

ATCLLC of the Midwest ISO Tariff,⁴ in Docket No. OA08-42-002, in compliance with the Commission's directives in the May 21 Planning Order.

2. In this order, we will accept Midwest ISO's compliance filing in Docket No. OA08-53-002, as modified, as in compliance with the May 21 Planning Order, subject to a further compliance filing. In addition, we will accept American Transmission Company's compliance filing in Docket No. OA08-42-002, as modified, as in compliance with the May 21 Planning Order, subject to a further compliance filing.

Background

3. In Order No. 890,⁵ the Commission reformed the *pro forma* open access transmission tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their OATT (Attachment K).

4. The nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;⁶ (6) dispute

⁴ American Transmission Company is a transmission-owning member of Midwest ISO and Midwest ISO provides for service over its facilities under the Midwest ISO Tariff. As administrator of the Midwest ISO Tariff, Midwest ISO joined American Transmission Company in this compliance filing to amend the Midwest ISO Tariff; however, in this order, we refer to the proposed revisions to Attachment FF-ATCLLC of the Midwest ISO Tariff as American Transmission Company's proposals.

⁵ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁶ 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.

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 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,⁷ must be specific and clear in order to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

5. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as Midwest ISO, the Commission explained that when it initially approved these processes, they were found to be consistent with or superior to the existing *pro forma* OATT. However, because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO either to reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order Nos. 890 and 890-A.⁸

6. On December 7, 2007, Midwest ISO made its filing in compliance with Order No. 890's planning requirements in Docket No. OA08-53-000. In the Midwest ISO May 15 Compliance Order,⁹ the Commission accepted that compliance filing, as modified, to be effective December 7, 2007. On August 13, 2008, Midwest ISO made its filing in compliance with the Midwest ISO May 15 Compliance Order in Docket No. OA08-53-001. In the May 21 Planning Order, the Commission accepted that compliance filing, as modified. The Commission also directed Midwest ISO to file, in a compliance filing to be submitted within 60 days of the date of the order, revisions to Attachment FF addressing, among other things: (1) Comparability; and (2) Stakeholder Involvement at

⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 439; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 174-75.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164 (2008) (Midwest ISO May 15 Compliance Order).

Local Planning Level and Integration of Transmission Owners' Local Plans at the Sub-Regional Planning Meeting Level.¹⁰

7. Also on December 7, 2007, American Transmission Company made its filing in compliance with Order No. 890's planning requirements in Docket No. OA08-42-000. In the American Transmission Company May 15 Compliance Order,¹¹ the Commission accepted that compliance filing, as modified, to be effective December 7, 2007. On August 13, 2008, American Transmission Company made its filing in compliance with the American Transmission Company May 15 Compliance Order in Docket No. OA08-42-001. In the May 21 Planning Order, the Commission accepted that compliance filing, as modified.¹² The Commission also directed American Transmission Company to file, in a compliance filing to be submitted within 60 days of the date of the order, revisions to Attachment FF-ATCLLC addressing the comparability transmission planning principle.

Docket No. OA08-53-002

A. Midwest ISO Compliance Filing

8. On July 20, 2009, in Docket No. OA08-53-002, Midwest ISO filed proposed revisions to Attachment FF of the Midwest ISO Tariff to comply with the Commission's directives in the May 21 Planning Order (Midwest ISO Compliance Filing).

¹⁰ The Commission accepted Midwest ISO's proposal to integrate the majority of its transmission owners' local planning functions into Midwest ISO's Attachment FF regional planning process, in place of each transmission owner filing a separate planning process attachment. *See* Midwest ISO May 15 Compliance Order, 123 FERC ¶ 61,164 at P 124, n.113. American Transmission Company declined to adopt this approach and engages in local planning through a separate American Transmission Company-specific local planning process provided in Attachment FF-ATCLLC to the Midwest ISO Tariff. American Transmission Company's local planning process is addressed below under Docket No. OA08-42-002.

¹¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,165 (2008) (American Transmission Company May 15 Compliance Order).

