

147 FERC ¶ 61,129
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Maine Public Service Company

Docket Nos. ER13-85-001
ER13-85-002
ER13-1909-000

ORDER ON REHEARING AND COMPLIANCE

(Issued May 15, 2014)

1. On February 21, 2013, the Commission issued an order¹ granting Maine Public Service Company (MPS) waiver with respect to the regional transmission planning and cost allocation requirements of Order No. 1000 and conditionally accepting, subject to a further compliance filing, MPS's filing to comply with the local transmission planning requirements of Order No. 1000.²

2. On March 22, 2013, the Northern Maine Independent System Administrator, Inc. (NMISA) filed a request for rehearing of the First Compliance Order. On May 21, 2013, MPS submitted revisions to Attachment R of its Open Access Transmission Tariff (OATT), pursuant to section 206 of the Federal Power Act (FPA),³ to comply with the First Compliance Order.⁴ On July 9, 2013, MPS submitted a request for waiver of the interregional transmission coordination and cost allocation requirements of Order No. 1000. For the reasons discussed below, we deny rehearing, accept MPS's proposed

¹ *Me. Pub. Serv. Co.*, 142 FERC ¶ 61,129 (2013) (First Compliance Order).

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

³ 16 U.S.C. § 824e (2012).

⁴ MPS, Tariff Database, Attachment R (2.0.0) (Transmission Planning Process).

OATT revisions, and grant waiver of the interregional transmission coordination and cost allocation requirements of Order No. 1000.⁵

I. Background

3. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, taken together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the transmission planning requirements of Order No. 890⁶ to require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its OATT to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

4. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.⁷

5. On October 11, 2012, MPS submitted revisions to Attachment R of its OATT to comply with the local transmission planning requirements of Order No. 1000 and requested waiver of the regional transmission planning and cost allocation requirements of Order No. 1000.

⁵ We note that the same or similar issues are addressed in the following orders that have issued or are being issued contemporaneously with this order: *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,198 (2014); *PacifiCorp*, 147 FERC ¶ 61,057 (2014); *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,128 (2014); *S.C. Elec. & Gas Co.*, 147 FERC ¶ 61,126 (2014); *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 (2014).

⁶ *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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁷ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 585-586.

6. On February 21, 2013, in the First Compliance Order, the Commission granted MPS waiver of the regional transmission planning and cost allocation requirements of Order No. 1000 and accepted MPS's compliance filing related to the local transmission planning requirements of Order No. 1000, subject to further modifications, effective December 11, 2012, as requested. The Commission noted that MPS is not directly interconnected with any portion of the United States' transmission grid and is not interconnected with any other public utility.⁸ The Commission therefore granted the request for waiver on the basis that MPS's unique geographic and electrical situation makes it impossible for it to join a transmission planning region that would be consistent with Order No. 1000's regional scope requirement.⁹

II. Request for Rehearing – Docket No. ER13-85-001

7. NMISA filed a request for rehearing with respect to the Commission's acceptance of MPS's Order No. 1000 compliance filing. NMISA argues that: (1) the Commission incorrectly stated that Order No. 1000 was silent on the issue of cost assignment for local public policy projects;¹⁰ (2) MPS's proposal for assigning the costs of local public policy projects is inconsistent with Order No. 1000's requirement that costs be allocated roughly commensurate with estimated benefits; (3) assigning costs of local public policy projects on a load-ratio share basis is inconsistent with general cost causation principles articulated in *Illinois Commerce Commission v. FERC*;¹¹ and (4) the Commission lacked a rational explanation for its approval of MPS's revisions to its OATT, and thus acted arbitrarily and capriciously.¹²

III. Compliance Filing – Docket No. ER13-85-002

8. In response to the First Compliance Order, MPS submitted further tariff revisions modifying its local transmission planning process to comply with the Commission's requirements in the First Compliance Order, including: (1) a definition of public policy requirements that is consistent with Order No. 1000; (2) further description of the process MPS will use to select transmission needs driven by public policy requirements for further evaluation; and (3) a description of the process MPS will use to evaluate, at the

⁸ First Compliance Order, 142 FERC ¶ 61,129 at P 20.

