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1. On October 11, 2012, South Carolina Electric & Gas Company (SCE&G) submitted, pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> revisions to Attachment K of its Open Access Transmission Tariff (OATT)<sup>2</sup> to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.<sup>3</sup> In this order, we accept SCE&G’s compliance filing, effective April 19, 2013, subject to further compliance filing, as discussed below.

**I. Background**

2. In Order No. 1000, the Commission amended the transmission planning and cost allocation requirements of Order No. 890<sup>4</sup> to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. Order No. 1000’s transmission planning reforms require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its tariff to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities; and (4) improve coordination between neighboring transmission planning regions for new interregional transmission facilities.

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5.

<sup>3</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>4</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

3. Order No. 1000's cost allocation reforms require that each public utility transmission provider participate in a regional transmission planning process that has: (1) a regional cost allocation method or methods for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation and (2) an interregional cost allocation method or methods for the cost of new transmission facilities that are located in two neighboring transmission planning regions and are jointly evaluated by the two regions in the interregional transmission coordination procedures required by Order No. 1000. Order No. 1000 also requires that each cost allocation method satisfy six cost allocation principles.

4. The Commission acknowledged in Order No. 1000 that each transmission planning region has unique characteristics, and, therefore, Order No. 1000 accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate regional differences.<sup>5</sup> Order No. 1000 does not prescribe the exact manner in which public utility transmission providers must fulfill the regional transmission planning requirements.<sup>6</sup> Similarly, because the Commission did not want to prescribe a uniform method of cost allocation for every transmission planning region, Order No. 1000 adopts the use of cost allocation principles.<sup>7</sup> The Commission stated that it was acting to identify a minimum set of requirements that must be met to ensure that all transmission planning processes and cost allocation mechanisms subject to its jurisdiction result in Commission-jurisdictional services being provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential, and it acknowledged that public utility transmission providers in some regions may already meet or exceed some requirements of Order No. 1000.<sup>8</sup>

## II. Compliance Filing

5. SCE&G states that its amended Attachment K describes the processes it will implement to fulfill the regional transmission planning requirements set forth in Order No. 1000. SCE&G states that in developing its Order No. 1000 implementation plan, SCE&G worked with the South Carolina Public Service Authority (Santee Cooper). SCE&G states that, given the Commission's statement that Order No. 1000 "is not

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<sup>5</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 61.

<sup>6</sup> *Id.* P 157.

<sup>7</sup> *Id.* P 604.

<sup>8</sup> *Id.* P 13.

intended to appropriate, supplant, or impede any local transmission planning providers undertake”<sup>9</sup> and the Commission’s focus on regional transmission planning for cost allocation,<sup>10</sup> it will continue its current processes to plan its transmission system on a local, regional, and interregional level.<sup>11</sup> As further explained below, SCE&G states that in some respects its Attachment K already complies with Order No. 1000. SCE&G requests that its revised Attachment K be effective the day after the Commission issues the order addressing its Order No. 1000 compliance filing.

### **III. Notice of Filing and Responsive Pleadings**

6. Notice of SCE&G’s filing was published in the *Federal Register*, 77 Fed. Reg. 64,502 (2012), with interventions and protests due on or before November 26, 2012.

7. American Wind Energy Association filed a timely motion to intervene. On November 30, 2012, LS Power Transmission LLC (LS Power) filed a motion to intervene out-of-time, protests and comments. On January 10, 2013, SCE&G filed an answer.

### **IV. Discussion**

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

8. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding. We also grant the untimely, unopposed motion to intervene of LS Power given its interest in the proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

9. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept SCE&G’s answer because it has provided information that assisted us in our decision-making process.

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<sup>9</sup> *Id.* P 161.

<sup>10</sup> *Id.* P 64 (“[W]e do not intend to disturb regional practices with regard to other transmission facilities that may also be in the regional transmission plan.”).

<sup>11</sup> SCE&G states that it participates in interregional planning for reliability purposes that is distinguishable from the Order No. 1000 interregional planning for purposes of cost allocation.

## **B. Substantive Matters**

10. We find that SCE&G's compliance filing partially complies with the regional transmission planning and cost allocation requirements adopted in Order No. 1000. Accordingly, we will accept SCE&G's compliance filing to be effective April 19, 2013, subject to a further compliance filing as discussed below. We direct SCE&G to file the further compliance filing within 120 days of the date of issuance of this order.

### **1. Regional Transmission Planning Requirements**

11. Order No. 1000 requires each public utility transmission provider to participate in a regional transmission planning process that complies with the identified transmission planning principles of Order No. 890 and that, in consultation with stakeholders, results in the development of a regional transmission plan.<sup>12</sup> The regional transmission plan will identify transmission facilities that meet the region's reliability, economic, and public policy requirements-related<sup>13</sup> needs more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning processes.<sup>14</sup> A primary objective of the reforms in Order No. 1000 is to ensure that transmission planning processes at the regional level consider and evaluate, on a non-discriminatory basis, possible transmission alternatives and produce a transmission plan that can meet a transmission planning region's needs more efficiently and cost-effectively.<sup>15</sup>

#### **a. Transmission Planning Region**

12. Order No. 1000 specifies that a transmission planning region is one in which public utility transmission providers, in consultation with stakeholders and affected states, have agreed to participate for purposes of regional transmission planning and development of a single regional transmission plan.<sup>16</sup> The scope of a transmission planning region should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions.<sup>17</sup> However,

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<sup>12</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 6, 11, 146.

<sup>13</sup> Public policy requirements are defined and described below.

<sup>14</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 11, 148.

<sup>15</sup> *Id.* PP 4, 6.

<sup>16</sup> *Id.* P 160.

<sup>17</sup> *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

an individual public utility transmission provider cannot, by itself, satisfy the regional transmission planning requirements of Order No. 1000.<sup>18</sup>

13. In addition, Order No. 1000 requires that public utility transmission providers explain in their compliance filings how they will determine which transmission facilities evaluated in their local and regional transmission planning processes will be subject to the requirements of Order No. 1000.<sup>19</sup> Order No. 1000's requirements are intended to apply to new transmission facilities, which are those transmission facilities that are subject to evaluation, or reevaluation as the case may be, within a public utility transmission provider's local or regional transmission planning process after the effective date of the public utility transmission provider's compliance filing.<sup>20</sup> Each region must determine at what point a previously approved project is no longer subject to reevaluation and, as a result, whether it is subject to these requirements.<sup>21</sup>

14. Order No. 1000-A states that public utility transmission providers in each transmission planning region must have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region.<sup>22</sup> Each public utility transmission provider (or regional transmission planning entity acting for all of the public utility transmission providers in its transmission planning region) must include in its OATT a list of all the public utility and non-public utility transmission providers that have enrolled as transmission providers in its transmission planning region.<sup>23</sup> A non-public utility transmission provider will not be considered to have made the choice to join a transmission planning region and thus be eligible to be allocated costs under the regional cost allocation method until it has enrolled in the transmission planning region.<sup>24</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.* PP 65, 162.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* PP 276-277.

**i. SCE&G's Filing**

15. SCE&G states that it will continue to use the planning region established in its currently effective Attachment K, which encompasses its retail footprint and the footprint served by the South Carolina Public Service Authority (Santee Cooper). SCE&G explains that it and Santee Cooper serve as the transmission providers for this region.<sup>25</sup> SCE&G states that they will continue to use the South Carolina Regional Transmission Planning (SCRTP) framework, which was established in compliance with Order No. 890, to facilitate stakeholder involvement in the regional planning process.

16. As for the enrollment process, SCE&G proposes to revise its Attachment K to state that, in order to enroll as a transmission provider in SCRTP, an entity must have an OATT on file with the Commission and be registered with the North American Electric Reliability Corporation (NERC) as a planning authority and a transmission service provider within the regional footprint. The Attachment K includes a statement that SCE&G and Santee Cooper are collectively the transmission providers in the SCRTP region.<sup>26</sup>

17. SCE&G requests that its revised Attachment K be effective the day after the Commission issues an order addressing its Order No. 1000 compliance filing.<sup>27</sup> SCE&G states that, after the transmission providers issue their 2013 local transmission expansion plans, the first regional transmission planning cycle will commence, with proposed regional transmission projects due by January 15, 2014.<sup>28</sup>

**ii. Protests/Comments**

18. LS Power states that the Commission must address whether SCE&G's proposed region is sufficient in scope to meet the requirements of Order No. 1000. LS Power states that while SCE&G's compliance filing notes ongoing and future participation of Santee Cooper in the regional transmission planning process, Santee Cooper has not submitted an Order No. 1000 compliance filing nor is there direct evidence that Santee Cooper has enrolled in the region. LS Power states that until Santee Cooper files its own

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<sup>25</sup> SCE&G defines transmission providers as "SCE&G and Santee Cooper, serving as transmission providers for the region." Attachment K, Section I.

<sup>26</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.B.

<sup>27</sup> Transmittal Letter at 1.

<sup>28</sup> Transmittal Letter at 4.

reciprocity tariff or executes an enrollment or participation agreement, SCE&G has not established an Order No. 1000-compliant region since it only includes one transmission provider.<sup>29</sup>

**iii. Answer**

19. In response, SCE&G asserts that its continued use of its existing transmission planning region, which encompasses the retail service territories and the footprints served by Santee Cooper and SCE&G, complies with Order No. 1000 regional requirements. While LS Power states that there is no direct evidence of Santee Cooper's enrollment, SCE&G states that this reflects a misunderstanding of the SCRTP process. SCE&G asserts that both Santee Cooper and SCE&G have served as the transmission providers for SCRTP since its formation and will continue to do so. SCE&G indicates that Santee Cooper will be including an updated Attachment K in its tariff that is consistent with SCE&G's Attachment K.<sup>30</sup>

**iv. Commission Determination**

20. We find that the scope of the transmission planning region, the description of the transmission facilities that will be subject to the requirements of Order No. 1000 and the enrollment process specified in SCE&G's filing partially comply with the requirements of Order No. 1000. We find that the SCRTP footprint, with the enrollment of Santee Cooper, would satisfy the geographic requirements set forth in Order No. 1000, which requires the transmission planning region be governed by the integrated nature of the regional grid and the particular reliability and resource issues affecting individual regions,<sup>31</sup> as well as the requirement that an individual public utility transmission provider cannot, by itself satisfy the regional transmission planning requirements of Order No. 1000.<sup>32</sup> We recognize that there have been no significant changes in the scope of the region since its acceptance as an Order No. 890 compliant transmission planning region. However, in order to determine that SCRTP is an appropriate transmission planning region, we require a clear statement that both Santee Cooper and SCE&G are enrolled.

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<sup>29</sup> LS Power Protest at 4.

<sup>30</sup> SCE&G Answer at 4-5.

<sup>31</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

<sup>32</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

21. While SCE&G states it intends to continue using SCRTP as its Order No. 1000 transmission planning region and that it and Santee Cooper will continue to serve as the transmission providers for this region, SCE&G has not demonstrated that Santee Cooper has clearly enrolled as an Order No. 1000 transmission provider. Certain proposed language in SCE&G's Attachment K suggests that Santee Cooper may be enrolled in the transmission planning region. For example, SCE&G proposes language that states that SCE&G and Santee Cooper together will produce a regional transmission plan,<sup>33</sup> language that states that Santee Cooper is a transmission provider,<sup>34</sup> as well as language that states that transmission providers will be allocated costs in proportion to their respective benefit.<sup>35</sup> Moreover, SCE&G's answer indicates that Santee Cooper will be including an updated Attachment K in its tariff that is consistent with SCE&G's Attachment K.<sup>36</sup> As discussed herein, however, SCE&G's OATT must reflect the enrollment of the transmission providers in the SCRTP transmission planning region to comply with Order No. 1000.

22. Order No. 1000 requires public utility transmission providers to have a clear enrollment process defining how entities, including non-public utility transmission providers such as Santee Cooper, make the choice to become part of the transmission planning region. Order No. 1000 defines a transmission planning region as one in which the public utility transmission providers have agreed to participate for the purposes of regional transmission planning and the development of a single regional transmission plan.<sup>37</sup> Additionally, to be enrolled in a transmission planning region, Order No. 1000-A requires that a list of all public and non-public utility transmission providers must be

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<sup>33</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section I.

<sup>34</sup> *Id.* Section III.B.

<sup>35</sup> *Id.* Section VII.J.

<sup>36</sup> SCE&G Answer at 4-5. To the extent non-public utility transmission providers that enroll in the transmission planning region have transmission planning and cost allocation materials posted on their websites that do not reflect the Order No. 1000-compliant transmission planning process, we encourage those non-public utility transmission providers to update these materials in order to avoid any confusion.

<sup>37</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

included in the tariff.<sup>38</sup> SCE&G's proposal does not address these requirements of Order No. 1000-A and therefore, fails to satisfy the Order No. 1000 requirements.

23. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that clearly establishes a defined enrollment process and lists the entities enrolled as Order No. 1000 transmission providers.

24. Regarding SCE&G's proposal to make its revisions effective the day after the Commission issues an order on its compliance filing, we find that SCE&G has proposed an appropriate effective date. Accordingly, we accept SCE&G's revised Attachment K, effective April 19, 2013, as requested, subject to the further compliance filing.<sup>39</sup>

**b. Order No. 890 and Other Regional Transmission Planning Process General Requirements**

25. Order No. 1000 requires that each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan and that complies with certain transmission planning principles of Order No. 890 identified in Order No. 1000.<sup>40</sup> The process used to produce the regional transmission plan must satisfy the following Order No. 890 transmission planning principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; and (7) economic planning.<sup>41</sup> These transmission planning principles, which were adopted with respect to local transmission planning processes pursuant to Order No. 890, must now be applied to the regional transmission planning processes established in Order No. 1000. We will assess SCE&G's compliance with each of these principles individually.

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<sup>38</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>39</sup> As noted by SCE&G, the first proposed regional projects will be due on January 15, 2014. We believe that it is appropriate to grant SCE&G an effective date prior to January 15, 2014, so that developers may begin to establish their eligibility to propose transmission projects for selection in the regional transmission plan for purposes of cost allocation. We note that certain of SCE&G's proposed revisions, such as the reevaluation process for projects selected in the regional plan for purposes of cost allocation, will not be used until after January 15, 2014.

<sup>40</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 146, 151.

<sup>41</sup> *Id.* P 151. These transmission planning principles are explained more fully in Order No. 890.

**i. Overview - SCE&G's Filing**

26. In its order addressing SCE&G's Order No. 890 compliance filing, the Commission found that the SCRTP process satisfied the nine transmission planning principles established in Order No. 890. In asserting that it continues to comply with those transmission planning principles SCE&G's transmittal letter states that "[t]he Transmission Providers will use the [SCRTP] framework, which was established in compliance with Order No. 890, to facilitate Stakeholder involvement in the regional planning process" and that "SCE&G has extended this open, transparent process to its Order No. 1000 regional transmission planning..."<sup>42</sup> As discussed herein, we find that SCE&G complies or partially complies with some principles and does not comply with others.

**ii. Coordination**

27. The coordination principle requires public utility transmission providers to provide customers and other stakeholders with the opportunity to participate fully in the planning process. The purpose of this requirement is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between public utility 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.<sup>43</sup>

**(a) SCE&G's Filing**

28. SCE&G proposed revisions to Attachment K of its tariff to provide for stakeholder meetings for both the local and regional transmission planning processes. SCE&G's proposed Attachment K revisions provide that SCE&G and Santee Cooper arrange and host South Carolina Stakeholder Group meetings that "will serve as the vehicle to allow for the exchange of information between SCE&G and its Stakeholders."<sup>44</sup> With respect

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<sup>42</sup> SCE&G Transmittal Letter at 4.

<sup>43</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 451-454.

<sup>44</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.E.

to the regional transmission planning process, SCE&G sets out eight distinct periods over the course of the transmission planning cycle.<sup>45</sup>

29. SCE&G states that any individual or entity may attend these meetings, participate in the process, and consider joining the South Carolina Stakeholder Group. The South Carolina Stakeholder Group is divided into eight sectors, including: (1) Transmission Owners/Operators/Developers; (2) Transmission Service Customers; (3) Cooperatives; (4) Municipals; (5) Marketers; (6) Generation Owners/Developers; (7) Independent System Operators and Regional Transmission Organizations; and (8) State Regulatory Representatives (non-voting).<sup>46</sup> Further, SCE&G proposes that all South Carolina Stakeholder Group members will provide input regarding proposed regional transmission solutions submitted for purposes of cost allocation.<sup>47</sup>

**(b) Protests/Comments**

30. No comments or protests were filed.

**(c) Commission Determination**

31. We find that SCE&G's filing complies with the coordination principle. SCE&G has proposed Attachment K revisions that establish stakeholder meetings for both the local and regional transmission planning processes, and that allows any interested entity to attend and participate in those meetings, as well as consider a more formal role as part of the South Carolina Stakeholder Group. With respect to the regional transmission planning process, SCE&G proposes meetings in five calendar quarters over the course of the biennial transmission planning cycle, although other meetings may be convened during the remaining three quarters if "unexpected issues arise."<sup>48</sup> We find the process set forth in SCE&G's Attachment K to be a sufficient means of satisfying the coordination principle.<sup>49</sup>

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.* Section III.B.

