

124 FERC ¶ 61,268
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. OA08-59-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued September 18, 2008)

1. On December 7, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ Entergy Services, Inc. (Entergy) submitted its transmission planning process as a proposed attachment to its Open Access Transmission Tariff (OATT), as required by Order No. 890.² In this order, we accept Entergy's compliance filing, as modified, as discussed below.

I. Background

2. In Order No. 890, 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.³ To remedy the

¹ 16 U.S.C. § 824e (2006).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

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

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 (Attachment K) to their OATT. Pursuant to a subsequent order, transmission providers were directed to submit their transmission planning process for Commission review on or before December 7, 2007.⁴ To assist transmission providers in the development of their planning processes, the Commission directed transmission providers to post a “strawman” proposal and draft tariff language governing their proposed planning processes and directed Commission Staff to convene technical conferences to seek comment from stakeholders and provide feedback on the “strawman” and draft tariff language proposals. These technical conferences were held during the months of June and October 2007 in various regions of the country.

3. As discussed more fully below, the nine planning principles the Commission directed each transmission provider to address in its Attachment K are: coordination, openness, transparency, information exchange, comparability, dispute resolution, regional participation, economic planning studies, and cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation and to build on transmission planning efforts and processes already underway in many regions of the country. However, 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 all of these principles must be fully addressed in the tariff language filed with the Commission.

II. Entergy’s Compliance Filing

4. Entergy states that, to comply with Order No. 890, it has amended the Independent Coordinator of Transmission (ICT) Transmission Planning Protocol.⁵ Entergy states that the resulting Attachment K complies with Order No. 890 while maintaining the essential elements of the ICT package that were not affected by Order No. 890.

⁴ See *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103 (2007).

⁵ The Transmission Planning Protocol was filed as part of the ICT development process and approved by the Commission in Docket No. ER05-1065, and it reflects a number of matters fully addressed in the ICT proceeding that are essential elements of the ICT package approved by the Commission. See *Entergy Services Inc.*, 115 FERC ¶ 61,095 (2006), *errata notice* May 4, 2006 (*Order Approving the ICT*), *order on reh’g*, 116 FERC ¶ 61,275 (2006) (*ICT Rehearing Order*). Entergy included in its filing a redlined version of its Transmission Planning Protocol to demonstrate the changes it made to convert the protocol to its Attachment K.

5. Entergy states that its Attachment K describes: (1) the processes and standards that Entergy and the ICT will use to develop transmission plans, studies, and models; (2) the division of responsibilities and duties between Entergy and the ICT in the planning process; and (3) the process for stakeholders and Interested Government Agencies⁶ to review and provide input regarding the transmission plans, studies, and models. Entergy states that its Attachment K addresses the basic criteria that will be used in the planning process (the Planning Criteria), the models used in the transmission planning process (e.g., the Base Case Model), the transmission plans that will be developed (e.g., the Construction Plan and Base Plan), as well as a reliability assessment performed by the ICT and studies performed by the Southwest Power Pool (SPP) or through the Southwest Inter-Regional Participation Process (SIRPP).⁷

6. Entergy explains that the Planning Criteria are the standards and procedures used in developing transmission plans and models for the Entergy system. Entergy will supply the ICT with detailed descriptions of the current Planning Criteria, including: (1) applicable North American Electric Reliability Council (NERC) Reliability Standards and Southeastern Electric Reliability Council (SERC) supplements to those standards; (2) Entergy's local reliability criteria that are provided to the ICT for posting on Entergy's Open Access Same-Time Information System (OASIS); and (3) Entergy's business practices related to compliance with the above criteria. The ICT will independently review Entergy's description of the Planning Criteria to ensure that transmission customers can understand how transmission planning is conducted. If the ICT concludes that additional detail is required, Entergy will modify the appropriate business practice documents to include the additional detail. The ICT will post the draft versions of the Planning Criteria on OASIS. The ICT will then conduct a stakeholder meeting to obtain stakeholder input regarding the Planning Criteria, as well as any other inputs, assumptions, and methodologies used to develop the Base Plan.

7. Once the Planning Criteria are determined, the ICT will create the Base Case Model by using and validating data inputs provided by Entergy. The Base Case Model is a power flow model representing the Entergy system used for reliability assessments, transmission service request studies, and economic studies. The model includes all existing long-term, firm uses of the system, including network service, firm service for native load, long-term point-to-point service, and firm service under grandfathered

⁶ As defined in section 2.7 of Attachment K, "Interested Government Agencies" are the Commission, the Council of the City of New Orleans, the Mississippi Public Service Commission, the Louisiana Public Service Commission, the Public Utility Commission of Texas, and the Arkansas Public Service Commission.

⁷ As described in more detail below, transmission owners in the Southeast have formed the SIRPP to perform economic planning studies involving multiple transmission systems in that region.

agreements. The ICT will develop regional seasonal and annual models to reflect the dynamic nature of the system. The ICT shall provide stakeholders an opportunity to provide input regarding data gathering and the study process associated with development of the Base Case Model, as well as comments on the Base Case Model itself. To that end, the ICT shall post on Entergy's OASIS the Base Case Model, any changes to the Base Case Model, and the basic data and assumptions used in developing the Base Case Model. To the extent practicable, such postings will be made available at least 30 days prior to any stakeholder meeting that is scheduled to address the Base Case Model. The Base Case Model, in turn, is used in developing the Construction Plan by Entergy and the Base Plan by the ICT.

8. Each year, Entergy will develop a Construction Plan using the most current validated regional models that have been developed for the Base Case Model. The Construction Plan contains the facilities that Entergy believes are necessary to satisfy the Planning Criteria plus any economic upgrade projects identified by Entergy in accordance with Attachment K for inclusion in the Construction Plan. Entergy submits the draft Construction Plan to the ICT, which solicits comments from stakeholders and performs an independent reliability assessment of the draft plan using the Planning Criteria. As part of this assessment, the ICT will independently evaluate whether: (1) the draft Construction Plan complies with the Planning Criteria; and (2) there are upgrade projects in the draft Construction Plan that are not necessary to meet the Planning Criteria. The ICT will subsequently provide Entergy with its conclusions, including the identification of any issues the ICT believes Entergy should address. Entergy is not required to revise the draft Construction Plan in accordance with the ICT's review, but it must document to the ICT and stakeholders any outstanding issues identified by the ICT that are not addressed in a revised Construction Plan. When Entergy finalizes the Construction Plan, it will be posted on OASIS.

9. As Entergy is developing its Construction Plan, the ICT shall independently develop a Base Plan to identify the transmission upgrades and construction projects that the ICT believes are necessary to comply with the Planning Criteria using the same Base Case Model. The ICT shall develop the Base Plan consistent with the Planning Criteria, except that the ICT has sole discretion to determine whether or not to use Entergy's business practices and local reliability criteria in the Base Plan. The ICT shall provide stakeholders an opportunity to provide input regarding data gathering and the study process associated with development of the Base Plan, as well as comments on the plan itself. The ICT may rely on the Construction Plan from the current cycle, stakeholder and regulator input, and its own reliability assessment in developing the Base Plan or amending the Base Plan.

10. Upon completion of the Base Plan and Construction Plan, the ICT will identify any instances where the two plans diverge. To the extent that the Construction Plan includes projects that are not included in the Base Plan, Entergy may build such projects,

subject to any siting or permitting requirements. To the extent that the Base Plan includes projects that are not included in the Construction Plan, the Transmission Provider will have no obligation to proceed with such projects for purposes of reliability. The ICT and Entergy will report any differences between the Base Plan and the Construction Plan to the Commission and other interested government agencies.

11. The ICT has several responsibilities in addition to developing the Base Plan. The ICT will: (1) lead an annual Transmission Planning Summit with stakeholders and regulators to review the ICT's independent reliability assessment and the Construction Plan; (2) be responsible for identifying any opportunities for regional optimization of the Construction Plan with the construction plans of individual SPP transmission owners; and (3) identify potential economic upgrades, including upgrades to existing facilities as well as construction of new facilities. The ICT will identify these economic upgrades based on screening criteria, which may consider the frequency of Transmission Loading Relief events and constrained flowgates. Customers will be free to fund economic upgrades based on their own analyses, but the ICT may not require Entergy to construct such upgrades.

12. Entergy states that both it and the ICT will participate in regional planning activities. Planning models and system plans will be shared with other transmission provider in the SERC region and with other members of SPP to ensure that they use consistent data and assumptions and the results are simultaneously feasible. Regional economic studies involving the interconnected systems of SPP members will be coordinated through the SPP, and inter-regional economic studies involving the interconnected systems of SIRPP participants will be coordinated through the SIRPP.

13. Entergy states that, in the development of its Attachment K, the ICT held a number of face-to-face and teleconference meetings in a stakeholder process to solicit the views and comments of interested parties. During that process, stakeholders were provided a number of opportunities to express their views through written and verbal comments. Entergy notes that there are still areas of disagreement between Entergy and its stakeholders, but believes that the ICT-led process was fruitful and narrowed the issues presented to the Commission. Entergy states that many of the remaining disagreements between it and stakeholders arise directly from stakeholders' attempts to raise matters that were already decided by the Commission during the four-year ICT development process, and that are beyond the scope of Order No. 890.

III. Notice of Filing and Responsive Pleadings

14. Notice of Entergy's filing was published in the *Federal Register*, 72 Fed. Reg. 73,017 (2007), with interventions and protests due on or before January 7, 2008. Timely motions to intervene were filed by Cleco Power LLC, Duke Energy Carolinas, LLC, Cottonwood Energy Company, LP, Electric Power Supply Association, the Council of the City of New Orleans, Reliant Energy, Inc., NRG Power Marketing Inc., Bayou Cove

Peaking Power LLC, Big Cajun I Peaking Power LLC, Louisiana Generating LLC, and NRG Sterlington Power LLC. Timely motions to intervene and protests were filed by Arkansas Electric Cooperative Corporation, Lafayette Utilities System, Louisiana Energy and Power Authority, Mississippi Delta Energy Agency, and Municipal Energy Agency of Mississippi (collectively, LMA Parties); Energy Consulting Group, LLC (Energy Consulting);⁸ East Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas (collectively, East Texas). The Cities of Benton, Arkansas, Prescott, Arkansas, Osceola, Arkansas, the Conway Corporation, the Hope Water & Light Commission, and the West Memphis Utilities Commission (collectively, Arkansas Cities) filed a timely protest. Union Power Partners, L.P. (Union Power) and SUEZ Energy North America, Inc. (SUEZ) jointly filed a motion to intervene, a request for extension of comment date, and a request for expedited action. Union Power and SUEZ subsequently jointly filed a protest. South Mississippi Electric Power Association and Southwest Power Pool (SPP), as the ICT, filed motions to intervene out of time. Entergy filed an answer to the protests of LMA Parties, Arkansas Cities, East Texas, Energy Consulting, and Union Power and SUEZ. Union Power filed a motion for leave to respond and response to Entergy's answer. Entergy filed an answer to Union Power's response on February 21, 2008.

IV. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2008), the Commission will grant the late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

16. 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 the answers because they have provided information that assisted us in our decision-making process.

⁸ Energy Consulting filed a joint intervention and protest in several of the Order No. 890 Attachment K proceedings, with most of its comments are directed toward Southern Company. In this order, we only address Energy Consulting's comments that are directed toward the transmission providers generally or Entergy individually.

B. Substantive Matters

17. We find that Entergy's Attachment K transmission planning process, with certain modifications, complies with the planning process requirements adopted in Order No. 890. Accordingly, we accept Entergy's Attachment K, effective December 7, 2007, subject to a further compliance filing, as discussed below, to be filed within 90 days of issuance of this order.

