

133 FERC ¶ 61,193  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Western Area Power Administration

Docket No. NJ10-1-000

ORDER GRANTING PETITION FOR DECLARATORY ORDER

(Issued December 2, 2010)

1. On October 1, 2009, Western Area Power Administration (Western) submitted a petition for declaratory order for Commission determination that certain deviations and revisions to its Open Access Transmission Tariff (tariff) comply with the directives in Order Nos. 890, 890-A, 890-B, and 890-C,<sup>1</sup> and sections 35.28(e) and (f)(iv)(2) of the Commission's regulations,<sup>2</sup> and qualify Western's tariff as an acceptable reciprocity tariff. Western also requests that the Commission grant it waiver of the filing fee. In this order, the Commission grants Western's petition and finds that Western has submitted an acceptable reciprocity tariff, subject to Western making a revised tariff filing within 30 days of the date of this order, as discussed below.

**I. Background**

2. Western is a federal power marketing administration that markets federal power and owns and operates transmission facilities in 15 western and central states. Western operates such facilities in the Midwest Reliability Organization (MRO), and throughout the Western Electricity Coordinating Council (WECC) in the Desert Southwest Region, Sierra Nevada Region, and Rocky Mountain Region. For this reason, Western states that

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<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>2</sup> 18 C.F.R. §§ 35.28(e), (f) (2010).

it has submitted a bifurcated Attachment C (methodology to calculate Available Transfer Capability (ATC)) and a bifurcated Attachment P (transmission planning process) to reflect different operational characteristics for each region. Western is not a public utility within the Commission's jurisdiction under sections 205 and 206 of the Federal Power Act (FPA).<sup>3</sup> Western is, however, a transmitting utility subject to sections 210 through 213 of the FPA.<sup>4</sup>

3. In Order No. 888, the Commission established a safe harbor procedure for the filing of reciprocity transmission tariffs by non-public utilities.<sup>5</sup> Under this procedure, non-public utilities, such as Western, may voluntarily submit to the Commission an open access transmission tariff and request for declaratory order finding that the tariff meets the Commission's comparability (non-discrimination) standards. If the Commission finds that the tariff contains terms and conditions that substantially conform or are superior to those in the Commission's *pro forma* Open Access Transmission Tariff (*pro forma* tariff), the Commission will deem it to be an acceptable reciprocity tariff and will require public utilities to provide open-access transmission service upon request to that particular non-public utility.<sup>6</sup> Western's tariff was previously determined to be an acceptable reciprocity tariff under Order No. 888.<sup>7</sup>

4. In Order No. 890, the Commission reformed the *pro forma* tariff to clarify and expand the obligations of transmission providers to ensure that transmission service is

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<sup>3</sup> 16 U.S.C. §§ 824, 824d, 824e (2006).

<sup>4</sup> 16 U.S.C. §§ 824i-824l (2006).

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

<sup>6</sup> In Order No. 888-A, the Commission clarified that, under the reciprocity condition, a non-public utility must also comply with the OASIS and standards of conduct requirements or obtain waiver of them. *See* Order No. 888-A, FERC Stats. & Regs. at 30,286.

<sup>7</sup> *Western Area Power Administration*, 119 FERC ¶ 61,329 (2007).

provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* tariff to require greater consistency and transparency in the calculation of ATC, open and coordinated planning of transmission systems 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.

5. Order No. 890 also required any non-public utility with a safe harbor tariff to amend its tariff so that its provisions substantially conform to or are superior to the revised *pro forma* tariff, if it wishes to continue to qualify for safe harbor treatment.<sup>8</sup>

## **II. Western's Petition for Declaratory Order**

6. Western states that the instant filing makes modifications to its existing tariff, which as noted above was accepted on September 6, 2007. Western contends that its instant filing complies with the Commission's mandates in Order Nos. 890, 890-A, 890-B, and 890-C.

7. Additionally, Western proposes several minor revisions to its Commission-approved Large and Small Generator Interconnection Procedures and Agreements.<sup>9</sup> Furthermore, Western has modified its Attachment N (North American Energy Standards Board Wholesale Electric Quadrant Standards) in order to comply with the requirements of Order No. 676-C.<sup>10</sup> Finally, Western petitions for an exemption from the filing fee based on its non-jurisdictional status.

## **III. Notice of Filing**

8. Notice of Western's filing was published in the *Federal Register*, 74 Fed. Reg. 52,801 (2009), with motions to intervene and protests due on or before November 2, 2009. Timely motions to intervene were filed by the Transmission Agency of Northern California, M-S-R Public Power Agency, and the Cities of Santa Clara and Redding,

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<sup>8</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 191.

<sup>9</sup> Western states that, besides clerical revisions, Western includes certain environmental compliance requirements that it and its customers are required to meet pursuant to the National Environmental Policy Act. Western notes that this is not a new requirement; however, to eliminate confusion it proposes clarifying language in its tariff.

<sup>10</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-C, FERC Stats. & Regs. ¶ 31,274 (2008).

California, and a timely motion to intervene and comments were filed by the Southwest Transmission Dependent Utility Group (Southwest Transmission).<sup>11</sup>

#### **IV. Discussion**

##### **A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the intervenors' timely, unopposed motions to intervene serve to make them parties to this proceeding.

10. Because Western is an agency of the United States Department of Energy engaged in the official business of the Federal government, we will grant Western's request for waiver of the filing fee.<sup>12</sup>

##### **B. Reciprocity – Safe Harbor Status**

11. We have compared the non-rate terms and conditions of Western's revised tariff to those in the Commission's *pro forma* tariff. We find that, with the modifications discussed below, the revised terms and conditions substantially conform or are superior to those in the Commission's *pro forma* tariff.<sup>13</sup> Therefore, we will grant Western's request for a finding that its tariff is an acceptable reciprocity tariff, subject to Western making a revised filing within 30 days of the date of this order.

##### **C. Order No. 890 Compliance Filing**

###### **1. Clustering of Transmission Service Requests**

12. In Order No. 890, the Commission required transmission providers to adopt tariff language that describes how the transmission provider will process requests for cluster studies, and how it will structure a customer's obligations when it joins a cluster. The

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<sup>11</sup> Southwest Transmission's comments support Western's proposed reciprocity tariff.

<sup>12</sup> 18 C.F.R. §§ 381.102(a), 381.108(a), 381.302(c) (2010).

<sup>13</sup> Western's proposed Order No. 890 tariff revisions that are not specifically discussed herein substantially conform or are superior to the Order No. 890 *pro forma* tariff. We also find reasonable Western's proposed revisions to Western's revised tariff unrelated to Order No. 890 that are not specifically discussed herein.

Commission gave transmission providers discretion to determine whether a transmission customer can opt out of a cluster study and to develop its own clustering procedures.

13. Western proposes to cluster multiple long-term firm point-to-point transmission service requests to conduct the System Impact Study.<sup>14</sup> Western will cluster the studies at the request of an eligible customer, and, with the concurrence of all other eligible customers, if Western determines at its own discretion that the request can be reasonably accommodated. For instance, Western's revised tariff provides that, in instances where such a request may impair the administrative or timely processing of the transmission service queue, Western may elect to reject to cluster the transmission service requests.