<sup>47</sup> *Id.* Section III.C.

<sup>48</sup> *Id.* Section III.E.2.

<sup>49</sup> SCE&G uses the capitalized term "Stakeholder" to describe entities eligible to exchange information, have access to planning models and data, and provide input on planning assumptions. We interpret this term consistent with Order No. 1000, which explained that the term "stakeholder" is intended to include any interested party. *See*

**iii. Openness**

32. 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. Public utility transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.<sup>50</sup>

**(a) SCE&G's Filing**

33. As noted above, SCE&G's proposed Attachment K revisions include a general schedule of stakeholder meetings addressing the local and regional transmission planning process that will be held by SCE&G and Santee Cooper. As also noted above, interested persons or entities may attend and participate in these meetings, as well as consider joining the South Carolina Stakeholder Group.

34. In addition, SCE&G's proposed Attachment K revisions include information regarding protection of and access to CEII. Specifically, SCE&G proposes that CEII will be made available on the SCRTP website to those stakeholders that meet the eligibility requirements posted in the rules, standards, and practices posted on SCE&G's Open Access Same-Time Information Systems (OASIS) home page. SCE&G also states that it classifies information as CEII based on the Commission's most current definition of that term. Finally, SCE&G states that it will use the CEII application and non-disclosure agreement posted on the SCRTP website.<sup>51</sup>

**(b) Protests/Comments**

35. No comments or protests were filed.

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Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at n.143 (citing *Southern Co. Svcs., Inc.*, 127 FERC ¶ 61,282, at PP 14-16 (2009)).

<sup>50</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

<sup>51</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.D.

(c) **Commission Determination**

36. We find that SCE&G's filing complies with the openness principle stated in Order No. 890. SCE&G's Attachment K provides that any individual or entity may attend the quarterly stakeholder meetings, participate in the process, and consider joining the South Carolina Stakeholder Group. SCE&G also states that, with regard to CEII, it will utilize the CEII non-disclosure agreement posted in its rules, standards and practices on OASIS to address CEII concerns. Further, SCE&G will use the SCRTP website to facilitate the dissemination of transmission planning related information, and that SCE&G will utilize non-disclosure and confidentiality agreements that are posted on the SCRTP website. We find that these Attachment K provisions provide for stakeholder participation as well as reasonable CEII protections.

iv. **Transparency**

37. The transparency principle requires public utility 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 public utility transmission provider must describe in its transmission planning process the method(s) it will use to disclose the criteria, assumptions and data that underlie its transmission system plans. The transparency principle requires that sufficient information be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether transmission planning has been conducted in an unduly discriminatory fashion.<sup>52</sup>

(a) **SCE&G's Filing**

38. SCE&G's proposed Attachment K revisions indicate that the regional transmission planning process allows stakeholder "access to models and data used in the transmission planning process."<sup>53</sup>

(b) **Protests/Comments**

39. No comments or protests were filed.

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<sup>52</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

<sup>53</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.A.

(c) **Commission Determination**

40. We find that SCE&G's filing partially complies with the transparency principle.<sup>54</sup> In its tariff provisions addressing its local transmission planning process, SCE&G includes language that provides for the sharing of transmission planning-related data and analyses before studies are conducted and that will ensure that up-to-date information is modeled and included in the reliability study process. Moreover, these provisions state that SCE&G will review and discuss with stakeholders the key assumptions and data used for internal model development in the reliability transmission planning process. These tariff revisions also state that stakeholders will provide input on key assumptions and modeling data used in this process. SCE&G's local transmission planning process tariff provisions also include other measures designed to address transparency.<sup>55</sup>

41. In compliance with Order No. 1000, however, SCE&G proposes only that stakeholders will be provided access to data and models used in the regional transmission planning process. SCE&G has not explained how and to which models and data stakeholders will have access. SCE&G's Attachment K must be clear on this issue so that stakeholders can understand what they can expect to access as part of the regional transmission planning process. For example, it is not clear if SCE&G is proposing that the models and data that stakeholders were able to access under the Order No. 890-compliant transmission planning process discussed above will be applicable here as well and, if so, how that complies with the requirement that the transparency principle apply to the regional transmission planning process under Order No. 1000. Alternatively, it is not clear if SCE&G is proposing to provide access to different models and data than what is included in its Order No. 890-compliant transmission planning process available to stakeholders.<sup>56</sup> Accordingly, we direct SCE&G, in a further compliance filing due within 120 days of the date of this order, to revise its Attachment K to clarify what will be made available.

42. Moreover, we note that SCE&G's Attachment K revisions to comply with Order No. 1000, including those made to satisfy the affirmative obligation to plan discussed below must also comply with the transparency principle. Accordingly, SCE&G should

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<sup>54</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

<sup>55</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.E.1.

<sup>56</sup> SCE&G's Order No. 890 compliance efforts with respect to this principle, which the Commission accepted, are discussed in *South Carolina Elec. & Gas Co.*, 124 FERC ¶ 61,266, at P 24 (2008).

evaluate, as it develops these further Attachment K revisions, whether additional changes to its Attachment K will be required to satisfy the transparency principle and propose such changes, if any, which are necessary to remain in compliance.

v. **Information Exchange**

43. 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 public utility transmission providers in planning for their native load. Point-to-point customers are required to submit their projections for need of service over the planning horizon and at what receipt and delivery points. To the extent applicable, transmission customers should also provide information on existing and planned demand resources and their impact on demand and peak demand. Public utility transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.<sup>57</sup>

(a) **SCE&G's Filing**

44. SCE&G proposes that stakeholders will be engaged in information exchange during the meetings of the South Carolina Stakeholder Group, which, as described above, occur during five quarters of the biennial transmission planning cycle (and during the remaining three quarters of the cycle if unexpected issues arise).<sup>58</sup>

(b) **Protests/Comments**

45. No comments or protests were filed.

(c) **Commission Determination**

46. We find that SCE&G's filing does not comply with the information exchange principle. Unlike SCE&G's Order No. 890 compliance filing, where it stated that it received load forecasts and resource information from network customers and that stakeholders could provide input regarding the assumptions used to develop SCE&G's planning models,<sup>59</sup> SCE&G failed to revise its OATT in this compliance filing to

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<sup>57</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 486-487.

<sup>58</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section III.A.

<sup>59</sup> See *South Carolina Elec. & Gas Co.*, 124 FERC ¶ 61,266, at P 29 (2008); *South Carolina Elec. & Gas Co.*, 127 FERC ¶ 61,275, at P 27 (2009).

meaningfully address the information exchange principle as it relates to the regional transmission planning process in compliance with Order No. 1000. The tariff language accepted by the Commission in SCE&G's Order No. 890 compliance proceeding is still in SCE&G's tariff, but it specifically applies only to the local transmission planning process.

47. SCE&G's proposed Attachment K revisions indicate that stakeholders will be able to obtain and provide information during the scheduled stakeholder meetings for the regional transmission planning process. However, we find that SCE&G has not proposed any Attachment K language to specifically address the information exchange principle to comply with the requirement that the Order No. 890 transmission planning principles apply to the Order No. 1000-compliant regional transmission planning process. As discussed in connection with the coordination and openness principles, SCE&G has proposed regional transmission planning meetings, during which stakeholders may propose transmission needs driven by public policy requirements and provide comments on proposed regional transmission projects proposed by transmission developers. However, we find no specific language regarding the issues that information exchange is intended to cover, such as customer load forecasts and projected service information, and existing and planned demand response resources provided by customers and stakeholders that are used to develop the regional transmission plan. To the extent that SCE&G is relying on information exchange that is part of its Order No. 890-compliant transmission planning process, it has failed to explain why this is an appropriate means of compliance with Order No. 1000. Finally, SCE&G has proposed no guidelines or schedule for the submittal of customer and stakeholder information, as required under the information exchange principle.<sup>60</sup> Accordingly, we direct SCE&G to revise its Attachment K to address these issues in a further compliance filing due within 120 days of the date of this order.

#### vi. Comparability

48. The comparability principle requires public utility 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.<sup>61</sup> In addition, public utility transmission providers must identify, as part of their transmission planning processes, how they will treat resources on a comparable basis, and therefore, how they

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<sup>60</sup> See P 43, above.

<sup>61</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494.

will determine comparability for purposes of transmission planning.<sup>62</sup> Furthermore, public utility transmission providers are required to identify how they will evaluate and select from competing solutions and resources such that all types of resources are considered on a comparable basis.<sup>63</sup>

(a) **SCE&G's Filing**

49. SCE&G does not specifically explain how it intends to comply with the comparability principle.

(b) **Protests/Comments**

50. No comments or protests were filed.

(c) **Commission Determination**

51. We find that SCE&G's filing does not comply with the comparability principle. The comparability principle requires public utility transmission providers to identify how they will evaluate and select from competing transmission solutions and resources such that all types of resources are considered on a comparable basis. Although we found that SCE&G complied with the comparability principle for purposes of its local transmission planning process as part of Order No. 890,<sup>64</sup> it has not proposed revisions to its

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<sup>62</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>63</sup> See, e.g., *NorthWestern Corp.*, 128 FERC ¶ 61,040, at P 38 (2009) (*NorthWestern*) (requiring the transmission provider's OATT to permit sponsors of transmission, generation, and demand resources to propose alternative solutions to identified needs and identify how the transmission provider will evaluate competing solutions when determining what facilities will be included in its transmission plan); *El Paso Elec. Co.*, 128 FERC ¶ 61,063, at P 15 (2009) (*El Paso*) (same); *New York Indep. Sys. Operator, Inc.*, 129 FERC ¶ 61,044, at P 35 (2009) (NYISO) (same). In each of these cases, the Commission stated that tariff language could, for example, state that solutions will be evaluated against each other based on a comparison of their relative economics and effectiveness of performance. Although the particular standard a public utility transmission provider uses to perform this evaluation can vary, the Commission explained that it should be clear from the tariff language how one type of investment would be considered against another and how the public utility transmission provider would choose one resource over another or a competing proposal. *NorthWestern*, 128 FERC ¶ 61,040 at P 38 n.31; *El Paso*, 128 FERC ¶ 61,063 at P 15, n.25; NYISO, 129 FERC ¶ 61,044 at P 35 n.26.

<sup>64</sup> *South Carolina Elec. & Gas Co.*, 127 FERC ¶ 61,275 at PP 29-33.

Attachment K to demonstrate compliance with this principle in connection with the regional transmission planning process under Order No. 1000. Nor has SCE&G provided any justification that its existing Order No. 890-compliant tariff language governing the comparable treatment of transmission, generation, and demand response alternatives, which specifically refers to the local transmission planning process, complies with the requirement that the comparability principle apply to the Order No. 1000-compliant regional transmission planning process. Accordingly, we require SCE&G, in a compliance filing due 120 days from the date of this order, to revise its Attachment K to address the comparability principle, as it applies to the Order No. 1000-compliant regional transmission planning process.

52. Moreover, on compliance, SCE&G must revise its Attachment K to provide that the regional transmission planning process, after considering the data and comments supplied by customers and other stakeholders, will develop a regional transmission plan that meets the specific service requests of all transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In its Order No. 890 compliance filings, SCE&G proposed language addressing this requirement, but SCE&G did not propose similar language addressing the regional transmission planning process under Order No. 1000.<sup>65</sup>

#### **vii. Dispute Resolution**

53. The dispute resolution principle requires public utility transmission providers to identify a process to manage disputes that arise from the regional planning process. In order to facilitate resolution of all disputes related to planning activities, a public utility transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues.<sup>66</sup>

#### **(a) SCE&G's Filing**

54. SCE&G proposes that disputes arising from procedural or substantive issues related to local and regional transmission planning processes will be addressed first through certain procedures, under which a dispute will be referred to a senior representative of SCE&G and the individual stakeholder or developer to informally resolve it. If the representatives are unable to resolve the dispute within 90 days from the

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<sup>65</sup> *South Carolina Elec. & Gas Co.*, 124 FERC ¶ 61,266 at PP 33-34; *South Carolina Elec. & Gas Co.*, 127 FERC ¶ 61,275 at PP 29-33. *See also* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494.

<sup>66</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501.

date of notice of the dispute (or other agreed upon date), then the dispute may be submitted to nonbinding arbitration. The proposed Attachment K revisions further provide that the arbitrator, who is selected by the American Arbitration Association from candidates proposed by each party, must issue a decision within 90 days of the date that a party to the arbitration receives written notice that dispute was submitted to arbitration. Expenses of the arbitration will be borne equally by the parties, except that each party must bear the costs of its own experts, evidence, and legal counsel. Finally, the Attachment K revisions state that, notwithstanding anything to the contrary in the proposed section, any affected party may refer the matter to the Commission at any time (e.g., through a section 206 complaint, petition for declaratory order, or through a section 205 filing to change rates).<sup>67</sup>

**(b) Protests/Comments**

55. No comments or protests were filed.

**(c) Commission Determination**

56. We find that SCE&G's filing complies with the dispute resolution principle. SCE&G's proposed dispute resolution process, which is codified in Attachment K, requires initial informal resolution, followed if necessary by nonbinding arbitration.<sup>68</sup> We find that these provisions are sufficient to comply with the dispute resolution principle. We encourage parties to seek the resolution of issues relating to transmission planning through this dispute resolution process.

**viii. Economic Planning Studies**

57. The economic planning studies principle requires public utility transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for Attachment K customers as well. The principle requires that the scope of economic studies should not 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

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<sup>67</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VIII.

<sup>68</sup> Transmittal Letter at 5.

could reduce congestion or integrate new resources and loads on an aggregated or regional basis.<sup>69</sup>

(a) **SCE&G's Filing**

58. SCE&G provides that requested economic power transfers with the source and sink within the SCE&G transmission system will be studied by SCE&G, and that requested transfers with the source and sink within the SCRTP area will be jointly studied by SCE&G and Santee Cooper. Finally, requested studies with the source and/or sink outside the SCRTP area that are studied by SCE&G and Santee Cooper will include only the results for the SCRTP area, and if stakeholders want results from other areas included, the request will be advanced to the Southeast Inter-Regional Participation Process (SIRPP).<sup>70</sup>

(b) **Protests/Comments**

59. No comments or protests were filed.

(c) **Commission Determination**

60. We find that SCE&G's filing complies with the economic planning studies principle. Specifically, SCE&G's Attachment K includes language that provides for joint studies by SCE&G and Santee Cooper for economic transfers with a source in one transmission provider's service territory and sink in the other transmission provider's service territory. Based on this Attachment K language, we find that stakeholders will have an opportunity to request economic studies on a regional basis, and that the transmission providers in the transmission planning region will study those requests.

c. **Requirement to Plan on a Regional Basis to Identify More Efficient or Cost-Effective Transmission Solutions**

61. Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>71</sup> Public utility transmission

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<sup>69</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 542-543.

<sup>70</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section V.A.

<sup>71</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.<sup>72</sup> In addition, whether or not public utility transmission providers within a transmission planning region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is a more efficient or cost-effective solution to their needs.<sup>73</sup>

62. Public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer<sup>74</sup> must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.<sup>75</sup>

63. Finally, the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's needs.<sup>76</sup> Order No. 1000 does not require that the resulting regional transmission plan be filed with the Commission.

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<sup>72</sup> *Id.* P 149.

<sup>73</sup> *Id.* P 331.

<sup>74</sup> Order No. 1000 defines merchant transmission projects as projects “for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates.” Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 119. The Commission noted in Order No. 1000 that “a merchant transmission developer assumes all financial risk for developing its transmission project and constructing the proposed transmission facilities. . . .” *Id.* P 163.

<sup>75</sup> *Id.* P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

<sup>76</sup> *Id.* P 147.

**i. Affirmative Obligation to Plan**

**(a) SCE&G's Filing**

64. SCE&G states that, along with Santee Cooper, it will produce a regional transmission plan, which will include regional transmission projects selected for the purposes of cost allocation.<sup>77</sup> Under its proposal, qualified transmission developers may submit alternative regional transmission solutions to meet the region's transmission needs. SCE&G states that, if the alternative transmission solution is more efficient or cost-effective than the transmission facilities planned in the local transmission plans, then the alternative transmission solution is eligible to be selected in the regional transmission plan for purposes of cost allocation.

