

136 FERC ¶ 61,162
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.

Sky River, LLC

Docket Nos. ER11-3277-000
ER11-3277-001

ORDER CONDITIONALLY ACCEPTING IN PART AND REJECTING
IN PART TARIFF FILING, GRANTING REQUEST FOR WAIVER,
AND DIRECTING COMPLIANCE FILING

(Issued September 6, 2011)

1. This order addresses an open access transmission tariff (OATT) submitted by Sky River, LLC (Sky River) in response to a Commission order issued in Docket No. ER11-2214-000 on January 31, 2011.¹ As discussed below, the Commission will conditionally accept in part and reject in part Sky River's proposed OATT, with some modifications, to become effective April 2, 2011, and direct a subsequent compliance filing. We will also grant a request for waiver, as discussed below.

I. Background

2. Sky River states that it is a Delaware limited-liability company and wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (NextEra Energy), also a Delaware limited-liability company and a wholly-owned indirect subsidiary of NextEra Energy, Inc. (NextEra). Sky River adds that it owns and operates a 77 MW wind-powered electric generating facility (Sky River Wind Facility) located in Kern County, California, and an interest in the Wilderness Line, a 9-mile, 230 kV generator tie-line.² Several qualifying facilities³ (collectively, Co-Tenants) also own an interest in the Wilderness Line and are parties to a co-tenancy agreement originally executed in 1990

¹ *Sky River LLC*, 134 FERC ¶ 61,064 (2011) (January 31 Order).

² Sky River Transmittal Letter at 2.

³ Qualifying facilities are defined in the Public Utilities Regulatory Policies Act of 1978, as amended, 16 U.S.C. § 2601 *et seq.* (2006).

(Co-Tenancy Agreement).⁴ The output of the Sky River Wind Facility and other facilities using the Wilderness Line is transmitted over the Wilderness Line and then over other transmission facilities before reaching the transmission grid at Southern California Edison Company's (SoCal Edison) Vincent Substation.

3. Sky River states that Windstar Energy, LLC (Windstar) is a qualifying facility and a California limited-liability company that is developing a 60 MW wind-powered electric generating facility (Windstar Wind Facility) and is not affiliated with Sky River.⁵ Windstar has entered into a generator interconnection agreement (GIA) with SoCal Edison and the California Independent System Operator Corporation, dated October 27, 2009, for the interconnection of the Windstar Wind Facility at SoCal Edison's Vincent Substation. Windstar requested use of Sky River's unused interest in the Wilderness Line to enable the output of the Windstar Wind Facility to reach the point of interconnection with SoCal Edison.

4. Sky River, as Owner, and Windstar, as Licensee, entered into the Common Facilities Agreement (CFA) to allow Windstar to connect the Windstar Wind Facility to the Wilderness Line and use the Wilderness Line to transmit power from the Windstar Wind Facility to other downstream facilities in a manner similar to that of the owners of the Wilderness Line.

5. On November 30, 2010, Sky River filed the CFA with the Commission, requesting that we accept it and grant waiver of the requirements of Order Nos. 888, 889, and 890 to file an OATT and maintain an Open-Access Same Time Information System (OASIS). In the January 31 Order, the Commission rejected the CFA and granted in part and denied in part Sky River's request for waiver of the requirements of Order Nos. 888, 889, and 890, and their implementing regulations. Specifically, the Commission found that Sky River's request for waiver of the requirements of Order Nos. 888 and 890 was not justified because Sky River received a request for transmission service from Windstar, a non-affiliated generator, and therefore did not meet the Commission's requirements for

⁴ Under the Co-Tenancy Agreement, Sky River owns sufficient transmission capacity on the Wilderness Line for the output of the Sky River Wind Facility, and also owns additional, unused transmission capacity. Each Co-Tenant uses its share of transmission service for itself; no transmission service is provided by one party to another.