14. In addition, Western's revised tariff provides that the deadlines and procedures for completing clustered System Impact Studies for which an agreement has been executed, are in accordance with section 19 of its revised tariff. Furthermore, Western's tariff provides that the initiation date for the clustered study will consider the time required to coordinate the study among the cluster participants and the transmission provider, thereby possibly extending the timeframe beyond the normal System Impact Study timeframe.

15. Western's revised tariff states that customers may not opt out of a cluster once a cluster has been established, unless the customer withdraws its transmission service request. The tariff also provides that, if a cluster customer fails to make any payments, as described in the System Impact Study Agreement, the transmission customer and its service request will be deemed withdrawn. Moreover, the costs of producing the study (including re-study costs necessary due to a withdrawn cluster request) will be allocated based on the ratio of the transmission capacity reservation of each such customer to the total capacity reservation of the cluster study.

### **Commission Determination**

16. In Order No. 890, the Commission directed transmission providers that choose to cluster transmission study requests to describe how the transmission provider will process a request to cluster studies and how it will structure transmission customers' obligations when they have joined a cluster.<sup>15</sup> Under Western's proposal, customers may request to cluster multiple long-term firm point-to-point transmission service requests and Western

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<sup>14</sup> See section 19.2 of Western's proposed tariff.

<sup>15</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-71.

will, at its own discretion, determine if the request can be reasonably accommodated.<sup>16</sup> If the cluster request can be reasonably accommodated, Western will conduct the cluster in accordance to the process in section 19 of its tariff. However, Western does not describe how a transmission customer may submit a request to cluster a group of studies. Therefore, we conditionally find that Western's cluster study provisions substantially conform with the Order No. 890 *pro forma* tariff. Accordingly, Western should submit a compliance filing, within 30 days of the date of this order, addressing how a transmission customer may request a group of studies to be clustered.

## 2. Penalties for Failure to Meet Transmission Study Deadlines

17. In Order No. 890, the Commission required transmission providers to track their performance in processing System Impact Studies and Facilities Studies associated with requests for transmission service and to post on their OASIS websites certain metrics relating to their performance.<sup>17</sup>

18. In its petition, Western states that it is amending sections 19.9 and 32.5 of the *pro forma* tariff to omit language that subjects the transmission provider to payment of monetary penalties for failing to complete transmission studies within 60 days, as well as the requirement to file a notice with the Commission with respect to late studies. Western states that the Commission has already approved a reciprocity tariff that omitted the requirement to file a notice with the Commission regarding late studies<sup>18</sup> and payment of penalties because the Commission's authority to assess penalties does not apply to non-public utilities.<sup>19</sup> Western maintains that, except for the penalty provisions, Western intends to adhere to the directives in Order No. 890 regarding the completion of studies.<sup>20</sup>

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<sup>16</sup> This approach is consistent with Commission-approved clustering processes. See *Public Service Co. of New Mexico*, 122 FERC ¶ 61,176 (2008); *Florida Power & Light Co.*, 122 FERC ¶ 61,079 (2008).

<sup>17</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1309.

<sup>18</sup> *East Kentucky Power Coop, Inc.*, 121 FERC ¶ 61,012 (2007).

<sup>19</sup> *United States Department of Energy – Bonneville Power Administration*, 128 FERC ¶ 61,057, at P 65 (2009).

<sup>20</sup> For example, Western states it will use reasonable efforts to complete the studies within the study deadlines, track the percent of non-affiliates' studies that it completes outside the deadlines, and post study metrics regarding its performance as provided in Order No. 890.

### **Commission Determination**

19. As noted by Western, the Commission has approved other reciprocity tariffs that omit the requirement to file notice with the Commission regarding late studies and payment of penalties.<sup>21</sup> Western is a non-public utility, and, as such, the Commission's penalty authority regarding late studies cannot be applied to Western. Therefore, we find that sections 19.10 and 32.5 of Western's tariff substantially conform with the Order No. 890 *pro forma* tariff.

### **3. Creditworthiness**

20. In Order No. 890, the Commission required transmission providers to amend their tariffs to include a new attachment that sets forth the basic credit standards the transmission provider uses to grant or deny transmission service. This attachment must specify both the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.<sup>22</sup>

21. Western's proposed creditworthiness procedures consist of data collection, a credit evaluation, a credit score determination, and an overall determination of the transmission customer's creditworthiness. For example, for new "non-public power entities,"<sup>23</sup> Western will require agency ratings (from Standard & Poor's and/or Moody's Investor Service or similar bond ratings) if available, along with the two most recent quarterly financial statements and the two most recent audited annual financial statements (as described further in the tariff). For the credit score determination, Western will find non-public transmission customers creditworthy and grant them unsecured credit if the customer meets several standards delineated in the tariff.<sup>24</sup> Moreover, "public power

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<sup>21</sup> See, e.g., *United States Department of Energy – Bonneville Power Administration*, 128 FERC ¶ 61,057 at P 65.

<sup>22</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656-61.

<sup>23</sup> According to Western, "public power entities" are not-for-profit organizations such as municipalities, cooperatives, joint action agencies, Native American Tribes, or any other governmental entity. Western considers other entities to be "non-public power entities."

<sup>24</sup> For example, the transmission customer may not be in default of any payment obligation to Western or be the subject of a bankruptcy proceeding, among other things.

entities” will be considered creditworthy and granted unsecured credit if the entities meet separate standards, as delineated in the tariff.<sup>25</sup> If the transmission customer does not qualify for unsecured credit, the customer may provide collateral, as described in the tariff, in order to be considered creditworthy.<sup>26</sup> In addition, Western states that it will review its credit evaluation for each transmission customer annually.

### **Commission Determination**

22. In Order No. 890, the Commission provided six elements that transmission providers must meet in order to successfully comply with the creditworthiness procedure.<sup>27</sup> We conditionally find that Western’s creditworthiness provisions substantially conform with, or are superior to, the Order No. 890 *pro forma* tariff. Western’s proposed tariff does not sufficiently describe the opportunity transmission customers have to contest determinations made by Western of credit levels or collateral requirements. Accordingly, Western should submit a compliance filing, within 30 days of the date of this order, that appropriately clarifies how transmission customers will have a reasonable opportunity to contest determinations of credit levels or collateral requirements, and that provides the procedures needed to proceed with such opportunity.<sup>28</sup>

#### **4. Transmission Capacity Reassignment Provisions**

23. In Order No. 890, the Commission lifted the price cap for transmission capacity assignments to facilitate a secondary market for transmission capacity and made clear that sales of reassigned capacity should take place under the transmission provider’s tariff.<sup>29</sup> This revision requires the transmission capacity assignee to execute a service

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<sup>25</sup> For instance, a public entity is considered creditworthy if its guarantor is a Federal, state or other governmental agency, and its financial obligations are backed by the full faith and credit of the United States or other governmental entity.

