require upgrades due to reliability criteria violations under base- or contingency-case conditions. Then transmission owners, including Southwestern, respond with suggestions for potential improvements. Upon completion of the analysis and stakeholder review of the results, SPP prepares a draft SPP Transmission Expansion Plan for review by the stakeholders and invites comments to be submitted to SPP. The stakeholder review includes review and endorsement by SPP working groups and committees. After considering input from the stakeholders through this review process, SPP prepares a recommended SPP Transmission Expansion Plan for review and approval by the SPP Board of Directors.

36. Southwestern states that a link to the SPP planning website and any other applicable materials has been included on Southwestern's website and OASIS. Southwestern also notes that it has revised section 4.2 (Stakeholders) to explicitly include generation and demand resources.

**c. Comments**

37. OMPA argues that, while Southwestern may submit information to the SPP process, Southwestern is attempting to limit its role to merely the receiver of SPP's recommendations with respect to regional planning. OMPA contends that this limitation, combined with Southwestern's view that its system needs no upgrades to achieve its mission, does not satisfy the regional joint planning process required by Order 890, which expressly includes economic planning.

38. In its answer, Southwestern maintains that Attachment O conforms to the regional participation principle. Southwestern argues that its participation in the SPP regional transmission planning process enables study of a greater geographic area than would otherwise be the case and provides certainty to its stakeholders through the openness and transparency of the existing SPP process. Southwestern argues further that it has established through Attachment O that it fully participates in the annual stakeholder process facilitated by SPP.

39. Southwestern also argues that, contrary to OMPA's protest, Southwestern substantially relies on the SPP transmission planning process to identify system enhancements or integrate new resources. For example, Southwestern states that it has invested approximately four million dollars in its system in the last four years for upgrades that were identified in the SPP Transmission Expansion Plan and is in the process of investing another \$4.8 million for other upgrades SPP identified. Southwestern argues that, unlike a traditional vertically integrated utility, it does not have the same market share characteristics and does not oppose the construction of regional projects that may be identified in the SPP regional transmission planning process.

**d. Commission Determination**

40. We find that Southwestern has partially addressed the concerns of the Southwestern Planning Order regarding the regional participation principle of Order No. 890. Southwestern has revised Attachment O to more clearly define the relationship between the planning activities performed by Southwestern and those performed by SPP, including the coordination of assessments conducted by Southwestern. We disagree with OMPA that Southwestern's regional planning commitments are unduly limited given Southwestern's commitment to participate in the SPP transmission planning process, which has been accepted by the Commission subject to further compliance.<sup>15</sup> However, as discussed above, Southwestern's definition of stakeholder continues to exclude third-party developers of transmission resources in its definition of stakeholder. Therefore, as we note above, Southwestern must revise its proposed transmission planning process to define stakeholders to include developers of all resources, including transmission, within 60 days of this order.

**8. Economic Planning Studies**

**a. Southwestern Planning Order**

41. In the Southwestern Planning Order, the Commission directed Southwestern to identify whether the process for requesting and obtaining economic planning studies for the Southwestern system will differ from requests received pursuant to the economic planning process set forth in Attachment O to SPP's OATT and, if so, what that process will be. The Commission also found that, to the extent Southwestern intends to rely on SPP procedures for coordinating its economic planning studies, it should specifically refer to those procedures, as provided for in Attachment O to SPP's OATT.

---

<sup>15</sup> *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028 (2008).

**b. Southwestern's Proposal**

42. Southwestern states that it refers all potential economic upgrades requested by Southwestern stakeholders to SPP to study as part of the SPP transmission planning process as outlined in SPP's Attachment O. Southwestern commits to provide all data and planning information to SPP that is necessary to perform the requisite economic studies. Any upgrades on Southwestern's transmission system that are identified as part of SPP's economic planning are recommended to Southwestern in accordance with section 14 of Article I of the SPP/Southwestern Agreement.