18. While we accept Entergy's transmission planning process in Attachment K, we nevertheless encourage further refinements and improvements to Entergy's planning process as Entergy and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to the conferences held in 2007 leading up to the filing of the Attachment K compliance filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

C. Compliance with Order No. 890's Planning Principles**1. Reliance on the ICT**

19. At the outset, several intervenors state concern regarding Entergy's reliance on existing ICT structures and procedures in its proposed Attachment K planning processes. We address these overarching concerns first, before turning to compliance with the planning principles stated in Order No. 890.

a. Protests

20. Union Power and SUEZ argue that the transmission planning proposed by Entergy in Attachment K unduly relies on the pre-Order No. 890 Commission approval of the ICT. They contend that Entergy expects to be treated differently than other transmission providers subject to the requirements of Order No. 890 as the quid pro quo for the ICT proposal. Union Power and SUEZ argue that the Commission's prior approval of ICT is not a free pass for Entergy to avoid compliance with the Commission's current transmission planning requirements.

21. Union Power and SUEZ also state concern regarding the ICT's role in Entergy's transmission planning. They state that the ICT previously provided what it characterized as an independent assessment of stakeholder-proposed changes to Attachment K in response to a November 20, 2007 Stakeholder Policy Committee motion. Union Power

and SUEZ assert that the ICT response closely parallels Entergy's view because, like Entergy, the ICT will not consider any change required by Order No. 890 if such change would require a departure from the Commission's pre-Order No. 890 orders addressing Entergy's OATT, ICT/Entergy related ICT documents, or approving the ICT. Rather than exercising independence over whether or not the proposed Attachment K meets the requirements of Order No. 890, they believe the ICT avoids addressing the merits of such proposed changes. Union Power and SUEZ find this position remarkable given the provision in proposed section 1.2 of the proposed Attachment K that supposedly ensures the ICT's independence in transmission planning. According to Union Power and SUEZ, the ICT, based on its own interpretation of its role, would ignore discriminatory or preferential treatment if it determines that such treatment is consistent with Entergy's existing OATT, the *Order Approving the ICT*, or the ICT Agreement.

22. LMA Parties argue that Entergy has indicated that it will entertain only those changes to the ICT process that are expressly mandated by Order No. 890. LMA Parties argue that this narrow position disregards that much of Order No. 890 is not minutely prescriptive but rather is based on broad principles. LMA Parties contend that Entergy's existing planning-related tariff provisions must be evaluated more broadly against the nine principles set forth by the Commission. LMA Parties argue that no element of the Entergy and ICT planning process, even those elements that were approved in Commission orders, is exempt from the requirement that the process comply with Order No. 890.

23. LMA Parties state that there exists a fundamental difference in perspective between Entergy and the ICT, on one hand, and stakeholders on the other. LMA Parties request Commission guidance on two issues: (1) to what extent may Entergy rely on the Commission's approval of the planning-related ICT protocols as a basis for claiming Order No. 890 compliance; and (2) whether the previously-approved ICT protocols are immune from, or subject to review under, the nine planning principles adopted in Order No. 890. LMA Parties contend that Entergy must consider reform, as the Commission explicitly ruled that planning-related provisions of the ICT arrangement would not be immune from review under Order No. 890.⁹

24. East Texas argues that the Commission should review Entergy's filing in light of not only Order No. 890, but also the Commission's expectations for the ICT. It references the Arkansas Public Service Commission's complaint proceeding in Docket No. EL06-76¹⁰ to argue that this Commission expects the ICT to improve transparency of transmission information, enhance transmission access, and relieve transmission

⁹ LMA Parties Protest at 13, *citing ICT Rehearing Order* at P 15.

¹⁰ *Arkansas Public Service Commission v. Entergy Services, Inc., et al.*, 119 FERC ¶ 61,223 (2007); *rehearing denied*, 121 FERC ¶ 61,226 (2007).

congestion. It asserts that the ICT's planning function is limited, and that Entergy's proposed Attachment K does not resolve the shortcomings of the ICT Planning Protocol.

b. Entergy's Answer

25. Entergy argues that its proposed Attachment K includes a level of independence in transmission planning that goes beyond the requirements of Order No. 890 and helps to ensure equitable treatment of all viewpoints in planning. It states that, in Order Nos. 890 and 890-A, the Commission rejected proposals to require the use of an independent third party coordinator, although it noted there were benefits to be gained from independent third-party oversight. Entergy states that the effort to establish the ICT was underway before the Commission issued the Notice of Inquiry leading to Order No. 890.

26. Entergy disputes claims that it is attempting to use the Commission's approval of the ICT and a narrow view of Order No. 890 to avoid making changes to its OATT. Entergy denies that it considered a change to the ICT Planning Protocol previously approved by the Commission only if that change was not inconsistent with the Orders Approving the ICT. Entergy states that it amended the ICT Planning Protocol in a way consistent with the requirements and principles of Order No. 890, as those principles were further explained in the White Paper.¹¹ Entergy states that it did not amend the ICT Planning Protocol to address matters raised by stakeholders that are beyond the scope of Order No. 890, particularly if the Commission addressed the matters stakeholders raised in the ICT proceeding.

27. Entergy notes that stakeholders have attacked the ICT's independence in this and other proceedings. It maintains that stakeholders have attempted to compromise the ICT's independence by insisting that certain matters must be included in future ICT transmission studies. Entergy argues that such stakeholder views highlight the benefits of the ICT, in that its independent views provide balance to stakeholders' claims about the Entergy system. Entergy acknowledges that the ICT alone does not satisfy Order No. 890's planning requirements, but argues that its proposed Attachment K benefits in virtually every aspect from the ICT's independence.

c. Responses to Entergy

28. Union Power argues that the existence of the ICT should not shield Entergy from compliance with Order Nos. 890 and 890-A and that the presence of the ICT does not in and of itself fulfill the Commission's requirements for Attachment K. With respect to Entergy's argument that its proposed Attachment K goes beyond the requirements of Order No. 890 by including a level of independence that order does not require, Union

¹¹ Order No. 890 Transmission Planning Process Staff White Paper, Docket Nos. RM05-17-000 and RM05-25-000 (Aug. 2, 2007) (White Paper).

Power states that it was not arguing that the existence of the ICT was not consistent with or superior to what Order Nos. 890 and 890-A require. It focused rather on the planning process itself. Reliance on the Commission's approval of the ICT without showing that Attachment K will lead to the expansion of the transmission system in a nondiscriminatory manner, Union Power argues, does not demonstrate that the requirements of Order Nos. 890 and 890-A have been met.

d. Commission Determination

29. The Commission stated in the *ICT Rehearing Order* that Entergy must comply with any final rule issued in the OATT reform proceeding, particularly with regard to any term or condition of the *pro forma* OATT modified by the final rule and not modified by the ICT proposal.¹² In evaluating any provision modified by both the *Order Approving the ICT* and Order No. 890, we will use our judgment as to whether the ICT term or condition satisfies the planning principles stated in Order No. 890 or is otherwise consistent with or superior to the *pro forma* OATT, as revised. Thus, while our previous decisions in the *Order Approving the ICT* control to some extent, our decisions in this order reflect our determination that Entergy as a transmission provider must comply with Order No. 890.

30. As our analysis below indicates, Entergy may rely on our approval of the ICT protocols as a basis for Order No. 890 compliance only to the extent that the protocols are in agreement with our actions in Order No. 890. In a number of instances, we direct that Entergy's Attachment K be revised to comply more fully with the planning principles stated in Order No. 890. Some of the views expressed by interveners reflect general dissatisfaction with the way the ICT is performing its duties. Any dissatisfaction with the ICT's performance of its duties can be addressed through the dispute resolution process accepted in this order or through a complaint filed with the Commission.

2. Coordination

a. Order No. 890

31. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing

¹² *ICT Rehearing Order* at P 15.

customers and other stakeholders to participate in the early stages of development. In its Attachment K planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.¹³

b. Entergy's Proposal

32. Entergy states that, under its Attachment K, formal meeting procedures, in the form of ICT stakeholder meetings and the annual Transmission Planning Summit, will be used to obtain stakeholder input on the ICT's independent reliability assessment and Entergy's Construction Plan. The ICT will also be able to solicit written comments on documents or adopt other procedures when that will simplify or improve stakeholder involvement.

33. Entergy states that the ICT's role in the stakeholder process is specified throughout its proposed Attachment K. Attachment K includes an expected timeline for certain of the meetings and postings, but the ICT will also establish additional postings and stakeholder meetings as necessary to meet the goals of Attachment K. Among other things, the ICT will ensure that stakeholders have adequate opportunity to provide comments on documents prior to completion of the Construction Plan and Base Plan. The ICT is to provide reasonable notice of all meetings, including the Transmission Planning Summit, through a posting on OASIS or an email to the appropriate stakeholder exploder list. The notice is to specify the date, time, and location of the meeting, and the form of the meeting (i.e, in-person, teleconference, webinar). For example, Entergy notes that, before any changes to the Planning Criteria are made effective, stakeholders will be notified and given a reasonable opportunity to comment. The ICT will provide stakeholders opportunities to give input, including written comments, regarding data gathering and the study processes associated with development of the Base Case Model, the Base Plan, Regional and Inter-Regional Studies, the Construction Plan, and the ICT's reliability assessment. Entergy also states that the ICT will provide stakeholders opportunities to give input, including written comments, on drafts of the Regional Planning Materials.

34. Entergy states that the ICT will make all of the stakeholders' written comments publicly available by posting them on Entergy's OASIS or the ICT's website, and it will hold stakeholder meetings to address those comments. Entergy notes that this process will include the annual Transmission Planning Summit, where the ICT will review with stakeholders the independent reliability assessment, the Base Case Model, the Planning Criteria, and underlying data and assumptions used in developing transmission plans and models. At the Transmission Planning Summit, the ICT will: (1) solicit feedback on the transmission reliability projects and economic projects that have been identified; (2) solicit alternatives to those projects; (3) explain the planning process; and (4) explain

¹³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-454.

how and where to obtain information about the transmission system. The ICT will also review any potential regional optimization or economic opportunities. At the conclusion of the Transmission Planning Summit, the ICT will determine whether one or more additional Summit sessions are required in order to comply with Attachment K. The ICT will solicit input from Entergy and stakeholders on the need for any additional sessions.

c. Protests

35. LMA Parties argue that Entergy's proposed Attachment K does not meet Order No. 890's requirements for stakeholder participation in the development of the transmission provider's transmission expansion plan. They contend that much of Entergy's proposed Attachment K focuses instead on the development of, and stakeholder participation in, the plan used by the ICT for allocating the costs of the upgrades (the Base Plan), rather than the plan used for actual system expansion (Entergy's Construction Plan). They maintain that the process associated with the development of the Construction Plan falls short of compliance with Order No. 890's requirements with respect to coordination.

36. LMA Parties contend that Entergy alone develops the Construction Plan, which is contrary to the guidance provided by Order No. 890 specifying that stakeholders be involved in the development process. LMA Parties state that Entergy proposes to review the draft Construction Plan with the ICT and stakeholders once Entergy has already developed the plan. Moreover, LMA Parties and Arkansas Cities argue that, other than allowing stakeholders the right to submit comments on an already-developed draft Construction Plan, Entergy's Attachment K does not demonstrate how it is inclusive of stakeholder input. They state that there is nothing in the proposed Attachment K requiring that Entergy consider these comments or allowing stakeholders to have meaningful input into the development of the Construction Plan. Arkansas Cities also questions the reference to a Long Term Transmission Issues Working Group (LTTIWG) in the appendices to Entergy's Attachment K, which refer to the LTTIWG providing input regarding the Base Plan and Construction Plan. Arkansas Cities suggest that the ICT stakeholder process be referenced instead of the LTTIWG.