<sup>26</sup> For example, acceptable collateral is, among other things, prepayment of five months of estimated service charges or an unconditional and irrevocable letter of credit from the transmission customer or an entity that satisfies the creditworthiness requirements.

<sup>27</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1657.

<sup>28</sup> *Id.*

<sup>29</sup> In Order No. 890-A, the Commission considered it appropriate to lift the price cap on reassignments of capacity for a temporary study period, and determine whether it

(continued...)



agreement with the transmission provider governing reassignments, prior to scheduling use of that capacity.<sup>30</sup>

24. Western states that it is not adopting the Order No. 890 *pro forma* tariff revisions to section 23.1 which remove the price cap on the resale of transmission capacity.<sup>31</sup> Western states that, because it does not make a profit on the sales of the use of its transmission facilities, it would not be appropriate for Western to allow a third party to resell Western's federal transmission system capacity at a profit (by acting as a financial intermediary). Specifically, Western argues that making the change would be inconsistent with Western's obligations to "transmit and dispose of power and energy" at the "lowest possible rates to consumers."<sup>32</sup> Western asserts that it interprets the statutes as not providing for third parties to do so either. Western contends that the Commission's proposal is inconsistent with the requirements for providing service over Western's federal transmission system, which was not created, nor is it intended to be marketed, for purely economic purposes.<sup>33</sup>

25. Accordingly, Western states that instead it will retain the original *pro forma* language that allows a transmission customer to reassign its transmission capacity. In addition, because Western will not act as a financial intermediary between the reseller and assignee, it has revised the *pro forma* Attachment A-1, the form of service agreement for resale of transmission, to state that Western will continue to charge the original reselling transmission customer as set forth under the original tariff agreement, and that the customer will in turn charge the assignee for the reassigned capacity at their negotiated rate, subject to the pricing cap retained in section 23.1. Western states that, using this approach, Western will not charge the assignee for reassigned capacity, and the mechanism to account for any difference between the rates charged by Western to the

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is appropriate to continue to allow reassignments of capacity above the price cap beyond the study period. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 390.

<sup>30</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 816.

<sup>31</sup> Specifically, section 23.1 of the *pro forma* OATT contains the clause "... provided that, for service prior to October 1, 2010, compensation to Resellers [of Transmission Reassignment Capacity] shall be at rates established by agreement between the Reseller and the Assignee."

<sup>32</sup> See 16 U.S.C. § 839e (2006); 43 U.S.C. § 485h(c) (2006).

<sup>33</sup> Western's October 1, 2009 Filing at 11.

reseller and by the reseller to the assignee will be provided under separate billing arrangements to be negotiated and executed by the reseller and the assignee.

26. Southwest Transmission state that they agree with Western's treatment regarding the price caps on the resale of transmission capacity. Southwest Transmission contend that Western cannot statutorily sell transmission service at a profit, and note that Western's proposal is consistent with section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c) (2006), and section 5 of the Flood Control Act of 1944, 16 U.S.C. § 839e (2006).

### **Commission Determination**

27. In Order No. 890,<sup>34</sup> the Commission stated that removing the price cap (as provided for by the revision of section 23.1 and Attachment A-1) would create economic incentives by fostering the development of a more robust secondary market for transmission capacity.<sup>35</sup> Western states that as a federal power marketing administration, Western does not make a profit on the sales of the use of its transmission facilities, and therefore, it would be inconsistent with its statutory obligations for Western to adopt the Order No. 890 *pro forma* tariff language removing the price cap. Western proposes to retain the original *pro forma* language for the reassignment of transmission capacity and revise Attachment A-1 to state that, instead, customers will charge assignees for the reassigned capacity, subject to the pricing cap retained in section 23.1. We find that, as Western is statutorily barred from allowing third parties to resell Western's Federal transmission capacity at a profit, Western's approach is consistent with Order No. 890. Accordingly, Western's proposed tariff section 23.1 substantially conforms with, or is superior to, the Order No. 890 *pro forma* tariff.

### **5. Attachment C - Methodology to Assess Available Transfer Capability**

28. In Order No. 890, as clarified by Order No. 890-A, the Commission required transmission providers to amend their tariffs to include an Attachment C to set forth the methodology that would be used to calculate available transfer capability (ATC). The Commission required transmission providers to clearly identify which methodology they will employ for this purpose (e.g., contract path, network available transfer capability, or

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<sup>34</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 808.

<sup>35</sup> In Order No. 739, the Commission continued to lift the price cap for all transmission customers reassigning transmission capacity. *Promoting a Competitive Market for Capacity Reassignment*, Order No. 739, 132 FERC ¶ 61,238 (2010).

network available flowgate capacity (AFC)).<sup>36</sup> The requirements for Attachment C are described more fully below.

29. Western states that its ATC methodology is bifurcated to reflect the fact that Western's transmission system resides within both the MRO and WECC. Therefore, Western's ATC methodology is described in two parts. Western states that it developed its Attachment C through the compliance filings of certain parties in the Mid-Continent Area Power Pool (MAPP) and WestConnect footprints, as well as the Commission's findings pertaining to such filings.<sup>37</sup> Part I of Western's Attachment C describes the methodology for calculating ATC for the Colorado, Desert Southwest, Rocky Mountain and Sierra Nevada regions. Part II of Western's Attachment C describes the methodology for calculating ATC for the Upper Great Plains region.

30. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs. The transmission provider also must describe in detail the specific mathematical algorithms it will use to calculate firm and non-firm ATC (and AFC, if applicable) for scheduling, operating, and planning horizon purposes. Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C. Western's Attachment C provides a general description of its ATC methodology and the mathematical algorithms for firm and non-firm ATC and includes links to its website.

31. In Order No. 890, the Commission required a transmission provider to include a process flow diagram in its Attachment C that illustrates the various steps through which ATC/AFC is calculated.<sup>38</sup> Western's revised proposed Attachment C provides this process flow diagram.

32. In Order No. 890, the Commission required a transmission provider to: (1) explain its definition of Total Transfer Capability (TTC); (2) explain its TTC calculation methodology for both the operating and planning horizons; (3) list the databases used in its TTC assessments; and (4) explain the assumptions used in its TTC assessments regarding the load levels, generation dispatch, and the modeling of both

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<sup>36</sup> *Id.* P 323 and *pro forma* OATT, Att. C

<sup>37</sup> Western's October 1, 2009 Filing at 12, (citing *Arizona Public Service Co.*, 123 FERC ¶ 61,024 (2008); unpublished letter orders issued March 28, 2008, and August 21, 2008, in Docket Nos. OA07-90-000, *et al.*, and OA07-90-003, respectively).

<sup>38</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323; *pro forma* OATT, Att. C.

planned and contingency outages.<sup>39</sup> Western provides a detailed explanation of how each of the TTC components is calculated for both the operating and planning horizons. Western also provides a list of databases used in TTC assessments and assumptions used in TTC assessments.