¹² The Commission addressed the filings made in compliance with both the Midwest ISO May 15 Compliance Order and the American Transmission Company May 15 Compliance Order together in the May 21 Planning Order.

B. Notice of Filing and Responsive Pleadings

9. Notice of Midwest ISO's filing was published in the *Federal Register*, 74 Fed. Reg. 37996 (2009), with interventions and protests due on or before August 10, 2009.

10. Corn Belt Energy Corporation, Madison Gas & Electric Co., Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, and Wisconsin Public Power Inc. (collectively, Midwest TDUs) filed a protest. Midwest ISO Transmission Owners (Midwest ISO TOs)¹³ filed supporting comments. Midwest ISO TOs filed an answer to Midwest TDUs protest.

C. Discussion**1. Procedural Matters**

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the Midwest ISO TOs' answer and will, therefore, reject it.

2. Substantive Matters

12. We find that Midwest ISO's revised Attachment FF transmission planning process, with certain modifications, complies with the May 21 Planning Order. Accordingly, we will accept Midwest ISO's compliance filing in Docket No. OA08-53-002, as modified, to be effective December 7, 2007, for the Third Revised Volume, and

¹³ Midwest ISO Transmission Owners consist of: American Transmission Systems, Incorporated; City of Columbia Water and Light Department (Columbia, Missouri); City Water, Light & Power (Springfield, Illinois); Duke Energy Business Services, LLC; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company, LLC; ITC Midwest LLC; Manitoba Hydro; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; Minnesota Power; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin); Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

January 6, 2009, for the Fourth Revised Volume, as requested.¹⁴ We also direct Midwest ISO to file, within 30 days of the date of this order, a further compliance filing as discussed below.

13. Although the Commission will accept Midwest ISO's compliance filing, subject to a further compliance filing to address certain discrete issues, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission 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.

a. Comparability

i. May 21 Planning Order

14. The Commission found in the May 21 Planning Order that Midwest ISO's Attachment FF, with certain revisions, complies with the Commission's directives to identify how it will treat resources on a comparable basis and determine comparability for purposes of transmission planning.¹⁵ The Commission also found that Attachment FF and the Transmission Business Planning Manuals clearly indicate how Midwest ISO will select the preferred solution from competing alternatives such that all types of resources

¹⁴ See *supra* note 2. On August 26, 2008, Midwest ISO gave notice that the previously proposed September 9, 2008 effective date for the commencement of the Ancillary Services Market would be deferred, and requested that the Commission defer action in certain Ancillary Services Market-related dockets. See *Notice of the Midwest Independent Transmission System Operator, Inc.'s Deferral of Effective Dates*, Docket No. ER07-1372-002, *et al.* (Aug. 26, 2008). On November 3, 2008, Midwest ISO notified the Commission that its Ancillary Services Market would commence on January 6, 2009, and requested that the Commission act in certain Ancillary Services Market-related dockets. On December 18, 2008, the Commission approved the January 6, 2009 start-up date of the Ancillary Service Market. See *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,318 (2008).

¹⁵ May 21 Planning Order, 127 FERC ¶ 61,169 at P 22.

are considered on a comparable basis. However, the Commission directed Midwest ISO to submit, in a compliance filing, revised tariff language to clarify that the “alternatives stakeholders can propose may include transmission, generation, and demand resources and, that Midwest ISO will review and evaluate such alternatives on a comparable basis.”¹⁶ Furthermore, the Commission directed Midwest ISO to revise section 2.3(III) of the Transmission Planning Business Practice Manual to also specifically include stakeholders in the process of reviewing cost estimates of identified alternatives.¹⁷

ii. Midwest ISO Filing

15. Midwest ISO states that it has complied with the Commission’s directives with respect to the comparability principle. Midwest ISO states that it has revised section I.B.1.b of Attachment FF to provide that the alternatives stakeholders can propose may include transmission, generation, and demand resources and that Midwest ISO will review and evaluate such alternatives on a comparable basis. Specifically, Midwest ISO proposes to revise section I.B.1.b, as follows:

The submitted projects of such Transmission Owners shall be considered potential alternatives to system needs identified, and as such must be submitted when initially identified as a potential system solution, in order to permit the evaluation of such projects along with other potential alternatives that may be proposed by stakeholders or the Transmission Provider, in the [Sub-regional Planning Meeting] processes. Such alternatives may include transmission, generation, and demand-side resources. The Transmission Provider will review and evaluate such alternatives on a comparable basis, taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff.^[18]

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Midwest ISO Compliance Filing at 2 (citing Midwest ISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Fourth Revised Sheet No. 3431). The underlined portion refers to new language proposed by Midwest ISO to comply with the Commission’s directives.

16. In addition, Midwest ISO states that it has revised section 2.3(III) of its Transmission Planning Business Practice Manual to include stakeholders in the cost review process of such identified alternatives.

iii. Commission Determination

17. We find that Midwest ISO's proposed language in section 2.3(III) of its Transmission Planning Business Practice Manual complies with the requirement to specifically include stakeholders in the process of reviewing cost estimates of identified alternatives. We also find that the revisions to section I.B.1.b of Attachment FF comply with the requirement for Midwest ISO to clarify that alternatives stakeholders can propose may include transmission, generation, and demand resources. However, we find that Midwest ISO has only partially complied with the requirement to clarify that it will review and evaluate such alternatives on a comparable basis.

18. The proposed language in section I.B.1.b of Attachment FF states, in relevant part, that Midwest ISO will review and evaluate alternatives proposed by stakeholders on a comparable basis, "taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff." It is not clear from this language what contractual commitments generation and demand side solutions must meet and whether such commitments are comparable to those required of transmission solutions. In addition, the proposed language does not indicate the Tariff provisions to which it is referring. Therefore, we direct Midwest ISO, in the compliance filing we require below, to revise section I.B.1.b to either delete the phrase "taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff" or to revise it to clarify what contractual commitments will apply to generation and demand side solutions, how they are comparable to the commitments that apply to transmission solutions, and which Tariff provisions are applicable to this section.

b. Midwest ISO Transmission Owner Local Planning

i. May 21 Planning Order

19. The Commission found in the May 21 Planning Order that Midwest ISO's Attachment FF, with certain revisions, complied with the Commission's directives to provide for an open and transparent local planning process.¹⁹ The Commission found that Attachment FF, as revised, provides for, among other things, stakeholder input and involvement in the transmission owners' local planning processes prior to the first Sub-Regional Planning Meeting of each planning cycle, including: (1) stakeholder review of

¹⁹ May 21 Planning Order, 127 FERC ¶ 61,169 at P 57.

local planning criteria, models and assumptions; and (2) an opportunity for stakeholders to review and comment on transmission owner's local system plans.

20. Specifically, the Commission accepted revisions to Attachment FF providing for the transmission owner's local planning criteria and assumptions used in each transmission owner's local plan to be posted on the transmission owner's website with links to such posting on Midwest ISO's website.²⁰ In addition, the Commission accepted revisions to Attachment FF providing that each transmission owner's local plan, consisting of a list of planned and proposed projects, be posted on Midwest ISO's website by September 15 each year for review by the Planning Advisory Committee, Planning Subcommittee, and the Sub-Regional Planning Meeting participants.²¹ Lastly, the Commission accepted revisions to Attachment FF providing that stakeholders may submit initial written comments on such draft plans within 45 days of the postings (i.e., by October 30 of each year), or that stakeholders may otherwise comment on the transmission owner's local plans at the Sub-Regional Planning Meetings.²²

21. However, the Commission required Midwest ISO to revise Attachment FF in certain respects. First, the Commission directed Midwest ISO to revise section I.B.1.a.xii of Attachment FF to also provide that the models each transmission owner uses in its planning process be made available in addition to the criteria and assumptions the transmission owner uses in its local planning.²³ Second, the Commission required Midwest ISO to define the process by which stakeholders can comment on criteria, assumptions and models prior to draft transmission plans being completed.²⁴ Third, the Commission required Midwest ISO to specify in Attachment FF to whom stakeholder comments should be addressed, whether in regards to the local plans or underlying criteria, assumptions and models.²⁵

22. In addition, the Commission required Midwest ISO to correct an error where Midwest ISO included the phrase "including proposed transmission projects" in section I.A.i of Attachment FF instead of I.A.iii, as directed by the Commission in the Midwest

²⁰ *Id.* P 58.