⁵ Based on a May 12, 2011 news release from Western Wind Energy Corporation, turbines and towers are currently being installed at the Windstar Wind Facility site and are expected to be completed by the end of September 2011. *Western Wind Energy News Releases*, http://www.westernwindenergy.com/s/News_Releases.asp.

waiver of the obligation to file an OATT.⁶ The Commission stated that any transmission service provided to non-owners over the Wilderness Line must be made pursuant to an OATT.⁷ Accordingly, in the January 31 Order, the Commission directed Sky River to file an OATT within 60 days. The Commission granted Sky River's request for waiver of the requirements of Order No. 889 to establish and maintain an OASIS, finding that Sky River met the definition of a "small public utility" due to its annual electric sales of no more than 4 million MWh.⁸

II. Sky River's Filing

6. On April 1, 2011, as amended on April 7, 2011, and July 8, 2011, Sky River filed a proposed OATT with the Commission. Sky River asserts that its OATT complies with the directives in the January 31 Order, but it deviates from the *pro forma* OATT due the unique nature of the Wilderness Line. Specifically, Sky River explains that the proposed OATT includes non-conforming provisions that (1) limit the applicability of the OATT with respect to the ongoing use of the Wilderness Line by the Co-Tenants; (2) establish an OATT administrator; and (3) refer scheduling services to the interconnected transmission operator, SoCal Edison.⁹

7. Sky River requests waiver of the *pro forma* OATT provisions related to network service, ancillary services, and various other requirements that Sky River contends are not necessary given the use and radial nature of the Wilderness Line. Finally, Sky River proposes to modify or eliminate certain schedules and attachments in the *pro forma* OATT, consistent with the changes made in the body of the proposed OATT.¹⁰

8. On April 7, 2011, Sky River filed errata to the April 1, 2011 Filing, Docket No. ER11-3277-001. On June 3, 2011, Commission staff issued a data request to Sky River, asking Sky River to provide an explanation and support for (1) each proposed deviation from the *pro forma* OATT, (2) the proposed rate for firm and non-firm point-to-point transmission service, (3) the proposed real power loss factor, and (4) Sky River's

⁶ January 31 Order at P 13.

⁷ *Id.*

⁸ *Id.* P 14 and n.17.

⁹ Sky River Transmittal Letter at 4.

¹⁰ *Id.*

creditworthiness arrangements. On July 8, 2011, Sky River filed a response to the data request.¹¹

III. Notices and Interventions

9. Notices of Sky River's Filings were published in the *Federal Register*, 76 Fed. Reg. 19,986 (2010), 76 Fed. Reg. 21,723 (2010), and 76 Fed. Reg. 42,704 (2011), with interventions and protests due on or before April 22, 2011, April 28, 2011, and July 29, 2011. On April 25, 2011, Windstar filed a motion to intervene in support of the Sky River Filings. On May 5, 2011, NextEra Energy filed comments.¹² No protests or comments in opposition to the filings were received.

IV. Discussion

A. Procedural Matters

10. Under Rule 214 of the Commission's Rules of Practice and Procedures,¹³ a timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

1. NextEra Energy's Comments

11. In its comments, NextEra Energy reminds the Commission that it participated in the Commission's February 22, 2011 technical conference to consider issues related to the ownership of and access to transmission projects arising after Order No. 888 was adopted.¹⁴ Specifically, NextEra Energy states that granting waivers, on a case-by-case basis, of the requirement to file an OATT after a generator lead line owner receives a request from a non-affiliate for interconnection or transmission service, can lead to inconsistent Commission decision-making and can be difficult for owners.¹⁵ NextEra Energy therefore urges the Commission to issue a proposed rule for the adoption of a

¹¹ See P 27-30 and 38-39, *infra*.

¹² NextEra filed its comments in Docket Nos. AD11-11-000, ER11-2970, and in Docket No. ER11-3277-000.

¹³ 18 C.F.R. § 385.214 (2011).

¹⁴ NextEra Energy Comments at 1.

¹⁵ *Id.* at 2.

“*pro forma* Radial OATT” to address all parties’ concerns and issues with regard to the development of generator lead lines.¹⁶

a. Commission Determination

12. The Commission acknowledges NextEra Energy’s comments and participation in the February 22, 2011 technical conference. Nevertheless, the Commission’s role in this case is to evaluate the OATT submitted by Sky River based on the Commission’s current rules and regulations, and therefore, the Commission finds that NextEra Energy’s request to issue a proposed rule is outside the scope of this proceeding.