**c. Comments**

43. OMPA contends that Southwestern's compliance filing made plain its view that no economic planning is needed, and that it doesn't perform economic studies given its limited view of its mission. While SPP can perform economic planning studies, OMPA argues that Southwestern separates itself from that process, claiming that its obligations are restricted to receipt of SPP's recommendations under Article I, section 14 of the SPP/Southwestern Agreement. OMPA asserts that Order No. 890 requires an open and coordinated process that addresses both economic and reliability upgrades, and that Southwestern may not claim to satisfy Order No. 890 through participation in the SPP planning process while placing itself in a position to block the upgrades SPP develops through that process. OMPA maintains that the Commission should not find Southwestern's asserted role to be supported by the terms of the SPP/Southwestern Agreement, but in any event the role as described by Southwestern neither substantially conforms with nor is superior to what is required by Order No. 890's planning principles.

44. In its answer, Southwestern argues that Order No. 890 did not impose on transmission providers the responsibility to construct and fund upgrades resulting from economic studies. Southwestern argues that Attachment O provides stakeholders the opportunity to request that economic studies be performed by SPP, and that a separate study process for Southwestern would impose an unneeded administrative burden for stakeholders, Southwestern, and SPP.

45. Southwestern also disputes OMPA's claim that Southwestern blocks upgrades identified in the SPP process. First, Southwestern argues that Order No. 890 does not require the construction of potential economic upgrades identified in economic planning studies. Second, it notes that the Federal statutes and regulations governing Southwestern do not allow it to fund upgrades *carte blanche*. Southwestern adds that it is aware of the need for new transmission and recently solicited Statements of Interest from entities interested in funding new transmission line construction.

**d. Commission Determination**

46. We find that Southwestern has addressed the concerns of the Southwestern Planning Order regarding the economic planning principle of Order No. 890. Southwestern explains that all requests for economic planning studies will be processed by SPP and specifically refers to the SPP procedures in Southwestern's revised Attachment O. Southwestern also commits to provide all data and planning information to SPP that is necessary for SPP to perform the requisite economic studies. The Commission has accepted SPP's economic planning process, subject to further compliance, and we therefore find it is sufficient for Southwestern to rely on that process to satisfy the economic planning requirements of Order No. 890.

**9. Cost Allocation**

**a. Southwestern Planning Order**

47. In the Southwestern Planning Order, the Commission found that Southwestern did not address whether SPP's cost allocation methodology will address potential economic upgrades to Southwestern's system identified in its local planning process.

**b. Southwestern's Proposal**

48. Southwestern has revised section 7.0 (Cost Allocation) of Attachment O to state that, in addition to Southwestern's participation in the SPP regional cost allocation methodology, the cost of economic upgrades identified by SPP will be allocated in accordance with the SPP/Southwestern Agreement. Section 14 of Article I of the SPP/Southwestern Agreement provides that SPP may propose the allocation of costs associated with upgrades on the Southwestern or SPP transmission owner systems and that Southwestern will respond to SPP as to the dollar amount and the method by which Southwestern agrees to participate in the upgrades. Southwestern claims that it can only be bound by a process or a cost allocation methodology where the costs are already known and remain fixed in order to comply with the Anti-Deficiency Act. Specifically, Southwestern explains that it cannot agree as part of the transmission planning process to utilize Congressionally allocated funds or Congressionally approved mechanisms of payment for costs of facilities not yet known. Southwestern states that, to accommodate these restrictions, the provisions in section 14 of Article 1 of the SPP/Southwestern Agreement provide that Southwestern must remain compliant with all applicable Federal statutes, regulations, and budgetary process requirements applicable to Southwestern.