⁹ *Id.* PP 19-21.

¹⁰ Public policy projects are defined in Attachment R as those projects that are driven by public policy requirements. MPS, Tariff Database, Attachment R (2.0.0), § 9.1.3.

¹¹ *Ill. Commerce Comm'n*, 576 F.3d 470 (7th Cir. 2009).

¹² NMISA Request for Rehearing at 4-5.

local level, potential transmission solutions to identified local transmission needs driven by public policy requirements.

9. Notice of MPS's compliance filing was published in the *Federal Register*, 78 Fed. Reg. 32,383 (2013), with interventions and protests due on or before June 20, 2013.

10. No interventions, protests, or comments were received.

IV. Request for Waiver – Docket No. ER13-1909-000

11. MPS requests that, based on the specific and unique circumstances of the Northern Maine region, the Commission find that the interregional transmission coordination and cost allocation requirements are inapplicable. Alternatively, MPS requests waiver of the interregional transmission coordination and cost allocation requirements of Order No. 1000 given its participation in the NMISA region.

12. Notice of MPS's compliance filing was published in the *Federal Register*, 78 Fed. Reg. 43,192 (2013), with interventions and protests due on or before August 26, 2013.

13. On August 27, 2013, the Florida Public Service Commission filed a motion to intervene, which it later withdrew. On September 9, 2013, Rockland Electric Company and NMISA filed motions to intervene.

V. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), we will grant the unopposed motion to intervene out of time and comments in support filed by Rockland Electric Company and NMISA given their interest, the early stage of this proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

15. We deny NMISA's request for rehearing. As discussed below, we affirm our finding that MPS's proposed cost allocation method for local public policy projects is just and reasonable.

16. We find that MPS's compliance filing meets the directives in the First Compliance Order. Accordingly, we accept MPS's compliance filing to be effective December 11, 2012, as requested.

17. We grant MPS waiver of the interregional transmission coordination and cost allocation requirements of Order No. 1000, as discussed below.

1. Consideration of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process

18. Order No. 1000 required public utility transmission providers to amend their OATTs to include procedures for the consideration of transmission needs driven by Public Policy Requirements in the local transmission planning process.¹³ Public Policy Requirements are requirements established by local, state, or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).¹⁴

19. The Commission in Order No. 1000 explained that to consider transmission needs driven by Public Policy Requirements, public utility transmission providers must adopt procedures (1) to identify transmission needs driven by Public Policy Requirements and (2) to evaluate potential solutions to meet those identified needs.¹⁵ More specifically, public utility transmission providers must adopt procedures in their local transmission planning processes for identifying transmission needs driven by Public Policy Requirements that give all stakeholders a meaningful opportunity to provide input and to offer proposals regarding what they believe are transmission needs driven by Public Policy Requirements.¹⁶ Each public utility transmission provider must explain how it will determine the transmission needs driven by Public Policy Requirements for which solutions will be evaluated at the local level,¹⁷ and each must post on its website an explanation of: (1) those transmission needs driven by Public Policy Requirements that were identified for evaluation for potential solutions in the local and regional transmission planning processes and (2) why other proposed transmission needs driven by Public Policy Requirements were not selected for further evaluation.¹⁸

20. Order No. 1000 also required public utility transmission providers, in consultation with stakeholders, to evaluate at the local level potential solutions to identified transmission needs driven by Public Policy Requirements, including transmission

¹³ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

¹⁴ *Id.* P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

¹⁵ *Id.* P 205.

¹⁶ *Id.* PP 206-209; Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

¹⁷ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 208-209.