B. Substantive Matters

13. In Order No. 890,¹⁷ the Commission allowed transmission providers to propose non-rate terms and conditions that differ from those in Order No. 890 if those provisions are consistent with or superior to the *pro forma* OATT.¹⁸ To the extent deviations from the *pro forma* OATT are necessary, we have found that applicant transmission owners must explain and support the deviations sufficiently,¹⁹ and we will evaluate proposed OATT deviations on a case-by-case basis.²⁰ The Commission will find that deviations from the *pro forma* OATT are just and reasonable only if the filing party explains how the deviations in the proposed OATT are consistent with or superior to the *pro forma* OATT, or fully explains how the *pro forma* provisions are not applicable given the filing party’s business model.²¹

¹⁶ *Id.* at 7, and *passim*.

¹⁷ *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).

¹⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 135.

¹⁹ *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009); *Zephyr Power Transmission, LLC*, 126 FERC ¶ 61,134, at P 47 (2009).

²⁰ *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at P 55-60 (2006) (*MATL*).

²¹ *Id.* P 60.

V. Sky River's Proposed OATT

A. Deviations Consistent with the Pro Forma OATT

14. In its response to Commission staff's data request, Sky River states that, following its earlier submission, it "identified a number of items that will require modification in a compliance filing."²² Specifically, Sky River claims that these modifications (1) replace *pro forma* OATT phrases, sentences, and definitions that were inadvertently deleted from a voluminous number of OATT provisions; or (2) replace certain sections mistakenly deleted or changes consistent with or superior to the *pro forma* OATT.²³

15. In addition, also in its response to Commission staff's data request, Sky River acknowledges that it made a number of inadvertent errors in its proposed OATT (e.g., deletion of the definition for ancillary services, removal of section 13.4 (Service Agreements), and removal of section 17.7 (Extensions for Commencement of Service)). Accordingly, Sky River commits to making revisions to correct these deficiencies and errors in a compliance filing.

16. Below, we address the Sky River OATT provisions that deviate from the Commission's *pro forma* OATT.

1. Designation of Transmission Operator

17. Sky River states that the functions or duties performed by the transmission operator under the *pro forma* OATT, as well as the scheduling services for the Windstar Wind Facility, will be referred to SoCal Edison, because SoCal Edison is the transmission operator interconnected to the Wilderness Line, and the entity with which Windstar has a GIA and power purchase agreement. Sky River further notes that *pro forma* Schedule 1 specifically provides that, "[t]his service can be provided only by the operator of the Control Area in which the transmission facilities used for the transmission service are located."²⁴ Sky River states that it is not a control area operator and is solely

²² Sky River Response to Data Request at 2.

²³ Sky River explains that it will revise sections 13.6 (Curtailment of Firm Transmission Service), 14.7 (Curtailment or Interruption of Service), 15.4 (Obligation to Provide Transmission Service that Requires Expansion or Modification of the Transmission System, Redispatch or Conditional Curtailment), 17.6 (Execution of Service Agreement), 19.1 (Notice of Need for System Impact Study), 19.3 (System Impact Study Procedures), and Schedules 7 and 8 to its proposed OATT.

²⁴ Sky River Transmittal Letter at 5.

interconnected to another radial line that is connected to the SoCal Edison system. Therefore, Sky River concludes that it is reasonable to leave these scheduling operations for the Windstar Wind Facility to SoCal Edison.²⁵

18. Sky River proposes to refer to itself as the “Transmitting Utility” under the proposed OATT, which it defines as the entity that “owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce and provides transmission service under the Tariff.” The proposed OATT administrator will be designated as the “Transmitting Utility’s agent” for purposes of implementing the provisions of the Sky River tariff.²⁶ According to Sky River, this proposed change from the *pro forma* OATT adds clarity for transmission customers by identifying the entities rendering specific transmission services under the proposed OATT. Sky River claims that it cannot provide a number of services that must instead be procured from the interconnecting transmission operator or SoCal Edison.²⁷

a. Commission Determination

19. Sky River asserts that its proposed OATT clarifies that it will not perform the traditional duties of a transmission provider. However, as the Commission determined in *Terra-Gen I*,²⁸ the use of the term “Transmitting Utility” has broader legal ramifications. Specifically, “Transmitting Utility” is a term defined in section 3(23) of the FPA, and is not an OATT term.²⁹ In *Terra-Gen I*, the Commission also stated that owners of radial facilities would be subject to its jurisdiction under sections 205 and 206 of the FPA, and we so find here.³⁰ Nevertheless, we agree that a distinction should be made to recognize Sky River’s limited role as the owner, but not the operator, of its radial facility. Therefore, we will deny Sky River’s request to use the term “Transmitting Utility,” but will allow Sky River to propose another term (one that recognizes the Commission’s concerns) in its compliance filing.