37. Union Power and SUEZ propose several changes to section 9 of Entergy's proposed Attachment K. One change would require the ICT to respond in writing to all written stakeholder comments on the Base Plan, the Base Case Model, the Regional and Inter-Regional Studies, and the Construction Plan, to ensure that stakeholder input is considered. Another suggested change would require the ICT to review input received during the Transmission Planning Summit and provide recommendations to Entergy, leading to possible changes to the Construction Plan and the Base Plan. Additionally, Union Power and SUEZ propose revisions that would require notice of meetings on the ICT's website, as well as on Entergy's OASIS and email notification.

38. East Texas argues that Entergy's proposed Attachment K provisions on coordination and openness embody essentially the same process that was previously approved by the Commission in approving the ICT. It states that its experience with that process in the months since the ICT's approval has shown that there is very little actual collaboration. East Texas urges the Commission to provide the ICT the authority to require Entergy to expand its Planning Criteria beyond those found in its proposed Attachment K to ensure true system-wide planning efforts. This should include indications of serious system congestion.

39. East Texas also requests that the Commission order Entergy to alter the provisions on stakeholder review and input to require Entergy to explain its reasoning when it chooses not to adopt stakeholders' recommendations. East Texas maintains that there can be no coordinated, transparent, and comparable planning effort for the Entergy System without a requirement that Entergy explain why it has not adopted stakeholder suggestions or ICT proposals in its Construction Plan.

d. Entergy's Answer

40. Entergy argues in response to the LMA Parties that the ICT is involved in each step of the system expansion planning process. Entergy notes that the ICT ensures that Entergy's planning standards are consistent with Good Utility Practice; ensures that those standards have been applied in a non-discriminatory fashion in the planning process; prepares a Base Case model, reliability assessment, and Base Plan; applies applicable reliability criteria; and reviews Entergy's Construction Plan. The ICT also obtains stakeholder input regarding the Planning Criteria and other methodologies relied upon in developing the reliability assessment, the Base Plan, and the Construction Plan; and it leads the annual Transmission Planning Summit with stakeholders to review the reliability assessment, the Base Plan, and Entergy's Construction Plan.

41. In response to LMA Parties' and Arkansas Cities' complaint that stakeholders can only comment on the Construction Plan after the fact, Entergy maintains that the Commission did not require, in Order Nos. 890 and 890-A, that transmission plans be developed with customers on a co-equal basis. Rather, the Commission requires that stakeholders have sufficient opportunities for timely and meaningful input and participation during the development process. Entergy argues that this goal is satisfied by providing stakeholders with input into the data gathering and study processes that will be used for model development and planning studies performed under its proposed Attachment K and by allowing input into non-final versions of the models and studies. Entergy disagrees with Arkansas Cities' argument that the references to the LTTIWG in the appendices to its Attachment K should be replaced with references to more generic stakeholder processes. Entergy states that the more specific reference to the LTTIWG is preferable because it provides greater definition to the process.

42. In response to arguments that Entergy be required to consider stakeholder views or explain how stakeholder objections to the Construction Plan will be met, Entergy states that, in Order No. 890-A, the Commission rejected proposals to include additional mechanisms for tracking stakeholder views and comments. Entergy states that it will consider stakeholder comments, but that a requirement to provide a response to each and every comment would be unduly burdensome. Entergy argues that it is sufficient that, under Attachment K, the ICT must identify any instances where the Base Plan and the Construction Plan diverge, and the ICT and Entergy will inform interested governmental agencies of any divergence.

43. In response to LMA Parties' arguments about the necessity of stakeholder input on inter-regional matters, Entergy states that the Commission has rejected proposals to add mechanisms for tracking stakeholder views and comments and requirements that transmission providers consider consensus positions or present to the Commission minority opinions that have been excluded. Entergy states that it will consider stakeholder comments, but maintains that a requirement to provide a response to each and every comment would be unduly burdensome.

44. Entergy disputes the assertion that the process for coordination and openness included in its proposed Attachment K is basically the same process previously approved by the Commission when it approved the ICT. It states that the Planning Protocol has been amended so that stakeholders will be notified and given a reasonable opportunity to comment on any changes to the Planning Criteria before they become effective. In addition, the ICT will give stakeholders opportunities to provide input on data gathering and the study processes involved with the development of the Base Case Model, the Base Plan, Regional and Inter-Regional Studies, the Construction Plan, and the ICT's reliability assessment.

e. Commission Determination

45. We find that Entergy's proposed Attachment K partially complies with the coordination planning principle stated in Order No. 890. As described below, we will require Entergy to make a compliance filing, providing for stakeholder input into the development of the Construction Plan and for more detail on the formal and informal meeting structures being used in the planning process, within 90 days of issuance of this order.

46. Certain aspects of Entergy's planning process satisfy the requirements of the coordination principle. Section 9 of Attachment K gives stakeholders an opportunity to comment on data gathering and the study process associated with development of the various planning documents, including the Base Case Model, the ICT's assessment of the draft Construction Plan prepared by Entergy, and the Base Plan prepared by the ICT. Stakeholders will have the opportunity to review and comment on draft materials, as well as participate in stakeholder meetings led by the ICT, prior to these materials being

finalized by the ICT. The ICT also shall make all written comments publicly available to all interested parties by posting them on Entergy's OASIS or the ICT website, as appropriate.

47. However, Entergy's process for stakeholder input into the development of the Planning Criteria and Construction Plan fails to fully comply with the coordination planning principle. In Order No. 890, the Commission responded directly to a suggestion by some parties that the Commission require transmission providers to allow customers to develop transmission plans collaboratively with transmission providers on a co-equal basis. Entergy is correct that we declined to do so, noting that transmission planning is the tariff obligation of the transmission provider and that the *pro forma* OATT planning process adopted in Order No. 890 is intended to ensure that planning is carried out in a coordinated, open, and transparent manner.¹⁴ However, we stated further that our intent was that the planning process provided for in Order No. 890 must allow for the timely and meaningful input and participation of customers in the development of transmission plans. Customers must have the opportunity to participate in the early stages of development of the transmission plan and not merely given the opportunity to comment on transmission plans that were developed in the first instance without their input.¹⁵

48. Entergy does not allow for stakeholder input during the development of Construction Plan. While stakeholders may comment on the draft Construction Plan once it is provided to the ICT, there is neither the opportunity to participate in the development of that draft nor the ability to provide comments on the draft directly to Entergy, which retains control of the Construction Plan. Therefore, we will require Entergy, in a compliance filing to be made 90 days of issuance of this order, to revise Attachment K and provide for stakeholder input regarding the Planning Criteria prior to the draft being posted by the ICT, as well as input regarding the Construction Plan as that plan is being developed.

49. We decline to adopt East Texas' request to require Entergy to explain its reasoning when it chooses not to adopt a stakeholder's recommendation.¹⁶ As noted above, transmission providers were directed in Order No. 890 to implement a coordinated, open, and transparent planning process, not to develop transmission plans on a co-equal basis with stakeholders. However, we do note that section 6.4 provides that Entergy will review the ICT's evaluation of the Construction Plan and provide

¹⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 454.

¹⁵ *Id.*

¹⁶ Contrary to East Texas' suggestion that the Planning Criteria can be found in Entergy's proposed Attachment K, we note that the Planning Criteria is posted on Entergy's OASIS.

documentation to the ICT and stakeholders regarding any outstanding issues identified by the ICT but not addressed in revisions to the Construction Plan. The ICT and stakeholders can determine for themselves if Entergy has not provided sufficient explanation of issues not addressed in a final Construction Plan.

50. We will also reject as unduly burdensome Union Power and SUEZ's suggestion that the ICT respond in writing to all written stakeholder comments. Section 9 provides for stakeholder input, including written comments, into the Base Case Model, the Base Plan, Regional and Inter-Regional Studies, and the Construction Plan. The ICT subsequently convenes a stakeholder meeting to discuss the comments. We believe these opportunities for stakeholder input and give-and-take with the ICT, in addition to the annual Transmission Planning Summit, allow for adequate dialog between the stakeholders and the ICT over the Base Case Model, the Base Plan, the Regional and Inter-Regional Studies, and, with the modifications required above, the Construction Plan. We will leave it to the ICT to decide if it wants to respond in writing to specific stakeholder comments.

51. We agree with Union Power and SUEZ that further clarification is needed regarding the Transmission Planning Summit to be held annually by the ICT. Section 9 of Entergy's Attachment K states that, at each Transmission Planning Summit, the ICT will review its independent assessment of the Construction Plan prepared by Entergy and provide an opportunity for stakeholders to address the Base Case Model, the Planning Criteria, and the data and assumptions used in developing plans and models. This appears to contemplate after-the-fact review of information used by Entergy and the ICT to prepare transmission plans. As discussed above, however, other sections of Entergy's Attachment K provide for stakeholder review and input of draft materials as they are being produced and feedback from ICT to Entergy. The relationship between the annual Transmission Planning Summit and the other activities performed by the ICT during the planning cycle has not been fully explained. Accordingly, we direct Entergy, in a compliance filing to be made within 90 days of issuance of this order, to address the relationship between the Transmission Planning Summit and the planning-related activities performed by the ICT during the planning cycle, and the provision of feedback by the ICT to Entergy.

52. Finally, we also agree with Union Power and SUEZ's suggestion that Entergy's proposed Attachment K should be revised to require notice of stakeholder meetings on the ICT's website in addition to Entergy's OASIS. The ICT serves to coordinate stakeholder review and input at various stages of Entergy's planning process and it is therefore appropriate for notice of planning-related meetings to be posted on the ICT's website. Also, in response to intervenors' suggestion to use a generic reference to the stakeholder process rather than using a specific reference to LTTIWG, we note that

Entergy only refers to the LTTIWG in the appendix of its proposed Attachment K.¹⁷ Therefore, we find no reason for Entergy to remove any specific references to the LTTIWG. However, though Entergy does refer to the LTTIWG, it does not define the working group in its tariff. Accordingly, we will direct Entergy to file, within 90 days of issuance of this order, a further compliance filing that revises its Attachment K to define the LTTIWG, as well as any other relevant working groups, and their role in transmission planning.

3. Openness

a. Order No. 890

53. The openness principle requires that transmission planning meetings be open to all affected parties, including but not limited to all transmission and interconnection customers, state authorities, and other stakeholders. Although the Commission recognized in Order No. 890 that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a sub-regional group, the Commission emphasized that the overall development of the transmission plan and the planning process must remain open.¹⁸ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and CEII concerns, such as confidentiality agreements and password-protected access to information.¹⁹

b. Entergy's Proposal

54. Entergy states that, under its proposed Attachment K, stakeholder meetings are open to interconnected generators, power marketers, load serving entities, wholesale customers, and any Interested Government Agencies. Any stakeholder is eligible to participate in the ICT stakeholder process. In response to the Commission's requirement to develop mechanisms to manage CEII concerns, Entergy includes in its Attachment K provisions for the designation and availability of confidential data and CEII. These rules describe what data is confidential, the criteria used to identify such data, party access to confidential information and CEII, disclosure to the Commission and other government

¹⁷ Entergy's Attachment K, Original Sheet No. 326-X.

¹⁸ The Commission made clear in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's Attachment K planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

¹⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

agencies, and use and applicability of non-disclosure agreements. The rules apply equally to information provided by Entergy, as well as information provided by the ICT.

c. Protests

55. Union Power and SUEZ propose that stakeholder meetings be open to all interested parties rather than to a list of specific stakeholders, as stated in Entergy's Attachment K.

d. Commission Determination

56. We find that Entergy's proposed Attachment K partially complies with the openness principle stated in Order No. 890. Through the ICT stakeholder process, stakeholders will have an opportunity to provide their input regarding transmission planning activities. For instance, Entergy and the ICT will vet each step of the planning process, from the identification of the Planning Criteria to the development of the Construction Plan, through the ICT stakeholder process. We agree with Union Power and SUEZ, however, that Entergy must make stakeholder meetings open to all interested parties. Thus, we will require Entergy, in its compliance filing, to revise section 9.1.5 of its Attachment K to state clearly that all stakeholder meetings under section 9.1 shall be open to "all interested parties," including those already listed by Entergy, subject to appropriate confidentiality restrictions.²⁰

57. We also find that Entergy also complies with our requirements regarding the treatment of confidential information. It has implemented various rules to secure all proprietary, commercially valuable, or competitively sensitive information as confidential and to protect CEII.