**(b) Protests/Comments**

65. No comments or protests were filed.

**(c) Commission Determination**

66. We find that the regional transmission planning process specified in the SCE&G's filing does not comply with the requirements of Order No. 1000 because SCE&G's proposed tariff revisions suggest that SCE&G will rely solely on qualified transmission developers to propose more efficient or cost-effective transmission solutions, with no indication that the transmission providers in the SCRTP region will conduct their own regional analysis to identify such transmission solutions. For example, SCRTP will identify projects to resolve any potential reliability violations, but will rely on interested parties to propose regional reliability projects that replace components of the local transmission plans of multiple transmission owners.

67. Order No. 1000 requires public utility transmission providers to participate in a transmission planning region that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs. It is not sufficient for a transmission planning region to merely "roll-up" local transmission plans without analyzing whether the regional transmission needs, when taken together, can be met more efficiently or cost-effectively by a regional transmission solution.

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<sup>77</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.A.

68. One of the stated purposes of the requirements adopted in Order No. 1000 is “to remedy deficiencies in the requirements of Order No. 890. . . .”<sup>78</sup> The Commission explained the deficiencies as follows:

Order No. 890 required public utility transmission providers to coordinate at the regional level for the purpose of sharing system plans and identifying system enhancements that could relieve congestion or integrate new resources. The Commission did not specify, however, whether such coordination with regard to identifying system enhancements included an obligation for public utility transmission providers to take affirmative steps to identify potential solutions at the regional level that could better meet the needs of the region. As a result, the existing requirements of Order No. 890 permit regional transmission planning processes to be used as a forum merely to confirm the simultaneous feasibility of transmission facilities contained in their local transmission plans. Consistent with the economic planning requirements of Order No. 890, regional transmission planning processes also must respond to requests by stakeholders to perform studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources or loads on an aggregated or regional basis. Again, no affirmative obligation was placed on public utility transmission providers within a region to undertake such analyses in the absence of requests by stakeholders. There is also no obligation for public utility transmission providers within the region to develop a single transmission plan for the region that reflects their determination of the set of transmission facilities that more efficiently or cost-effectively meet the region’s needs.<sup>79</sup>

Order No. 1000 addresses these deficiencies by, among other requirements, placing an affirmative obligation on public utility transmission providers to participate in a regional transmission planning process that produces a regional transmission plan.<sup>80</sup>

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<sup>78</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 12.

<sup>79</sup> *Id.* P 147 (footnotes omitted).

<sup>80</sup> *Id.* P 148.

69. In light of Order No. 1000's requirements, SCE&G and the other transmission providers in the transmission planning region must conduct a regional analysis themselves to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs, regardless of whether stakeholders, prospective transmission developers, or other interested parties propose potential transmission solutions for the region to consider. In conducting the regional analysis, SCE&G may not rely exclusively on proposals from qualified developers as the region's means to identify more efficient or cost-effective regional transmission solutions. To satisfy the requirements of Order No. 1000, we require SCE&G to submit tariff revisions that describe the process SCE&G will use to identify more efficient or cost-effective transmission solutions and explain how the region will conduct that regional analysis through power flow studies, production cost analyses, and/or other methods.

70. Order No. 1000's affirmative obligation to identify more efficient or cost-effective transmission solutions applies to transmission needs driven by economic considerations just as it applies to transmission needs driven by public policy requirements or reliability considerations. We note that, while SCE&G meets Order No. 1000's requirement to permit stakeholders to request economic studies on a regional basis, as proposed, economic planning is not an integral part of SCE&G's proposed regional transmission planning process. In particular, the proposed regional transmission planning process does not require that SCRTP affirmatively identify and address transmission needs driven by economic considerations, regardless of whether it receives stakeholder requests for economic studies. We find that the compliance filing is deficient in this regard.

71. Accordingly, as discussed above, we direct SCE&G, within 120 days of the date of issuance of this order, to revise its tariff to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet transmission needs driven by reliability, economic, or public policy considerations.<sup>81</sup>

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<sup>81</sup> We also note that any additional OATT procedures proposed to implement the affirmative obligation discussed above must also comply with the Order No. 890 principles.

ii. **Definition of Local and Regional Transmission Projects**

(a) **SCE&G's Filing**

72. SCE&G proposes to define a local transmission project as “a transmission facility located solely within one transmission provider’s footprint.”<sup>82</sup> SCE&G asserts that it is consistent with Order No. 1000 for transmission providers to meet their reliability transmission needs or service obligations by choosing to build new transmission facilities that are located solely within the individual balancing authorities or footprints and that are not submitted for regional cost allocation.<sup>83</sup> SCE&G explains that its local transmission planning process develops a local transmission expansion plan on an annual basis.<sup>84</sup>

73. SCE&G’s proposed tariff revisions define a regional transmission project as “a project selected by the SCRTP pursuant to the SCRTP process for inclusion in the regional transmission plan for purposes of regional cost allocation because it is a more efficient or cost-effective solution to meet a regional transmission need than transmission solutions identified in the local transmission planning processes.”<sup>85</sup> In addition, SCE&G states that to be eligible to be selected as a regional transmission project for purposes of cost allocation a regional transmission project must meet, among other things, the following minimum thresholds: (1) be 230 kV or above; (2) be over 50 miles in length; (3) be beneficial to both systems in the region; (4) have an estimated cost \$10 million or above; (5) be a green-field facility; (6) be materially different from transmission projects currently in the regional and local transmission plans; and (7) be constructed and integrated into the transmission system by the required in-service date. SCE&G also states that the owner of the transmission project must turn over to the transmission provider functional control including, but not limited to, real-time reliability actions, coordination of maintenance schedules and line outages, but not physical control.<sup>86</sup>

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<sup>82</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section II.B.

<sup>83</sup> *Id.* Section I.

<sup>84</sup> *Id.*, Section IV.

<sup>85</sup> *Id.* Section II.G.

<sup>86</sup> *Id.* Section VII.B.3.

(b) Protests/Comments

74. LS Power states that what SCE&G has referred to as its local plan includes transmission projects that go beyond the definition of local transmission projects in Order No. 1000 and, by blurring the distinction between local and regional transmission projects, SCE&G or others will have the opportunity to plan for and roll-up regional transmission projects as part of their local transmission plan instead of submitting them through the regional transmission planning process.<sup>87</sup> LS Power also contends that SCE&G's proposal lacks specificity on local economic transmission planning, arguing that it is unclear what transmission projects would fit into the category of an Order No. 1000-defined local transmission project and also provide economic benefits within the SCE&G service territory. LS Power is concerned that SCE&G will use this classification to address transmission development that is actually of a regional nature, and, therefore, requests that the Commission require SCE&G to define local economic transmission projects as those that are solely within SCE&G's retail distribution service territory and for which all costs are allocated therein.<sup>88</sup>

75. With respect to SCE&G's definition of a regional transmission project, LS Power asserts that it is inconsistent with Order No. 1000. First, LS Power objects to SCE&G's limiting transmission projects to those operating at 230 kV or above, arguing that approving this limit would exclude transmission projects interconnecting to at least 51 percent of South Carolina's electric grid from being selected as a regional transmission project for the purposes of regional cost allocation.<sup>89</sup> LS Power also objects to SCE&G's requirement that a transmission project cost at least \$10 million. It states that Order No. 1000 did not provide for such a financial threshold and defined a regional transmission project as one in which any of the costs are allocated regionally because the transmission project provides regional benefits.<sup>90</sup>

76. Second, LS Power contends that the 50-mile minimum mileage threshold is inconsistent with Order No. 1000, asserting that, under the proposed requirement, an eligible transmission project would have to encompass 20 to 25 percent of the length or width of the State of South Carolina to qualify as a regional transmission project.<sup>91</sup>

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<sup>87</sup> LS Power Protest at 8.

<sup>88</sup> *Id.* at 14-15.

<sup>89</sup> *Id.* at 6.

<sup>90</sup> *Id.* at 6 (citing Order N. 1000-A, 139 FERC ¶61,132 at P 430).

<sup>91</sup> *Id.* at 7.

Furthermore, LS Power asserts that there appears to be only a few, if any, transmission projects built in South Carolina that even come close to being 50 miles in length. LS Power argues that under Order No. 1000 a transmission project need only benefit more than one entity to be a regional transmission project eligible for cost allocation.<sup>92</sup>

77. Third, LS Power argues that requiring a regional transmission project to benefit more than one system is inconsistent with Order No. 1000, under which LS Power states a regional transmission project could be beneficial to one system but located in two public utility transmission provider's retail distribution territories and still be eligible for selection in the regional transmission plan for purposes of cost allocation.<sup>93</sup> LS Power requests clarification that if a project is located in more than one transmission provider's retail service territory, including interties between the two, it should be identified as a potential regional project.

78. Fourth, LS Power contends that the proposed requirement that regional transmission projects be materially different than transmission projects that are currently in the regional or local transmission plan is vague and inappropriate. LS Power argues this provision encourages incumbent transmission providers to plan regional transmission projects before nonincumbents transmission developers have an opportunity to propose such transmission projects, thereby preventing nonincumbent transmission developers from participating in the region. Moreover, LS Power states that there is nothing in SCE&G's proposal that would prevent two adjoining reliability transmission projects, proposed in two separate local transmission plans, from being characterized as two local transmission projects in each retail distribution service territory, when in fact, they are one regional transmission project. LS Power states that only local transmission projects and previously approved regional transmission projects should be identified as being currently in the regional transmission plan, so that all parties have the opportunity to propose regional transmission projects in the first instance.<sup>94</sup>

79. Finally, LS Power objects to SCE&G's requirement that functional control of regional transmission projects be turned over to the Transmission Provider. LS Power states that it does not oppose the potential to be under the Attachment K of a transmission provider in South Carolina, but SCE&G's mandate that a nonincumbent transmission developer turn over functional control is improper unless the region is a Regional Transmission Organization (RTO) or an Independent System Operator (ISO) and all

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<sup>92</sup> *Id.* at 7.

<sup>93</sup> *Id.* at 11-12.

<sup>94</sup> *Id.* at 8-9.

transmission providers have turned over functional control. LS Power argues that nonincumbent transmission developers should have the same flexibility as incumbent transmission owners as to whether they have an individual Attachment K or agree to be subject to the Attachment K of the existing transmission providers. LS Power requests that the Commission strike this requirement entirely.<sup>95</sup>

(c) Answer

80. Regarding the confusion of local transmission projects versus regional transmission projects, SCE&G clarifies that its local economic transmission planning provisions in its revised Attachment K are the same language the Commission already approved under Order No. 890 and as such is not a new provision.

81. SCE&G argues that LS Power has blurred the distinction between a transmission facility in a regional transmission plan and a transmission facility selected in a regional transmission plan for purposes of cost allocation. SCE&G argues that the difference is that a regional transmission project selected in a regional transmission plan for purposes of cost allocation is a regional transmission project for which the developer seeks cost allocation versus a regional transmission project for which the developer does not seek cost allocation. SCE&G asserts that regardless of whether a transmission project is local or regional, if SCE&G does not seek cost allocation for a transmission project, then that transmission project may be considered without being proposed through the Order No. 1000 process.

82. With respect to its proposed minimum thresholds for regional transmission projects, SCE&G states that the Order No. 1000 process was not intended to affect local or distribution lines, but instead to focus on larger, regional transmission projects that affect two or more systems.<sup>96</sup> SCE&G argues that the voltage and line length requirements are consistent with this focus on regional transmission projects and prevent smaller, local transmission projects from being proposed as regional transmission projects. SCE&G asserts that without these thresholds, stakeholders and transmission providers would have to review proposals that are not efficient and cost-effective regional transmission solutions.<sup>97</sup>

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<sup>95</sup> *Id.* at 13.

<sup>96</sup> SCE&G Answer at 6 (citing Order No. 1000, FERC Stat. & Regs. ¶ 31, 3232 at P 161).

<sup>97</sup> *Id.* at 7.

83. SCE&G clarifies that the requirement that a proposed regional transmission project must be materially different from an existing transmission project in either the local or regional transmission plan is to ensure that a transmission developer does not bundle several local transmission projects and submit it as a proposed regional transmission project, which SCE&G contends is consistent with the protection Order No. 1000 provides for local transmission projects.<sup>98</sup> SCE&G also argues that this provision protects all transmission developers whose transmission projects are included in the regional transmission plan from having their proposed transmission project re-proposed by another transmission developer.<sup>99</sup>

84. SCE&G clarifies that its requirement that a transmission developer turn over functional control is not related to administering the tariff or physically operating the transmission facility. SCE&G states it originally used the term operational control, but after comments it changed the phrase to functional control. SCE&G states that regardless of the term used, its intent was that both transmission providers, SCE&G and Santee Cooper, want to ensure that planned activities on transmission assets, such as coordination of maintenance schedules and outages, real-time reliability actions, and switching are coordinated with the operation of the rest of the bulk electric system as to not affect the reliability of the system.

**(d) Commission Determination**

85. We find that SCE&G's proposed definitions of local<sup>100</sup> and regional transmission projects partially comply with Order No. 1000. However, as discussed below, we require

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<sup>98</sup> *Id.* at 8 (citing Order No. 1000, FERC Stats. & Regs., ¶ 31,323 at 161).

<sup>99</sup> *Id.* at 8.

<sup>100</sup> Under the definitions section, SCE&G defines a local project as “a transmission facility located solely within one Transmission Provider’s footprint.” SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section II.B. Additionally, in the last sentence in Section I above, SCE&G states that transmission providers may continue to meet their reliability needs or service obligations by building “new transmission facilities that are located solely within [transmission providers’] individual Balancing Areas or footprints and that are not submitted for regional cost allocation.” SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section I. This description is consistent with Order No. 1000 which defines a local transmission facility as one that is “located solely within a public utility transmission provider’s retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation.” Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 63.

SCE&G to revise its definition of regional transmission projects to accurately reflect the definition of such projects as included in Order No. 1000, justify its proposed minimum threshold requirements for a transmission facility to be eligible to be selected as a regional transmission project for purposes of cost allocation, and provide further justification for requiring a nonincumbent to turn over functional control in a further compliance filing or to instead remove these provisions from its tariff.

86. We find that SCE&G's proposal clearly distinguishes between local transmission facilities and regional transmission facilities selected in the regional transmission plan for purposes of cost allocation. SCE&G's proposal defines a regional transmission facility as "a project selected by the SCRTP pursuant to the SCRTP process for inclusion in the regional transmission plan for purposes of regional cost allocation because it is a more efficient or cost-effective solution to meet a regional transmission need than transmission solutions identified in the local transmission planning processes."<sup>101</sup> SCE&G also correctly points out that any transmission facility for which the developer is not seeking cost allocation is not required to undergo the Order No. 1000 regional selection process, and, therefore, by definition cannot be a regional transmission project as defined in the SCE&G tariff.

87. However, Order No. 1000 defines a regional transmission facility that is selected in a regional transmission plan for purposes of cost allocation as one "that has been selected pursuant to a transmission planning region's Commission-approved regional transmission planning process for inclusion in a regional transmission plan for purpose of cost allocation because it is a more efficient or cost-effective solution to regional transmission needs."<sup>102</sup> SCE&G's definition is inconsistent with Order No. 1000 because it limits a regional transmission project to one that displaces a facility in a transmission provider's local plan. As discussed above, transmission providers have an affirmative obligation to plan and it is not sufficient for a transmission planning region to "roll-up" local transmission plans without analyzing whether the regional transmission needs, when taken together, can be met more efficiently or cost-effectively by a regional transmission solution. Thus, under Order No. 1000, a regional transmission facility could be selected in the regional plan for purposes of cost allocation even if it was not included in any of the local transmission provider local transmission plans. On compliance, we

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<sup>101</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section II.G. In contrast SCE&G proposes to define a local project as "[a] transmission facility located solely within one Transmission Provider's footprint." SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section II.B.

<sup>102</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 63.

direct SCE&G to revise its definitions of local and regional transmission projects to be consistent with Order No. 1000.

88. Furthermore, SCE&G's proposed minimum thresholds may limit transmission projects that would otherwise be considered regional transmission projects eligible for selection in the regional transmission plan for purposes of cost allocation from receiving any consideration. SCE&G proposes a number of minimum thresholds for a transmission project to be eligible to be selected in the SCRTP regional transmission project for purposes of regional cost allocation.

89. We share commenter's concerns that SCE&G's proposed threshold requirements may be too restrictive such that they will exclude from evaluation transmission facilities that provide significant benefits to the transmission planning region. In establishing specific threshold requirements for the SCRTP transmission planning region, SCE&G must not be so limiting as to preclude from evaluation transmission projects that may provide regional benefits. If SCE&G wishes to retain its proposed thresholds, it should, on compliance, provide additional justification as to how its proposed threshold requirements reach this balance and identify transmission facilities that are likely to have regional benefits. For example, SCE&G could provide a historical analysis of which existing transmission facilities within the transmission planning region would have been eligible for evaluation for selection in the regional transmission plan for purposes of cost allocation under the proposed minimum threshold requirements.