²¹ *Id.*

²² *Id.*

²³ *Id.* P 59.

²⁴ *Id.* P 60.

²⁵ *Id.* P 62.

ISO May 15 Compliance Order.²⁶ Lastly, the Commission required Midwest ISO to revise section I.B.1.a of Attachment FF to remove the implication that stakeholder participation in a transmission owner's planning process will not begin until the end of the transmission owner's own planning process. Specifically, the Commission directed Midwest ISO to revise section I.B.1.a of Attachment FF, as follows:²⁷

The Transmission Owners shall include the following specific local planning steps in order to develop plans for potential inclusion in the regional plan, ~~after which such plans and alternatives shall be evaluated and discussed with stakeholders through~~ in accordance with the annual regional planning process as described in Section I.B.1.b of this Attachment FF, and in accordance with the regional planning principles of Section I.A of this Attachment.

ii. Midwest ISO Filing

23. Midwest ISO states that it has complied with the Commission's directives in the May 21 Planning Order. First, Midwest ISO states that it has revised section I.B.1.a.xiii²⁸ to require posting of the models, in addition to the criteria and assumptions, each transmission owner uses by September 15 of each year. Section I.B.1.a.xiii now provides that if the transmission owner uses Midwest ISO models to identify proposed projects, the transmission owner need only identify which Midwest ISO model is used, and Midwest ISO will maintain a link on its website to those models. In addition, that section now states that if the transmission owner uses models other than Midwest ISO models, it must provide those models to Midwest ISO for posting, or provide a link to those models to be posted on Midwest ISO's website at the same time that the related plan proposals are provided, subject to appropriate non-disclosure agreements in accordance with the critical energy infrastructure information policies of the transmission owner providing the model link.

24. Second, Midwest ISO states that it has revised Attachment FF to provide stakeholders with an opportunity to not only comment on the transmission owner's draft

²⁶ *Id.* P 64 (citing Midwest ISO May 15 Compliance Order, 123 FERC ¶ 61,164 at P 138).

²⁷ *Id.* P 65 (citing May 21 Planning Order, 127 FERC ¶ 61,169 at P 65).

²⁸ Midwest ISO states it is more appropriate to revise section I.B.1.a.xiii than the Commission requirement to revise section I.B.1.a.xii. The Commission agrees that section I.B.1.a.xiii is the appropriate section.

transmission plans, but also the transmission owner's local planning criteria, assumptions, and models. Specifically, Midwest ISO revised section I.B.1.b of Attachment FF to provide stakeholders with 45 days to comment on the transmission owner's local planning criteria, assumptions, and models, as well as the draft transmission plans that are posted by September 15 of each year. Third, Midwest ISO revised section I.B.1.b of Attachment FF to specify that stakeholder comments should be directed to the appropriate Midwest ISO Sub-Regional Planning Meeting contact posted on Midwest ISO's website. Attachment FF provides that Midwest ISO will direct any such comments received within the 45 day comment period to the identified transmission owner within five working days of receipt. In addition, Attachment FF provides that Midwest ISO will address any unresolved stakeholder issues through the Sub-Regional Planning Meeting process.