¹⁸ *Id.* P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

facilities proposed by stakeholders.¹⁹ The evaluation procedures must give stakeholders the opportunity to provide input and enable the Commission and stakeholders to review the record created by the process.²⁰

a. First Compliance Order

21. In the First Compliance Order, the Commission found that MPS's proposed changes to its local transmission planning process did not fully comply with the provisions of Order No. 1000 addressing local transmission needs driven by public policy requirements.²¹ Specifically, it found that MPS did not include a definition of public policy requirements in its OATT.²² The Commission also found that, while MPS described an open and transparent process by which local transmission needs driven by public policy requirements will be identified as part of the local transmission planning process, MPS did not discuss in its compliance filing the process for selecting local transmission needs driven by public policy requirements in its local transmission planning process for further evaluation and posting of an explanation of this selection on the MPS website.²³ Therefore, the Commission directed MPS to file revised tariff language that (1) includes a definition of public policy requirements that is consistent with Order No. 1000 and (2) describes the process by which MPS will select local transmission needs driven by public policy requirements for further evaluation and post to its website an explanation of its selection as well as an explanation of why other suggested transmission needs will not be evaluated.²⁴

22. The Commission also found that it was unclear whether MPS had met the requirement to establish procedures in its OATT to evaluate at the local level potential solutions to identified transmission needs driven by public policy requirements, or how stakeholders will have an opportunity to provide input during the evaluation of potential solutions to identified needs. Therefore, the Commission directed MPS to submit a further compliance filing that (1) describes how it complies with Order No. 1000's requirement that it establish procedures in its OATT to evaluate at the local level

¹⁹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211 & n.191.

²⁰ Order No. 1000-A, 139 FERC ¶ 61,132 at PP 320-321.

²¹ First Compliance Order, 142 FERC ¶ 61,129 at P 40.

²² *Id.*

²³ *Id.* P 41.

²⁴ *Id.* PP 40, 41.

potential solutions to identified transmission needs driven by public policy requirements and (2) includes any additional tariff revisions necessary to demonstrate its compliance.²⁵

23. Finally, the Commission found MPS's proposal for assigning the costs of local public policy projects to be just and reasonable.²⁶ Specifically, the Commission accepted MPS's proposal to recover costs from the party requesting the local public policy project in the first instance, noting that MPS is proposing a method for recovering from its own customers the costs associated with a local public policy project (i.e., a project located on the integrated MPS transmission system and not a transmission project selected in the regional transmission plan for purposes of cost allocation). The Commission also found that, when the production cost benefits of a local public policy project exceed its costs, it is reasonable for MPS to recover the costs of that project from its transmission customers on a load-ratio share basis.²⁷ In accepting MPS's proposal for assigning the costs of local public policy projects, the Commission noted that Order No. 1000 requires public utility transmission providers to amend their OATTs to add procedures for the consideration of transmission needs driven by public policy requirements in their local transmission planning processes, but was silent on the issue of how public utility transmission providers should assign the costs of local public policy projects.²⁸

24. The Commission dismissed protesters' concerns regarding MPS's proposal to allocate the costs of certain local public policy planning studies on a load-ratio share basis in certain instances. The Commission stated that MPS has simply revised its existing Order No. 890-compliant economic planning study request process in the MPS OATT to add "public policy" to the type of planning studies stakeholders can request.²⁹ The Commission explained that this is consistent with the findings in Order No. 1000 that the economic planning studies principle should be sufficiently broad to identify solutions that could relieve transmission congestion or integrate new resources and loads, including

²⁵ *Id.* P 42.

²⁶ *Id.* P 44.

²⁷ *Id.*

²⁸ *Id.* P 43.

²⁹ *Id.* P 46 (noting that Order No. 890's economic planning studies transmission planning principle requires that stakeholders be given the right to request a defined number of high priority studies annually through the transmission planning process, which are intended to identify solutions that could relieve transmission congestion or integrate new resources and loads, including facilities to integrate new resources or loads on an aggregated or regional basis).