90. Regarding SCE&G's functional control proposal, we disagree with SCE&G that it is necessary in all circumstances for a nonincumbent transmission developer to turn over functional control to SCE&G or Santee Cooper in order to ensure adequate transmission planning, outage coordination, and reliability. Order No. 1000-A noted that "as explained in Order No. 1000, all owners and operators of bulk-power system transmission facilities, including nonincumbent transmission developers, that successfully develop a transmission project, are required to be registered as Functional Entities and must comply with all applicable reliability standards."<sup>103</sup> Accordingly, nonincumbent transmission developers are already required to comply with all applicable reliability standards such that the additional provision in SCE&G's tariff requiring nonincumbent transmission developers to turn over functional control appears to be unnecessary. In recognition of SCE&G's concerns over coordination, we note that NERC Standards TOP-001-1a, FAC-001-1, and FAC-002-1 address SCE&G's authority to ensure reliability, facility connection, and performance requirements. SCE&G has not explained why the requirement to turn over functional control to it or Santee Cooper is necessary as a separate criterion in order for a transmission project to qualify as a

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<sup>103</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 365.

regional transmission facility eligible for selection in the regional transmission plan for purposes of cost allocation. Thus, we require SCE&G to further justify or remove this provision from its tariff.

91. Accordingly, as discussed above, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that: (1) revises the definitions of local and regional transmission projects consistent with Order No. 1000; (2) provides further justification as to why its proposed minimum threshold requirements identify transmission facilities that likely have regional benefits, or removes these requirements from its tariff; and (3) either provides further justification for requiring nonincumbent transmission developers to turn over functional control or revises its tariff to remove this provision.

**iii. Planning Cycle**

**(a) SCE&G's Filing**

92. SCE&G proposes a two-year transmission planning cycle. SCE&G explains that this two-year cycle will provide transmission developers adequate time to review the transmission providers' local transmission plans and develop proposed regional alternatives, as well as provide stakeholders adequate time to review and comment on the proposed alternatives. Additionally, SCE&G states that this two-year cycle will give the transmission providers sufficient time to review the proposed alternatives and consider stakeholder comments when evaluating each proposal.

93. SCE&G also explains that the regional transmission planning cycle aligns with the issuance of the transmission providers' local transmission expansion plans, which occurs in May or June of each year. SCE&G states that after the transmission providers issue their 2013 local transmission expansion plans, then the regional transmission planning cycle will begin, with proposed regional transmission projects being due to the transmission providers by January 15, 2014. SCE&G states that this anticipated schedule assumes the Commission approves its Revised Attachment K on or before SCE&G's issuance of its 2013 local transmission expansion plan.

**(b) Protests/Comments**

94. LS Power asserts that SCE&G's proposed transmission planning cycle is too long, especially for a small geographic region as SCRTP. LS Power argues that the transmission planning cycle appears to be designed to delay the evaluation and implementation of regional proposals. It contends that SCE&G has not explained the need for an additional eighteen month regional transmission planning process after a year-long local transmission planning process, and identifies a number of gaps in the regional transmission planning process that it believes are not fully explained. Thus, LS

Power asks the Commission to require SCE&G to shorten its regional transmission planning cycle or explain why it cannot do so.<sup>104</sup>

(c) **Answer**

95. SCE&G states that, contrary to LS Power's arguments, in its revised Attachment K, SCE&G has explained the need for a two-year regional transmission planning cycle. The two year transmission planning cycle allows sufficient time for the regional transmission planning process, including: stakeholder review of SCE&G's local transmission plan, stakeholder and transmission providers review of regional transmission projects, and transmission provider review of stakeholder comments.<sup>105</sup> SCE&G also clarifies that stakeholders that have participated in the SCRTP process since Order No. 890 were agreeable to the timeframe set forth in revised Attachment K. Furthermore, SCE&G states that SCE&G, Santee Cooper, Duke Energy Carolinas, and Progress Energy Carolinas are all consistent in their use of a two-year timeline.

(d) **Commission Determination**

96. We find that SCE&G's proposed two-year transmission planning cycle is not inconsistent with the requirements of Order No. 1000. As the Commission stated in Order No. 1000 "[w]e allow public utility transmission providers developing the regional transmission planning process to craft, in consultation with stakeholders, requirements that work for their transmission planning region. Consistent with this approach, we will not impose additional rules that would detail consistent planning cycles, impose stakeholder procedures, establish timelines for evaluating regional transmission projects in the regional transmission planning process (including establishing minimum long-term planning horizons)."<sup>106</sup> We are persuaded by SCE&G's explanation that a two-year transmission planning cycle will provide sufficient time for meaningful involvement in the regional transmission planning process on the part of stakeholders and transmission developers. We dismiss LS Power's argument that the proposed transmission planning cycle is intended to delay the evaluation of regional transmission facilities as speculative.

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<sup>104</sup> LS Power Protest at 29.

<sup>105</sup> SCE&G Answer at 20.

<sup>106</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 157.

**iv. Merchant Developers****(a) SCE&G's Filing**

97. SCE&G defines a merchant transmission developer as an entity that develops a transmission project within the SCRTP footprint for which cost recovery is not sought pursuant to the SCE&G tariff. SCE&G states that, while merchant transmission developers are not required to participate in the SCRTP process, they are required to provide adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities. Therefore, in order to construct, own, operate and maintain transmission facilities in SCRTP, a merchant transmission developer must demonstrate that any proposed transmission facility will not compromise reliability. They must also provide a history of constructing, owning, operating, and maintaining transmission facilities. Similar to nonincumbent transmission developers, SCE&G requires that merchant transmission developers turn over functional control to the transmission provider and meet all applicable regulatory requirements.

**(b) Protests/Comments**

98. No comments or protests were filed.

**(c) Commission Determination**

99. We find that SCE&G's proposed tariff revisions regarding merchant transmission developers do not comply with the requirements of Order No. 1000. First, Order No. 1000 defines a merchant transmission developer as one that "seeks cost recovery through negotiated instead of cost based rates."<sup>107</sup> SCE&G defines a merchant transmission developer as one "that seeks to develop, is developing, or has developed a Regional Project within the SCRTP footprint for which cost recovery is not sought pursuant to this Tariff."<sup>108</sup> As drafted, this provision suggests that nonincumbent transmission developers that wish to establish their own OATT, and thus seek cost recovery under that tariff rather than the SCE&G OATT, are deemed to be merchant transmission developers in SCRTP, although they would not have negotiated rates. On compliance we direct SCE&G to revise its definition accordingly.

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<sup>107</sup> *Id.* P 11; Order No. 1000-A, 139 FERC ¶ 61,132 at P 299.

<sup>108</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section II.D.

100. Order No. 1000 also requires that public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.<sup>109</sup> Order No. 1000 does not, however, require that a merchant transmission developer demonstrate that its transmission facility will not compromise local or regional reliability or a history of constructing, owning, operating, or maintaining comparable transmission facilities, nor does it require the merchant transmission developer to turn over functional control of its transmission facilities to the transmission provider as SCE&G has included in its tariff.

101. As discussed above, all owners and operators of bulk-power system transmission facilities, including merchant transmission developers, are already required to comply with all applicable reliability standards.<sup>110</sup> As such, the additional provisions in SCE&G's tariff stating the demonstrations a merchant transmission developer must make in order to construct, own, operate, and maintain transmission facilities, including requiring merchant transmission developers to turn over functional control, appear to be unnecessary and beyond the scope of this compliance proceeding. Accordingly, we direct SCE&G to remove these provisions from its tariff.<sup>111</sup>

102. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing proposing tariff revisions that: (1) revise the definition of merchant transmission developers included in the SCE&G tariff to be consistent with Order No. 1000; (2) remove the provisions requiring merchant transmission developers to turn over functional control of their transmission facilities; and (3) remove the provisions requiring merchant transmission developers to demonstrate a history of constructing, owning, operating, or maintaining transmission facilities.

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<sup>109</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

<sup>110</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 365.

<sup>111</sup> SCE&G can propose provisions addressing requirements for merchant transmission developers, with sufficient justification, in a separate filing under section 205 of the FPA.

d. **Consideration of Transmission Needs Driven by Public Policy Requirements**

103. Order No. 1000 requires public utility transmission providers to amend their OATTs to describe procedures that provide for the consideration of transmission needs driven by Public Policy Requirements in the local and regional transmission planning processes.<sup>112</sup> The Commission clarified in Order No. 1000-A that Order No. 1000 requires that transmission needs driven by Public Policy Requirements be considered just as transmission needs driven by reliability or economic concerns are also considered.<sup>113</sup> Public Policy Requirements are requirements established by local, state or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).<sup>114</sup> As explained further below, Order No. 1000 specifies that the consideration of transmission needs driven by Public Policy Requirements means: (1) the identification of transmission needs driven by Public Policy Requirements and (2) the evaluation of potential solutions to meet those identified needs.<sup>115</sup>

104. To comply with the requirement to identify transmission needs driven by Public Policy Requirements, public utility transmission providers, in consultation with their stakeholders, must establish procedures in their OATTs to identify at the local and regional level those transmission needs driven by Public Policy Requirements for which potential transmission solutions will be evaluated.<sup>116</sup> The process for identifying transmission needs driven by Public Policy Requirements must allow stakeholders, including, but not limited to, those responsible for complying with the Public Policy Requirements at issue and the developers of potential transmission facilities that are needed to comply with one or more Public Policy Requirements, an opportunity to provide input and to offer proposals regarding the transmission needs they believe are

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<sup>112</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

<sup>113</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 204, 206, 208-211, 317-319.

<sup>114</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

<sup>115</sup> *Id.* P 205.

<sup>116</sup> *Id.* PP 206, 207.

driven by Public Policy Requirements.<sup>117</sup> Public utility transmission providers must explain in their compliance filings how the procedures adopted give all stakeholders a meaningful opportunity to submit what the stakeholders believe are transmission needs driven by Public Policy Requirements.<sup>118</sup>

105. In addition, public utility transmission providers, in consultation with stakeholders, must establish a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of this larger set of needs, those needs for which transmission solutions will be evaluated.<sup>119</sup> Public utility transmission providers must explain in their compliance filings how their open and transparent transmission planning process determines whether to move forward regarding transmission needs driven by Public Policy Requirements.<sup>120</sup> In addition, each public utility transmission provider must post on its website an explanation of: (1) those transmission needs driven by Public Policy Requirements that have been identified for evaluation for potential solutions in the local and regional transmission planning processes and (2) how other transmission needs driven by Public Policy Requirements introduced by stakeholders were considered during the identification stage and why they were not selected for further evaluation.<sup>121</sup>

106. To comply with the requirement to evaluate potential solutions to meet the identified transmission needs driven by Public Policy Requirements, public utility transmission providers, in consultation with stakeholders, must also establish procedures in their OATTs to evaluate at the local and regional level potential solutions to identified transmission needs driven by Public Policy Requirements.<sup>122</sup> These procedures must include the evaluation of transmission facilities stakeholders propose to satisfy an identified transmission need driven by Public Policy Requirements.<sup>123</sup> Stakeholders must

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<sup>117</sup> *Id.* PP 207, 208.

<sup>118</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

<sup>119</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209.

<sup>120</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

<sup>121</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>122</sup> *Id.* P 211.

<sup>123</sup> *Id.*; *see also id.* n.191 (“This requirement is consistent with the existing requirements of Order Nos. 890 and 890-A which permit sponsors of transmission and non-transmission solutions to propose alternatives to identified needs.”).

be provided an opportunity to provide input during the evaluation of potential solutions to identified needs.<sup>124</sup> In addition, the Commission and stakeholders must be able to review the record that is created by the process to help ensure that the identification and evaluation decisions are open and fair, and not unduly discriminatory or preferential.<sup>125</sup> The Commission will review the proposed evaluation procedures to ensure they comply with the objective of meeting the identified transmission needs more efficiently or cost-effectively.<sup>126</sup>

107. Public utility transmission providers must amend their OATTs to describe procedures that provide for the consideration of transmission needs driven by Public Policy Requirements in the local and regional transmission planning processes.<sup>127</sup> There are no restrictions on the type or number of Public Policy Requirements to be considered as long as any such requirements arise from local, state, or federal laws or regulations that drive transmission needs and as long as the requirements of the procedures required in Order No. 1000 are met.<sup>128</sup> In addition, Order No. 1000 does not preclude any public utility transmission provider from considering in its transmission planning process transmission needs driven by additional public policy objectives not specifically required by local, state or federal laws or regulations. However, Order No. 1000 creates no obligation for any public utility transmission provider or its transmission planning processes to consider transmission needs driven by a public policy objective that is not specifically required by local, state or federal laws or regulations.<sup>129</sup> In addition, public utility transmission providers are not required to consider Public Policy Requirements themselves as part of the transmission planning process.<sup>130</sup>

**i. SCE&G's Filing**

108. SCE&G states that it has revised its tariff to provide an opportunity to consider transmission needs driven by public policy requirements in both its regional and local

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<sup>124</sup> *Id.* P 220.

<sup>125</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 321.

<sup>126</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

<sup>127</sup> *Id.* P 203.

<sup>128</sup> *Id.* P 214; Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

<sup>129</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 216.

<sup>130</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 204.

transmission planning processes.<sup>131</sup> SCE&G proposes to define a public policy requirement in both the regional and local transmission planning processes as “a requirement that is stated in state, federal or local law or regulation (including order of a state, federal or local agency).”<sup>132</sup>

109. SCE&G’s revised tariff provides that stakeholders can identify transmission needs driven by public policy requirements in both the regional and local transmission planning processes. SCE&G’s tariff states that a proposed transmission need must be described in sufficient detail so that SCE&G can study the proposed transmission need including, but not limited to: (1) a description of the needed transmission capability or functionality associated with the public policy requirement; (2) a description of the electric power source and sink points associated with the requirement; or (3) the amount of electric power and timing associated with the requirement. SCE&G’s tariff specifies that stakeholders may identify local transmission needs driven by public policy requirements in the regional and local transmission planning processes by submitting proposals for SCE&G’s evaluation by March 31 of each year. SCE&G’s tariff also describes the second stakeholder meeting in both the regional and local transmission planning processes as the meeting at which such transmission needs will be discussed.<sup>133</sup> SCE&G’s tariff states that SCE&G will post on the SCRTP website explanations of which transmission needs driven by public policy requirements will be evaluated for potential transmission solutions and an explanation of why other suggested transmission needs driven by public policy requirements will not be evaluated.<sup>134</sup>

110. SCE&G’s tariff provides that only qualified developers may propose regional transmission solutions to transmission needs selected to be evaluated for potential transmission solutions.<sup>135</sup> Specifically, SCE&G’s tariff states that qualified developers may propose such regional transmission solutions at the sixth meeting in the regional transmission planning process and that SCE&G will post those transmission project submissions on the SCRTP website.<sup>136</sup> In the local transmission planning process,

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<sup>131</sup> Transmittal Letter at 4.

<sup>132</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Sections II.E.

<sup>133</sup> *Id.* Sections III.E.1 and III.E.2.

<sup>134</sup> *Id.* Sections VI and VII.D.

<sup>135</sup> *Id.* Section VII.D.

<sup>136</sup> *Id.* Section III.E.2.

SCE&G's tariff states, all stakeholders may propose potential local transmission solutions to transmission needs selected to be evaluated for potential transmission solutions.<sup>137</sup> SCE&G's tariff specifies that stakeholders may submit such transmission solutions during the timeframe in which the sixth meeting in the local transmission planning process will occur.<sup>138</sup>

111. In addition, SCE&G's tariff provides that stakeholders will be provided an opportunity to provide input during the evaluation of these potential transmission solutions.<sup>139</sup> Specifically, SCE&G's tariff specifies that stakeholders may submit comments on all regional transmission solutions proposed to be included in the regional transmission plan for purposes of cost allocation, which must be submitted seven days prior to the fourth regional transmission planning meeting.<sup>140</sup> With respect to the local transmission planning process, SCE&G's tariff provides that stakeholders may submit comments in the local transmission planning process on local transmission solutions proposed to meet transmission needs driven by public policy requirements, which must be submitted 30 days after the seventh local transmission planning meeting.<sup>141</sup> SCE&G asserts that proposed transmission solutions to address transmission needs driven by public policy requirements will be evaluated in the same open and nondiscriminatory manner as other proposed regional transmission solutions for purposes of cost allocation.<sup>142</sup>

**ii. Protests/Comments**

112. No comments or protests were filed.

**iii. Commission Determination**

113. We find that the SCE&G's filing partially complies with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements.

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<sup>137</sup> *Id.* Section VI.

<sup>138</sup> *Id.* Section III.E.1.

<sup>139</sup> *Id.* Sections VI and VII.D.