25. In addition, Midwest ISO states that it complied with the Commission's directive to include the phrase "including proposed transmission projects" in section I.A.iii of Attachment FF and remove it from section I.A.i. Lastly, Midwest ISO revised section I.B.1.a of Attachment FF to remove the implication that stakeholder participation in a transmission owner's planning process will not begin until the end of the transmission owner's own planning process.

iii. Protests/Comments

26. Midwest TDUs state that Midwest ISO does not comply with the requirement that stakeholders be given the opportunity to comment on models, assumptions and criteria at the local, conceptual level before transmission owners' draft transmission plans are completed. Midwest TDUs argue that, instead, Midwest ISO proposes that stakeholders comment on transmission owner models, criteria and assumptions at the same time that they comment on draft local plans (i.e., comments from stakeholders are due 45 days after the draft local plans are posted on September 15).²⁹ Moreover, Midwest TDUs argue that Midwest ISO proposes that comments will be provided at the regional, not the local level.³⁰ In addition, Midwest TDUs argue that stakeholders are directed to provide their comments on the draft plans as well as the models, criteria and assumptions to Midwest ISO's Sub-Regional Planning Meeting contact, not the relevant transmission

²⁹ Midwest TDUs Protest, Docket No. OA08-53-002, at 4-5 (citing Midwest ISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3430 and Original Sheet No. 3430A).

³⁰ *Id.* at 5.

owner.³¹ Midwest TDUs state that Midwest ISO will then convey those comments to the relevant transmission owner and will “address any unresolved stakeholder issues through the [Sub-Regional Planning Meeting] process.”³² Midwest TDUs argue that “Midwest ISO’s proposal that stakeholders comment to [Midwest ISO] on [transmission owner] models, criteria and assumptions *after* draft local transmission plans are developed does not comply with the Commission’s explicit requirement that stakeholders be allowed to ‘comment on the transmission owner’s criteria, assumptions and models, *prior to draft transmission plans being completed.*’”³³

27. To that end, Midwest TDUs argue that the transmission owners should be required to post their models early in the planning process, along with their planning assumptions and criteria, while plans remain conceptual, rather than at the end, after draft plans have been developed. In addition, Midwest TDUs argue that each transmission owner should also be required to regularly update its posted models, criteria and assumptions to the extent they change during the development of local transmission proposals. Furthermore, Midwest TDUs argue that Midwest ISO should be required to include language in Attachment FF stating that stakeholders may submit comments on a transmission owner’s models, criteria and assumptions directly to the relevant transmission owner at any time in advance of the draft transmission plans completion and posting, and to Midwest ISO after the September 15 posting date.

28. Midwest ISO TOs state that they support the revisions regarding the integrated local planning process and urge the Commission to accept the proposed revisions to Attachment FF in compliance with the May 21 Planning Order. Midwest ISO TOs states that the Midwest ISO Compliance Filing revises Attachment FF to address, among other things, the Commission’s directives to provide: (1) access to transmission owner models; and (2) an opportunity for stakeholders to comment on the transmission owner’s criteria, assumptions, and models.³⁴ Midwest ISO TOs state that section I.B.1.a.xiii of Attachment FF provides for the posting of power flow models used in the development of each transmission owner’s current local planning proposal. Additionally, Midwest ISO

³¹ *Id.* (citing Midwest ISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Original Sheet No. 3430A).

³² *Id.* (citing Midwest ISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Original Sheet No. 3430A).

³³ *Id.* (citing May 21 Planning Order, 127 FERC ¶ 61,169 at P 60 (emphasis added by Midwest TDUs)).

³⁴ Midwest ISO TOs Comments, Docket No. OA08-53-002, at 2 (citing May 21 Planning Order, 127 FERC ¶ 61,169 at P 59-62).