**c. Comments**

49. OMPA holds that Southwestern's interpretation of section 14 of Article I of the SPP/Southwestern Agreement cannot be squared with the Southwestern Planning Order finding Southwestern partially compliant with the Order No. 890 regional cost allocation



requirements, and is inconsistent with Southwestern's reliance on the SPP regional cost allocation to satisfy Order No. 890's cost allocation requirements. OMPA argues that Southwestern's position, which OMPA defines as refusing to participate in any regional cost allocation unless Southwestern agrees in writing, is inconsistent with Order No. 890's requirement that regional cost allocation principles be established in advance in order to foster construction.<sup>16</sup> OMPA asserts that Southwestern's interpretation of section 14 of Article I of the SPP/Southwestern Agreement, if accepted, would provide other transmission owners and customers no information as to how the costs of the Southwestern upgrades that SPP includes in its regional plan will be allocated. As a result, according to OMPA, regional transmission planning may be hampered by issues of cost recovery for upgrades on the Southwestern transmission system that SPP concludes are needed. OMPA argues that SPP transmission customers are left in a bind because any transaction that might have an impact on the Southwestern system may be subject to the transmission customer's agreement to bear all costs, with no potential for repayment, regardless of the long term free rider benefits to Southwestern, and regardless of whether the upgrades would qualify for base plan funding under the SPP regional cost allocation methodology.

50. In its answer, Southwestern maintains that the cost allocation provisions in its planning process conform to the intent of Order No. 890 while allowing Southwestern to remain in compliance with Federal statutes, regulations, and budgetary process requirements. Southwestern states that, under the Anti-Deficiency Act, it is prohibited from entering into contracts that obligate expenditure of funds or use of budgetary authority it has not received from Congress. Southwestern contends that it can therefore not be bound to the funding obligation process associated with SPP's regional cost allocation methodology.

51. Southwestern argues that OMPA misstates the relationship between SPP and Southwestern, and reiterates that Southwestern is not a signatory to the SPP membership agreement, nor is it bound by the provisions of the SPP tariff cost allocation methodology. Southwestern states that the Commission has ruled previously that the Commission will consider the legal and regulatory restrictions on non-jurisdictional entities' contractual rights when evaluating reciprocity filings. Southwestern also argues that, since OMPA did not protest the proposed regional cost allocation methodology in the relevant first modifications in the SPP or Southwestern proceedings, OMPA's protest should be rejected as an impermissible collateral attack.

52. In response to OMPA's protest that regional planning will be hampered by Southwestern's cost allocation, Southwestern notes that it has facilitated transmission

---

<sup>16</sup> OMPA Protest at 13, citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557.

expansion in both the SPP region and neighboring regions. For example, Southwestern states that it has entered into agreements to modify its transmission facilities with Empire District Electric Co., Entergy, and the City of Nixa, Missouri. Southwestern adds that it has never denied requests to modify or upgrade its facilities as long as its Federal statutory obligations have been satisfied.

**d. Commission Determination**

53. We find that Southwestern has addressed the concerns of the Southwestern Planning Order regarding the cost allocation principle of Order No. 890. Southwestern has revised Attachment O to state clearly that its participation in the SPP cost allocation methodology, and in particular the allocation of costs associated with economic projects, will be governed by the SPP/Southwestern Agreement. That agreement provides that SPP will propose the allocation of costs associated with upgrades within the SPP footprint, including on the Southwestern system, and that Southwestern will respond to SPP as to the allocation it accepts.

54. We also note that OMPA does not dispute Southwestern's assertion that obligating Southwestern to abide by SPP's cost allocation methodology could violate certain Federal statutes, regulations, and budgetary process requirements related to Southwestern. In addition, contrary to OMPA's assertion, Southwestern has built and is continuing to build transmission upgrades that SPP recommends to Southwestern as part of the SPP Transmission Expansion Plan.

**10. Recovery of Planning Costs**

**a. Southwestern Planning Order**

55. In the Southwestern Planning Order, the Commission found that Southwestern did not address how it will recover its planning costs.

**b. Southwestern's Proposal**

56. Southwestern states that its OATT now addresses how costs related to transmission planning are recovered. Specifically, it recovers the costs of planning in its rates for service, which are developed independently of the tariff and are in accordance with Federal statute and Southwestern's authorizing legislation.

**c. Commission Determination**

57. We find that Southwestern has addressed the concerns of the Southwestern Planning Order regarding the recovery of planning-related costs.

The Commission orders:

Southwestern's compliance filing is hereby accepted, as modified, subject to a further compliance filing, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.