facilities to integrate new resources and loads on an aggregated or regional basis.³⁰ The Commission disagreed with protesters' claim that MPS's revisions improperly require transmission customers to subsidize the costs of public policy planning studies, noting that, in Order No. 890, the Commission stated that the cost of a defined number of high priority studies to address congestion and/or the integration of new resources or loads would be recovered as part of the overall *pro forma* OATT cost of service.³¹ The Commission also stated in the First Compliance Order that Order No. 890 explained that this cost recovery mechanism is comparable and nondiscriminatory because the transmission provider already has the ability to include in its *pro forma* OATT rates associated with studies performed on behalf of native load customers.³² The Commission therefore found MPS's proposal appropriate to recover the costs of high priority local public policy planning studies from transmission customers on a load-ratio share basis through its OATT because it is identical to MPS's treatment of the costs of high priority economic planning studies required by Order No. 890.³³

b. Request for Rehearing

i. Summary of Request for Rehearing

25. NMISA first contends that the Commission erred in its statement that Order No. 1000 is silent as to how public utility transmission providers should assign transmission costs for needed local public policy projects. NMISA acknowledges that the cost allocation principles of Order No. 1000 in general apply only to regional and interregional transmission projects.³⁴ However, NMISA states that Order No. 1000 is clear that, with respect to public policy projects, the cost allocation principles apply to the local transmission planning process as well. As support for this assertion, NMISA cites the following language in Order No. 1000:

Some commenters have expressed concerns that the consideration of transmission needs driven by Public Policy

³⁰ *Id.* (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 83 n.73 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523)).

³¹ Order No. 890, FERC Stats & Regs. ¶ 31,241 at P 547.

³² First Compliance Order, 142 FERC ¶ 61,129 at P 46 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 547 n.324).

³³ MPS, Tariff Database, Attachment R (1.0.0), § 8.4.5.1 (High Priority Economic or Public Policy Study Costs).

³⁴ NMISA Request for Rehearing at 6 (referring to Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 482).

Requirements in the transmission planning process will result in costs being assigned to regions that do not benefit from those requirements or to regions that did not create the need for new transmission. We understand these commenters to be concerned that a requirement to consider transmission needs driven by Public Policy Requirements in the *local and regional* transmission planning processes will result in cross-subsidization of the costs of meeting Public Policy Requirements.

We clarify that any such consideration of transmission needs driven by Public Policy Requirements, to the extent that it results in new transmission costs, *must follow the cost allocation principles discussed separately herein*. Particularly, the costs of new transmission facilities allocated within the planning region must be allocated within the region in a manner that is at least roughly commensurate with estimated benefits.³⁵

26. Second, NMISA maintains that the Commission, following the premise that Order No. 1000 was silent on cost assignment for local transmission projects, erred in approving MPS's proposal for assigning the costs of local public policy projects.³⁶ NMISA contends that MPS's proposal to allocate the costs of local public policy projects to transmission customers on a load-ratio share basis when the production cost benefits of a project exceed the cost of the project fails to allocate costs in a way that is roughly commensurate with estimated benefits, as required by Order No. 1000, and ignores the benefits that a local public policy project provides to the party that requested the project and to generators.³⁷ NMISA claims this proposal would shift costs away from certain beneficiaries that Order No. 1000 identified, such as a generator whose output is used to meet the public policy requirement. Specifically, NMISA argues, if the production cost benefits of a local public policy project even minimally exceed its price, its costs would shift away from the generator and be assigned to transmission customers even though the primary beneficiaries would be the generator and the off-system load-serving entities required to comply with the applicable public policy requirement. NMISA also claims that increased transmission costs associated with a local public policy project would have a staggering impact on consumers in Northern Maine. NMISA notes that the MPS rate base is approximately \$30 million and a \$10 million local public policy project, for

³⁵ *Id.* at 6 (quoting Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 218-219 (footnotes omitted, emphasis added)).

³⁶ *Id.* at 7.