<sup>140</sup> *Id.* Section III.E.2.

<sup>141</sup> *Id.* Section III.E.1.

<sup>142</sup> Transmittal Letter at 4.

Accordingly, we require SCE&G to file a further compliance filing revising its tariff as described below.

114. SCE&G proposes to define a public policy requirement in both the regional and local transmission planning processes as a requirement that is stated in state, federal, or local law or regulation (including an order of a state, federal, or local agency). We find that this proposed definition of public policy requirements is consistent with the definition of public policy requirements in Order No. 1000.

115. With respect to the identification of transmission needs driven by public policy requirements, SCE&G proposes to allow stakeholders to identify transmission needs driven by public policy requirements in both the local and regional transmission processes, requiring that stakeholders describe a proposed transmission need in sufficient detail so that SCE&G can study it. Moreover, SCE&G specifies when stakeholders can submit transmission needs that they believe are driven by public policy requirements in both the regional and local transmission planning processes. Therefore, we find that SCE&G complies with Order No. 1000's requirement that each public utility transmission provider establish procedures in the regional and local transmission planning processes to identify transmission needs driven by public policy requirements that allow stakeholders an opportunity to provide input and to offer proposals regarding the transmission needs they believe are driven by public policy requirements.<sup>143</sup>

116. However, SCE&G's proposal does not explain the just and reasonable and not unduly discriminatory process by which it will identify, out of the larger set of transmission needs proposed by stakeholders, those transmission needs for which transmission solutions will be evaluated, as required by Order No. 1000.<sup>144</sup> Thus, we direct SCE&G to submit in the further compliance filing due within 120 days of the date of this order tariff revisions that establish such a process in both its regional and local transmission planning processes.

117. We find that SCE&G's proposal complies with respect to Order No. 1000's requirement that each public utility transmission provider post on its website an explanation of: (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential transmission solutions in the local transmission planning process; and (2) why other suggested transmission needs driven by

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<sup>143</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 206, 207, 208.

<sup>144</sup> *Id.* P 209.

public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>145</sup>

118. However, while SCE&G allows stakeholders to propose potential transmission solutions to identified transmission needs driven by public policy requirements in its local and regional transmission planning processes, only qualified developers may submit such regional transmission solutions in the regional transmission planning process. Order No. 1000 requires that public utility transmission providers establish procedures in their tariffs to evaluate at the regional level potential transmission solutions to identified transmission needs driven by public policy requirements proposed by all stakeholders, not just qualified transmission developers.<sup>146</sup> Accordingly, we direct SCE&G, in a further compliance filing, to revise its tariff accordingly.

119. Regarding the evaluation of potential transmission solutions to transmission needs driven by public policy requirements, we find that both SCE&G's local and regional transmission planning processes comply with Order No. 1000's requirement that stakeholders must be provided an opportunity to provide input during the evaluation of potential transmission solutions to identified transmission needs driven by public policy requirements.<sup>147</sup> SCE&G's proposed tariff revisions clearly state that stakeholders may provide such input and describe how stakeholders may do so. However, SCE&G tariff revisions do not adequately address how potential transmission solutions to identified transmission needs driven by public policy requirements will be evaluated at either the local or regional level.<sup>148</sup> While SCE&G states in its transmittal letter that proposed transmission solutions to address transmission needs driven by public policy requirements will be evaluated in the same open and nondiscriminatory manner as other proposed regional transmission solutions for purposes of cost allocation,<sup>149</sup> such information is not set forth in its tariff. Moreover, SCE&G does not explain how potential transmission solutions to identified transmission needs driven by public policy requirements will be evaluated in the local transmission planning process. Therefore, we require SCE&G in a further compliance filing due within 120 days of the date of this order to revise its tariff to describe how it complies with Order No. 1000's requirement

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<sup>145</sup> *Id.*; see also Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>146</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

<sup>147</sup> *Id.* P 220.

<sup>148</sup> *Id.* P 211.

<sup>149</sup> Transmittal Letter at 4.

that each public utility transmission provider establish procedures to evaluate at the regional and local level potential transmission solutions to identified transmission needs driven by public policy requirements.<sup>150</sup>

120. In addition, we also have concerns about SCE&G's proposal to limit the consideration of transmission needs driven by public policy requirements to those transmission needs that are currently unmet under the existing local or regional transmission plans. While Order No. 1000 does not require that public utility transmission providers identify any particular set of transmission needs driven by public policy requirements for evaluation,<sup>151</sup> we are concerned that SCE&G's proposal categorically precludes SCE&G from considering whether a regional transmission solution may more efficiently or cost-effectively meet transmission needs driven by public policy requirements. Moreover, even if a transmission need driven by public policy requirements is already being met under a regional transmission plan, there may be another more efficient or cost-effective transmission solution to that need that should be considered if, for example, the previously planned transmission facility is still in the development stage. We therefore conclude that SCE&G's proposal to limit the consideration of transmission needs driven by public policy requirements to those transmission needs that are currently unmet under the existing local or regional transmission plans does not comply with Order No. 1000 and we direct SCE&G to remove this aspect of the proposal from its tariff.

121. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that revises its tariff to (1) include just and reasonable and not unduly discriminatory process by which it will identify, out of the larger set of transmission needs driven by public policy requirements proposed by stakeholders, those transmission needs for which transmission solutions will be evaluated; (2) clarify that proposed transmission solutions to address transmission needs driven by public policy requirements will be evaluated in the same open and nondiscriminatory manner as other regional transmission solutions proposed for purposes of cost allocation; (3) describe procedures to evaluate at the regional level potential transmission solutions to identified transmission needs driven by public policy requirements proposed by stakeholders; and (4) remove the provisions implementing its proposal to limit the consideration of transmission needs driven by public policy requirements to those transmission needs that are currently unmet under the existing local or regional transmission plans. Also in this further compliance filing, we direct SCE&G to describe how it complies with Order No. 1000's requirement that each public utility

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<sup>150</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 211, 220.

<sup>151</sup> *Id.* P 210.

transmission provider establish procedures to evaluate at the local level potential transmission solutions to identified transmission needs driven by public policy requirements and, if necessary, to include additional tariff revisions to demonstrate its compliance.

## 2. Nonincumbent Transmission Developer Reforms

122. Order No. 1000 institutes a number of reforms that seek to ensure that nonincumbent transmission developers have an opportunity to participate in the transmission development process. These reforms involve the elimination of federal rights of first refusal from Commission-jurisdictional tariffs and agreements, and the development of requirements regarding qualification criteria for transmission developers and processes for evaluating proposals for new transmission facilities.

### a. Federal Rights of First Refusal

123. Order No. 1000 requires that each public utility transmission provider eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation.<sup>152</sup> Order No. 1000 defines a transmission facility selected in a regional transmission plan for purposes of cost allocation as a transmission facility that has been selected pursuant to a transmission planning region's Commission-approved regional transmission planning process for inclusion in a regional transmission plan for purposes of cost allocation because it is a more efficient or cost-effective solution to regional transmission needs.<sup>153</sup> If a public utility transmission provider's tariff or other Commission-jurisdictional agreements do not contain a federal right of first refusal provision, a public utility transmission provider should state this in its compliance filing.<sup>154</sup>

124. The requirement in Order No. 1000 to eliminate a federal right of first refusal does not apply to local transmission facilities,<sup>155</sup> which are defined as transmission facilities located solely within a public utility transmission provider's retail distribution service

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<sup>152</sup> *Id.* P 313. The phrase "a federal right of first refusal" refers only to rights of first refusal that are created by provisions in Commission-jurisdictional tariffs or agreements. Order No. 1000-A, 139 FERC ¶ 61,132 at P 415.

<sup>153</sup> *Id.* PP 5, 63.

<sup>154</sup> *Id.* P 314 n.294.

<sup>155</sup> *Id.* PP 226, 258, 318.

territory or footprint that are not selected in the regional transmission plan for purposes of cost allocation.<sup>156</sup> The requirement also does not apply to the right of an incumbent transmission provider to build, own, and recover costs for upgrades to its own transmission facilities, regardless of whether an upgrade has been selected in the regional transmission plan for purposes of cost allocation.<sup>157</sup> In addition, the Commission noted that the requirement does not remove, alter or limit an incumbent transmission provider's use and control of its existing rights-of-way under state law.<sup>158</sup>

125. The Commission clarified in Order No. 1000-A that Order No. 1000 does not require elimination of a federal right of first refusal for a new transmission facility if the regional cost allocation method results in an allocation of 100 percent of the facility's costs to the public utility transmission provider in whose retail distribution service territory or footprint the facility is to be located.<sup>159</sup> The Commission also clarified in Order No. 1000-A that the phrase "selected in a regional transmission plan for purposes of cost allocation" excludes a new transmission facility if the costs of that facility are borne entirely by the public utility transmission provider in whose retail distribution service territory or footprint that new transmission facility is to be located.<sup>160</sup> However,

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<sup>156</sup> *Id.* P 63. The Commission clarified in Order No. 1000-A that a local transmission facility is one that is located within the geographical boundaries of a public utility transmission provider's retail distribution service territory, if it has one; otherwise the area is defined by the public utility transmission provider's footprint. In the case of an RTO or ISO whose footprint covers the entire region, local transmission facilities are defined by reference to the retail distribution service territories or footprints of its underlying transmission owning members. Order No. 1000-A, 139 FERC ¶ 61,132 at P 429.

<sup>157</sup> *Id.* PP 226, 319, Order No. 1000-A, 139 FERC ¶ 61,132 at P 426. The Commission stated in Order No. 1000 that upgrades to transmission facilities included such things as tower change outs or reconductoring, regardless of whether or not an upgrade has been selected in the regional transmission plan for purposes of cost allocation. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319. The Commission clarified in Order No. 1000-A that the term "upgrade" means an improvement to, addition to, or replacement of a part of, an existing transmission facility. The term does not refer to an entirely new transmission facility. Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

<sup>158</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319.

<sup>159</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 423.

<sup>160</sup> *Id.*

the Commission acknowledged in Order No. 1000-A that there may be a range of examples of multi-transmission provider zones, and it would address whether a cost allocation to a multi-transmission provider zone is regional on a case-by-case basis based on the facts presented on compliance.<sup>161</sup>

**i. SCE&G's Filing**

126. SCE&G states that it does not have a federal right of first refusal in its tariff to remove.<sup>162</sup> SCE&G's proposal does provide that in order for a transmission project to be eligible as a regional transmission project for purposes of cost allocation, the transmission project must, among other things, meet the following criteria: (1) the transmission developer must secure its own rights-of-way and "the Transmission Providers' use or control of existing [rights-of-way] may not be altered unless agreed to by Transmission Providers;"<sup>163</sup> and (2) the transmission project must not be an upgrade to an existing transmission facility.<sup>164</sup>

**ii. Protests/Comments**

127. LS Power asserts that the proposed rights-of-way requirements are unreasonable as a qualification to be considered a regional transmission project and inconsistent with Order No. 1000.<sup>165</sup> LS Power states that, through the use of existing rights-of-way, SCE&G seeks to create a right of first refusal for transmission projects and, thereby, exclude nonincumbent transmission developers from developing regional transmission projects.<sup>166</sup>

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<sup>161</sup> *Id.* P 424; Order No. 1000-B, 141 FERC ¶ 61,044 at P 40.

<sup>162</sup> Transmittal Letter at 5.

<sup>163</sup> Attachment K at VII.C.g further states that "only projects that do not alter the [t]ransmission [p]roviders' use or control of rights-of-way will be considered for inclusion in the regional plan for purposes of cost allocation." SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.C.g.

<sup>164</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.A.f.

<sup>165</sup> LS Power Protest at 10.

<sup>166</sup> *Id.* at 11.

128. In addition, LS Power states that SCE&G's proposal to prohibit an upgrade to an existing transmission provider's system from receiving consideration as a regional transmission project is vague and thus requests that the Commission require SCE&G to clarify what constitutes an upgrade.<sup>167</sup>

**iii. Answer**

129. SCE&G states that it did not provide a definition of upgrade in its proposal because it intends to utilize the Commission's definition of upgrade contained in Order No. 1000. SCE&G clarifies that the term upgrade means "an improvement to, addition to, or replacement of a part of an existing transmission facility."<sup>168</sup>

**iv. Commission Determination**

130. We find that the provisions concerning federal rights of first refusal in the SCE&G's filing partially comply with the requirements of Order No. 1000. Specifically, we find that SCE&G's OATT does not have an existing federal right of first refusal provision that SCE&G would be required to remove. However, SCE&G's proposal to allow only transmission projects that do not alter the transmission providers' use or control of rights-of-way to be considered for selection in the regional transmission plan for purposes of cost allocation is not permitted by Order No. 1000, and, as such, we direct SCE&G to remove the proposed language in the compliance filing we direct here. The Commission acknowledged in Order No. 1000 that its reforms "are not intended to alter an incumbent transmission provider's use and control of its existing rights-of-way[.]" that Order No. 1000 does not "grant or deny transmission developers the ability to use rights-of-way held by other entities, even if transmission facilities associated with such upgrades or uses of existing rights-of-way are selected in the regional transmission plan for purposes of cost allocation[.]" and that the "retention, modification, or transfer of rights-of-way remain subject to relevant law or regulation granting the rights-of-way."<sup>169</sup> However, the Commission did not find that as part of its compliance filing, a public utility transmission provider may add a federal right of first refusal for a new transmission facility based on an existing right-of-way. Therefore, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing revising the proposed tariff language to remove the proposed language related to rights-of-way in sections VII.A and VII.C.g of the Attachment K.

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<sup>167</sup> *Id.* at 12.

<sup>168</sup> SCE&G Answer at 9 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 426).

<sup>169</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319.

131. However, we note that while rights-of-way may not be used to automatically exclude proposals to develop more efficient or cost-effective transmission solutions to regional transmission needs, it is not necessarily impermissible to consider rights-of-way at appropriate points in the regional transmission planning process. It would be appropriate for SCE&G to consider whether an entity has existing rights-of-way as well as whether the entity has experience or ability to acquire rights-of-way as part of the process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.

132. In addition, we find that SCE&G's answer explaining the term "upgrade" should be included in its tariff. This will provide greater transparency as to what transmission facilities may be considered in the regional transmission planning process for selection in the regional transmission plan for purposes of cost allocation. We also find that this directive addresses LS Power's concern that SCE&G's proposal is vague as to what constitutes an upgrade.

133. Accordingly, we direct SCE&G to file within 120 days of the date of issuance of this order a further compliance filing to: (1) remove the proposed tariff language related to rights-of-way and (2) revise its Attachment K to define the term upgrade consistent with Order No. 1000 as clarified in its answer.

**b. Qualification Criteria**

134. Order No. 1000 requires each public utility transmission provider to revise its tariff to demonstrate that the regional transmission planning process in which it participates has established appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider or a nonincumbent transmission developer.<sup>170</sup> Appropriate qualification criteria must be fair and not unreasonably stringent when applied to either the incumbent transmission provider or nonincumbent transmission developer.<sup>171</sup> These criteria must not be unduly discriminatory or preferential and must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities.<sup>172</sup>

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<sup>170</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 225, 323.

<sup>171</sup> *Id.* P 324.

<sup>172</sup> *Id.* P 323.

135. The qualification criteria should also allow for the possibility that an existing public utility transmission provider already satisfies the criteria.<sup>173</sup> There must be procedures in place for timely notifying transmission developers of whether they satisfy the region's qualification criteria and opportunities to remedy any deficiencies.<sup>174</sup> In addition, the qualification criteria should not be applied to an entity proposing a transmission project for consideration in the regional transmission planning process if that entity does not intend to develop the proposed transmission project.<sup>175</sup>

136. The Commission clarified in Order No. 1000-A that it would be an impermissible barrier to entry to require, as part of the qualification criteria, that a transmission developer demonstrate that it has, or can obtain, state approvals necessary to operate in a state, including state public utility status and the right to eminent domain, to be eligible to propose a transmission facility.<sup>176</sup>

**i. Financial Criteria**

**(a) SCE&G's Filing**

137. SCE&G explains that in response to Order No. 1000, SCE&G has established financial criteria with which to evaluate whether a transmission developer is qualified to submit a transmission project for consideration in the regional transmission plan for purposes of cost allocation.<sup>177</sup> SCE&G explains that its financial qualification criteria are based largely upon SCE&G's creditworthiness process stated in Attachment L to its tariff and approved earlier by the Commission. SCE&G requires all transmission developers to provide: (1) audited financial statements; (2) a list of affiliates, parent companies, and subsidiaries; (3) publicly available credit reports; (4) private credit ratings; (5) credit references; (6) a statement of legal composition; (7) a description of how long the transmission developer has been in business; and (8) a five year summary of any bankruptcy, dissolution, merger or acquisition.<sup>178</sup>

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<sup>173</sup> *Id.* P 324.