TOs state that section I.B.1.b of Attachment FF provides the process for stakeholders to submit comments on the criteria, assumptions and models to the appropriate Sub-Regional Planning Meeting contact who will forward the comments to the appropriate transmission owner.

iv. **Commission Determination**

29. We find that Midwest ISO's Attachment FF, with certain revisions ordered below, complies with the Commission's directives in the May 21 Planning Order. First, we agree with Midwest TDUs that Midwest ISO does not comply with the requirement that stakeholders be given the opportunity to comment on models, assumptions and criteria at the local, conceptual level before transmission owner's draft transmission plans are completed. We find that Midwest ISO's proposal to allow stakeholders to comment on transmission owner models, criteria and assumptions at the same time that they comment on draft local plans (i.e., comments from stakeholders are due 45 days after the September 15 posting date) does not comply with the Commission's directive that Midwest ISO "define the process by which stakeholders can comment on the transmission owner's criteria, assumptions and models, prior to draft transmission plans being completed."³⁵ Therefore, we will require Midwest ISO to modify Attachment FF, in the compliance filing ordered below, to define the process by which stakeholders can comment on transmission owners' posted criteria, assumptions and models prior to draft local plans being posted on September 15. We also agree with Midwest TDUs that Midwest ISO must revise Attachment FF, in the compliance filing ordered below, to require transmission owners to regularly update their posted models, criteria and assumptions to the extent they change during the development of local transmission proposals.

30. However, we disagree with Midwest TDUs that Midwest ISO should be required to include language in Attachment FF directing stakeholders to submit comments on a transmission owner's models, criteria and assumptions directly to the relevant transmission owner at any time in advance of the draft transmission plans being completed. We find it appropriate that stakeholder comments are directed to the appropriate Midwest ISO Sub-Regional Planning Meeting contact, as proposed, for distribution to the relevant transmission owner. As the Commission stated in the May 21 Planning Order, Midwest ISO is ultimately responsible for ensuring that stakeholder issues are addressed.³⁶ As such, we find it necessary for stakeholder comments to be

³⁵ May 21 Planning Order, 127 FERC ¶ 61,169 at P 60.

³⁶ *Id.*

directed to the appropriate Midwest ISO Sub-Regional Planning Meeting contact for distribution in order for Midwest ISO to adequately track issues and to ensure that stakeholder issues are resolved.

c. Other Issues

i. May 21 Planning Order

31. The Commission found in the May 21 Planning Order that Midwest ISO inappropriately deleted language from Sheet No. 1833 when it inserted proposed language addressing the recovery of planning costs.³⁷ The Commission required Midwest ISO to include this language in its compliance filing. In addition, the Commission determined that Midwest ISO did not properly include a redline Sheet No. 1834G to show language was moved to Original Sheet No. 1834G.01.³⁸ Specifically, the Commission found that provisions in section I.A.2.c.ii.b through I.A.2.c.ii.d on Original Sheet No. 1834G are redundant on Original Sheet No. 1834G.01. The Commission directed Midwest ISO to remove the redundant language.

ii. Midwest ISO Filing

32. Midwest ISO states that it has complied with the Commission's directives to re-insert inadvertently deleted language from Sheet No. 1833. In addition, Midwest ISO states that it has complied with the Commission's directives to remove certain redundant language. Midwest ISO states that language in section I.A.2.c.ii.b through I.A.2.c.ii.d on Original Sheet No. 1834G has been removed, and now only appears on Original Sheet No. 1834G.01.

iii. Commission Determination

33. We find that Midwest ISO properly re-inserted language that was removed from Sheet No. 1833. In addition, the Commission finds that Midwest ISO also properly removed certain redundant language on Sheet No. 1834G.

³⁷ *Id.* P 36.

³⁸ *Id.* P 73.

Docket No. OA08-42-002**A. American Transmission Company Compliance Filing**

34. On July 20, 2009, in Docket No. OA08-42-002, American Transmission Company and Midwest ISO filed proposed revisions to Attachment FF-ATCLLC to Midwest ISO's Tariff to comply with the Commission's directives in the May 21 Planning Order.

B. Notice of Filing and Responsive Pleadings

35. Notice of American Transmission Company's filing in Docket No. OA08-42-002 was published in the *Federal Register*, 74 Fed. Reg. 37996 (2009), with interventions and protests due on or before August 10, 2009. None was filed.