³⁷ *Id.*

example, would increase the transmission rate base by approximately 33 percent and increase the annual transmission revenue requirement by approximately 46 percent. NMISA argues that imposing such cost impacts on Northern Maine while ignoring the fact that the primary benefits of a local public policy project flow to generators and off-system purchasers cannot under any reasonable interpretation be consistent with the “roughly commensurate with estimated benefits” standard.³⁸

27. Third, NMISA claims that MPS’s proposal for assigning the costs of local public policy projects is generally inconsistent with cost-causation principles. NMISA argues that it is contrary to precedent articulated in *Illinois Commerce Commission* preventing the Commission from approving a cost allocation method that “requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.”³⁹ NMISA expresses concern that MPS’s proposal for assigning the costs of local public policy projects shifts costs to transmission customers and entirely away from the primary beneficiaries of such projects (i.e., developers, such as generators, and other beneficiaries, such as the purchasers of renewable energy certificates), stating that the primary benefit of a public policy project is the effectuation of a public policy requirement.⁴⁰ NMISA further posits that local public policy projects are “clearly distinguishable” from reliability projects and that MPS’s proposal to assign the costs of local public policy projects in the same manner as it assigns the costs of reliability and economic projects is unreasonable. NMISA states that such assignment ignores the fact that transmission customers do not cause the need for the local public policy project; rather, NMISA argues, the impetus for the project is the public policy requirement itself.⁴¹ While it concedes that some allocation of the costs of a local public policy project may be appropriate to the extent that it benefits transmission customers, NMISA claims that allocating all the costs of such a project to transmission customers is unjustified.⁴²

28. Finally, NMISA asserts that the Commission’s approval of the MPS cost allocation method was arbitrary and capricious. NMISA notes that the Commission

³⁸ *Id.* at 10-11.

³⁹ *Id.* at 12 (citing *Ill. Commerce Comm’n*, 576 F.3d 470, 476 (7th Cir. 2009)).

⁴⁰ *Id.* at 12.

⁴¹ *Id.* at 13.

⁴² *Id.* at 14.

approved MPS's proposal for assigning the costs of local public policy projects in a single sentence without explaining why it concluded that the proposal is reasonable.⁴³

ii. Commission Determination

29. We deny NMISA's request for rehearing. We affirm the finding in the First Compliance Order that MPS's proposal for assigning the costs of local public policy projects is just and reasonable.⁴⁴ NMISA's contentions on rehearing center on language in Order No. 1000 that references the regional and interregional cost allocation principles set forth in Order No. 1000; NMISA contends that this language applies as well to the assignment of costs for local public policy projects. Notwithstanding the single reference cited by NMISA to local and regional transmission planning processes in the language from Order No. 1000,⁴⁵ Order No. 1000 does not require public utility transmission providers to revise their OATT provisions governing the assignment of the costs of *local* transmission facilities to comply with the cost allocation principles of Order No. 1000. NMISA argues that paragraph 219 of Order No. 1000⁴⁶ requires that the Order No. 1000 cost allocation principles apply to local public policy transmission projects. Notwithstanding this statement in paragraph 219, the Commission could not have intended such an interpretation. The cost allocation principles in Order No. 1000 explicitly apply only to regional and interregional cost allocation methods (not to the assignment of the costs of local transmission facilities).⁴⁷

30. As discussed in the First Compliance Order, the Commission already found MPS's cost assignment for local economic transmission projects, which MPS simply proposed to also apply to public policy transmission projects, to be just and reasonable.⁴⁸ Under the cost assignment provisions the Commission previously found just and reasonable, the cost of a local economic transmission project is assigned to transmission customers on a load-ratio share basis if the production cost benefits related to the economic transmission project exceed the project's costs. MPS has simply revised its OATT to make explicit that the local economic transmission project cost assignment provisions also apply to

⁴³ *Id.* at 14 (citing First Compliance Order, 142 FERC ¶ 61,129 at P 44).

⁴⁴ First Compliance Order, 142 FERC ¶ 61,129 at P 44.

⁴⁵ *See supra* P 25.

⁴⁶ Order No. 1000 FERC Stats. & Regs ¶ 31,323 at P 219 (“We clarify that any such consideration of transmission needs driven by Public Policy Requirements, to the extent that it results in new transmission costs, must follow the cost allocation principles discussed separately herein.”).