²⁵ *Id.*

²⁶ See proposed OATT at section 1.54.

²⁷ Sky River Response to Data Request at 3.

²⁸ *Terra-Gen Dixie Valley, LLC*, 134 FERC ¶ 61,027, at P 35-39 (*Terra-Gen I*), order on reh’g, 135 FERC ¶ 61,134 (2011) (*Terra-Gen II*) (collectively, *Terra-Gen*).

²⁹ 16 U.S.C. § 796(23) (2006).

³⁰ 134 FERC ¶ 61,027 at P 35.

2. OATT Administrator

20. Sky River proposes to establish an OATT administrator to serve as its designated agent for purposes of implementing the provisions of the OATT. According to Sky River, this will allow it to consolidate responsibilities under the OATT with other affiliates of NextEra Energy. Sky River further states that the OATT administrator will be responsible for completing system impact studies for individual interconnection and transmission service requests and will coordinate interconnection service, operations, maintenance, and expansion of the Sky River Wind Facility. However, Sky River asserts that Sky River itself will remain ultimately responsible for performance of all the transmitting utility's duties under the proposed OATT.³¹

a. Commission Determination

21. Consistent with our determination in *Sagebrush*,³² we find that Sky River's proposal to establish an OATT administrator to serve as its agent for purposes of implementing the provisions of the OATT is acceptable. The proposal will provide Sky River with an opportunity to consolidate the responsibilities under the OATT with other affiliates for administrative efficiency. Moreover, we find that this provision should help facilities coordinate between multiple entities in their respective locations, as well as in completing system impact studies for transmission service requests, and coordinating interconnection service, operations, maintenance, and expansion of the Sky River Wind Facility.

3. Network Service and Ancillary Services

22. Sky River requests waiver of the requirement to provide network service to customers of the Wilderness Line. Sky River states that the Wilderness Line is a single radial transmission line that is unable to provide such service.³³ To that end, Sky River has excluded from its proposed OATT all of the *pro forma* OATT references to native load customers, along with references to third-party sales and wholesale requirements customers, because Sky River claims that it does not make any wholesale or retail power sales.

23. In addition, Sky River requests waiver of the requirement to provide ancillary services to customers of the Wilderness Line. Sky River states that the Wilderness Line

³¹ Sky River Transmittal Letter at 5.

³² *Sagebrush, a California Partnership*, 130 FERC ¶ 61,093, at P 29 (2010), *order on reh'g and compliance filing*, 132 FERC ¶ 61,234 (2010) (*Sagebrush*).

³³ Sky River Transmittal Letter at 5.

is a private transmission line, used by Sky River and the Co-Tenants, without a balancing authority or the generation resources necessary to provide ancillary services.³⁴ Sky River further explains that Sky River's proposed OATT does not include Part 3, Schedules 1 through 6 and 9, and related definitions and ancillary services provisions contained in the *pro forma* OATT and its attachments.

a. Commission Determination

24. Consistent with our decision in *Sagebrush*, we find that Sky River's proposal to remove the above-described provisions from its proposed OATT for network service to be reasonable for the reasons Sky River proffers.³⁵ We also find that Sky River's exclusion of all *pro forma* references to native load customers, third-party sales, and wholesale requirements customers is appropriate and in keeping with our determinations in *Sagebrush*.³⁶ Sky River does not have native load customers and it does not make wholesale or retail power sales.

25. Consistent with our decision in *Terra-Gen I*, we find that Sky River's justification for deleting provisions for ancillary services is reasonable.³⁷ Sky River states that scheduling will be provided by SoCal Edison, reactive supply and voltage control will be obtained from the CAISO or determined in the interconnection process, and Sky River cannot supply regulation, frequency response, and energy imbalance service because it is not a balancing authority.³⁸ Finally Sky River adds that it cannot provide operating reserve-spinning reserve service or operating reserve-supplemental reserve service because wind turbines provide variable power only.³⁹ Therefore, because we find that deletion of ancillary service Schedules 1 through 6 and 9 is justified and consistent with our finding in *Terra-Gen I*, we will grant Sky River's request for waiver of these provisions.⁴⁰

³⁴ *Id.* at 6.