C. Discussion

36. We find that American Transmission Company's revised Attachment FF-ATCLLC transmission planning process, with certain modifications, complies with the May 21 Planning Order. Accordingly, we will accept American Transmission Company's compliance filing in Docket No. OA08-42-002, as modified, to be effective December 7, 2007, for the Third Revised Volume, and January 6, 2009, for the Fourth Revised Volume,³⁹ subject to a further compliance filing.⁴⁰

1. May 21 Planning Order

37. The Commission found that American Transmission Company, with certain revisions, complied with the Commission's directives to identify how it will treat resources on a comparable basis and determine comparability for purposes of transmission planning.⁴¹ However, the Commission found that although Attachment FF-ATCLLC generally describes the process by which American Transmission Company will choose among workable solutions, the Commission required American Transmission Company to submit revised tariff language to clarify how American Transmission

³⁹ See *supra* notes 2, 14.

⁴⁰ Although we are accepting American Transmission Company's compliance filing, subject to a further compliance filing to address certain discrete issues, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date.

⁴¹ May 21 Planning Order, 127 FERC ¶ 61,169 at P 82.

Company will evaluate competing solutions against each other.⁴² In addition, with regard to economic planning studies, the Commission found that American Transmission Company does not address how it will ensure comparable treatment of resources in its economic planning process.⁴³ To that end, the Commission directed American Transmission Company to submit revised tariff language clearly indicating that any stakeholder is able to submit a request for American Transmission Company to study potential upgrades or other investments necessary to integrate any resource, whether transmission, generation or demand resources, identified by the stakeholder.⁴⁴

2. American Transmission Company Filing

38. American Transmission Company states that it has revised Attachment FF-ATCLLC to comply with the Commission's directives. With regard to the evaluation of competing solutions, American Transmission Company proposes to revise section VI.D.6 of Attachment FF-ATCLLC, as follows:

6. Network Assessment Study Results. Upon the completion of its assessment of its Network requirements, ATCLLC shall publish and distribute to all parties wishing to receive a copy, its [Ten Year Assessment]. The [Ten Year Assessment] shall set forth the information obtained, the assumptions used in making such evaluation of its network requirements and shall identify the Transmission Facilities construction projects, including all Distribution Interconnections, Generation Interconnections, and other construction projects that ATCLLC has determined will meet the needs of its Interconnection Customers, Transmission Customers and the owners of the distribution systems interconnected to ATCLLC's Transmission Facilities over the next ten (10) year period. In determining the Transmission Facilities to be included in the [Ten Year Assessment], ATCLLC shall include those Transmission Facilities that provide the most benefit to meet the needs of its Distribution Customers, Transmission Customers and all other parties whether interconnected to ATCLLC's Transmission Facilities or not, taking into account the effect of any demand response resource on overall network requirements. ATCLLC will determine the Transmission Facilities to be included in the [Ten Year Assessment] based upon a comparison of the reasonably estimated costs of construction of the Transmission Facilities of

⁴² *Id.*

⁴³ *Id.* P 83.

⁴⁴ *Id.*

the various alternatives compared to the ability of such alternatives to meet the anticipated needs of its Distribution Customers, Transmission Customers, and all other parties whether interconnected to ATCLLC's Transmission Facilities or not. The Transmission Facilities construction projects shall be identified as provisional, proposed, and planned, as defined in the [Ten Year Assessment] and this Attachment FF-ATCLLC.^[45]

39. With regard to economic planning studies, American Transmission Company proposes to revise sections VI.F.1 and VI.F.2, as follows:

1. Economic Evaluations. ATCLLC, at the request of one or more ~~interconnected~~ parties, irrespective of whether they are a Distribution Customer, Transmission Customer or interconnected in any manner to ATCLLC's Transmission Facilities, or upon its own determination, may make an assessment of its Transmission Facilities to determine whether the construction, modification, addition or extension of ATCLLC's Transmission Facilities can provide economic benefits to such party without detriment to its interconnected parties when compared to the cost of constructing the proposed Transmission Facilities to integrate any resource, whether transmission, generation or demand resources.^[46]

2. Request for Economic Evaluations. Any ~~interconnected~~ party, whether an Interconnection Customer or Transmission Customer or not, may, by March 1 of any year, request that ATCLLC perform such study, assessment or analysis for any proposed Economic Project. By no later than April 15 of each year, ATCLLC shall determine the two proposed Economic Projects that, based on a preliminary assessment, could provide an economic benefit greater than the costs of constructing any required Transmission Facilities.^[47]

⁴⁵ See American Transmission Company Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3561.