4. Transparency

a. Order No. 890

58. The transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in Attachment K the method(s) it will use to disclose the criteria, assumptions, and data

²⁰ As we stated in Order No. 890, we recognize that it may be appropriate in certain circumstances, such as a particular meeting of a sub-regional group, to limit participation to a relevant subset of stakeholders. Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

that underlie its transmission system plans.²¹ The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers were also directed to provide information regarding the status of upgrades identified in the transmission plan.

59. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, the Commission concluded they should be permitted to participate in that process on a comparable basis.²²

b. Entergy's Proposal

60. Entergy states that the ICT will ensure that the Planning Criteria are posted on Entergy's OASIS and are sufficiently detailed to make the transmission planning process transparent and understandable.²³ The ICT will also post: (1) the Base Case Model, any changes to the Base Case Model, and the basic data and assumptions used in the development of the Base Case Model; (2) the draft Construction Plan and the reliability assessment, and any changes to it, as well as any additional information, including modeling files used in the development of the Base Plan, that will permit a stakeholder to develop the models used to prepare the Construction Plan; and (3) a document explaining the differences in the basic assumptions and criteria used in developing the Base Plan and the Construction Plan. Additional information will be made available as necessary to make transparent the basic criteria, assumptions, and data relied on in other studies and all planning process performed under Attachment K.

²¹ In Order No. 890-A, the Commission made clear that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

²² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-479.

²³ Entergy's OATT, Attachment K §§ 3.2.2., 10.1.1.

61. Entergy states that its proposed Attachment K includes a description of the transmission planning cycle and important milestones in the cycle, and describes how and when transmission plans and other planning information will be presented to stakeholders. In response to the Commission's request to make information available regarding the status of upgrades identified in the transmission planning, Entergy will list projected in-service dates and project status for projects that are being constructed.

c. Protests

62. LMA Parties argue that, while Entergy's proposed Attachment K includes the appropriate general representations, such as the statement that posting the draft plans will make basic criteria, assumptions, and data transparent, it fails to explain the format for disclosing those criteria, assumptions, and data which underlie the Construction Plan. More specifically, LMA Parties argue that Entergy's proposed transparency provisions fail to ensure that stakeholders will receive sufficient detailed information to be able to replicate Entergy's transmission plans and studies. They state that, during a November 28, 2007 working group conference call, Entergy and the ICT announced that they had come to a new understanding of Order No. 890. According to LMA Parties, Entergy and the ICT stated that they no longer interpreted Order No. 890 as requiring them to provide information sufficient to allow stakeholders to replicate studies, analyses, and plans. Instead they interpreted Order No. 890 to require transmission providers to furnish certain specific information to stakeholders, and that doing so would be sufficient to allow stakeholders to reconstruct the studies.

63. LMA Parties state that one of the concerns Entergy and the ICT voiced in retreating from the "replication" standard is that it lacks definition. However, to the extent Entergy replaced the "replication" standard stated in its planning process with something else, it has proposed a new standard that is even more subjective and less precise than the one it replaces. For example, in section 10.3.3, the replication standard in an original draft has been replaced by new language stating that the only postings related to the Construction Plan "shall make transparent the basic criteria, assumptions, and data relied on" in developing the plan.

64. LMA Parties state that transparency is in the eye of the beholder and that what a transmission provider deems sufficient for transparency may be far less than what a stakeholder deems sufficient. They contend that the proper test is the one set forth in Order No. 890, which focuses on whether the information provided is of the type and sufficiently detailed to permit a stakeholder to reproduce a study, analysis, or plan.

65. Union Power and SUEZ similarly argue that an essential requirement to the transparency planning principle is the ability of interested parties to replicate the results of planning studies. They propose to add language incorporating this standard in several sections that deal with the criteria, assumptions, and data used in transmission plans.

d. Entergy's Answer

66. Entergy argues that, while Union Power and SUEZ refer to the replication requirement as an “essential requirement,” the Commission mentioned the ability of stakeholders to replicate planning studies in only two sentences in Order Nos. 890 and 890-A.²⁴ Entergy maintains that the Commission did not adopt a replication standard for the information that must be made available. Instead, the Commission only required transmission providers to disclose the relevant information to all customers and other stakeholders. Entergy states that the Commission explained that much of the information is already available under reliability standards proposed in Docket No. RM06-16-000 and that, while OATT planning is distinct from the proposed reliability standards, the key data underlying transmission planning will be provided in conjunction with the reliability standards and available for transmission planning when the standards are finalized.

67. Entergy also argues that a replication standard could be used by stakeholders to seek information that is not needed to satisfy the goals of Order Nos. 890 and 890-A. Entergy states that a stakeholder could request such confidential customer-specific data as load size or cogeneration processes and also seek explanations of every question that arose or decision that was made in adopting a plan or model. Such a standard would be subject to potential mischief, and the Commission instead opted for a standard that meets the goals of Order No. 890, while placing reasonable bounds on the information that must be made available. Entergy states that availability of this information will ensure that transmission planning is transparent and provide customers with all the information they need to verify that planning is being performed on a non-discriminatory basis.²⁵

e. Response to Entergy

68. Union Power states, in response, that Order Nos. 890 and 890-A do require Entergy to provide sufficient information to enable other parties to replicate the results of planning studies. The Commission used the term “replicate” to establish a benchmark against which parties can determine whether sufficient information is being made

²⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 195.

²⁵ Entergy notes that in Order No. 890-A, the Commission clarified that the basic criteria, assumptions and data that must be disclosed included base case and change case data used by the transmission provider. Entergy states that the Commission was responding to an argument made by TDU Systems that disclosure of such information would be consistent with the Commission’s goal of allowing stakeholders to replicate the results of planning studies and eliminate disputes over whether planning was conducted in an unduly discriminatory fashion. Entergy notes that AECC, one of the LMA Parties was one of the parties in TDU Systems.

available to meet the Commission's transparency requirement. Union Power states that Entergy cites no authority that would permit it to withhold information if such information is needed to replicate the results of planning studies.

f. Commission Determination

69. We find that Entergy's proposed Attachment K partially complies with the transparency principle stated in Order No. 890. The ICT will post the Planning Criteria and Base Case Model, along with the basic data and assumptions used in the development of the Base Case Model. However, the Commission made clear in Order No. 890 that transmission providers must provide sufficient information to "enable customers, other stakeholders, or an independent third party to replicate the results of planning studies."²⁶ Entergy's Attachment K does not commit to make such information available to interested parties. In addition, Entergy's proposed Attachment K also does not adequately describe the method that Entergy will use to disclose the criteria, assumptions, and data that underlie its transmission system plans. For example, Section 10.5.5, which describes the process for developing the Base Plan, only states that the ICT will post the basic criteria, assumptions, and data relied upon in developing the Base Plan, while section 9.1.2 states that the ICT will provide stakeholders an opportunity to provide input regarding data gathering and the study process associated with development of the Base Plan. Accordingly, we will direct Entergy to file, within 90 days of issuance of this order, a further compliance filing that revises its Attachment K to: (1) provide the basic methodology, criteria, and processes used to develop transmission plans sufficient for interested parties to be able to replicate its transmission plans and (2) describe the methods it will use to disclose the criteria, data and assumptions that underlie its transmission system plans. The information should be of sufficient detail to allow a customer to replicate the results of planning studies.

5. Information Exchange

a. Order No. 890

70. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.²⁷ Transmission providers, in

²⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

²⁷ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

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

71. The Commission also provided that, to the extent applicable, transmission customers should provide information on existing and planned demand resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand resources if they wish to have them considered in the development of the transmission plan. The Commission stressed that information collected by transmission providers to provide transmission service to their native load customers must be transparent and equivalent information must be provided by transmission customers to ensure effective planning and comparability. In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information. To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.²⁸

72. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange relates to planning, not other studies performed in response to interconnection or transmission service requests.²⁹

b. Entergy's Proposal

73. Entergy states that its Attachment K includes provisions for data submission from network and point-to-point transmission customers. These provisions include templates that network and point-to-point customers are to use to submit their data, as well as approximate dates by which that data must be submitted for inclusion in the modeling process.

c. Responsive Pleadings

74. No comments were filed on this topic.

²⁸ *Id.* P 206.

²⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-488.

d. Commission Determination

75. We find that Entergy's proposed Attachment K complies with the information exchange principle stated in Order No. 890. Entergy provides clear guidelines and schedules for the submittal of customer information for use in planning-related activities.

6. Comparability

a. Order No. 890

76. The comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In Order No. 890, the Commission expressed concern that transmission providers historically have planned their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. Through the comparability principle, the Commission required that the interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.³⁰

b. Entergy's Proposal

77. Entergy states that the comparability requirement implicates each of the other eight Planning Principles and that comparability of service is ensured throughout its proposed Attachment K. To this end, its proposed Attachment K specifies that the Transmission Provider and the ICT must conduct transmission planning on a non-discriminatory basis.³¹ Entergy states that the ICT will perform its functions independently and will ensure that transmission planning is conducted on a non-discriminatory basis. The Base Case Model, which is the foundation of all transmission planning models and studies, will include all existing long-term, firm uses of the transmission system, including: (1) network integration transmission service; (2) firm transmission service for the transmission provider's native load; (3) long-term point-to-point transmission service; and (4) firm transmission service provided in accordance with grandfathered agreements.

³⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-495.

³¹ Entergy's OATT, Attachment K § 3.1.

c. Responsive Pleadings

78. No comments were filed on this topic.

d. Commission Determination

79. We find that Entergy's proposed Attachment K complies with the comparability principle stated in Order No. 890. Entergy's transmission planning models will reflect not only the projected growth of existing network customers, but also other transmission and interconnection commitments. Moreover, the transmission planning models will include any transmission projects identified in service agreements or interconnection agreements. However, we note that Order No. 890-A was issued on December 27, 2007, after Entergy submitted its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process "how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning."³² Here, Entergy has not addressed how it will treat demand resources comparably. Since Order No. 890-A was issued subsequent to the filing before us, Entergy did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, Entergy is directed to file within 90 days of issuance of this order, a compliance filing providing the necessary demonstration required by Order No. 890-A.³³

7. Dispute Resolution

a. Order No. 890

80. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a

³² Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216; *see also* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479, 487, 494 and 549.

³³ For example, tariff language should provide for participation throughout the transmission planning process by sponsors of transmission solutions, generation solutions, and solutions utilizing demand resources.

three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.³⁴

b. Entergy's Proposal

81. Entergy states that its dispute resolution process is a three-step process of negotiation, mediation, and arbitration. It provides an opportunity to file a complaint with the Commission only during the negotiation or mediation step. If a dispute is not resolved through negotiation or mediation, a party that wishes to continue to pursue the matter must choose either to arbitrate or to file a complaint with the Commission. Section 12.6 provides that a party may file a complaint with the Commission to resolve any dispute at any time except to the extent that parties agree to arbitration. Entergy also states that its proposed Attachment K addresses how information regarding disputes is to be shared with other stakeholders and the issues that will be addressed through the dispute resolution process.

c. Protests

82. Arkansas Cities state that Entergy's Attachment K should include language on the ability of parties to pursue any remedies pursuant to the contracts that they have already entered into with Entergy. Arkansas Cities also state that the proposed Attachment K does not set forth a time frame for the dispute resolution process, which does not ensure timely dispute resolution.