<sup>174</sup> *Id.* P 324.

<sup>175</sup> *Id.* n.304; Order No. 1000-A, 139 FERC ¶ 61,132 at n.520.

<sup>176</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

<sup>177</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.B.

<sup>178</sup> *Id.* Section VII.B.1.

138. SCE&G explains that in order to determine creditworthiness, a transmission developer must demonstrate that it has been in business over one year and: (1) has a credit rating of at least Baa3 (under Moody's) or a BBB minus (under Standard & Poor's or Fitch's), with the lowest rating applying when multiple ratings are available; or (2) provides its most recent financial statements which demonstrates that it meets the standards listed in (1) or their equivalent; or (3) the transmission developer's parent company must meet either (1) or (2) and provide a satisfactory written guarantee to be unconditionally responsible for all financial obligations. SCE&G also requires a transmission developer demonstrate its ability to assume liability for major losses resulting from any failure of transmission facilities.<sup>179</sup>

139. SCE&G proposes that within 30 days of receiving a transmission developer's application for eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, SCE&G and Santee Cooper will notify the prospective transmission developer of any deficiencies in its application. SCE&G proposes that within six weeks of receiving an application, SCE&G and Santee Cooper will make a determination as to whether the transmission developer is qualified to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation.<sup>180</sup>

140. SCE&G states that only qualified transmission developers may propose a regional transmission project for consideration in the regional transmission plan for purposes of cost allocation.<sup>181</sup> SCE&G also proposes to define a nonincumbent transmission developer as "an entity that seeks to develop, is developing, or has developed a regional transmission project within the SCRTP footprint that is not also an enrolled transmission provider."<sup>182</sup>

**(b) Protests/Comments**

141. LS Power asserts that the proposed financial criteria are discriminatory and establishes a barrier for new entrants. LS Power contends that the credit rating proposal is one of the most onerous proposed out of any of the Order No. 1000 compliance filings and states that a transmission developer using a special purpose entity to develop, construct, and maintain a proposed transmission project will not have an investment

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<sup>179</sup> *Id.* Section VII.B.1.

<sup>180</sup> *Id.* Section VII.B.

<sup>181</sup> *Id.* Section VII.A.

<sup>182</sup> *Id.* Section II.C.

grade credit rating at the proposal stage. Rather, LS Power states that it should be sufficient that the transmission developer has demonstrated that it has the ability to finance similar transmission projects, regardless of whether a credit rating has been established. Further LS Power states that there is no reason why a new entrant should be required to post credit or guarantees at the proposal stage. LS Power also asserts that the qualification criterion that the transmission developer must demonstrate an ability to assume “liability for major losses resulting from a failure of facilities” is unclear, leading to uncertainty in how this will be evaluated.<sup>183</sup>

142. LS Power also asserts that, contrary to Order Nos. 890 and 1000, SCE&G proposes that only transmission developers qualified pursuant to the qualification criteria may propose transmission solutions for consideration in the regional transmission planning process for purposes of cost allocation.<sup>184</sup> LS Power states that the Commission should require SCE&G to establish a process for any entity to submit transmission projects for regional cost allocation.<sup>185</sup>

(c) **Answer**

143. SCE&G argues that an entity’s credit rating is a mechanism for determining the financial stability of a company and its ability to finance a transmission project, and that this is not unique or novel to commercial transactions. SCE&G further argues in evaluating an entity’s creditworthiness, SCE&G is protecting its ratepayers against the risk that a transmission developer may not be financially able to complete a transmission project. SCE&G also points out that providing a credit rating is not the only way an entity can establish creditworthiness and that SCE&G’s financial criteria provides three options for an entity to establish its creditworthiness. SCE&G explains that in an earlier draft of Attachment K, SCE&G provided an additional option for transmission developers to establish themselves as creditworthy, but SCE&G removed that option in response to objection by LS Power.<sup>186</sup> SCE&G also argues that its method for

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<sup>183</sup> LS Power Protest at 15-16.

<sup>184</sup> *Id.* at 14 (citing Order No. 1000, FERC Stats & Regs. ¶ 31,323, at P 324, n.304).

<sup>185</sup> *Id.*

<sup>186</sup> Specifically, SCE&G states that an earlier draft of Attachment K also included the following option: “If the developer does not meet the creditworthiness criteria, it must provide collateral equal to 25 percent of the project cost in a manner consistent with acceptable forms of collateral defined in Attachment L.”

determining creditworthiness is far from onerous, as it is based almost entirely on the requirements of SCE&G's Attachment L, which the Commission approved.<sup>187</sup>

144. SCE&G clarifies that the provision requiring a transmission developer to demonstrate its ability to assume liability for major losses requires an entity to demonstrate that it can assume such liability for design, construction, or other such defects that cause financial or physical harm. Further, SCE&G points out that this criterion was approved by the Commission in its order approving tariff amendments for California Independent System Operator Corporation's revised transmission planning process.<sup>188</sup>

**(d) Commission Determination**

145. We find the provisions concerning financial qualification criteria in SCE&G's filing partially comply with the requirements of Order No. 1000. Generally, the financial qualification criteria that SCE&G has established are fair and not unreasonably stringent.<sup>189</sup> For example, with respect to the provision that allows a prospective transmission developer to demonstrate it has the necessary financial resources, we find that it is reasonable. SCE&G provides flexibility through either credit ratings or financial statements, as well as a satisfactory written guarantee from a parent company to be unconditionally responsible for all financial obligations. However, we find that SCE&G's proposal to include as a financial qualification criterion a demonstration of a transmission developer's ability to assume liability for major losses resulting from any failure of transmission facilities may be unreasonably stringent and could act as a barrier to entry. In addition, SCE&G's proposal does not provide an opportunity for a prospective transmission developer to remedy any deficiencies.<sup>190</sup> Thus, we require SCE&G to submit a further compliance filing, as discussed below.

146. We find that it is unclear what is intended by SCE&G's proposed financial qualification criterion that a transmission developer demonstrate its ability to assume liability for major losses resulting from any failure of transmission facilities. SCE&G has failed to explain how a prospective transmission developer would demonstrate such ability other than through the creditworthiness financial qualification criteria discussed above. Because it is unclear, we are unable to accept SCE&G's proposal in this regard

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<sup>187</sup> SCE&G Answer at 12-13.

<sup>188</sup> *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010).

<sup>190</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

<sup>190</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

and we therefore direct SCE&G in the further compliance filing to explain why this additional provision is necessary and not unduly discriminatory when transmission developers are already required to meet creditworthiness requirements or remove this financial qualification criterion from its tariff.

147. In addition, SCE&G proposes that within 30 days of receiving a transmission developer's application for eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, SCE&G and Santee Cooper will notify the prospective transmission developer of any deficiencies in its application, satisfying Order No. 1000's requirement that there be procedures in place for timely notifying transmission developers of whether they satisfy the region's qualification criteria. However, SCE&G's proposed tariff revisions do not describe whether a prospective transmission developer may remedy any deficiencies, as required by Order No. 1000. Thus, we require SCE&G in its further compliance filing to revise its tariff to provide an opportunity for a prospective transmission developer to remedy any such deficiencies.<sup>191</sup>

148. Order No. 1000 specifically stated that the transmission developer "qualification criteria should not be applied to an entity proposing a transmission project for consideration in the regional transmission planning process if that entity does not intend to develop the proposed transmission project."<sup>192</sup> Accordingly, SCE&G's proposal that only qualified transmission developers may *propose* a regional transmission project for consideration in the regional transmission plan for purposes of cost allocation is inconsistent with Order No. 1000. Whether a transmission project is *proposed* during the regional transmission planning process is different than whether there is an entity qualified to *develop* such a project. Therefore, we direct SCE&G to remove this provision in the further compliance filing.<sup>193</sup>

149. With respect to SCE&G's proposed definition of a nonincumbent transmission developer, we find that its proposal to limit such entities to those that are not also enrolled transmission providers is inconsistent with Order No. 1000. Order No. 1000 states that a nonincumbent transmission developer includes "a public utility transmission

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<sup>191</sup> This requirement applies not only to SCE&G's proposed financial qualification criteria, but also to its proposed technical qualification criteria.

<sup>192</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324 n.304; Order No. 1000-A, 139 FERC ¶ 61,132 at P 439 n.439.

<sup>193</sup> This requirement likewise applies not only to SCE&G's proposed financial qualification criteria, but also to its proposed technical qualification criteria.

provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the incumbent for purposes of that project."<sup>194</sup> It is possible that a current or future transmission provider enrolled in the SCRTP might seek to propose a transmission project outside of its existing retail distribution service territory or footprint, and SCE&G's definition of nonincumbent transmission provider could preclude that enrolled transmission provider from doing so. Accordingly, as discussed below, we direct SCE&G to revise its definition to be consistent with Order No. 1000.

150. In sum, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing to revise its Attachment K to: (1) justify and clarify how a transmission developer can demonstrate its ability to assume liability for major losses resulting from any failure of transmission facilities or remove this financial qualification criterion entirely; (2) provide opportunities for potential transmission developers to remedy any deficiencies with respect to the qualification criteria; (3) revise the provision that the qualification criteria apply to any entity proposing a transmission project for consideration in the regional transmission planning process even if that entity does not intend to develop the proposed transmission project; and (4) revise its definition of nonincumbent transmission developer to be consistent with Order No. 1000.

**ii. Technical Criteria**

**(a) SCE&G's Filing**

151. Regarding technical qualifications, SCE&G requires each transmission developer to demonstrate its capability to develop, construct, operate and maintain electric transmission projects of similar complexity, size and scope as the proposed transmission project. SCE&G also requires transmission developers to demonstrate, at a minimum: (1) technical and engineering qualifications and experience; (2) a past history of meeting transmission project schedules and cost containment; (3) a capability to adhere to standardized construction practices; (4) a past history of providing or contracting for operations and maintenance of transmission facilities and adhering to standardized practices; (5) how it intends to comply with all applicable reliability standards and obtain the appropriate NERC certifications; (6) a past record of compliance with NERC standards; and (7) a historical ability to site, permit, procure equipment, construct, own, operate and maintain transmission facilities.

152. SCE&G states that once a transmission developer is found to be qualified, the qualification will continue for up to five years for any future proposed transmission

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<sup>194</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 225.

project that does not exceed the size or scope of its initially proposed transmission project. A qualified transmission developer is also required to update any change to its application regardless of the materiality of the change. Finally, the transmission providers reserve the right to request additional information from any transmission developer, whether previously qualified or in the qualification process.

(b) **Protests/Comments**

153. LS Power states that, at the proposal stage, the ability to obtain appropriate NERC certification is an inappropriate qualification criterion.<sup>195</sup>

(c) **Answer**

154. SCE&G clarifies that it is not requiring NERC registration, as is prohibited under Order No. 1000-A, but instead only requires a demonstration of how an entity *intends* to comply with NERC registration. SCE&G reiterates that this provision does not require anyone to actually register with NERC.

(d) **Commission Determination**

155. We find that the technical qualification criteria provisions in SCE&G's filing partially comply with the requirements of Order No. 1000. We conclude that as modified below, SCE&G's proposed technical qualification criteria are fair and not unreasonably stringent, are not unduly discriminatory or preferential, and provide each potential transmission developer the opportunity to demonstrate that it has the necessary technical expertise to develop, construct, own, operate, and maintain transmission facilities.<sup>196</sup> To begin with, we note that certain of the requirements that we are directing above, with respect to the financial qualification criteria, also apply to the technical qualification criteria. Specifically, SCE&G must revise its tariff to provide an opportunity for a prospective transmission developer to remedy any deficiencies with respect to the technical qualification criteria, as well as clarify that the technical qualification criteria do not apply to an entity that proposes a transmission project for consideration in the regional transmission planning process, but that does not intend to develop the transmission project.<sup>197</sup>

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<sup>195</sup> LS Power Protest at 16-17.

<sup>196</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

<sup>197</sup> This requirement likewise applies not only to SCE&G's proposed technical qualification criteria, but also to its proposed financial qualification criteria.

156. Moreover, while Order No. 1000-A clarified that NERC registration is not an appropriate qualification criterion for the developer qualification stage, we find that a description of how an entity intends to comply, if necessary, with NERC registration requirements is reasonable as a qualification criterion. However, we require SCE&G to revise its technical criteria to remove the minimum criteria of demonstrating a past record of compliance with NERC standards. Such a minimum criteria would require NERC registration to be in effect prior to qualification in order to demonstrate a historical record of NERC compliance, contrary to Order No. 1000.

157. SCE&G's proposed criterion to consider the historical ability of the entity in question in siting and permitting is inconsistent with Order No. 1000-A. In Order No. 1000-A, the Commission clarified that "it would be an impermissible barrier to entry, to require, as part of the qualification criteria, that a transmission developer demonstrate that it either has, or can obtain state approvals necessary to operate in a state, including state public utility status or the right of eminent domain, to be eligible to propose a transmission facility."<sup>198</sup> Therefore, on compliance, we direct SCE&G to remove the minimum criteria requiring a historical ability to site and permit transmission facilities.

158. Furthermore, SCE&G does not explain whether the qualification criteria apply to incumbent transmission owners. Order No. 1000 requires each public utility transmission provider to revise its tariff to demonstrate that the regional transmission planning process in which it participates has established appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider or a nonincumbent transmission developer.<sup>199</sup> Appropriate qualification criteria must be fair and not unreasonably stringent when applied to either the incumbent transmission provider or nonincumbent transmission developer.<sup>200</sup> These criteria must not be unduly discriminatory or preferential and must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities.<sup>201</sup> The qualification criteria should also allow for the possibility that an existing public utility transmission provider already satisfies the criteria.<sup>202</sup>

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<sup>198</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

<sup>199</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 225, 323.

<sup>200</sup> *Id.* P 324.

<sup>201</sup> *Id.* P 323.

<sup>202</sup> *Id.* P 324.

Therefore, we require SCE&G to submit a compliance filing that provides not unduly discriminatory qualification criteria for incumbent transmission owners and nonincumbent transmission developers.

159. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing proposing tariff revisions that: (1) remove the minimum criteria of demonstrating a past record of compliance with NERC standards; (2) remove references to consider the historical ability of the entity in question in siting and permitting as a qualification criteria; (3) specify whether the qualification criteria will apply equally to incumbent transmission owners and nonincumbent transmission developers or explain how incumbent transmission owners already satisfy the qualification criteria.

**c. Information Requirements**

160. Order No. 1000 requires that each public utility transmission provider revise its Attachment K to identify the information that a prospective transmission developer must submit in support of a transmission project the developer proposes in the regional transmission planning process.<sup>203</sup> The public utility transmission provider must identify this information in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process.<sup>204</sup> The information requirements must not be so cumbersome that they effectively prohibit transmission developers from proposing transmission projects, yet not be so relaxed that they allow for relatively unsupported proposals.<sup>205</sup> They may require, for example, relevant engineering studies and cost analyses and may request other reports or information from the transmission developer that are needed to facilitate evaluation of the transmission project in the regional transmission planning process.<sup>206</sup>

161. Each public utility transmission provider must also revise its Attachment K to identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle.<sup>207</sup> Each transmission

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<sup>203</sup> *Id.* P 325.

<sup>204</sup> *Id.* P 326.

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> *Id.* P 325.

planning region may determine for itself what deadline is appropriate and may use rolling or flexible dates to reflect the iterative nature of their regional transmission planning process.<sup>208</sup>

**i. SCE&G's Filing**

162. SCE&G requires transmission developers to submit a description of the proposed transmission project including: (1) a description of the owners; (2) an indication of whether the transmission project is for reliability, public policy or economic purposes; (3) the general path of the transmission line; (4) all interconnection points; (5) the various stages of the transmission project such as siting, licensing, right-of-way acquisition, etc.; (6) a total capital cost estimate; (7) a description of the transmission developer's financing approach; (8) a reliability impact assessment including how the transmission project will abide by any transmission standards of the transmission providers with which the transmission project will interconnect; (9) a system impact study demonstrating that no applicable standard is violated at any point on the wide-area grid; (10) a description of the legal authority necessary for the transmission project; and (11) supporting documentation demonstrating that the proposed transmission project is more efficient or cost-effective. SCE&G also requires a deposit of \$25,000 for each transmission project submittal, and the deposit will be applied towards and trued up based on the documented costs of the transmission provider's analysis.<sup>209</sup>

163. SCE&G explains that this information ensures the transmission providers receive sufficiently detailed information in order to conduct a fair and nondiscriminatory evaluation of the proposal. SCE&G states that such information, without any deficiencies, must be submitted by January 15 of each year in order to be considered in that year's regional transmission planning cycle.<sup>210</sup>

**ii. Protests/Comments**

164. LS Power asserts that the requirement to explain how a transmission project will abide by transmission standards of the transmission provider is premature in the transmission planning process and could create a barrier for new entrants.<sup>211</sup> LS Power

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<sup>208</sup> *Id.* P 327.