⁴⁶ See American Transmission Company Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3577.

⁴⁷ See American Transmission Company Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3578.

a. **Commission Determination**

40. We find that American Transmission Company's proposed language in section VI.D.6, Network Assessment Study Results, of Attachment FF-ATCLLC partially complies with the Commission's directives in the May 21 Planning Order. The proposed language clarifies that American Transmission Company will evaluate Transmission Facilities to be included in its plan by comparing the reasonably estimated costs of construction of alternatives to their ability to meet anticipated stakeholder needs. However, American Transmission has not complied with the requirement to clarify how it will evaluate *all* competing solutions, whether transmission, generation or demand resources, against each other. Therefore, we direct American Transmission Company, in the compliance filing we require below, to revise section VI.D.6 to clearly state how it will evaluate all competing solutions (not just Transmission Facilities) against each other.

41. We also find that the proposed language on economic planning studies partially complies with the Commission's directives in the May 21 Planning Order. The language indicates that any stakeholder is able to submit a request for American Transmission Company to perform an economic planning study. However, section VI.F.1, Economic Evaluations, states that American Transmission Company will evaluate whether an alternative that a party proposes for study "can provide economic benefits to such [requesting] party without detriment to [American Transmission Company's] interconnected parties." This appears to inappropriately limit the economic evaluation American Transmission Company will perform to a comparison of a proposed project's economic benefits for only the party that proposed the study to the benefits (or detriment) for all interconnected parties, instead of an overall economic evaluation of the proposed project. In addition, this section states that the economic evaluation will consider the cost of constructing the proposed *Transmission Facilities to integrate any resource, whether transmission, generation or demand resources*. This does not comply with the requirement in the May 21 Planning Order that stakeholders must be able to request that American Transmission Company study any *potential upgrades or other investments* necessary to integrate any resource, whether in transmission, generation or demand resources, identified by the stakeholder. Accordingly, we direct American Transmission Company, in the compliance filing we require below, to revise section VI.F.1 to remove the limitation on which economic benefits American Transmission Company will evaluate and to state that the economic planning studies can include potential upgrades or other investments (not just Transmission facilities) necessary to integrate any resource, whether transmission, generation or demand resources, identified by the stakeholder.

42. Similarly, the proposed language in section VI.F.2, Request for Economic Evaluations, partially complies with the Commission's directives in the May 21 Planning Order because it allows any stakeholder to request that American Transmission Company perform an economic planning study. However, this section does not state that the "Economic Project" for which a stakeholder may request a study includes potential

upgrades or other investments necessary to integrate any resource, whether transmission, generation or demand resources. Therefore, we direct American Transmission Company, in the compliance filing we require below, to revise section VI.F.2 to state that the Economic Project can include any resource, whether transmission, generation, or demand resources.

The Commission orders:

(A) Midwest ISO's compliance filing in Docket No. OA08-53-002 is hereby accepted, as modified, effective December 7, 2007, for the Third Revised Volume, and January 6, 2009, for the Fourth Revised Volume, subject to a further compliance filing, as discussed in the body of this order.

(B) Midwest ISO is hereby directed to submit a compliance filing in Docket No. OA08-53-002, within 30 days of the date of this order, as discussed in the body of this order.

(C) American Transmission Company's compliance filing in Docket No. OA08-42-002 is hereby accepted, as modified, effective December 7, 2007, for the Third Revised Volume, and January 6, 2009, for the Fourth Revised Volume, subject to a further compliance filing, as discussed in the body of this order.

(D) American Transmission Company and Midwest ISO are hereby directed to submit a compliance filing in Docket No. OA08-42-002, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.