33. Additionally, in Order No. 890, the Commission required a transmission provider to explain: (1) its definition of Existing Transmission Commitments (ETC); (2) the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load) and non-tariff customers (including, if applicable, an explanation of assumptions on the selection generators that are modeled in service) for both the operating and planning horizons; (3) how point-to-point transmission service requests are incorporated; (4) how rollover rights are accounted for; and (5) its process for ensuring that non-firm capacity is released properly (e.g., when real-time schedules replace the associated transmission service requests in its real-time calculations).<sup>40</sup> Western's Attachment C provides its calculation methodology used to determine transmission capacity set aside for native load and non-tariff customers, and explains how Western incorporates point-to-point transmission service requests. Western also explains how it accounts for rollover rights and how its process ensures that non-firm capacity is released for use by third-parties.

### **Commission Determination**

34. We conditionally find that Western's proposed Attachment C substantially conforms with, or is superior to, the Order No. 890 *pro forma* Attachment C. Western has described the required aspects of its ATC methodology for both Part I, the Colorado Desert Southwest, Rocky Mountains and Sierra Nevada regions, and Part II, the Upper Great Plains region.

35. Nevertheless, we note that Western has not adequately described how rollover rights are accounted for in Part I of its proposed Attachment C, nor has it provided or explained its definition of ETC. In its filing, Western states that "[c]urrently a component does not exist to maintain rollover rights for existing transmission customers past the current stop date/time. Requests for the posted ATC by other customers are held until the existing right holder exercises those rights to rollover."<sup>41</sup> Thus, Western's description of its rollover rights policy is not sufficiently clear, and appears to be

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<sup>39</sup> *Id.* at *pro forma* OATT, Att. C.

<sup>40</sup> *Id.*

<sup>41</sup> Western's Attachment C, Part I, section (3)b(iv).

contradictory. In addition, Western has not addressed ETC. Therefore, Western should submit a compliance filing, within 30 days of the date of this order, that provides further clarity as to how Western will treat rollover rights, and to define and explain its ETC calculation.

## 6. Transmission Planning Process

### Background

36. In Order No. 890, the Commission reformed the *pro forma* tariff to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in planning activities, the Commission directed each transmission provider to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to its tariff referred to as Attachment K (Western addressed this requirement under Attachment P of its filing).

37. Specifically, Order No. 890 directed transmission providers to address the following nine principles in their transmission planning processes: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;<sup>42</sup> (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process, and that all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules, as supplemented with web-posted business practices when appropriate,<sup>43</sup> must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

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<sup>42</sup> In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>43</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

### **Western's Filing**

38. Western states that, because its transmission system operates within the MRO and WECC regions, it divided its transmission planning process into two parts: the Upper Great Plains Region (on both the Eastern and Western Interconnections) and the Southwest Region (which covers the remaining regions in the Western Interconnection not covered by the Upper Great Plains Region).<sup>44</sup> In addition, Western states that, because it is a member of MAPP<sup>45</sup> and WestConnect,<sup>46</sup> it based its transmission planning process on the planning processes within these regional footprints that have already been accepted by the Commission. Specifically, for the Upper Great Plains Region, Western adopted the transmission planning processes of the members of MAPP.<sup>47</sup> For the Southwest Region, Western adopted the transmission planning processes of the members of WestConnect.<sup>48</sup>

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<sup>44</sup> Western delineates the Upper Great Plains Region planning process in Part I of its Attachment P, and the Southwest Region in Part II of its Attachment P.

<sup>45</sup> The MAPP is an association of electric utilities and other electric industry participants. MAPP's members are investor-owned utilities, cooperatives, municipals, public power districts, a power marketing agency, power marketers, regulatory agencies, and independent power producers from the following states and provinces: Minnesota, Nebraska, North Dakota, Manitoba, and parts of Wisconsin, Montana, Iowa and South Dakota.

<sup>46</sup> WestConnect is an unincorporated association composed of utility companies providing transmission of electricity in the southwestern United States. The WestConnect footprint encompasses the states of Arizona, Colorado, New Mexico, Nevada and parts of California, Texas, South Dakota and Wyoming.

<sup>47</sup> Part I of Western's Attachment P addresses: (1) the MAPP regional planning process adopted by the Regional Transmission Committee (RTC) members of MAPP (sections 1 to 12); (2) Western's local planning process for local facilities not covered by the regional planning process (section 13); and (3) the WECC regional planning for Western's Upper Great Plains Region facilities within the Western Interconnection (section 14).

<sup>48</sup> Part II of Western's Attachment P addresses: (1) Western's local transmission planning process (section 1); (2) the sub-regional planning process at the WestConnect level (section 2); and (3) the regional planning process at the WECC level (section 3).

### Commission Determination

39. We find that Western's Attachment P transmission planning processes substantially conform with each of the planning principles adopted in Order No. 890, as discussed below. As Western states, it based its transmission planning processes for the Upper Great Plains and Southwest Regions on Commission-accepted transmission planning processes.<sup>49</sup> The Commission has already found that the processes upon which Western bases its Attachment P conform with Order No. 890 because they are open, transparent, and ensure that transmission service will be provided on a non-discriminatory basis to all transmission customers. Accordingly, we find that, because Western has adopted Commission-accepted transmission planning processes as its own, Western's Attachment P substantially conforms with each of the planning principles adopted in Order No. 890, as discussed below. Nevertheless, Western should submit a compliance filing within 30 days of the date of this order to revise its cost allocation provisions, as discussed below.

40. Although we find that Western's Attachment P substantially conforms with each of the planning principles adopted in Order No. 890, subject to a further filing to address a discrete issue, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement provided in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission in September 2009 convened three regional technical conferences to determine if further refinements to transmission planning processes are necessary. The Commission has also received comments in response to the October 8, 2009 notice that it issued in Docket No. AD09-8-000, which sought additional input on questions relating to enhancing regional transmission planning processes and allocating the cost of transmission. On June 17, 2010, the Commission issued a Notice of

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<sup>49</sup> See, e.g., *El Paso Electric Co., et al.*, 124 FERC ¶ 61,051 (2008) (First EPE Order); *El Paso Electric Co., et al.*, 128 FERC ¶ 61,063 (2009) (Second EPE Order); *El Paso Electric Co.*, Docket No. OA08-30-002 (Feb. 23, 2010) (unpublished letter order) (accepting El Paso Electric Co.'s transmission planning process in WestConnect) (Final EPE Order); *MidAmerican Energy Co.*, 123 FERC ¶ 61,160 (2008) (First MidAmerican Order); *MidAmerican Energy Co.*, 127 FERC ¶ 61,168 (2009) (Second MidAmerican Order); *MidAmerican Energy Co.*, 128 FERC ¶ 61,046 (2009); *MidAmerican Energy Co.*, Docket No. ER09-1248-001 (Jan. 19, 2010) (unpublished letter order) (accepting MidAmerican Energy Co.'s transmission planning process in MAPP) (Final MidAmerican Order).