<sup>209</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.C. h.

<sup>210</sup> *Id.* Section III. E. 2.

<sup>211</sup> LS Power Protest at 17.

states that new entrants should be held to the same standards that transmission providers currently place on each other. However, LS Power notes that it is likely there are no defined standards in place in South Carolina since the incumbent transmission providers agree to abide by each other's standards when they interconnect.<sup>212</sup>

165. LS Power asserts that the "no violations" criterion included as part of the system impact study is unnecessary and could be used as a barrier to entry. LS Power contends that even if incremental costs to fix any violation are added to the cost estimate, it is still possible that a proposed transmission project will be less expensive or provide more benefits than another transmission option, thus remaining eligible for consideration in the regional transmission plan.<sup>213</sup>

166. LS Power asserts that the information requirement on the legal authority needed to develop a transmission project could pose an improper barrier to entry. LS Power is concerned that the information will be used inappropriately in the evaluation stage and that transmission projects will be rejected simply based on the lack of certain state approvals at this early stage.<sup>214</sup>

167. LS Power states that the technical analysis required demonstrating a cost-effective or efficient transmission project inappropriately shifts the burden of evaluating the benefits of the transmission project to the new entrant rather than the independent planning entity.<sup>215</sup>

### iii. Answer

168. SCE&G contends that Order No. 1000 requires transmission providers to evaluate alternative transmission solutions that might meet the transmission needs of the transmission planning region more efficiently or cost-effectively.<sup>216</sup> SCE&G states that the Order No. 1000 establishes a regional transmission planning process whereby transmission projects proposed by nonincumbent transmission developers are compared against transmission projects currently existing in the incumbent transmission provider's

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<sup>212</sup> *Id.*

<sup>213</sup> *Id.* at 19.

<sup>214</sup> *Id.* at 20.

<sup>215</sup> *Id.* at 20-21.

<sup>216</sup> SCE&G Answer at 7 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148).

local or regional transmission plan. SCE&G further explains that under Order No. 1000 the burden is on the transmission developer to demonstrate the benefits of the proposed transmission project.<sup>217</sup>

169. SCE&G states that interconnecting a new transmission facility into the existing system requires that the new transmission facility adhere to the standards of the system with which it is interconnecting. SCE&G also states that LS Power ignores the fact that NERC mandates that transmission owners develop transmission facility connection requirements, which apply to transmission facility interconnections.<sup>218</sup> SCE&G explains that while these NERC requirements are mandatory, they are also minimum requirements and that transmission providers can and do establish additional reliability requirements tailored to their systems. SCE&G argues that this requirement holds nonincumbent transmission developers to the same standard as incumbent transmission providers.<sup>219</sup>

170. Regarding LS Power's objection to the requirement that qualified developers demonstrate that the proposed transmission project creates no violations at any point on the wide-area grid, SCE&G reiterates that a transmission project may not be proposed with unaddressed violations. SCE&G further clarifies that the system impact study should identify and resolve any violations prior to submitting the transmission project and that the cost to fix any violations should be included in the estimated cost of the transmission project.

171. In response to LS Power's objections to the proposed requirement that a qualified transmission developer describe the legal authority, if any, that needs to be obtained in order for the developer to site/own transmission, SCE&G states that the Commission's prohibition is specific to requiring a demonstration that an entity can obtain necessary state approvals and clarifies that SCE&G is not requiring such proof of obtaining such approvals, only a description of the legal authority necessary to obtain such approvals.<sup>220</sup>

#### iv. Commission Determination

172. We find that the provisions in SCE&G's filing, as clarified in its answer, addressing information requirements for submitting proposals partially comply with the requirements of Order No. 1000. Certain of SCE&G's proposed information

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<sup>217</sup> *Id.* at 8 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at n.307).

<sup>218</sup> NERC Reliability Standard FAC-001-0.

<sup>219</sup> SCE&G Answer at 15.

<sup>220</sup> *Id.* at 16.

requirements are reasonable and sufficiently detailed to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process, as required by Order No. 1000.<sup>221</sup> Specifically, we disagree with LS Power that it is unreasonable for SCE&G to include as an information requirement a description of the legal authority necessary to develop a proposed transmission project. As SCE&G explains, the Commission clarified in Order No. 1000-A that it would be an impermissible barrier to entry to require, as part of the qualification criteria, that a transmission developer demonstrate that it has, or can obtain, state approvals necessary to operate in a state, including state public utility status and the right to eminent domain, to be eligible to propose a transmission facility.<sup>222</sup> However, we find that it is reasonable to require that a prospective transmission developer describe the legal authority necessary to develop its proposed transmission project given that such a requirement does not require the transmission developer to demonstrate that it has such legal authority. Moreover, SCE&G has met Order No. 1000's requirement that it revise its Attachment K to identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle,<sup>223</sup> identifying such date as January 15.

173. Regarding the \$25,000 deposit requirement proposal, we believe that this represents a reasonable amount to be provided for each transmission project submittal. However, consistent with previous Commission requirements, we direct SCE&G on compliance to provide to each developer a description of which costs the deposit will be applied to, how those costs will be calculated, and an accounting of the actual costs to which the deposit is applied.<sup>224</sup> We also find that any disputes regarding these issues should be addressed under SCE&G's dispute resolution provisions of its tariff, which are discussed above.

174. We find that the following information that SCE&G proposes to require a prospective transmission developer to provide does not comply with Order No. 1000: (1) a reliability impact assessment including how the transmission project will abide by any transmission standards of the transmission providers with which the transmission project will interconnect; (2) a system impact study demonstrating that no applicable

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<sup>221</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 326.

<sup>222</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

<sup>223</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 325.

<sup>224</sup> See Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 220.

standard is violated at any point on the wide-area grid; and (3) supporting documentation demonstrating that the proposed transmission project is more efficient or cost-effective. We find that requiring the prospective transmission developer to perform such studies in order to have its proposed transmission project considered in the regional transmission planning process is overly burdensome. We conclude that such detailed studies are more appropriately performed in the regional transmission planning process to determine whether or not to select a proposed transmission project in the regional transmission plan for purposes of cost allocation. The information requirements should permit a transmission developer to submit any studies and analysis it performed to support its proposed transmission project, but should not require studies and analyses that only incumbent transmission providers are likely to have sufficient information to complete. However, the SCRTP transmission planning region must conduct the studies and analysis that it will use to evaluate proposed transmission projects as part of the regional transmission planning process, as discussed above in section IV.B.1.c.i. Consequently, we direct SCE&G to remove these information requirements from its tariff.

175. However, with respect to the reliability impact assessment referenced in the first information requirement, we disagree with LS Power that requiring a prospective transmission developer to explain how it will abide by any transmission standards of the transmission providers with which the transmission project will interconnect is unreasonable. As long as such standards are publicly available so that a prospective transmission developer may access them and are applied comparably to both incumbent transmission providers and nonincumbent transmission developers proposing transmission facilities, we find that such an information requirement would be reasonable.

176. As discussed above, we therefore direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that revises its Attachment K to: (1) provide a description of which costs the \$25,000 deposit will be applied to, how those costs will be calculated and an accounting of the actual costs to which the deposit is applied; (2) describe what remedies transmission developers will have if they dispute such costs or calculations; and (3) remove the information requirements that require a prospective transmission developer to provide a reliability impact assessment, a system impact study demonstrating that no applicable standard is violated at any point on the wide-area grid, and supporting documentation demonstrating that the proposed transmission project is more efficient or cost-effective.

**d. Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

177. Order No. 1000 requires each public utility transmission provider to amend its Attachment K to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission

plan for purposes of cost allocation.<sup>225</sup> Public utility transmission providers should both explain and justify the nondiscriminatory evaluation process proposed in their compliance filings.<sup>226</sup>

178. The evaluation process must ensure transparency and provide the opportunity for stakeholder coordination.<sup>227</sup> The public utility transmission providers in a transmission planning region must use the same process to evaluate a new transmission facility proposed by a nonincumbent transmission developer as it does for a transmission facility proposed by an incumbent transmission developer.<sup>228</sup> When cost estimates are part of the selection criteria, the regional transmission planning process must scrutinize costs in the same manner whether the transmission project is sponsored by an incumbent or nonincumbent transmission developer.<sup>229</sup> The evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>230</sup>

**i. SCE&G's Filing**

179. SCE&G states that in consultation with stakeholders, it will evaluate regional transmission projects proposed by transmission developers. SCE&G states that it will utilize coordinated models and assumptions and each transmission provider's respective planning guidelines and criteria to evaluate whether the proposed transmission project addresses transmission needs that are currently being addressed in the latest local transmission expansion plans, and if so, which transmission projects in these plans could be cancelled or postponed. Additionally, it will determine whether the proposed transmission project will require changes to any other planned transmission projects.

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<sup>225</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

<sup>226</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 268.

<sup>227</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>228</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>229</sup> *Id.* P 455.

<sup>230</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

180. SCE&G states that it will evaluate the proposal against all applicable FERC, NERC, SERC, and South Carolina Public Service Commission (South Carolina Commission) regulatory reliability requirements, as well as interconnected transmission provider facility connection requirements.

181. SCE&G states that the proposed transmission project must yield a regional benefit to cost ratio of at least 1.25 and must not adversely impact reliability. SCE&G states that the benefit to cost ratio will be expressed as the total cost of avoided transmission facilities divided by the total cost of the regional transmission project (including the cost of any additional transmission projects required to implement the proposal).<sup>231</sup> SCE&G also states that the proposed transmission project must not cause any increased, unmitigated transmission costs. Based upon this evaluation, the transmission providers will assess whether the proposed transmission project is a more efficient or cost-effective solution for the transmission planning region.

182. SCE&G states that if the transmission project is determined to be more efficient or cost-effective than transmission projects in the existing local transmission plans, meets the 1.25 benefit to cost ratio, continues to remain needed and reliable and is approved by the transmission providers whose local transmission expansion plans would be altered and their relevant jurisdiction and/or governmental authorities (i.e., Santee Cooper's senior management and/or Board of Directors or the South Carolina Public Service Commission), then the transmission project may be selected in the regional transmission plan for purposes of cost allocation.

**ii. Protests/Comments**

183. LS Power states that the SCE&G compliance filing fails to provide the circumstances and procedures under which transmission projects will be evaluated, as required by Order No. 1000. LS Power contends that SCE&G fails to select the more cost-effective transmission project, noting that the final selection process has no reference to cost and provides no guidance on how a determination will be made as to efficiency or cost-effectiveness of a proposed transmission project.<sup>232</sup> LS Power further notes that there is no description of any safeguards that will be put in place to ensure a nondiscriminatory process.<sup>233</sup> Additionally, LS Power states that there is no method to

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<sup>231</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.J.

<sup>232</sup> LS Power Protest at 23.

<sup>233</sup> *Id.* at 24.

evaluate and compare the costs estimates of proposed transmission projects and previously approved local transmission projects.<sup>234</sup> LS Power asserts that because the cost estimates for local and regional transmission projects are the basis for comparison between the two, the estimates need to be based on a similar methodology to ensure accurate comparisons.<sup>235</sup>

184. LS Power also asserts that the 1.25 benefit to cost ratio is inappropriate since the SCE&G proposed avoided cost formula has no focus on “benefits.”<sup>236</sup> LS Power disagrees with SCE&G’s proposal requiring a regional transmission project to be 25% less expensive than a combination of local transmission projects, and states that SCE&G’s proposal fails to include any comparison of actual benefits, only costs.<sup>237</sup> LS Power states that, under a true avoided cost framework, the appropriate test is whether a competing regional transmission project is less expensive than a transmission project(s) in the local or regional transmission plans.<sup>238</sup>

185. Finally, LS Power asserts that it is inappropriate for a competing transmission provider to have veto rights over a transmission project’s inclusion in the regional transmission plan for purposes of cost allocation. LS Power also objects to the mandate that the South Carolina Commission approve the transmission project over a locally determined transmission project.<sup>239</sup> LS Power argues that these provisions create unnecessary uncertainty by allowing the process to run its course, and then allowing Santee Cooper management or the South Carolina Commission to reject the regional planning determination.<sup>240</sup>

### iii. Answer

186. SCE&G states that its evaluation process as outlined in its revised Attachment K is clearly based upon its review of the criteria outlined in Section E (Evaluation of

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<sup>234</sup> *Id.* at 21.

<sup>235</sup> *Id.* at 18.

<sup>236</sup> *Id.* at 22.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* at 21-22.

<sup>239</sup> *Id.* at 27.

<sup>240</sup> *Id.* at 27.

Proposals for Selection in the Regional Plan for Purposes of Cost Allocation).<sup>241</sup> SCE&G also states that SCE&G plans to use the same evaluation criteria for all transmission projects, regardless of whether they are proposed for reliability, economics, or public policy purposes.<sup>242</sup>

187. SCE&G states that it disagrees with the assertion by LS Power that the benefit-cost framework does not measure the full range of benefits and responds by reiterating that the benefit measured is the benefit of the cost of transmission that is avoided by the proposed transmission project. SCE&G states that it also disagrees with LS Power that the standard should be whether the proposed transmission project is any percentage less expensive than a transmission project in the local or regional transmission plan. SCE&G cites Order No. 1000: “Allowing for a transparent benefit to cost ratio may help certain transmission planning regions to determine which transmission facilities have sufficient net benefits to be selected in the regional transmission plan for purposes of cost allocation”<sup>243</sup> and argues that maintaining the 1.25 benefit to cost ratio ensures that only the most efficient and cost-effective transmission projects are evaluated for selection in the regional transmission plan for purposes of cost allocation. SCE&G clarifies that it intends to develop cost estimates for its local transmission projects in a manner that permits an equitable comparison with proposed regional transmission projects.

#### iv. Commission Determination

188. We find that SCE&G’s proposed method of evaluating proposed transmission projects does not comply with the requirements of Order No. 1000. SCE&G’s OATT provides only limited detail about how the SCRTP regional transmission planning process will evaluate a transmission facility proposed by potential transmission developer. SCE&G’s OATT must include detail as to how the SCRTP regional transmission planning process will determine through analysis potentially more efficient or cost-effective transmission solutions to regional transmission needs rather than relying exclusively on transmission proposals from individual transmission owners and stakeholders. SCE&G’s OATT also does not make clear that the SCRTP regional transmission planning process will identify and evaluate transmission solutions other than those proposed by qualified transmission developers, and, what metrics will be used to conduct such identification and evaluation. This additional detail will necessarily impact

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<sup>241</sup> SCE&G Answer at 17-18.

<sup>242</sup> *Id.* at 18.

<sup>243</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 648.

the evaluation process for selection in the regional transmission plan for purposes of cost allocation. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that describes in its OATT a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the SCRTP regional transmission plan for purposes of cost allocation.<sup>244</sup> SCE&G should both explain and justify the proposed evaluation criteria, including how they apply in a not unduly discriminatory manner to sponsored transmission projects, transmission projects proposed by stakeholders, and transmission projects identified in the SCRTP regional transmission planning process.

189. In addition, we note that Order No. 1000 requires that the evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>245</sup> While the Commission in Order No. 1000 recognized that the process for evaluating whether to select a transmission facility in the regional transmission plan for purposes of cost allocation will likely vary from region to region,<sup>246</sup> such evaluation must consider “the relative efficiency and cost-effectiveness of [any proposed transmission] solution.”<sup>247</sup> Therefore, we require SCE&G, in the further compliance filing, to: (1) propose OATT revisions providing how SCRTP will consider the relative efficiency and cost-effectiveness of proposed transmission solutions, as part of its evaluation of transmission solutions proposed in the regional transmission planning process; and (2) explain how SCRTP will ensure its evaluation of transmission solutions proposed in the regional transmission planning process will culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected as a more efficient or cost-effective solution in the regional transmission plan for purposes of cost allocation.

190. SCE&G’s proposed tariff revisions indicate that SCE&G and Santee Cooper will separately evaluate proposed transmission facilities using their respective guidelines and

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<sup>244</sup> *Id.* P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

<sup>245</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

<sup>246</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 323.

<sup>247</sup> *Id.* n.307.

criteria.<sup>248</sup> Order No. 1000 requires public utility transmission providers to participate in a transmission planning region that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs. It is not sufficient that each transmission provider enrolled in the transmission planning region conducts its own independent analysis.