83. Union Power and SUEZ propose a revision specifying that, within 10 days of receipt of a notice of a dispute by the ICT, the matter will be referred to a designated senior representative of Entergy, in addition to designated senior representatives of the ICT and the disputing party for resolution on an informal basis.

d. Entergy's Response

84. Entergy states that Union Power and SUEZ do not explain why they have proposed an amendment to the notice provisions under dispute resolution. According to Entergy, Union Power and SUEZ propose amendments to clarify that the requirement to notify a designated senior representative applies to Entergy and the ICT, even though Attachment K already provides as such. Entergy maintains that Union Power and SUEZ

³⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-503.

propose language that largely repeats or moves language that is already included in Attachment K (i.e., in section 12.5 and Original Sheet No. 326-Q).

85. In response to Arkansas Cities, Entergy states that its proposed Attachment K does not affect a contract to the extent it was entered into outside of the OATT, and that the language requested by Arkansas Cities would only cause confusion regarding the other provisions of Attachment K. Entergy notes further that Attachment K applies to service agreements under the OATT. On the issue of the time frame sought by Arkansas Cities, Entergy states that, given the voluntary nature of mediation, the parties can agree to the terms, conditions, and schedule for the process.

e. Commission Determination

86. We find that Entergy's proposed Attachment K complies with the dispute resolution principle stated in Order No. 890. Entergy includes a three-step process for resolving disputes and separate language for disputes that may arise between itself and the ICT. We reject the change proposed by Union Power and SUEZ as unnecessary. We agree with Entergy that part of the proposed revision is a restatement of language already found in the proposed Attachment K at section 12 and that Union Power and Suez have provided no justification for the additional revisions they propose.

87. On the issue of the time frame raised by Arkansas Cities, we agree with Entergy that specifying a time frame for mediation is unnecessary and best left to the parties. We also agree that it is unnecessary to amend the proposed Attachment K to ensure that remedies included in contracts entered into before the effective date of Attachment K are not affected by the Attachment. We note that the dispute resolution procedure set forth in section 12 of Entergy's proposed Attachment K by its terms applies to disputes arising under Attachment K.

8. Regional Participation

a. Order No. 890

88. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (1) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data; and (2) identify system enhancements that could relieve congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the

particular reliability and resource issues affecting individual regions and subregions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes are not appropriate for such economic issues, individual regions or subregions must develop alternative processes.³⁵

89. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed toward transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.³⁶ The Commission also emphasized that effective regional planning should include coordination among regions and subregions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.³⁷

b. Entergy's Proposal

90. Entergy states that both it and the ICT will participate in the regional model development process for the SERC region, so that system plans are shared on a regional basis in a way that ensures they are simultaneously feasible and otherwise use consistent data and assumptions. Under this process, each transmission owner in SERC submits its transmission model to a model development databank, which joins the models to create a SERC-wide model. The SERC-wide model incorporates current 10-year transmission expansion plans, load projects, resource commitments, and transmission service commitments within the region.

91. Entergy states that it also will coordinate planning activities with SPP and its respective members and notes that other transmission owners in the Entergy or SPP footprints may also participate. Entergy's proposed Attachment K provides that regional coordination within the SPP footprint will include: (1) the sharing of system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data; (2) procedures to address requests for regional economic studies; and (3) procedures to identify any opportunities for regional optimization of the Construction Plan with the construction plans of the coordinating transmission owners. Entergy does not provide the details regarding these proposed procedures, explaining that additional details will need to be developed and included in its Attachment K to address regional

³⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-528.

³⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

³⁷ *Id.*

planning. Entergy states that the ICT and the SPP have engaged in discussions regarding the procedures that will be used in regional studies, but further discussions are required. Entergy states that it will file updated regional planning procedures under Attachment K upon the completion of those discussions.

92. As discussed more fully below in the section on economic planning studies, Entergy also joined with a group of Southeast transmission owners to develop the SIRPP to enhance inter-regional coordination efforts in compliance with the requirements of Order No. 890. Entergy states that the SIRPP will provide a means for conducting stakeholder-requested economic planning studies across multiple interconnected systems. Entergy states that the SIRPP provides a process to ensure consistency of data and assumptions and to review and coordinate the results of Entergy system, regional and inter-regional planning activities. Entergy incorporates the inter-regional economic planning process into its Attachment K planning process.

c. Protests

93. Arkansas Cities argues that the group of transmission owners participating in the SPP reliability planning process is unduly narrow and that Entergy committed in stakeholder meetings to include language in its Attachment K allowing for participation by others. Arkansas Cities ask that the language of Attachment K be revised to provide that any party with an interest in regional planning may participate in the regional coordination committee.

94. LMA Parties argue that Entergy's regional planning proposal is incomplete and unclear. They assert that, while Entergy stated that it intends to engage in regional coordination with SPP and its respective members, and both Arkansas Electric Cooperative Corporation (AECC) and Lafayette Utilities System (Lafayette) are on the list of entities with which Entergy states it will coordinate regional planning, neither AECC nor Lafayette, nor any of the other LMA Parties, has been privy to any discussion between Entergy and SPP regarding regional coordination. LMA Parties state that Entergy's regional planning cannot meet Order No. 890's requirements if it does not provide an opportunity for interested customers to participate. They request that the Commission direct Entergy to explain how it will coordinate regional planning throughout the SERC region. They state that Entergy does not offer any details on regional coordination and that Entergy itself acknowledges the need for additional details.

95. LMA Parties suggest that, to meet the Commission's regional participation principle, the SIRPP be expanded to address both reliability and economic considerations. LMA Parties argue that it would be more appropriate for the SIRPP to facilitate both reliability and economic studies on a coordinated basis across seams and throughout the entire SERC region and beyond.

96. LMA Parties and Energy Consulting contend that the SIRPP is a regional planning process that must independently comply with the nine planning principles stated in Order No. 890. They ask the Commission to direct Entergy, and every transmission provider that has included the SIRPP in its Attachment K filing, to modify the SIRPP to comply with Order No. 890's intent as it applies to regional planning.

d. Entergy's Response

97. Entergy states that it explained in its filing that additional details would need to be included in Attachment K to address regional planning conducted with other transmission owners in the SPP footprint, and that further discussions between the ICT and SPP are required. Entergy commits to file updated regional planning procedures under Attachment K when discussions with SPP are completed.

98. In response to Arkansas Cities assertion that Attachment K should be amended to allow for greater participation in the regional coordination committee, Entergy notes that its proposed Attachment K already allows for broader participation of transmission owners from the Entergy or SPP region in the regional planning process as regional coordinating parties. Entergy argues that no further amendment is needed.

99. In response to LMA Parties' suggestion that the Commission require Entergy to discuss regional coordination plans openly with stakeholders, Entergy agrees that it will hold discussions with stakeholders before filing any updated regional planning procedures. Responding to LMA Parties' argument Entergy should explain how it will coordinate regional planning throughout the SERC region, Entergy states that it has already explained that it will engage in the SIRPP. Entergy states it has no objection to including East Texas in the list of Regional Coordinating Parties in Attachment K.

100. In response to LMA Parties' argument that the SIRPP provisions do not address coordinated reliability planning and that the SIRPP should be expanded to facilitate reliability and economic studies on a coordinated basis across seams and throughout the SERC region, Entergy states that Order Nos. 890 and 890-A required transmission providers to share system plans to ensure that they are simultaneously feasible and consistent. Entergy believes that this requirement is satisfied through the ICT and Entergy's participation in the regional model development process for the SERC region.

101. Entergy states that there is no merit to LMA Parties and Energy Consulting's argument that the SIRPP should be judged against each of the Order No. 890 planning principles. Entergy contends that the Commission rejected a similar argument made by National Grid USA on rehearing of Order No. 890. Entergy notes that instead the Commission said that transmission providers must coordinate with interconnected systems to share system plans and identify system enhancements. Entergy argues that the SIRPP and its proposed Attachment K satisfy those requirements.

e. **Commission Determination**

102. We find that Entergy's Attachment K does not adequately provide for regional participation because its regional reliability study procedures are incomplete. Although Entergy's Attachment K generally describes processes that can be used to coordinate regional reliability planning, Entergy has not provided sufficient detail to allow customers and other interested stakeholders to understand how its local planning activities will be integrated into those regional processes. For example, Entergy does not identify the timelines and milestones for the coordination of models and system plans by SERC and SPP, including opportunities for stakeholders to provide input and comment in each process. It is also unclear how each of the regional and inter-regional processes will interact with each other when coordinated with Entergy's own planning activities, including development of the Construction Plan and Base Plan. Entergy has acknowledged its proposal's inadequacies and has agreed to make a compliance filing once the details of its regional reliability planning procedures have been developed. Accordingly, the Commission directs Entergy to file, within 90 days of issuance of this order, a further compliance filing describing in detail its process for coordinating with interconnected systems to share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and identify system enhancements that could relieve congestion or integrate new resources. While we recognize that Entergy will discuss its regional participation procedures in more detail in this compliance filing, as an initial matter we agree with East Texas that Entergy must identify all neighboring transmission owners with which it will coordinate in its revised Attachment K.

103. With regard to regional economic planning, we disagree with LMA Parties that the SIRPP process must be expanded to include reliability planning in order to comply with Order No. 890. As described above, Entergy has mechanisms in place to achieve regional coordination of reliability planning activities, and we have directed Entergy to provide additional information regarding how stakeholders can participate in those activities. LMA Parties can bring to the Commission's attention any continuing concerns regarding the inadequacy of Entergy's regional reliability planning activities, as modified, upon review of that compliance filing.

104. We also disagree with Energy Consulting that the SIRPP must comply independently with all nine planning principles of Order No. 890. The SIRPP participants have committed to using the SIRPP process to satisfy their obligations under Order No. 890 to engage in economic planning on a regional basis. The obligation to comply with the requirements of Order No. 890 fall on transmission providers, not the processes in which they participate. In Order No. 890-A, for example, the Commission specifically denied a request to expand the regional participation principle to expressly require regions to adopt interregional planning processes subject to the same nine

principles applicable to individual regions.³⁸ The Commission concluded that effective regional planning should include coordination among regions, and each of these regions or sub-regions should coordinate as necessary to share data, information and assumptions in order to maintain reliability and allow customers to consider resource options that span the regions. Entergy's participation in the SIRPP complies with that requirement as it relates to economic planning activities.

9. Economic Planning Studies

a. Order No. 890

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

106. The Commission also stressed that existing regional processes conducted by RTOs and ISOs are not exempt from economic planning study requirements. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.³⁹

107. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.⁴⁰ The Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and,

³⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

³⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-551.

⁴⁰ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.⁴¹ Additionally, in Order No. 890-A, the Commission clarified that, to the extent an RTO or ISO delegates any of its responsibilities in the context of economic planning, it will be the obligation of the RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.⁴²

b. Entergy's Proposal

108. Entergy states that its proposed Attachment K specifies the terms and conditions under which customers may request economic studies, which go beyond the requirements of Order No. 890. The ICT will identify potential economic upgrades on the Entergy transmission system and provide stakeholders an opportunity to provide input, including written comments, regarding the screening criteria and process to be utilized in identifying economic upgrades. The ICT's screening criteria may include considerations such as the frequency of transmission loading relief, frequently constrained flowgates, flowgates with high congestion costs, and commonly-invoked must-run operating guidelines. The ICT will post on Entergy's OASIS information regarding the cost and benefits of economic upgrades identified by the ICT, subject to confidentiality restrictions.

109. In addition to studies the ICT initiates, a transmission customer or interconnection customer may request the ICT to conduct one or more economic upgrade studies in order to evaluate specific, potential upgrades or other specific investments that could reduce transmission congestion or integrate new resources and loads on the Entergy system. Requests for economic upgrade studies will be processed by the ICT in a separate queue from transmission and interconnection service requests, and the ICT may propose a process for batching the requests.

110. Entergy states that, after soliciting input from interested parties, the ICT will identify for the calendar year up to five economic studies that are the highest priority studies. The costs of these studies will be rolled into base transmission rates, while the cost of additional studies will be borne by the requesting parties. Entergy states that each party requesting an economic study, including Entergy's merchant function, must supply all relevant data reasonably within the customer's possession to enable Entergy and the ICT to calculate the level of congestion costs that are relevant to such study.