³⁵ *Sagebrush*, 130 FERC ¶ 61,093 at P 29.

³⁶ *Id.* P 30.

³⁷ *Id.* P 29.

³⁸ Sky River Response to Data Requests at 11-12.

³⁹ *Id.* at 13.

⁴⁰ See also *Sagebrush*, 130 FERC ¶ 61,093 at P 29; *MATL*, 116 FERC ¶ 61,071 at P 58.

4. Grandfathered Transmission Service for Existing Customers of the Wilderness Line

26. Sky River's proposed OATT modifies section 2.2 to continue, or grandfather, Sky River's existing use of the Wilderness Line by the Co-Tenants. Specifically, Sky River proposes that the Co-Tenants will have the right to continue to take service under the Co-Tenancy Agreement rather than the OATT. Sky River asserts that any future request for additional transmission service outside the terms of the Co-Tenancy Agreement will be governed by the proposed OATT.⁴¹ In support of its proposal, Sky River cites the Commission's order in *Sagebrush*.⁴²

a. Commission Determination

27. Consistent with the Commission's determinations in *Sagebrush*, we find acceptable Sky River's proposed amendments to allow for the grandfathering of existing transmission service currently provided to the Co-Tenants.⁴³ However, consistent with Sky River's commitment,⁴⁴ we require that any requests for additional firm service, whether made by one or more of the Co-Tenants or another third party, must be governed by the OATT. In Order No. 888,⁴⁵ the Commission determined that functional unbundling of wholesale services is necessary to implement non-discriminatory open access transmission. As a result, the Commission requires that a public utility take transmission services for all of its new wholesale sales and purchases of energy, with the exception of transmission services used by native load, under the same tariff of general applicability as do others, and that a public utility must state separate rates for wholesale

⁴¹ Sky River Transmittal Letter at 4.

⁴² *Sagebrush*, *supra* n.32.

⁴³ *Id.*

⁴⁴ As noted previously, Sky River expressly states that any further request for additional firm transmission service by affiliates or third parties will be governed by the OATT. See Sky River Transmittal Letter at 4.

⁴⁵ See *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, *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).

generation, transmission, and ancillary services.⁴⁶ The principles underlying that policy also require a transmission provider such as Sky River to provide all service pursuant to the provisions of an OATT. Existing service may continue under prior arrangements, but new service must be taken pursuant to an OATT.⁴⁷

5. Transmission Service Rates

28. Sky River has included in Schedules 7 and 8 of its OATT a proposed rate of \$0.65/kw/month for both firm and non-firm transmission service on the Wilderness Line. Sky River states that its proposed transmission service rate is based upon an annual revenue requirement of approximately \$1.8 million. Specifically, Sky River has utilized an overall rate of return of 8.43 percent in the derivation of its \$1.8 million transmission revenue requirement.

a. Commission Determination

29. We will accept Sky River's proposed rate for firm and non-firm transmission service in Schedules 7 and 8 of the proposed OATT. Our analysis indicates that Sky River's proposed rates are calculated using the Commission's approved net plant rate base approach. Additionally, the proposed cost elements included therein are consistent with cost of service studies filed with the Commission. We find that Sky River has adequately supported its proposed rate and we find that the proposed rate is just and reasonable.

6. Real Power Loss Factor

30. Sky River has included in section 15.7 of its OATT a real power loss factor of .45 percent for deliveries from the Tehachapi Substation to the Wilderness Substation. In support, Sky River included diagrams showing the losses on the power flow case with the Windstar Wind Facility modeled as part of the system.

a. Commission Determination

31. We will accept Sky River's proposed loss factor in section 15.7 of the proposed OATT. Sky River's response to staff's data request shows that transmission losses on the Wilderness Line are approximately 0.45 percent of the power transmitted by the line. Therefore, we find that Sky River has adequately supported its proposed loss factor and we find that the proposed loss factor is just and reasonable.

⁴⁶ *Id.* Order No. 888 also stated that non-economy energy bilateral coordination contracts executed before the effective date of Order No. 888 will be permitted to continue in effect without the requirement to functionally unbundle. *Id.* ¶ 31,370.