Proposed Rulemaking in Docket No. RM10-23-000, proposing a number of reforms to the Order No. 890 transmission planning and cost allocation requirements.<sup>50</sup>

**a. Coordination**

41. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development. In its planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.<sup>51</sup>

**Western's Filing**

42. Western states that in the Upper Great Plains Region and the Southwest Region, Western will coordinate its local transmission plan with a 10-year regional transmission plan for each region.<sup>52</sup> Western states that the coordination of its local transmission plan with the regional transmission plan will be done through the respective sub-regional planning groups in each region.<sup>53</sup> In addition, Western explains that it will hold open transmission planning meetings that allow any interested party to have input into and participate in all stages of development of Western's transmission plan.<sup>54</sup> Western also

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<sup>50</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 131 FERC ¶ 61,253 (2010).

<sup>51</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

<sup>52</sup> Western's Attachment P, Part I, section 3.4 and Part II, section 1.1.3(a).

<sup>53</sup> In the Upper Great Plains Region, the Transmission Planning Subcommittee of MAPP's RTC is tasked with the coordination of the regional transmission plan. Similarly, in the Southwest Region three WestConnect sub-regional planning groups are tasked with the coordination of the regional transmission plan.

<sup>54</sup> Western planning process is open to all interested parties, as described below. Western's Attachment P, page 2, Part I, section 13, and Part II, section 1.2.



provides the necessary processes and information that customers need in order to participate and provide input into Western's transmission plan.<sup>55</sup>

### **Commission Determination**

43. We find that the coordination provisions for the Upper Great Plains and Southwest Regions substantially conform with the coordination principle outlined in Order No. 890.<sup>56</sup> For example, Western's Attachment P clearly describes the process that allows all Upper Great Plains and Southwest Region interested parties to participate and provide input into all stages of Western's transmission plan. In addition, Western's Attachment P clearly identifies the details of how its planning process will provide appropriate lines of communication between all parties for both regions. Furthermore, Western also provides how it will coordinate on a regional basis through the WECC and MRO, as discussed further below.<sup>57</sup>

#### **b. Openness**

44. 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.<sup>58</sup> Transmission providers, in consultation with affected parties, must also develop mechanisms to manage

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<sup>55</sup> *Id.*, Part I, section 13.3 and Part II, section 1.2.

<sup>56</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

<sup>57</sup> The Commission has previously accepted similar filings addressing the coordination principle. First MidAmerican Order, 123 FERC ¶ 61,160 at P 10; First EPE Order, 124 FERC ¶ 61,051 at P 19.

<sup>58</sup> The Commission stated 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 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.

confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.<sup>59</sup>

### **Western's Filing**

45. Western's transmission planning process is open to all interested parties, including, but not limited to, network and point-to-point transmission customers, interconnected neighbors, sponsors of transmission solutions, generation solutions and solutions utilizing demand resources, and all other stakeholders.<sup>60</sup> Moreover, Western states that for the Southwest Region, it posts publicly available information needed by customers, such as planning studies, on its OASIS website.<sup>61</sup> Similarly, Western asserts that it will make available the basic criteria that underlie its transmission system plans for the Upper Great Plains Region, as well as the mode, method, schedule, process, and instructions for participating in Western's Upper Great Plains Region local transmission planning process on Western's Upper Great Plains Region OASIS.<sup>62</sup> Western also notes that in some instances the release of certain information will be subject to confidentiality requirements to protect confidential and proprietary information and CEII. Western states that in order to manage CEII and other confidential information parties will have to sign a confidentiality agreement.<sup>63</sup>

### **Commission Determination**

46. We find that Western's Attachment P substantially conforms with the openness principle outlined in Order No. 890. Western's Attachment P describes that its transmission planning processes in the Upper Great Plains and Southwest Regions are open to all interested parties, including, but not limited to, network and point-to-point transmission customers, interconnected neighbors, sponsors of transmission solutions, generation solutions and solutions utilizing demand resources, and all other stakeholders. In addition, Western provides a mechanism to manage the confidentiality of its customers' information, including CEII, by requiring parties to sign non-disclosure

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<sup>59</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

<sup>60</sup> Western's Attachment P, page 2.

<sup>61</sup> *Id.*, Part II, sections 1.1.4, 1.1.8, and 1.2.2.

<sup>62</sup> *Id.*, Part I, sections 13.3.1 and 13.5(a).

<sup>63</sup> *Id.*, Part I, sections 6.3 and 13.3.2, and Part II, section 1.1.1.

agreements. Accordingly, we find that Western's transmission planning processes substantially conform with the Order No. 890 openness principle.<sup>64</sup>

**c. Transparency**

47. 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 its planning process the method(s) it will use to disclose the criteria, assumptions and data that underlie its transmission system plans.<sup>65</sup> 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 also were directed to provide information regarding the status of upgrades identified in the transmission plan.

48. The Commission explained that sufficient information should be made available to eligible 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, they should be permitted to participate in that process on a comparable basis.<sup>66</sup>

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<sup>64</sup> The Commission has previously accepted similar filings addressing the openness principle. First MidAmerican Order, 123 FERC ¶ 61,160 at P 10; First EPE Order, 124 FERC ¶ 61,051 at P 19.

<sup>65</sup> In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

<sup>66</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

### **Western's Filing**

49. Western's tariff discloses the sources of data, assumptions, and criteria, it uses in its transmission planning processes to develop its transmission plan. Western provides this process in its Attachment P for both the Upper Great Plains and the Southwest Regions, and notes that its processes are also posted on its OASIS website.<sup>67</sup> In addition, Western describes that in both regions it will consider information regarding demand resources and will include that information in Western's transmission planning process and ensure that all resources are treated on a comparable basis.<sup>68</sup>

### **Commission Determination**

50. We find that Western's transmission planning process substantially conforms with the transparency principle outlined in Order No. 890. Western describes the methods it uses in the Upper Great Plains and Southwest Regions to disclose the criteria, assumptions, and the data underlying its transmission system plans. In addition, Western sufficiently describes the specific criteria and assumptions it uses, in order that its customers can understand the development of Western's transmission plan. Accordingly, we find that Western's Attachment P substantially conforms with the transparency principle provided in Order No. 890.<sup>69</sup>

#### **d. Information Exchange**

51. 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 projects that have 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.<sup>70</sup> Transmission providers, in consultation

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<sup>67</sup> Western's Attachment P, Part I, section 13.5 and Part II, sections 1.1.2, 1.1.4 and 1.1.8.

<sup>68</sup> *Id.*, Part I, section 13.5(g) and Part II, section 1.1.4(d).

<sup>69</sup> The Commission has previously accepted similar filings addressing the transparency principle. First MidAmerican Order, 123 FERC ¶ 61,160 at P 10; First EPE Order, 124 FERC ¶ 61,051 at P 19.