111. A customer may also request an economic study across the interconnected systems of Entergy and its neighbors that participate in SPP. Entergy states that the ICT will

⁴¹ *Id.* P 237.

⁴² *Id.* P 238.

coordinate with SPP and its respective members to address such requests. Entergy states that the SIRPP will process customer-requested economic studies across the interconnected systems of SIRPP participants. The SIRPP will study up to five inter-regional economic planning studies per year. Stakeholders will be able to submit requests for studies as part of the ICT stakeholder process, the SPP regional planning process, or directly to the SIRPP. These inter-regional economic studies consist of an initial Step 1, which consists of a high level screen of the request, followed by a more detailed Step 2 evaluation only if the SIRPP stakeholder group decides to pursue a more detailed study of the request.

112. The SIRPP will conduct an annual series of three meetings with stakeholders, who organize themselves into a stakeholder group. Through these meetings, the stakeholder group will be allowed to select the five annual inter-regional economic studies and provide input regarding the assumptions, criteria, and methodologies used for each inter-regional economic study. A SIRPP study coordination team will perform the studies, developing inter-regional study assumptions and additional model development, as well as coordinating with stakeholders and impacted external planning processes. Entergy and the ICT shall provide transmission planning personnel to serve on SIRPP coordination team. After a study is completed, the coordination team will distribute applicable reports to the SIRPP transmission owners and stakeholders, subject to appropriate confidentiality restrictions.

113. Members of the SIRPP stakeholder group may also request data and information that would facilitate their ability to replicate study results if they first: request and obtain from the FERC Form No. 715 data (including CEII data) for the relevant participating transmission owner(s); have a current SERC Confidentiality Agreement in place; have a current SIRPP Confidentiality Agreement in place; and formally request the data on the SIRPP website. The SIRPP transmission owners will process such requests and, if approved, provide the data to the stakeholder group member.

c. Protests

114. LMA Parties describe as problematic Entergy's proposal to have the ICT identify up to five economic studies in a calendar year that are the highest priority studies, with the costs of these studies being recovered through system-wide transmission cost of service. They state that it is unclear how many studies will enjoy rolled-in cost recovery. "Up to" five could mean five or fewer, or it could mean no more than four. LMA Parties also state that the identification of high-priority studies should not be assigned to the ICT, which should only seek input from interested parties, including Entergy. LMA Parties also question whether five studies is a sufficient number for a system the size of Entergy's.

115. LMA Parties also express concern over the criteria to be used by Entergy and the ICT in determining whether to study particular transmission system improvements as

economic upgrades instead of reliability upgrades. LMA Parties note that the Commission declined to adopt any single discrete metric that would trigger the need for an economic upgrade study, but they argue that the criteria for identifying economic upgrades to be studied should not be so vague or broad as to capture transmission system improvements that are necessitated by reliability considerations. Of particular concern, they argue, is Entergy's proposal to study as economic an upgrade that would resolve commonly invoked must-run operating guides.⁴³ LMA Parties state that operating guides are practices that transmission operators can invoke to avoid or resolve loading of facilities in excess of operating limits and thus maintain system reliability. Must-run operating guides allow transmission operators to request energy from particular generating units located in defined load pockets, regardless of the order of dispatch, to maintain system stability. LMA Parties state that, because the operating guide is used to maintain system reliability, a new transmission facility that eliminates the need to invoke the operating guide is properly classified as a reliability upgrade.

116. East Texas argues that Entergy's proposal is inadequate because there is no provision for the ICT to cluster economic studies in appropriate circumstances. It argues that stakeholders should be able to choose the economic planning studies that are of greatest value to them and have those studies clustered or batched. East Texas states that in other proceedings Entergy has recognized clustering as a solution to the problem of "lumpy" transmission investments. Further, it points out clustering could allow the ICT to configure upgrades in the most reliable and economic manner, and would also ensure that those who are most likely to benefit from a system upgrade will pay their fair share. Finally, East Texas argues that Entergy should be required to provide clear criteria in its tariff for how the ICT will select the five economic studies that it is to prioritize, given the importance of these studies.⁴⁴

117. With regard to the SIRPP, East Texas urges the Commission to require Entergy to set forth the specific criteria under which the SIRPP participants will perform the five inter-regional studies described in Entergy's proposed Attachment K. East Texas states that those studies must be prioritized under reviewable criteria to be of practical use or to be tested against regional needs.

118. LMA Parties similarly argue that the SIRPP proposal is too vague and deficient in critical areas, but are not opposed to a future implementation, subject to refinement. They state that the SIRPP, as currently formulated, only allows stakeholders to request an analysis of the grid's ability to handle inter-regional transactions, excluding stakeholders

⁴³ Operating guide is defined in Entergy's transmission local planning criteria as an action or set of actions developed to address real-time or anticipated system operating constraints.

⁴⁴ East Texas *citing* section 14.5.3

from participation in study design and the determination of necessary assumptions. LMA Parties also state Entergy's Attachment K fails to specify the permissible grounds for denying stakeholders data necessary to replicate SIRPP studies. LMA Parties maintain that Order No. 890's coordination and transparency principles require, at a minimum, that stakeholders be able to provide input into data gathering and study development, review of study results, review of draft transmission plans, and coordination of draft plans with those of neighboring transmission providers, and obtain access to the data necessary to replicate studies. Regarding the scope of SIRPP studies, LMA Parties argue that studies should be designed and implemented to explain how designated network resources can most efficiently and effectively be used to serve load in more than one region

119. Energy Consulting argues that the participation afforded to SIRPP stakeholders is at such a distance from the planning process that there is opportunity for undue discrimination. Although Energy Consulting acknowledges that stakeholders can request the materials necessary to do their own planning of the SERC-wide SIRPP system, it complains that the SIRPP does not specify how long before, or even if, the planning-related information will be available before each meeting. Energy Consulting argues that the SIRPP planning process leaves the actual planning out of the public eye and that the SIRPP participants, which have the final decision on how projects being considered are designed, could act in their own self-interest. Energy Consulting requests that the Commission direct the companies to modify the SIRPP to include a subcommittee of the stakeholder group in its planning process as it produces economic planning studies. Energy Consulting adds that the involvement does not have to be at the level of specific day-to-day issues, but should be frequent enough to allow the inclusion of stakeholders and to promote openness as system issues are revealed and solutions proposed and evaluated.

120. Energy Consulting also suggests that the SIRPP procedures be amended to include a dispute resolution process. Energy Consulting states that, as presently proposed in the SIRPP, there is no process currently by which the participating transmission owners or their transmission planners in the "study coordination team" will arrive at decisions among themselves. Should stakeholders decide that they have a substantive or procedural dispute, their only dispute resolution process available is with the participating transmission owner with which they are a stakeholder pursuant to those participating transmission owner's Attachment Ks. If a SIRPP stakeholder engages in the participating transmission owner's dispute resolution process, Energy Consulting argues that it will either find that its participating transmission owner declines to recognize that the stakeholder has a dispute with the participating transmission owner in the SIRPP or that the participating transmission owner in settling the dispute has no standing, basis, or ability to implement the settlement in the SIRPP. Energy Consulting argues that this results in stakeholders being denied a means of appealing SIRPP substantive or procedural issues outside of filing a complaint with the Commission. Energy Consulting requests that the Commission direct Entergy, and all companies that have committed to

participate in the SIRPP as part of their Attachment K compliance filings, to modify the SIRPP to include a dispute resolution process in the SIRPP, consistent with Order No. 890 and the need for stakeholders of the SIRPP to have such a process at the SIRPP level.

d. Entergy's Response

121. Entergy states that the Commission should reject the LMA Parties' argument for eliminating the proposed Attachment K language providing that the ICT will identify "up to" five economic studies as the highest priority studies. If the ICT determines that stakeholders have not requested five studies that are considered highest priority in accordance with Order No. 890 standards, five studies should not be deemed eligible for rolled-in cost treatment.

122. Entergy maintains that the Commission should reject the LMA Parties' objection to the ICT identifying the highest priority studies and East Texas' argument that Attachment K should specify the criteria the ICT will use to identify the highest priority studies. According to Entergy, allowing the ICT to determine the studies that will be treated as highest priority studies will help ensure that all parties, including Entergy's System Planning and Operations Department, will be treated comparably. Entergy believes that the ICT should develop the criteria for selection of the highest priority studies after consultation with Entergy and stakeholders. With regard to the processing of inter-regional economic study requests by the SIRPP, Entergy notes that the stakeholders will select the five studies that will be evaluated. Entergy states that the stakeholders will be able to develop the relevant criteria for choosing studies at the first SIRPP stakeholder meeting.

123. In response to East Texas' claim that the proposed Attachment K economic planning provisions should provide a means for the transmission provider or stakeholders to cluster requests for economic planning, Entergy agrees that its proposed Attachment K section 14.5.2 can be changed from the "ICT may propose a process for batching of requests for economic upgrade studies" to the "ICT shall propose a process for batching of requests for economic upgrade studies." Entergy does not believe, however, that the OATT should include a specific batching process, arguing that such a process should be developed by the ICT after discussions with stakeholders.

124. In response to the concerns of LMA Parties and Energy Consulting regarding stakeholder participation in the SIRPP, Entergy argues that the three annual stakeholder meetings are sufficient to ensure stakeholder participation. Entergy notes that these meetings will allow stakeholders to provide comments on, among other things, draft inter-regional study reports and initial analyses by study teams. Entergy's proposed Attachment K also specifies the availability of data under the SIRPP process. Entergy argues that these provisions satisfy the requirements of Order Nos. 890 and 890-A to develop a planning process that facilitates regional participation and that is open to stakeholders. Entergy also argues the SIRPP does not need to be amended to include a

dispute resolution process. Entergy states that the SIRPP is part of its proposed Attachment K, and the Attachment K dispute resolution provisions therefore will be available to resolve any disputes involving Entergy that arise under the SIRPP.

125. Entergy responds to LMA Parties' argument that the SIRPP should include the design and implementation of studies that examine how designated network resources can serve load in multiple regions by stating that customers are free to request an inter-regional economic study to identify facilities related to the integration of designated network resources and designated network loads on multiple systems.

126. In response to the LMA Parties concern regarding the consideration of must-run operating guides in classifying particular projects to be studied as economic or reliability, Entergy states that it disagrees that a transmission project constructed to avoid operating available generation during specified conditions could be classified as a reliability project when the generation is operated consistent with reliability standards. Entergy asserts that the decision to build the transmission project is an economic one. It is based on whether the expected cost savings from decreased operation of less efficient generation exceeds the cost of the transmission project. Entergy maintains that its proposed Attachment K provides only that the ICT may consider commonly invoked must-run operating guides when the ICT deems appropriate. It does not require the ICT to do so. Entergy also asserts that these provisions go beyond the requirements of Order No. 890.

e. Response to Entergy

127. Union Power states that Entergy does not include in the Base Plan any preliminary activities leading up to the actual construction of upgrades. In projects with long lead times, Entergy may have begun preliminary activities such as right-of-way acquisition. Union Power states that such activities would not be construed as initiating construction and thus not considered a Base Plan Upgrade under Attachment K's three-year planning study restriction.

f. Commission Determination

128. We find that Entergy's proposed Attachment K partially complies with the economic planning principle stated in Order No. 890. Entergy's economic planning process provides an opportunity for customers and other stakeholders to consider whether potential upgrades or other investments could reduce congestion costs or integrate new resources on an aggregated or regional basis. Stakeholders will have the opportunity, through participation in the ICT or SIRPP, to identify those high priority studies to be funded by Entergy and, as relevant, other SIRPP participants. However, Entergy's Attachment K lacks sufficient information as to how requests may be clustered or batched by the ICT to streamline processing of economic studies. We accept Entergy's commitment to amend the Attachment K to provide for development by the ICT of a process for clustering study requests. We direct Entergy, in a compliance filing to be

made within 90 days of issuance of this order, to revise its Attachment K accordingly. We agree with Entergy, however, that it is appropriate for the ICT to consider up to five economic studies that can be designated as high priority, given that in some years there may be less than five to consider.