⁴⁷ *See Terra-Gen II*, 135 FERC ¶ 61,134 at P 23.

7. Clustering

32. Sky River proposes procedures for clustering of transmission system impact studies in certain circumstances. Sky River contends that this provision is superior to the *pro forma* OATT because it provides interconnection customers with additional clustering options. Sky River states that under its approach, system impact studies and facilities studies may be clustered if: (1) eligible customers request in writing that the studies in connection with their service requests be clustered, and (2) the OATT administrator determines that it can reasonably accommodate such clustering requests and that clustering will facilitate the performance of studies and the design of upgrades or additions to the transmission system necessary to accommodate the eligible customers' requests for service. Sky River's clustering proposal provides, among other things, that the cost sharing for system impact studies will be allocated equally among all customers.

a. Commission Determination

33. We note that, in Order No. 890, the Commission encouraged transmission providers to cluster interconnection studies.⁴⁸ We find Sky River's proposal reasonable because it provides the OATT administrator with the flexibility to jointly model transmission service requests. Therefore, we accept Sky River's proposed clustering provisions as consistent with Commission precedent.⁴⁹

8. Transmission Planning Process

34. Sky River's proposed Attachment K describes its transmission planning process, including its planning methodology and criteria for how it will develop a transmission plan. Sky River proposes to adopt the transmission planning process provisions adopted by the Commission in *MATL*,⁵⁰ because Sky River's project is only capable of providing point-to-point transmission service and has no native load customers or captive customers from which it can assess planning-related costs.⁵¹ Sky River claims that its Attachment K is similar to those accepted by the Commission in other cases.⁵²

⁴⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1370-1371.

⁴⁹ *Sagebrush*, 130 FERC ¶ 61,093 at P 30.

⁵⁰ Response to Data Request at 22, (citing *MATL*, 126 FERC ¶ 61,192 (2009)).

⁵¹ *Id.*

⁵² *Id.*, (citing *MATL*, 126 FERC ¶ 61,192 at P 15).

a. **Commission Determination**

35. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a nondiscriminatory 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.⁵³ 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 K to their OATTs.⁵⁴

36. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained 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,⁵⁵ must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

37. Sky River's Attachment K provides for coordination with stakeholders via a planning advisory group open to membership by all interested stakeholders, transmission customers, the CAISO, SoCal Edison and state utility regulatory agencies. The Attachment K also states that Sky River will consult with the planning advisory group on updates to the transmission plan in coordination with the CAISO and SoCal Edison. The Attachment K commits to treating Sky River's projects and customer-identified projects comparably and adopts dispute resolution procedures.⁵⁶ After comparing Sky River's Attachment K to the nine planning principles enacted in Order No. 890, we find that Sky River's Attachment K complies with the principles.

9. Creditworthiness Procedures

38. Sky River has proposed an Attachment L that describes the criteria Sky River will use to determine a customer's level of secured and unsecured credit. Sky River also

⁵³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 424.

⁵⁴ The nine planning principles enumerated in Order No. 890 are concisely stated in Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 181.

⁵⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-1655.

⁵⁶ Sky River Open Access Transmission Tariff, Volume No. 1 at Attachment K.

proposes alternative credit options for customers that cannot meet the investment grade standard, which, among other things, provides for a written guarantee, letter of credit, or cash deposit. Further, Sky River proposes to include a provision that explains the transmission customer's right to request a credit reevaluation. Sky River claims that its Attachment L is similar to those accepted by the Commission in other cases.

a. Commission Determination

39. After comparing Sky River's Attachment L to the *pro forma* Attachment L in Order No. 890, we find that Sky River's Attachment L provides for the procedures, set forth as minimum procedures, of the *pro forma* Attachment L.