<sup>70</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

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

52. The Commission also provided that, to the extent applicable, transmission customers should provide information on their existing and planned demand resources and the expected impacts on demand and peak demand. Stakeholders, in turn, should provide their proposed demand resources if they wish to have them considered in the development of the transmission plan. The Commission stressed that the information collected by transmission providers to provide transmission service to their native load customers must be transparent, and that 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.<sup>71</sup>

53. 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.<sup>72</sup>

### **Western's Filing**

54. For the Upper Great Plains and Southwest Regions, Western delineates the obligations and guidelines (e.g., types of data and format) for submission of planning information and data on projected loads. For example, in the Upper Great Plains Region, customers must submit, among other things, existing loads and expected future loads for the 10-year horizon of the regional base case model, provide a list of all existing and proposed new demand response resources, and information regarding existing and expected peak demand.<sup>73</sup> Similarly, in the Southwest Region, Western will require

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<sup>71</sup> *Id.* at P 206.

<sup>72</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

<sup>73</sup> Western's Attachment P, Part I, sections 5.3, 8.3, and 13.6.

transmission customers to include for the 10-year planning horizon information regarding planned additions or upgrades to generation, existing and planned demand resources and their impact on peak demand, among other things.<sup>74</sup> Attachment P also makes available a detailed timeline describing the milestones of the transmission planning process for stakeholders to follow. For example, the timeline explains when all stakeholders may, among other things, submit data and study requests, evaluate study results, discuss future study needs, propose alternative solutions,<sup>75</sup> present local plans, and provide input into the draft sub-regional plan and final overall transmission plan.

### **Commission Determination**

55. We find that Western's transmission planning process substantially conforms with the information exchange principle as outlined in Order No. 890. Western delineates the type of data that all customers must submit for the planning horizon. For instance, Western will require from all stakeholders information on existing and forecasted loads, and planned demand resources and the impact those resources will have on demand and peak demand.<sup>76</sup> In addition, Western properly delineates the guidelines and schedule pursuant to which its stakeholders must submit such data. Accordingly, Western's transmission planning process substantially conforms with the Order No. 890 information exchange principle.<sup>77</sup>

#### **e. Comparability**

56. 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

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<sup>74</sup> *Id.*, Part II, sections 1.1.2, 1.1.3, 1.1.4 and 1.1.8.

<sup>75</sup> For example, alternative solutions can be submitted at open meetings and/or throughout the planning process. *Id.*, Part I, sections 3.4, 4.3, 6.9, and Part II, sections 1.2.2(c), 1.1.9, and 2.2.6.

<sup>76</sup> *Id.*, Part I, sections 4.23(c), 5.3, 6.4(i), 13.6, and 6.11, and Part II, sections 1.1.4, 2.2.6, and 2.4.2.

<sup>77</sup> Similar filings addressing the information exchange principle were previously accepted by the Commission. First MidAmerican Order, 123 FERC ¶ 61,160 at P 10; First EPE Order, 124 FERC ¶ 61,051 at P 19.

Commission expressed concern that transmission providers have historically 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, where appropriate, on a comparable basis to the service provided by comparable generation resources.<sup>78</sup> Lastly, in Order No. 890-A, the Commission clarified that, as part of its Attachment K planning process, each transmission provider is required to identify how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.<sup>79</sup>

### **Western's Filing**

57. Western's Attachment P allows for the interests of its similarly-situated customers to be treated on a comparable basis throughout the transmission planning process. For example, Western's Attachment P states that "anyone, including but not limited to, network and point-to-point transmission customers, interconnection neighbors, sponsors of transmission solutions, generation solutions and solutions utilizing demand resources, and other stakeholders," can participate and will be treated comparably in all stages of Western's transmission planning process, regardless whether the entity is situated in the Southwest Region or the Upper Great Plains region of Western's footprint.<sup>80</sup>

58. Specifically, the Southwest Region section of Western's Attachment P provides that all entities, including sponsors of transmission solutions, generation solutions and solutions utilizing demand resources, can provide input into Western's base-line assumptions.<sup>81</sup> Additionally, in the Southwest Region, Western indicates when and how throughout the planning process stakeholders, including sponsors of transmission, generation and solutions utilizing demand resources, may propose alternatives to solutions being considered by Western.<sup>82</sup> Furthermore, the Southwest Region section of Western's Attachment P provides that Western will evaluate all solution alternatives,

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<sup>78</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

<sup>79</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>80</sup> Western's Attachment P, Page 2.

<sup>81</sup> *Id.*, Part II, sections 1.2 and 2.2.1.

<sup>82</sup> *Id.*, Part II, sections 1.1.2(c), 1.1.9, and 2.2.6.

whether presented by Western or any other stakeholder, to select a preferred solution (or combination of solutions) using the following criteria: (1) ability to practically fulfill the identified need; (2) ability to meet applicable reliability criteria or NERC Planning Standards issues; (3) technical, operational and financial feasibility; (4) operational benefits/constraints or issues; (5) cost-effectiveness over the time frame of the study or the life of the facilities, as appropriate (including adjustments, as necessary, for operational benefits/constraints or issues, including dependability); and (6) where applicable, consistency with State or local integrated resource planning requirements, or regulatory requirements, including cost recovery through regulated rates.<sup>83</sup>

59. Similarly, in the Upper Great Plains Region, Western's Attachment P notes that the participants identified above can participate and provide input in all stages, including the initial stages, of the development of Western's local transmission plan and the MAPP regional plan, in order that all similarly-situated customers and all types of resources are treated on a comparables basis.<sup>84</sup> Western states that, through its adopted transmission planning processes, competing transmission and non-transmission solutions may be submitted and will be evaluated based on the following technical factors: (1) load flow (steady-state, contingency and loss analysis), (2) transient stability, (3) voltage stability, (4) small signal stability, and (5) economic analysis. In addition to these technical factors, Western states that the following engineering judgment factors may also be utilized in selecting a preferred solution: (1) the extent to which proposed alternative solutions meet applicable planning criteria and other regulatory requirements, (2) expected levels of public acceptance, and (3) environmental impacts.<sup>85</sup>

### **Commission Determination**

60. We find that Western's Attachment P substantially conforms with the comparability principle as outlined in Order No. 890. Western's transmission planning process describes how it will comparably consider the data and comments supplied by all customers and other stakeholders, to develop a transmission system plan that meets the service requests of its transmission customers and otherwise treats similarly-situated customers on a comparable basis. For example, Western's Attachment P indicates that all sponsors of transmission, generation and demand resources have an opportunity to provide input into the base-line assumptions used to develop the transmission plan, as

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<sup>83</sup> *Id.*, Part II, section 1.1.9.

<sup>84</sup> *Id.*, Part I, sections 4.2.3, 13.1.2, 13.1.3, and 13.6(b).