⁴⁷ *See, e.g., id.* § IV.E (Principles for Regional and Interregional Cost Allocation).

⁴⁸ First Compliance Order, 142 FERC ¶ 61,129 at P 44.

local public policy transmission projects. Therefore, consistent with cost causation principles, costs for local public policy transmission projects are assigned on a load-ratio share basis only when the production cost benefits from the project exceed the project's costs. We note that a local economic transmission project already could have addressed a local transmission need driven by public policy requirements.⁴⁹ Thus, MPS's proposal merely makes explicit a cost assignment provision that was already available to local public policy transmission projects. Moreover, we emphasize that the costs of local public policy transmission projects will only be assigned to transmission customers on a load-ratio share basis if the production cost benefits exceed the project's costs. Therefore, the costs assigned to transmission customers would not be greater than the production cost benefits the local transmission project would provide.

c. Compliance

i. Summary of Compliance Filing

31. MPS proposes tariff language stating that the term "public policy requirements" refers to federal or state laws or regulations, which are enacted statutes and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level. MPS proposes that this term will also include local laws and regulations passed by a local governmental entity, such as a municipal or county government.⁵⁰

32. MPS also proposes several tariff revisions to comply with the requirement to describe the process by which MPS will select transmission needs driven by public policy requirements for further evaluation. The proposed language states that MPS will identify those transmission needs that are driven by public policy requirements by surveying local, state, and federal public policy requirements that may be applicable and by discussing such requirements at Planning Advisory Group meetings.⁵¹ The revisions to Attachment R further provide that MPS and the Planning Advisory Group shall identify those transmission needs driven by public policy requirements that will be selected for further evaluation in accordance with the existing planning process.⁵² The existing

⁴⁹ *Id.* P 46 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 83 n.73, referencing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523).

⁵⁰ MPS, Tariff Database, Attachment R (2.0.0), § 1.3.2 (Definitions).

⁵¹ The Planning Advisory Group is open to participation by all transmission owners in the NMISA, Transmission Provider's customers, generators interconnected to the transmission system, other suppliers, neighboring transmission providers and control areas, and state utility regulatory agencies and offices of public advocates in the State of Maine. MPS, Tariff Database, Attachment R (2.0.0), § 2.1 (Establishment).

⁵² *Id.* § 4.7 (Procedure for Consideration of Needs Driven by Public Policy Requirements).

planning process provides that MPS and the Planning Advisory Group shall together identify up to a maximum of two (with no minimum) high priority economic or public policy planning studies that will be performed on behalf of stakeholders within a calendar year. MPS proposes to add new language to Attachment R stating that the high priority economic or public policy studies include the study of transmission needs driven by public policy requirements that MPS and the Planning Advisory Group have identified.⁵³

33. Additionally, MPS proposes new tariff language stating that it shall post on its Open-Access Same-time Information System (OASIS) site a list of all transmission needs driven by public policy requirements, either those identified by stakeholders or MPS, together with an explanation of those transmission needs selected for further evaluation and an explanation of why other suggested transmission needs were not evaluated.⁵⁴

34. In its proposed tariff changes to Attachment R, MPS clarifies that the system enhancement and expansion studies conducted by MPS shall include identification, evaluation, and analysis of potential transmission enhancements and expansions driven by public policy requirements.⁵⁵ The proposed language also clarifies that public policy studies shall evaluate cost-effective means of meeting transmission needs driven by public policy requirements.⁵⁶ MPS also proposes tariff language stating that it will present to the Planning Advisory Group, and receive comments regarding, the results of the studies that MPS performs in evaluating transmission needs driven by public policy requirements. These results will be presented at the next biennial meeting after MPS performs the studies.⁵⁷ Finally, MPS's proposed tariff revisions provide that if MPS identifies a local public policy project (as opposed to a stakeholder requesting such a project), and the local public policy project only benefits a specific customer or customers, then those customers will be provided an opportunity to fund the project.⁵⁸

ii. Commission Determination

35. We find that MPS's proposed revisions to the local transmission planning process comply with the directives in the First Compliance Order concerning the consideration of local transmission needs driven by public policy requirements. We find that MPS's

⁵³ *Id.* § 8.4.2 (High Priority Economic or Public Policy Planning Studies).