10. Additional Matters

40. Sky River has excluded from its proposed OATT all of the *pro forma* OATT references to native load customers, third-party sales, and wholesale requirements customers. Sky River also excludes provisions regarding local furnishing bonds, reciprocity, Co-Tenants' existing use of the Wilderness Line, redispatch, and stranded cost recovery, as inapplicable. Sky River claims that this is consistent with waivers granted by the Commission for similar facilities.⁵⁷

41. Finally, Sky River requests waiver of the Commission's notice requirements to permit an effective date of April 2, 2011, one day after the date of the filing of its OATT.⁵⁸

a. Commission Determination

42. We find that Sky River's exclusion of all *pro forma* references to native load customers, third-party sales, and wholesale requirements customers from its proposed OATT to be reasonable because Sky River does not have native load customers that require these provisions, nor does Sky River make wholesale or retail power sales. For similar reasons, we also agree with Sky River that the exclusion of provisions regarding local furnishing bonds, reciprocity, Co-Tenants' existing use of the Wilderness Line, redispatch, and stranded cost recovery is acceptable. This conclusion is consistent with Commission rulings in cases with similarly situated entities.⁵⁹ We agree with Sky River that these provisions are inapplicable due to Sky River's unique situation. Finally, we will grant waiver of the Commission's notice requirements to permit an effective date of April 2, 2011, as requested.

⁵⁷ Sky River Transmittal Letter at 6.

⁵⁸ *Id.*

⁵⁹ *Sagebrush*, 130 FERC ¶ 61,093 at P 30.

B. Deviations Inconsistent with the *Pro Forma* OATT**1. Proposed Schedule 12**

43. Sky River proposes to include a new Schedule 12, Reliability Requirements for Generation Resources Connected to the Transmission Utility's Transmission System, which requires generating resources connected to its generation tie line to self-supply frequency response and regulation and generator imbalance services to SoCal Edison's bulk electric system.⁶⁰ Sky River contends that its newly proposed Schedule 12 sets forth the applicable requirements to self-supply or arrange for certain ancillary services for scheduled deliveries on its generation tie line. Sky River also states that the service on a generation tie line is akin to "rent," and no scheduling or dispatch services are provided.⁶¹

a. Commission Determination

44. Consistent with *Peetz Logan*,⁶² we find that the connecting generation resources will need to meet SoCal Edison's ancillary service requirements, but that such requirements are outside the scope of Sky River's OATT. Further, absent scheduled deliveries on the generation tie line, of which there appear to be none, Schedule 12 is inapplicable. Therefore, we will reject Sky River's inclusion of Schedule 12 in the proposed OATT.

2. Attachment C and C-1 – Methodology to Access Available Transfer Capability and Conditional Transmission Services

45. Sky River states that the transmission services under the proposed OATT are limited to conditional firm and conditional non-firm point-to-point transmission service. In Attachment C, Sky River identifies the Rated System Path Methodology, described in North American Electric Reliability Corporation (NERC) Reliability Standard MOD-29, as the method it will use to calculate available transfer capability (ATC). However, Sky River states that NERC standards for the calculation of ATC demonstrate that ATC is "meaningless" when applied to a single radial transmission line because of the requirement that Total Transfer Capability (TTC) include a consideration of N-1 criteria.

46. Sky River states that the conventional products of firm and non-firm transmission services cannot be offered pursuant to its OATT because they imply a high degree of reliable delivery greater than what a radial transmission line can provide. Sky River

⁶⁰ Sky River Response to Data Request at 10.

⁶¹ *Id.* at 11.

⁶² *Peetz Logan Interconnect, LLC (Peetz Logan)*, 136 FERC ¶ 61,075, at P 49 (2011).

further contends that in the absence of ATC, the firm and non-firm transmission services presented in its proposed OATT are conditional because they are contingent on the radial transmission facility's being in service and, if the transmission facility suddenly goes out of service, all transfers are concurrently curtailed to zero. Sky River contends that its method for calculating ATC is consistent with Order No. 890, which defines conditional firm as requiring a specific system condition where service curtailment may be imposed.⁶³ Sky River's Attachment C-1 states that the TTC of a line is a combination of all of the component ratings (i.e., conductor, switches, series cap, wave traps, and breakers) of the transmission line between the generator point of interconnection and the point where the transmission line interconnects to the utility's transmission network. Sky River further explains that the most limiting of these ratings is what determines the transmission line facility rating, and that voltage and stability characteristics may further limit the line rating. The proposed Attachment C-1 provides that static or temperature-dependent dynamic rating methods may be used. The proposed Attachment C-1 specifies that conditional firm transmission service will be made available up to the facility rating of the transmission line, contingent upon certain elements of the facility's being in-service, and that conditional non-firm service will be offered only when conditional firm service is no longer available.⁶⁴

a. Commission Determination

47. In Order No. 890, the Commission required a transmission provider to identify clearly which methodology it employs for calculating available capacity (e.g., contract path, network ATC, or network Available Flowgate Capacity (AFC)). The transmission provider must also describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for scheduling, operating, and planning horizons.⁶⁵ The mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.⁶⁶ Further, the transmission provider must include a process flow diagram that illustrates the various steps the ATC/AFC is calculated and a detailed explanation of how each of the ATC components is calculated for both the operating and planning horizons.