<sup>85</sup> *Id.*, Part I, section 4.2.4(c).



required in Order No. 890.<sup>86</sup> Western's Attachment P also describes when and how throughout the planning process stakeholders, including sponsors of transmission, generation and solutions utilizing demand resources, may propose alternatives to solutions being considered by Western.<sup>87</sup> In addition, Western provides how competing solutions will be evaluated and selected, such that all types of resources are considered on a comparable basis.<sup>88</sup> Accordingly, we find that Western's Attachment P substantially conforms with the comparability principle in Order No. 890.<sup>89</sup>

**f. Dispute Resolution**

61. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a three-step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.<sup>90</sup>

**Western's Filing**

62. To address the dispute resolution principle, for regional issues, Western states that it adheres to the MAPP and WECC dispute resolution processes to manage disputes that may arise from the planning process. For local issues, Western states it will rely on the

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<sup>86</sup> *Id.*, Part I, sections 4.2.3 and 6.11, and Part II, sections 1.2.2 and 2.2.1.

<sup>87</sup> *Id.*, Part I, sections 4.2.3, 4.2.4, 4.3, and 13.5(g), and Part II, sections 1.1.2(b), 1.1.9, and 1.2.2(c).

<sup>88</sup> *Id.*, Part I, sections 1.1.5(a), 1.1.6(d) and 13.1.3, and Part II, sections 1.2.2(c) and 1.1.9.

<sup>89</sup> The Commission has previously accepted a similar filing addressing the comparability principle. *See* Final EPE Order.

<sup>90</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-503.

dispute resolution process set forth in its own tariff. These dispute resolution processes allow for negotiation, mediation, and arbitration between parties.<sup>91</sup>

### **Commission Determination**

63. Western's Attachment P substantially conforms with the dispute resolution principle in Order No. 890. Western's dispute resolution processes provide a three-step process consisting of negotiation, mediation, and arbitration, to solve disputes between parties. This is consistent with the dispute resolution principle in Order No. 890.<sup>92</sup>

#### **g. Regional Participation**

64. 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. In Order No. 890, 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 there 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 sub-regions. 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 is not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.<sup>93</sup>

65. In Order No. 890-A, the Commission clarified that, while the obligation to engage in regional coordination is directed to transmission providers, participation in such

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<sup>91</sup> Western's Attachment P, Part I, section 10 and Part II, section 4.

<sup>92</sup> The Commission has previously accepted similar filings addressing the dispute resolution principle. First MidAmerican Order, 123 FERC ¶ 61,160 at P 10; First EPE Order, 124 FERC ¶ 61,051 at P 19.

<sup>93</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

processes is not limited to transmission providers and should be open to all interested customers and stakeholders.<sup>94</sup> The Commission also emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.<sup>95</sup>

### **Western's Filing**

66. Regarding the regional participation principle, Western's Attachment P describes the process by which Western will coordinate with its interconnected neighbors and other stakeholders to develop Western's transmission plan, and integrate its plan into one 10-year sub-regional transmission plan for each region.<sup>96</sup> For example, Western states that, as an active member of MAPP and WestConnect, Western's transmission plans are submitted to the sub-regional planning groups of MAPP or WestConnect, respectively, for inclusion in the sub-regional transmission plan of each sub-region. In addition, Western also coordinates on a regional level (i.e. the MRO and WECC level) because its sub-regional plan will ultimately be coordinated with the remaining sub-regional plans at the regional level. For example, in the Southwest Region, Western's transmission plan will be regionally integrated via WECC's Transmission Expansion Planning Policy Committee (TEPPC).<sup>97</sup> Similarly, in the Upper Great Plains Region, Western's transmission plan will be submitted to and coordinated by the Transmission Planning Subcommittee.<sup>98</sup> Furthermore, Western also describes the roles that each sub-regional and regional entity will play in the transmission planning process.

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<sup>94</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

<sup>95</sup> *Id.*

<sup>96</sup> This approach is used in both the Upper Great Plains (MAPP) and Southwest (WestConnect) Regions.

<sup>97</sup> WECC organized TEPPC to provide West-wide study and data services, and to provide coordination and transmission planning leadership across the Western Interconnection.

<sup>98</sup> Western's Attachment P, Part I, section 4.1. The Transmission Planning Subcommittee is the regional subcommittee responsible for collecting the individual member plans of the MAPP and integrating these plans into a coordinated preliminary MAPP Regional Plan.

### **Commission Determination**

67. Western's Attachment P substantially conforms with the regional participation principle as outlined in Order No. 890. Western's Attachment P delineates how Western will coordinate with its interconnected neighbors on a sub-regional and regional level, and also describes the roles that sub-regional and regional entities will play in Western's local transmission planning process.<sup>99</sup> In addition, Western's Attachment P ensures that system plans will use consistent assumptions and data, be simultaneously feasible, and appropriately identifies system enhancements that could relieve congestion or integrate new resources. Furthermore, Western's Attachment P adequately describes when stakeholders will have the opportunity to provide input into the elements of the sub-regional and regional plans, and provides the timelines and milestones to allow customers to integrate their individual local plans into the sub-regional and regional plans. Accordingly, we find that Western's Attachment P substantially conforms with the regional participation principle.<sup>100</sup>

#### **h. Economic Planning**

68. 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 studies principle is designed to ensure that economic considerations are adequately addressed when planning for tariff customers as well. The Commission emphasized that the scope of economic planning studies should not just be limited 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.

69. All transmission providers, including RTOs and ISOs, were directed in Order No. 890 to develop procedures to allow stakeholders to identify a certain number of high priority economic planning studies annually and a means to cluster or batch requests to

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<sup>99</sup> *Id.*, Part I, sections 3.0, 4.0, 5.1.1, and 14.0, and Part II, sections 1.2.2(d), 2.0 and 3.0.

<sup>100</sup> The Commission has previously accepted similar filings addressing the regional participation principle. Second MidAmerican Order, 127 FERC ¶ 61,168 at P 30; Second EPE Order, 128 FERC 61,063 at P 23.

streamline processing. The Commission determined that the cost of these high priority studies would be recovered as part of the transmission provider's overall tariff cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.<sup>101</sup>

70. In Order No. 890-A, the Commission made clear that the transmission provider's planning process must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.<sup>102</sup> In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's planning process.<sup>103</sup>

### **Western's Filing**

71. Regarding the economic planning studies principle, Western's Attachment P explains how any stakeholder may request an economic planning study to identify significant and recurring congestion on Western's transmission systems and/or address the integration of new resources and loads.<sup>104</sup> In addition, Western provides the data that will be used in performing such studies, and states that all economic planning studies will be performed either by a sub-regional planning group or a regional planning group, and will use the regional public databases. In addition, Western states that sub-regional or regional planning groups will review the studies and determine if the studies qualify as high or low priority studies. Furthermore, Western states that it will not fund any priority or non-priority local economic planning studies due to its spending authorization being contingent upon Congressional appropriations. However, Western states that it will provide technical assistance to requestors in having a third party perform the study. In addition, Western notes that the parties will have available use of the regional economic study databases.<sup>105</sup>

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<sup>101</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

<sup>102</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

<sup>103</sup> *Id.*

<sup>104</sup> Western's Attachment P, Part I, sections 11 and 13.7, and Part II, section 1.1.5.