129. In addition, section 14.5 of Entergy's Attachment K provides that transmission customers and interconnection customers may request the ICT to conduct additional economic studies. Only existing customers, however, satisfy the definition of transmission customer and interconnection customer under Entergy's OATT. This effectively prohibits a potential customer from requesting that an economic study be performed by the ICT. We direct Entergy, in a compliance filing to be made within 90 days of issuance of this order, to revise its Attachment K to permit existing and potential customers to request economic planning studies under section 14.5.

130. We disagree with LMA Parties that Entergy must state in its Attachment K the specific criteria that will be used to identify each potential economic upgrade. Entergy commits the ICT to provide stakeholders the opportunity to provide input regarding the screening criteria and process that will be used to identify recommended economic upgrades. If stakeholders have concern regarding the use of must-run operating guidelines in an economic planning study, they may bring those concerns to the ICT's attention for consideration. However, Entergy's Attachment K does not commit the ICT to use the same screening criteria in performing customer-requested economic studies as it uses in performing its own analyses. Therefore, we direct Entergy, in a compliance filing to be made within 90 days of issuance of this order, to revise its Attachment K to clarify that the criteria the ICT uses for its own economic studies will be the same as the criteria used for customer-requested studies.

131. With regard to economic planning on a regional basis, Entergy fails to provide sufficient detail regarding the economic planning activities that will be coordinated through SPP. Entergy states merely that it will coordinate with SPP and its members to address requests for economic studies that involve the interconnected systems of Entergy and another SPP member, but does not provide any information regarding that process, including the opportunities for stakeholder participation. We direct Entergy to submit a compliance filing within 90 days of issuance of this order providing additional detail in its Attachment K regarding the regional economic planning activities to be coordinated with SPP and its members.⁴⁵

132. In addition to regional economic planning activities coordinated with SPP, Entergy will coordinate additional regional economic studies through the SIRPP. We find that participation in that open and coordinated process generally satisfies the

⁴⁵ If Entergy intends to rely on SPP documentation for these purposes, it should provide direct links (i.e., URLs) to the appropriate documents on the SPP website.

requirements of the economic planning principle as it relates to those entities that participate in the SIRPP. The SIRPP consolidates the data and assumptions developed at the participating transmission owners' planning level to use in the development of inter-regional models, which ensures consistency throughout the regional and inter-regional economic planning processes. There will be three specific meetings with stakeholders, although stakeholders also will be able to comment and provide input throughout the process. Participating transmission owners will perform up to five inter-regional Economic Planning Studies annually, as selected by stakeholders at the first annual meeting, and the study coordination team will coordinate with stakeholders throughout the process regarding study assumptions, initial analysis and final draft reports. In addition, the SIRPP calls for the formation of a SIRPP stakeholder group to provide a structure to facilitate the stakeholders' participation in the inter-regional process and to work with the participating transmission owners.

133. We are concerned, however, that the definition of stakeholder in the SIRPP process may unduly restrict the ability of all interested parties to participate in the inter-regional economic planning process. We also agree with Energy Consulting that stakeholders should have an appropriate amount of time to review information before meetings. Although Entergy's Attachment K states that the SIRPP stakeholder group is to provide input on study assumptions and results, it does not obligate transmission owning members of the SIRPP to provide study information in advance of meetings of the stakeholder group. In addition, Entergy's Attachment K does not provide that requests may be clustered or batched by the SIRPP stakeholder group to streamline processing of economic studies. Accordingly, we direct Entergy to revise its Attachment K in a compliance filing to be made within 90 days of issuance of this order to provide for: participation by any interested party in the SIRPP stakeholder group; distribution of information to be discussed at a stakeholder meeting sufficiently in advance of that meeting to provide for meaningful stakeholder review; and the ability of the SIRPP stakeholder group to cluster or batch requests for economic studies.

134. We disagree with LMA Parties that Entergy fails to identify the grounds for denying a request for data necessary to replicate the results of a SIRPP study. Section 13.2.8.1 specifies the qualifying criteria to obtain access to SIRPP study information. We find, however, that that qualifying criteria is unduly restrictive. As proposed by Entergy, stakeholders may not obtain data supporting an SIRPP study unless they first request and obtain from the Commission the FERC Form No. 715, including CEII, for the relevant SIRPP participants. This effectively requires participants to meet the criteria for accessing CEII even if the data which they seek includes confidential information that is not CEII. Accordingly, we direct Entergy to revise its Attachment K in a compliance filing to be made within 90 days of issuance of this order to remove the requirement that stakeholders seeking non-CEII confidential information from SIRPP participants first request and obtain from the Commission the Form No. 715, including CEII, for the relevant SIRPP participants.

135. We also disagree that it is necessary to establish a subcommittee of the stakeholder group in the SIRPP planning process. Entergy's Attachment K provides a detailed description of stakeholder participation in the SIRPP, including the formation of a stakeholder group that is widely inclusive. We conclude that reliance on this stakeholder group to provide advice and input regarding economic planning studies is adequate to ensure coordination of those studies with stakeholders.

136. Moreover, we disagree with Energy Consulting that the SIRPP must independently meet the specific requirements of the dispute resolution principle. The responsibility to implement an open and transparent planning process on a local and regional level rests with each transmission provider. This includes the obligation to ensure that its dispute resolution process is adequate to address matters related to each aspect of transmission planning. Although the SIRPP is not independently subject to the nine planning principles in Order No. 890, Entergy nonetheless must establish a mechanism for resolving disputes that arise in regional planning activities, including those performed by the SIRPP. It is unclear whether section 12 of Entergy's Attachment K is sufficient to address this requirement. For example, it is unclear how disputes involving an Entergy stakeholder and other SIRPP stakeholders would be addressed and resolved under Entergy's dispute resolution provisions if Entergy were not a party to the dispute. We, therefore, direct Entergy to demonstrate in a compliance filing to be made within 90 days of issuance of this order how the dispute resolution provision of its proposed Attachment K can be used to address and resolve disputes related to SIRPP planning activities or, alternatively, propose different dispute resolution provisions that can be used to address and resolve such disputes and implement agreements reached through such dispute resolution.⁴⁶

10. Cost Allocation

a. Order No. 890

137. The cost allocation principle requires that transmission providers address in their Attachment K the allocation of costs of new facilities that do not fit under existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fits

⁴⁶ Entergy and the transmission owning sponsors of the SIRPP could, for example, establish an inter-regional dispute resolution process to address disputes arising in the SIRPP planning process. We encourage Entergy and other SIRPP sponsors to contact the Commission's Dispute Resolution Service for assistance in developing any alternative dispute resolution provisions that may be necessary.

their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

138. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them re-litigated each time a project is proposed.⁴⁷ In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁴⁸

b. Entergy's Proposal

139. Entergy's Attachment K provides that the costs of upgrades to its transmission system and the rights of parties that pay for directly-assigned upgrades shall be allocated to customers in accordance with Attachment T.⁴⁹ Attachment T, in turn, distinguishes between two types of upgrades: investments necessary to maintain service (Base Plan Upgrades) and investments needed to interconnect new generators or designate new network resources (Supplemental Upgrades). The cost of the former are rolled into Entergy's rate base, while the cost of the latter are directly assigned to customers. In the event a proposed Supplemental Upgrade accelerates the need for a Base Plan Upgrade, the cost of accelerating the Base Plan Upgrade also will be directly assigned. The determinations of whether a transmission investment is a Base Plan Upgrade or Supplemental Upgrade and whether a Base Plan Upgrade has been accelerated are made by the ICT. The allocation of costs among transmission owners incurred pursuant to an SPP regional study or an SIRPP inter-regional study will be determined in accordance with the applicable study process or by separate agreement among the affected parties.⁵⁰

⁴⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-561.

⁴⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁴⁹ Entergy's OATT, Attachment K § 15.1.

⁵⁰ Entergy's OATT, Attachment K § 15.2.

c. Protests

140. Union Power and SUEZ state that Entergy's development of cost allocation provisions in Attachment K started with the flawed premise that Attachment K must be derived from Attachment T of Entergy's OATT and pre-Order No. 890 Commission orders involving cost allocation of projects resulting from specific transmission service requests. Union Power and SUEZ state that Entergy seeks to collapse the planning process in Attachment K into the treatment of customer-specific transmission or interconnection requests addressed in Attachment T. Union Power and SUEZ argue that Entergy's proposed Attachment K effectively reclassifies long-term transmission upgrades needed to meet reliability as economic, or "supplemental", in order to shift the costs of those facilities to others. For example, Union Power and SUEZ note that the Base Plan will only include upgrades to be initiated within the next three years and, therefore, reliability-related Base Plan Upgrades to be rolled into Entergy's rate base will not extend beyond three years. Union Power and SUEZ argue that this means that projects may currently be identified as economic even though they negate the need for reliability upgrades identified in later years. Union Power and SUEZ state that the Construction Plan and ICT's reliability assessment suffer from this same flaw and, therefore, Entergy's cost allocation approach fails to reflect cost causation/benefit principles and will act as a disincentive to transmission investment. To correct this flaw, Union Power and SUEZ cite Requirement R.1.2 of NERC Standard TPL-001-0, requiring that all planning assessments be conducted for longer-term (years six through ten) planning horizons. They maintain that Attachment K should clearly define a ten-year planning horizon to avoid confusion and ensure that planning past year three is not ignored.

141. LMA Parties express similar concern regarding Entergy's proposed allocation of all costs associated with upgrades that fall outside of the Base Plan through direct assignment to customers even if it is foreseeable the upgrades would have been necessary for reliability beyond the three year Base Plan planning horizon. LMA Parties argue that Entergy and the ICT have created a mechanism that violates current Commission policies favoring long-term resource planning and results in non-comparable treatment of transmission customers and native load. LMA Parties also argue that, in the event a specific long-term transmission service request requires acceleration of a project that will be needed for reliability beyond the Base Plan window, it would be inconsistent with the ICT cost allocation concept to assign directly to the service-requesting customer only the costs of advancing the in-service date of the project. LMA Parties argue that the end result of Entergy's proposed economic planning processes is to unduly influence cost allocation issues by identifying economic upgrades by reference to the Base Plan, which in turn influences how the cost of upgrades are allocated.

142. Energy Consulting claims that the SIRPP produces the kinds of transmission projects that are not covered under existing cost allocation rules, yet fails to identify a

cost allocation methodology for projects it studies. Energy Consulting requests that the Commission require Entergy, and each of the other transmission providers that included the SIRPP in their Attachment K planning processes, to modify the SIRPP to add cost allocation methodology that complies with Order No. 890.

d. Entergy Response

143. Entergy argues that the length of the Base Plan is a pricing issue resolved in the ICT proceedings and should not be revisited in this proceeding. Entergy states that the Commission made clear that the cost allocation principle in Order No. 890 did not address whether or how investments identified in a transmission plan should be compensated, nor did it modify existing mechanisms to allocate costs for projects that are constructed by a single transmission owner and billed under existing rate structures. Entergy states further that the pricing provisions under Attachment T of its OATT already address cost allocation for upgrades constructed as part of the planning process for the Entergy system, and those pricing provisions are not affected by Order Nos. 890 and 890-A. Entergy maintains that interveners' arguments to change transmission pricing under the OATT should be rejected as beyond the scope of Order No. 890.