⁵⁴ *Id.* § 8.4.6 (OASIS Posting for Public Policy Requirements).

⁵⁵ *Id.* § 8.3(d) (Scope of Studies).

⁵⁶ *Id.* § 8.4 (Economic and Public Policy Planning Studies).

⁵⁷ *Id.* § 4.7 (Procedures for Consideration of Needs Driven by Public Policy Requirements).

⁵⁸ *Id.* § 9.1.3.2 (Public Policy Projects).

proposed definition of public policy requirements as federal or state laws or regulations, which are enacted statutes and regulations promulgated by a relevant jurisdiction whether within a state or at the federal level, including local laws and regulations passed by a local governmental entity, to be consistent with Order No. 1000.

36. We also find that MPS has complied with the First Compliance Order's directive to describe a process by which it will select transmission needs driven by public policy requirements for further evaluation and post to its website an explanation of its selection as well as why other solutions were not selected for evaluation. The proposed revisions establish that following MPS's initial identification of local transmission needs driven by public policy requirements, both MPS and the Planning Advisory Group will identify those transmission needs driven by public policy requirements that will be selected for further evaluation. We also find MPS's proposal to post on OASIS a list of all identified transmission needs driven by public policy requirements along with an explanation of those transmission needs selected for further evaluation and an explanation of why other suggested transmission needs were not evaluated complies with the First Compliance Order's directive.

37. We find that MPS's proposed revisions to Attachment R also meet the First Compliance Order's requirement that MPS establish procedures in its OATT to evaluate at the local level potential solutions to identified local transmission needs driven by public policy requirements.⁵⁹ MPS's proposed revisions indicate that it will conduct public policy planning studies to evaluate cost-effective means of meeting transmission needs driven by public policy requirements. We also find that MPS's presentation to the Planning Advisory Group and the solicitation of input on the results of these studies will give stakeholders sufficient opportunity to provide input during the evaluation of potential transmission solutions to identified needs. Finally, we find just and reasonable MPS's proposal to provide specific customers with an opportunity to fund an identified public policy project if that project only benefits those customers.

2. Interregional Transmission Planning and Cost Allocation

38. MPS requests that the Commission find the interregional transmission coordination and cost allocation requirements of Order No. 1000 inapplicable due to MPS's specific circumstances.⁶⁰ Specifically, MPS argues that it is isolated from the grid and that its involvement in the NMISA region limits its ability to plan on an interregional basis without the involvement of NMISA and the New Brunswick System Operator, neither of which will be addressing Order No. 1000's requirements. Alternatively, MPS request waiver of the Order No. 1000's interregional transmission coordination and cost allocation requirements. MPS states that the Commission previously granted waiver of

⁵⁹ *See id.* §§ 4.7, 8.3(d), 8.4.

⁶⁰ Request for Waiver at 7.

Order No. 1000's regional transmission planning and cost allocation requirements because of MPS's unique situation, and it believes that the same factors apply to this case.

39. In the First Compliance Order, the Commission found that MPS's unique geographic and electrical situation makes it impossible for it to join a transmission planning region that would be consistent with Order No. 1000's regional scope requirement and granted MPS waiver of Order No. 1000's regional transmission planning and cost allocation requirements.⁶¹ Similarly, in light of the MPS's unique geographic and electrical situation, we grant MPS waiver of Order No. 1000's interregional transmission coordination and cost allocation requirements.

The Commission orders:

(A) NMISA's request for rehearing is hereby denied, as discussed in the body of this order.

(B) MPS's compliance filing is hereby accepted, effective December 11, 2012.

(C) MPS is granted a waiver of the interregional transmission coordination and cost allocation requirements of Order No. 1000, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁶¹ First Compliance Order, 142, FERC ¶ 61,129 at P 21.