<sup>105</sup> *Id.*, Part I, sections 11 and 13.7, and Part II, sections 1.1.5, and 1.1.6.

### **Commission Determination**

72. We find that Western's Attachment P substantially conforms with the economic planning studies principle as outlined in Order No. 890. Western's Attachment P considers economic and reliability factors in its planning process, and will evaluate studies for potential upgrades, studies that could reduce congestion, and studies that will integrate new resources and loads.<sup>106</sup> Furthermore, Western states that it will forward all studies to the appropriate sub-regional or regional planning group to be prioritized, as discussed above. In addition, Western states that those entities will be responsible for conducting any sub-regional or regional studies. Furthermore, regarding local economic planning studies, Western states that it cannot fund any studies because, pursuant to its governing statutes, it is not authorized to do so.<sup>107</sup> Accordingly, we find that Western's Attachment P substantially conforms with the economic planning principle in Order No. 890.<sup>108</sup>

#### **i. Cost Allocation**

73. The cost allocation principle requires that transmission providers address in their planning process 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 cost allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fits 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.

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<sup>106</sup> *Id.*

<sup>107</sup> We note that other federal power administrations within the United States Department of Energy fund economic planning studies. If Western determines that it is authorized, based on its governing statutes, to fund a certain amount of economic planning studies, Western should revise its transmission planning process accordingly. *See, e.g., United States Department of Energy – Bonneville Power Administration*, 124 FERC ¶ 61,054 at P 69.

<sup>108</sup> The Commission has previously accepted similar filings addressing the economic planning studies principle. First MidAmerican Order, 123 FERC ¶ 61,160 at P 41; Second EPE Order, 128 FERC ¶ 61,063 at P 29.

74. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.<sup>109</sup> 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.<sup>110</sup>

### **Western's Filing**

75. Regarding the cost allocation principle, under the Upper Great Plains Region Attachment P proposal, where an economic transmission upgrade is identified under the MAPP planning process, the host transmission provider shall solicit participation in such upgrade through an auction process, where sponsorship of the economic upgrade will be granted based on auction demand. Specifically, Western's Attachment P states that costs of economic transmission upgrades will be allocated to interested parties that bid for participation in the economic upgrade, and Western describes the process for holding an open season and auction.<sup>111</sup> To the extent that multiple regions may benefit as a result of an economic upgrade identified through the transmission planning process, a similar auction soliciting interest from inter-regional sponsors will be conducted.<sup>112</sup> Finally, where a reliability project is identified under the MAPP planning process, Western's Attachment P states that costs for a single Transmission Provider facility addition shall be recovered through Western's existing rate recovery methodology, while costs associated with reliability projects involving multiple transmission owners shall be shared among the affected transmission owners.<sup>113</sup>

76. In the Southwest Region, Western's Attachment P provides that it will use a case-by-case approach to allocate costs for new transmission projects. In particular, Western states that, for any transmission project identified in a Western reliability study in which Western is the project sponsor, Western may elect to hold an open season solicitation of interest to secure additional project participants. Western also describes the process it will follow when holding an open season solicitation of interest for a project.

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<sup>109</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

<sup>110</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

<sup>111</sup> Western's Attachment P, Part I, section 12.2.3.2.

<sup>112</sup> *Id.*, Part I, section 12.2.3.11.

<sup>113</sup> *Id.*, Part I, section 12.2.1.

Furthermore, Western states that “it is possible that the cost allocation principles for economic studies may be different from the cost allocation methods for projects involving multiple owners,” and that “together with WestConnect and WECC, [Western] will seek input from stakeholders in proposing a cost allocation method for economic studies.”<sup>114</sup>

### **Commission Determination**

77. For the Upper Great Plains Region, we find that Western’s Attachment P substantially conforms with the cost allocation principle. For example, Western’s Attachment P states that costs of economic transmission upgrades will be allocated to interested parties that bid for participation in the economic upgrade, and Western describes the process for holding an open season and auction.<sup>115</sup> Accordingly, we find that for the Upper Great Plains Region, Western’s Attachment P substantially conforms with the cost allocation principle in Order No. 890.<sup>116</sup>

78. Western’s cost allocation provisions for the Southwest Region provide that Western will use a case-by-case approach to allocate costs for new transmission projects. In addition, for any transmission project identified in a Western reliability study in which Western is the project sponsor, Western may elect to hold an open season solicitation of interest to secure additional project participants. Western also describes the process it will follow when holding an open season solicitation of interest for a project. As noted above, however, in Order No. 890, the Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.<sup>117</sup> In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies should be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.<sup>118</sup> Accordingly, Western should submit a compliance filing within 30 days of the date of this order to explain how its “case-by-case” approach to cost allocation in the Southwest Region

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<sup>114</sup> *Id.*, Part II, section 5.

<sup>115</sup> *Id.*, Part I, section 12.2.3.2.

<sup>116</sup> The Commission has previously accepted a similar filing addressing the cost allocation principle. Second MidAmerican Order, 127 FERC ¶ 61,168 at P 39.

<sup>117</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 561.

<sup>118</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.



provides for the certainty required by Order Nos. 890 and 890-A, including, as appropriate, a description of how Western will allocate the costs of new facilities that include regional projects involving several transmission owners in the Southwest Region, or how Western will allocate the costs of facilities stemming from economic studies in the Southwest Region.

**j. Recovery of Transmission Planning Costs**

79. In Order No. 890, the Commission recognized the importance of cost recovery for transmission planning activities, specifically addressing that issue after discussing the nine principles that govern the transmission 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.<sup>119</sup>

**Western's Filing**

80. Western states that it sets its power rates to recover all costs associated with its activities, including the costs for planning activities pursuant to its Attachment P planning processes.

**Commission Determination**

81. Western recovers the costs for planning activities through its power rates. Accordingly, we find that Western's Attachment P substantially conforms with Order No. 890's requirements regarding cost recovery of transmission planning costs.<sup>120</sup>

**D. Order No. 676-C**

82. As noted above, Western also filed revisions to comply with the requirements of Order No. 676-C.<sup>121</sup> Western's revisions adopt and incorporate by reference certain

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<sup>119</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

<sup>120</sup> The Commission has previously accepted a similar filing addressing the recovery of planning costs. Second EPE Order, 128 FERC ¶ 61,063 at P 39.

<sup>121</sup> Order No. 676-C required public utilities to modify their open access transmission tariffs to incorporate by reference the North American Energy Standards Board's Wholesale Electric Quadrant Version 001 standards, and stated that the revisions

(continued...)

Wholesale Electric Quadrant standards promulgated by the North American Energy Standards Board.

83. Western's Order No. 676-C related revisions are in satisfactory compliance with Order No. 676-C, and are accepted for filing, effective October 1, 2008, consistent with the effective date established in Order No. 676-C for these standards.

The Commission orders:

(A) Western's petition for declaratory order is hereby conditionally granted, as discussed in the body of this order, effective December 1, 2009.

(B) Western's request for exemption from the filing fee is hereby granted.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

Document Content(s)

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