144. Responding to the merits of the intervenors' arguments, Entergy contends that it is appropriate to address cost allocation for reliability and economic upgrades in its Attachment K. Entergy contends that it would be unreasonable to assign directly the costs of a project that is identified in response to a specific request for transmission or interconnection service and is not otherwise needed for reliability, yet roll-in the costs of the same facility when it is identified as an economic upgrade pursuant to a request for an economic planning study under Attachment K. Entergy asserts that, under such an approach, customers would request economic studies under Attachment K rather than submit specific requests for interconnection or transmission service. In addition, Entergy disagrees with LMA Parties and Union Power and SUEZ that the Base Plan does not include facilities for which construction is to be initiated beyond a three-year horizon, but in any event the Commission decided to not re-open existing transmission pricing structures in Order No. 890.⁵¹

145. In response to Union Power's suggestion for greater specificity regarding the planning horizon used to develop the Base Plan, Entergy agrees to amend its proposed Attachment K to clarify that the Base Plan is to include only facilities for which construction is to be initiated within the next three years. Entergy states that Union Power appears to believe that the Base Plan is used to identify economic projects. However the ICT develops the Base Plan annually and the ICT identifies transmission upgrades, construction projects, and economic upgrades it believes are necessary to comply with the Planning Criteria and other screening criteria such as the frequency of

⁵¹ Entergy's January 22 Answer at P 27.

transmission loading relief events. Entergy states that the Base Plan is used only for cost allocation purposes in the event a project is constructed, but that it is not required to construct any facility included in the Base Plan that it does not believe are necessary to maintain reliability.

146. In response to Union Power and SUEZ's concern about a limited planning horizon, Entergy notes that the ICT performs an annual reliability assessment that is then provided to stakeholders for comment. Entergy states that it also is required to perform planning studies to comply with NERC requirements. It must identify projects and mitigation plans for both the near-term planning horizon (years one through five) and the longer-term planning horizon (years six through ten). Entergy states that these planning studies are made available to stakeholders. Entergy asserts that no further clarification regarding the planning horizon used for the reliability studies is needed or warranted.

147. Entergy contends that section 6.3 of its proposed Attachment K does not, as Union Power and SUEZ assert, limit the reliability assessment to a three-year planning horizon. Instead, the reliability assessment must be performed in accordance with NERC and other applicable reliability standards, which identify the relevant planning horizons: (1) the near-term planning horizon, covering years one through five; and (2) the longer-term planning horizon, covering years six through ten. Entergy does not object to adding a definition of reliability assessment, though it does not believe such a definition is necessary.

148. In response to arguments that the SIRPP should address cost allocation, Entergy states that it would be difficult to obtain consensus on any single cost allocation methodology that would apply to many separate transmission providers and state jurisdictions. Entergy states that its proposed Attachment K therefore leaves cost allocation on an inter-regional basis to negotiations among the relevant participants.

e. Response to Entergy

149. Union Power asserts that Entergy's proposal for cost allocation under Attachment K is not "consistent with or superior to" the requirements of Order No. 890. Union Power argues that the cost allocation set forth in Attachment T to Entergy's OATT is not appropriate for transmission planning under Attachment K. According to Union Power, it is not necessary to change the pricing methodology under Attachment T and that the Commission could unilaterally revise the cost allocation methodology under Attachment T to determine to be consistent with open access transmission policies. Until Entergy shows that Attachment K is consistent with or superior to Order No. 890, Union Power argues that it is inappropriate to adopt the cost allocation from Attachment T for Attachment K in light of Attachment K's lack of appropriate planning study horizons and failure to distinguish between reliability upgrades and economic upgrades for all study horizons.

150. Union Power reiterates its argument that Entergy's proposal has cost allocation driving the planning process in Attachment K instead of developing a planning process with a ten-year horizon that distinguishes between reliability upgrades and economic upgrades for that ten-year period. Union Power states that any upgrade past the three-year Base Plan planning horizon will be treated as an economic upgrade even if the upgrade provides reliability benefits. Union Power argues that, based on what Entergy means by construction being initiated within three years, it is clear that Entergy is seeking to avoid the allocation of costs for long-term facilities planned for Entergy. More specifically, Union Power notes that section 14.2 of the proposed Attachment K states that economic upgrades may include: (1) accelerating Base Plan Upgrades that, if accelerated, would relieve one or more economic constraints; (2) modifying Base Plan Upgrades that, as modified, would relieve one or more economic constraints; and (3) planning and constructing facilities that are not Base Plan Upgrades. It states that the planning process would break down for the third category of upgrades—all upgrades within the three-year period not otherwise addressed in the Base Plan during the three year period, as well as all upgrades beyond the three-year period which would include upgrades through year ten. Union Power states that after the three year period a transmission customer will not be able to compare reliability studies with economic studies to determine the appropriate allocation of costs, i.e., whether the upgrade the customer needs to take transmission service would otherwise be built regardless of its need for service.

f. Commission Determination

151. We find that Entergy's proposed Attachment K partially complies with the cost allocation principle stated in Order No. 890. As noted above, the Commission has directed transmission providers to address in their planning processes the allocation of costs of new facilities that do not fit under the existing rate structures.⁵² Entergy's Attachment K provides that its existing Attachment T rate structures will apply to all upgrades on the Entergy system identified in the transmission planning process. Prior to issuance of Order No. 890, the Commission had approved the cost allocation methodologies embodied in Attachment T for upgrades on Entergy's system identified through the joint Entergy-ICT planning process. As the Commission emphasized in Order No. 890, we did not intend to modify existing mechanisms to allocate costs for projects that are constructed by a single transmission owner and billed under existing rate structures.⁵³ To the extent stakeholders believe that the scope of studies and transmission plans performed pursuant to Entergy's Attachment K do not comply with NERC reliability standards, they should address those concerns in the first instance through NERC compliance procedures.

⁵² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 558.

⁵³ *Id.*

152. However, with regard to upgrades identified in regional studies performed by SPP or inter-regional studies performed through the SIRPP, Entergy states merely that costs will be allocated in accordance with the applicable study process or by separate agreement among the effected parties. In Order No. 890, the Commission made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment. We find that Entergy's Attachment K does not provide the degree of certainty required by participants seeking to pursue new investment on a regional basis. Accordingly, we direct Entergy, within 90 days of issuance of this order, to submit a compliance filing identifying the methodologies that will be used for allocating costs for projects developed in response to the regional and inter-regional planning processes.

11. Recovery of Planning Costs

a. Order No. 890

153. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁵⁴

b. Entergy's Proposal

154. Entergy maintains that, in Order No. 890, the Commission did not propose a specific method for recovery and allocation of planning costs, but it did state that the planning process should provide a mechanism for recovery of those costs. Entergy states that consistent with this requirement, the ICT will provide the standard customer study request agreement to a customer requesting a study. Except for situations regarding economic studies, the requesting customer will be responsible for the actual costs of the study. All other planning costs, Entergy notes, will be rolled into transmission rates in accordance with the formula transmission rate under Entergy's OATT.

⁵⁴ *Id.* P 586.

c. **Commission Determination**

155. We have reviewed Entergy's filing and find that Entergy's proposed Attachment K adequately addresses the recovery of planning costs by describing the methodology used to recover costs associated with planning for reliability purposes, i.e., that costs not otherwise assigned directly to a customer will be rolled into transmission rates.

12. **Other Issues**

a. **Proposed Merging of Base Plan and Construction Plan**

i. **Responsive Pleadings**

156. Arkansas Cities state that because Entergy's Construction Plan is distinct from the ICT's Base Plan, Entergy could disregard any decisions the ICT makes in identifying facilities necessary for reliability purposes. Arkansas Cities argue that the ICT therefore has little meaningful input in the process and could even be considered somewhat of a figurehead, with Entergy making the actual decisions. Arkansas Cities argue that the Construction Plan should be merged with the Base Plan with each utilizing the same 10 year planning horizon.

157. LMA Parties similarly argues that maintaining the dichotomy between the Construction Plan and the Base Plan is nothing more than a way for Entergy to escape its obligations under Order No. 890 and should not be allowed. They believe that having the two plans separated defeats Order No. 890's goal of ensuring stakeholder participation in formulation of the transmission expansion plan. LMA Parties argue that as Entergy would have things, it could simply explain any differences between the two plans without having to reconcile them. LMA Parties contend that this is an issue properly considered in this proceeding notwithstanding the Commission's prior acceptance of the study structure in the *Order Approving the ICT*.

158. In response to commenters' arguments that the Construction Plan and the Base Plan should be merged, Entergy asserts that stakeholders' ability to provide input into the Construction Plan is fully consistent with Order No. 890. Entergy states that under its proposed Attachment K, stakeholders will have the ability to provide input regarding data gathering and study processes associated with development of the Construction Plan, as well as drafts of the Plan. Entergy states that the ICT will post stakeholder comments on the OASIS and hold meetings with stakeholders to address those comments. The ICT will also review any potential regional optimization or economic opportunities determined in accordance with Regional and Inter-Regional Studies.

159. Entergy states that, if the Base Plan and the Construction Plan were merged, the ICT would have authority to direct Entergy to construct transmission facilities. Entergy argues that such an arrangement would be a radical departure from the structure approved

in the *Order Approving the ICT* and could affect retail regulators' authority over system planning. Entergy asserts that Order No. 890 does not require such a change and that the Commission made clear in Order Nos. 890 and 890-A that the planning obligations under Order No. 890 do not dictate which investments identified in a transmission plan should be undertaken by transmission providers.

ii. Commission Determination

160. In the *Order Approving the ICT*, the Commission approved a package that it found to be consistent with or superior to the *pro forma* OATT in effect at the time. This package included a Base Plan to be developed by the ICT and Construction Plan to be developed by Entergy. Each of these plans is developed using the same Planning Criteria and Base Case Model, with the ICT comparing the results of each plan and reporting differences to interested government agencies. Based on regulatory feedback, Entergy may revise the Construction Plan or the ICT may revise the Base Plan. In the *ICT Rehearing Order*, the Commission denied rehearing of its determination not to give the ICT authority to require the construction of facilities.⁵⁵ Nothing in Order No. 890 requires us to reverse that determination by merging the Base Plan with the Construction Plan or disturb the independent review structure established in the *Order Approving the ICT*.

161. However, as noted above, the Commission agrees with intervenor arguments that stakeholders should have the opportunity to provide input during the development of the Construction Plan. Our decision in this order to require additional stakeholder input satisfies Order No. 890's goal of ensuring stakeholder participation in formulation of the transmission expansion plan. In addition, we are providing stakeholders with the opportunity to provide additional input into the Planning Criteria, as discussed above, which serves as the building block of the Base Plan and the Construction Plan. With the modifications required above, we find that Entergy's proposed Attachment K satisfies the requirements of Order No. 890.

b. Base Case Modeling Issues

i. Responsive Pleadings

162. Union Power and SUEZ also argue several issues regarding how the Base Case Model should be constructed. They suggest that Entergy add a definition of "Base Case Contingency Overload" in order to identify existing overloads and to establish a base line in the model to clearly differentiate between: (1) upgrades that provide reliability and economic benefits; and (2) upgrades that provide just economic benefits. They propose a related requirement to make Base Case Contingency Overload information and mitigation

⁵⁵ *ICT Rehearing Order* P 74-75.

strategies available to fulfill the transparency planning principle. Union Power and SUEZ further suggest that the definition of Base Case Model be amended to distinguish between short-term and long-term models.

ii. Entergy's Answer

163. Entergy states that because none of these changes are required to comply with Order No. 890, each should be rejected.

iii. Commission Determination

164. We decline to direct Entergy to adopt the alternative modeling proposals proposed by Union Power and SUEZ. These proposals are better suited for resolution, in the first instance, through the stakeholder process. Unresolved concerns can be resolved through Entergy's dispute resolution process or through the filing of a complaint with the Commission.

The Commission orders:

(A) Entergy's compliance filing is hereby accepted, as modified in accordance with Ordering Paragraph (B), effective December 7, 2007, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.