48. We find that Sky River's Attachment C fails to comply with the requirements set out in Order No. 890 for calculating ATC. As an initial matter, Sky River's Attachment

⁶³ Order No. 890 at P 1093.

⁶⁴ Sky River Filing, Attachment C-1.

⁶⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323 and *pro forma* OATT, Attachment C.

⁶⁶ *Id.* P 325, 328.

C does not provide the mathematical algorithms for calculating ATC for the scheduling, operating, and planning horizons. Sky River's Attachment C merely states that the methodology for Attachment C is not applicable to radial transmission lines because TTC and ATC are zero. Additionally, Sky River has not provided a process flow diagram illustrating the steps of its ATC calculation process. Sky River's Attachment C also fails to include a link to its website where the data and the mathematical algorithms can be found. We also find that Sky River has not provided the definitions for the ATC components (i.e., Total Transfer Capability, Existing Transfer Capability, and Capacity Benefit Margin). Thus, Sky River has not complied with the requirements of Order No. 890.⁶⁷

49. With regard to Attachment C-1, we reject Sky River's proposed methodology to assess available conditional transfer capability for firm and non-firm transmission service under the tariff. The proposed modifications replace the requirements of Attachment C with a methodology that assumes service under the tariff is conditional, while existing users would continue to have firm service. Additionally, Attachment C-1 provides service priority based on firm service with the lowest risk of curtailment without explaining how risk of curtailment would be assessed for each customer. In Order No. 890, we stated conditional firm service is subject to pro-rata curtailment consistent with curtailment of other long-term firm service during non-conditional periods.⁶⁸ Because the system condition of the line's not being in service applies to all users of the line, existing users and new customers with conditional firm service should be curtailed on a pro-rata basis. Therefore, we find that the proposed modifications are not consistent with or superior to the *pro forma* OATT.

50. According to Sky River, it would provide conditional firm transmission service through the use of seasonal or ambient air adjusted dynamic ratings to achieve higher line loading. Sky River argues that it must use the N-1 methodology to compute transfer capability.⁶⁹ We reject this contention for the same reasons we rejected an identical proposal in *Terra-Gen II*. As we stated in *Terra-Gen II*,⁷⁰

It is illogical for Terra-Gen to state that TTC on the Dixie Valley Line is zero, while simultaneously arguing that there is capacity available to

⁶⁷ *Id.* P 233-277.

⁶⁸ *Id.* P 1074.

⁶⁹ The N-1 methodology shows what happens to the rest of the system when a line is taken out of service. However, with a single radial line system, there is no rest of the system. Thus, this methodology has no meaning in this context.

⁷⁰ 135 FERC ¶ 61,134 at P 51-52.

accommodate any grandfathered service but not service for other potential users. Insofar as Terra-Gen's Attachment C will always yield a TTC value of zero regardless of the line's actual capacity, we find that such methodology is not consistent with or superior to the *pro forma* tariff, and is thus not just and reasonable.

. . . [A]pplication of the N-1 analysis in computing transfer capability makes little sense because the Dixie Valley Line is a radial tie line, and we do not find it be reasonable. This standard, as applied to the Dixie valley Line, will always result in zero for ATC and TTC, regardless of whether there may actually be capacity available.

These same findings are equally applicable to Sky River. We will direct Sky River to re-file Attachment C establishing the TTC value for the line in compliance with the requirements of Order No. 890, while taking into consideration the most limiting component of the line, electrical characteristics, or other factors (such as ground clearance) that impact reliable operation, which is consistent with the fact that an allocation of capacity to existing users implies that TTC on the Wilderness Line must exceed zero.

The Commission orders:

(A) Sky River is hereby directed to file, within 30 days of the date of issuance of this order, revisions to its proposed OATT, as discussed in the body of this order.

(B) Sky River's proposed OATT is hereby accepted effective April 2, 2011, as discussed in the body of this order.

(C) Sky River's request for waiver is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.