191. As one of the final steps of the evaluation process, SCE&G proposes a number of requirements for a proposed regional transmission facility to ultimately be selected in the regional transmission plan for purposes of cost allocation. A proposed regional transmission facility will be selected in the regional transmission plan only if it is approved by the transmission provider, whose local transmission expansion plans would be altered as a result of the transmission project's selection, and the relevant jurisdictional and/or government authorities. We do not agree that transmission providers should be granted such authority in the process. Whether a transmission owner is willing to modify its local transmission plan should not determine whether a regional reliability transmission project may be selected in the regional transmission plan for purposes of cost allocation. To grant an incumbent transmission owner that authority would frustrate the transmission providers in the SCRTP transmission planning region's ability to identify and select the more efficient or cost-effective regional transmission solutions in the regional transmission plan.<sup>249</sup> We direct SCE&G, in the further compliance filing, to remove this provision from its tariff.

192. With respect to SCE&G's proposed role for the South Carolina Commission in the transmission project evaluation and selection process, we find that Order No. 1000 requires public utility transmission providers in a region to determine which transmission facilities will be selected in the regional transmission plan for purposes of cost allocation. For example, Order No. 1000 provides, "[w]hether or not public utility transmission providers within a region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is an efficient or cost-effective solution to their needs."<sup>250</sup> In addition, Order No. 1000-A states, "Order No. 1000 . . . requires public utility transmission providers in a region to adopt transparent and not unduly discriminatory criteria for selecting a new transmission project in a regional transmission plan for

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<sup>248</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.E.

<sup>249</sup> We recognize that SCRTP is currently composed of one public utility transmission provider and one non-public utility transmission provider.

<sup>250</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 331.

purposes of cost allocation.”<sup>251</sup> The role of state regulatory authorities must be to provide guidance and recommendations and must be defined in the tariff. For instance, a state entity or regional state committee can consult, collaborate, inform, and even recommend a developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation, but the public utility transmission providers in a transmission planning region must make the selection decision with respect to the developer, not the state entity or regional state committee.

193. Therefore, we find that SCE&G must include in its revised Attachment K a process for selecting transmission facilities in the regional transmission plan for purposes of cost allocation whereby the public utility transmission providers in the region ultimately decide which transmission projects are selected. We agree that state regulatory authorities can be provided opportunities to consult, collaborate, inform, and even recommend a transmission project for selection in the regional transmission plan for purposes of cost allocation. However, the public utility transmission providers, not the state entity, in a transmission planning region should ultimately select the transmission facilities in the regional transmission plan for purposes of cost allocation.

194. In response to LS Power’s concern over cost comparisons, in those cases where it is appropriate to consider the costs of transmission facilities in the transmission provider’s local plans as one part of the regional evaluation, we support SCE&G’s clarification in its answer that it will develop cost estimates for local transmission facilities in a manner that provides for an equitable comparison with regional transmission facilities. We therefore direct SCE&G in its Attachment K in the further compliance filing to clarify the methods it will use to determine the transmission project costs of the transmission facilities that it will evaluate as part of its evaluation of more efficient or cost-effective transmission solutions.

195. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing proposing tariff revisions that: (1) provide a transparent and not unduly discriminatory process for the public utility transmission providers in the SCRTP region to evaluate and select the transmission facilities in the regional transmission plan for purposes of cost allocation; (2) remove the provision that would grant an incumbent transmission owner, or the relevant jurisdictional and/or governmental authorities, the authority to approve a regional transmission project, if that project would alter the transmission owner’s local transmission plan; and (3) clarify the methods it will use to determine the transmission project costs of the transmission facilities that are being evaluated.

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<sup>251</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 455.

e. **Reevaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

196. Each public utility transmission provider must amend its Attachment K to describe the circumstances and procedures under which public utility transmission providers in the regional transmission planning process will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative transmission solutions, including those that the incumbent transmission provider proposes, to ensure the incumbent transmission provider can meet its reliability needs or service obligations.<sup>252</sup> If an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose transmission solutions that it would implement within its retail distribution service territory or footprint, and if that solution is a transmission facility, then the proposed transmission facility should be evaluated for possible selection in the regional transmission plan for purposes of cost allocation.<sup>253</sup>

i. **SCE&G's Filing**

197. SCE&G states that in order to remain in the regional transmission plan for purposes of cost allocation the transmission project must remain needed, reliable, and more efficient or cost-effective. SCE&G states that the transmission providers will review periodic updates from the transmission project developer to determine whether delays associated with the completion of a transmission project have the potential to adversely affect an incumbent transmission provider's ability to fulfill its reliability transmission needs or service obligations. If the transmission providers determine that delays may affect reliability or service obligations, the transmission providers may propose regional transmission solutions for purposes of cost allocation or may develop local transmission solutions to ensure they can continue to fulfill their reliability needs or service obligations.<sup>254</sup>

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<sup>252</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>253</sup> *Id.* P 329.

<sup>254</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.I.

**ii. Protests/Comments**

198. LS Power asserts that the provisions that outline the circumstance under which transmission projects in the regional plan will be removed from the assigned transmission project sponsor lack specificity. LS Power contends that the language selected by SCE&G, such as “potential to adversely affect” or “may affect reliability or service obligations,” to identify instances in which a transmission project “may” be removed from the transmission project sponsor is loose language that does not meet the obligations of Order No. 1000.<sup>255</sup>

**iii. Commission Determination**

199. We find that the provisions in SCE&G’s filing dealing with the reevaluation of proposed transmission projects partially comply with the requirements of Order No. 1000. SCE&G’s proposal clearly identifies the circumstances and procedures for when it will reevaluate transmission projects that are selected in the regional transmission plan for purposes of cost allocation. However, we are concerned that the lack of description regarding how SCE&G and the other transmission providers will decide whether to remove a regional transmission project may allow SCE&G and the other transmission providers too much discretion in making this determination. For example, SCE&G proposes that “if the Transmission Providers determine that delays may affect reliability or service obligations....”<sup>256</sup> More detail is needed as to what constitutes a delay and what type of impact or the extent of impact on reliability or service obligations would qualify.

200. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that more fully explains the basis upon which SCE&G and the other transmission providers will remove a selected regional transmission project.

**f. Cost Allocation for Projects Selected in the Regional Transmission Plan for Purposes of Cost Allocation**

201. Order No. 1000 requires each public utility transmission provider to participate in a regional transmission planning process that provides that a nonincumbent transmission developer has an opportunity comparable to that of an incumbent transmission developer

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<sup>255</sup> LS Power Protest at 28.

<sup>256</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.I.

to allocate the cost of a transmission facility through a regional cost allocation method or methods.<sup>257</sup> A nonincumbent transmission developer must have the same eligibility as an incumbent transmission developer to use a regional cost allocation method or methods for any sponsored transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>258</sup> If a transmission project is selected in a regional transmission plan for purposes of cost allocation, Order No. 1000 requires that the transmission developer of that transmission facility (whether incumbent or nonincumbent) must be able to rely on the relevant cost allocation method or methods within the region should it move forward with its transmission project.<sup>259</sup>

202. Order No. 1000 specifies that the regional transmission planning process could use a non-discriminatory competitive bidding process as the mechanism to ensure that all transmission projects are eligible to be considered for selection in the regional transmission plan for purposes of cost allocation.<sup>260</sup> A region may use or retain an existing mechanism that relies on a competitive solicitation to identify preferred transmission solutions to regional transmission needs, and such an existing process may require little or no modification to comply with the framework adopted in Order No. 1000.<sup>261</sup> The regional transmission planning process could allow the sponsor of a transmission project selected in the regional transmission plan for purposes of cost allocation to use the regional cost allocation method associated with the transmission project.<sup>262</sup> If it uses a sponsorship model, the regional transmission planning process would also need to have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>263</sup>

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<sup>257</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 332.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.* P 339.

<sup>260</sup> *Id.* P 336.

<sup>261</sup> *Id.* P 321.

<sup>262</sup> *Id.* P 336.

<sup>263</sup> *Id.*

**i. SCE&G's Filing**

203. SCE&G proposes that when a proposed transmission project is selected in the regional transmission plan for purposes of cost allocation, a contractual agreement must be developed to address: communication responsibilities of the transmission developer and the transmission providers; detailed key milestones and anticipated schedules; circumstances prompting reevaluation; credit enhancement; insurance requirements; interconnection provisions; transmission project requirements and specifications, budget, and benefits; responsibility for meeting NERC standards; engineering, procurement and construction (EPC) contract requirements; operations and maintenance responsibilities; responsibilities for capital repairs during the operation period; provisions indicating that transmission service over the transmission facilities will be provided pursuant to the SCE&G and/or Santee Cooper OATT; capacity and transmission rights; allocation of costs; representations and warranties; condemnation; assignment of agreement; indemnification; limitation of liability; termination rights; and dispute resolution.<sup>264</sup>

**ii. Protests/Comments**

204. LS Power protests the requirement that the selected entity enter into a contractual agreement with the transmission provider to negotiate numerous items. Rather, LS Power states that SCE&G should file a proposed contract with the Order No. 1000 compliance filing.

**iii. Answer**

205. In response to LS Power's protest regarding the contractual agreement, SCE&G states that this agreement will serve as a negotiated document that addresses the details of transmission project construction and operation and that it would be improper to include these types of details in the Attachment K because they will be freely negotiated between the parties and are subject to change depending on each transmission project. SCE&G also states the Commission's "rule of reason" provides guidance on when certain information should be included in the Attachment K to support this argument.<sup>265</sup> SCE&G clarifies further that the information negotiated in the contract would not affect rates, terms and conditions, but only sets forth the details of how the parties intend to

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<sup>264</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.F.

<sup>265</sup> SCE&G Answer at 18 (citing *Town of Easton v. Delmarva Power and Light Co. et al.*, 24 FERC ¶ 61,251, at 61,531 (1983)).

move forward with the transmission project and that according to the test set forth by the Commission, there is no requirement to include this information in the Attachment K.

**iv. Commission Determination**

206. We find that the provisions in the SCE&G's filing dealing with cost allocation for nonincumbent transmission projects partially comply with the requirements of Order No. 1000. SCE&G has proposed a sponsorship model, which would permit a qualified transmission developer, whether an incumbent or a nonincumbent, to submit a transmission project, and if that transmission project is selected in the SCRTP regional transmission plan for purposes of cost allocation, then the transmission developer is eligible to use the regional cost allocation method. However, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that addresses the issues discussed below.

207. SCE&G's proposed sponsorship model grants a transmission developer the right to use the regional cost allocation method for a transmission facility that it has proposed that is selected in the regional transmission plan for purposes of cost allocation. However, SCE&G does not have a mechanism to grant such a right for unsponsored transmission projects. Consistent with our directives in the affirmative obligation to plan section above, SCE&G will have to participate in a transmission planning region that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs. The regional transmission planning process would also need to have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method to the extent an unsponsored transmission facility is selected in the regional transmission plan for purposes of cost allocation.<sup>266</sup> Accordingly, we direct SCE&G to revise its tariff to include a mechanism that grants the right to use the regional cost allocation method for such transmission projects in its further compliance filing.

208. Finally, we agree with LS Power's concern regarding the contractual agreement required by SCE&G for transmission projects selected in the regional transmission plan for purposes of cost allocation and direct SCE&G to submit any such *pro forma* agreement for review by the Commission in its compliance filing within 120 days from the date of the issuance of this order. The *pro forma* contractual agreement should address SCE&G's contractual provisions discussed above with the understanding that certain issues may be negotiated on a case-by-case basis. However, with respect to the contractual provision indicating that transmission service over the transmission facilities

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<sup>266</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 336.

of a transmission developer will be provided pursuant to the SCE&G and/or Santee Cooper OATT, we find that SCE&G has not justified including such a requirement. While such arrangements may be appropriate in some circumstances, they may not be in others. Therefore, we direct SCE&G to remove this provision from its contractual agreement.

209. Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing proposing tariff revisions that: (1) permit unsponsored transmission projects to use the regional cost allocation method, if such a transmission project is selected in the regional transmission plan for purposes of cost allocation; (2) include a *pro forma* contractual agreement for transmission projects selected in the regional transmission plan for purposes of cost allocation; and (3) remove the provision indicating that transmission service over the transmission facilities of a transmission developer will be provided pursuant to the SCE&G and/or Santee Cooper OATT.

### **3. Cost Allocation**

210. Order No. 1000 requires each public utility transmission provider to have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>267</sup> Each public utility transmission provider must show on compliance that its regional cost allocation method or methods are just and reasonable and not unduly discriminatory or preferential by demonstrating that each method satisfies six regional cost allocation principles described in Order No. 1000.<sup>268</sup> The Commission took a principles-based approach because it recognized that regional differences may warrant distinctions in cost allocation methods among transmission planning regions.<sup>269</sup> In addition, Order No. 1000 permits participant funding, but not as a regional or interregional cost allocation method.<sup>270</sup>

211. If a public utility transmission provider is in an RTO or ISO, Order No. 1000 requires that the regional cost allocation method or methods be set forth in the RTO or ISO OATT. In a non-RTO/ISO transmission planning region, each public utility transmission provider located within the region must set forth in its tariff the same language regarding the cost allocation method or methods that is used in its transmission

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<sup>267</sup> *Id.* P 558.

<sup>268</sup> *Id.* P 603.

<sup>269</sup> *Id.* P 604.

<sup>270</sup> *Id.* P 723.

planning region.<sup>271</sup> Each public utility transmission provider must have a regional cost allocation method for any transmission facility selected in a regional transmission plan for purposes of cost allocation.<sup>272</sup>

212. Regional Cost Allocation Principle 1 specifies that the cost of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits. Cost allocation methods must clearly and definitively specify the benefits and the class of beneficiaries.<sup>273</sup> In determining the beneficiaries of transmission facilities, a regional transmission planning process may consider benefits including, but not limited to, the extent to which transmission facilities, individually or in the aggregate, provide for maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting Public Policy Requirements.<sup>274</sup> Regional Cost Allocation Principle 1 precludes an allocation where the benefits received are trivial in relation to the costs to be borne.<sup>275</sup>

213. Order No. 1000 does not prescribe a particular definition of “benefits” or “beneficiaries.”<sup>276</sup> The Commission stated in Order No. 1000-A that while Order No. 1000 does not define benefits and beneficiaries, it does require the public utility transmission providers in each transmission planning region to be definite about benefits and beneficiaries for purposes of their cost allocation methods.<sup>277</sup> In addition, for a cost allocation method or methods to be accepted by the Commission as Order No. 1000-compliant, they will have to specify clearly and definitively the benefits and the class of beneficiaries.<sup>278</sup> A benefit used by public utility transmission providers in a regional cost allocation method or methods must be an identifiable benefit, and the transmission

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<sup>271</sup> *Id.* P 558.

<sup>272</sup> *Id.* P 690.

<sup>273</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 678.

<sup>274</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622.

<sup>275</sup> *Id.* P 639.

<sup>276</sup> *Id.* P 624.

<sup>277</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 679.

<sup>278</sup> *Id.* P 678.

facility cost allocated must be roughly commensurate with that benefit.<sup>279</sup> Each regional transmission planning process must provide entities who will receive regional or interregional cost allocation an understanding of the identified benefits on which the cost allocation is based.<sup>280</sup> The public utility transmission providers in a transmission planning region may propose a cost allocation method that considers the benefits and costs of a group of new transmission facilities, although there is no requirement to do so.<sup>281</sup>

214. The regional transmission plan must include a clear cost allocation method or methods that identify beneficiaries for each of the transmission facilities selected in a regional transmission plan for purposes of cost allocation.<sup>282</sup> Order No. 1000-A stated that public utility transmission providers in each transmission planning region, in consultation with their stakeholders, may consider proposals to allocate costs directly to generators as beneficiaries that could be subject to regional or interregional cost allocation, but any such allocation must not be inconsistent with the generator interconnection process under Order No. 2003.<sup>283</sup>

215. Regional Cost Allocation Principle 2 specifies that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of those transmission facilities.<sup>284</sup> All cost allocation methods must provide for allocation of the entire prudently incurred cost of a transmission project to prevent stranded costs.<sup>285</sup> To the extent that public utility transmission providers propose a cost allocation method or methods that consider the benefits and costs of a group of new transmission facilities and adequately support their proposal, Regional Cost Allocation Principle 2 would not require a showing that every

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<sup>279</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 625.

<sup>280</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 746.

<sup>281</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 627, 641.

<sup>282</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 11; Order No. 1000-A, 139 FERC ¶ 61,132 at P 585.

<sup>283</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 680.

<sup>284</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 637.

<sup>285</sup> *Id.* P 640.

individual transmission facility in the group of transmission facilities provides benefits to every beneficiary allocated a share of costs of that group of transmission facilities.<sup>286</sup>

216. The Commission clarified in Order No. 1000-A that public utility transmission providers may rely on scenario analyses in the preparation of a regional transmission plan and the selection of new transmission facilities in the regional transmission plan for purposes of cost allocation. Regional Cost Allocation Principle 2 would be satisfied if a project or group of projects is shown to have benefits in one or more of the transmission planning scenarios identified by public utility transmission providers in their Commission-approved Order No. 1000-compliant cost allocation methods.<sup>287</sup> The Commission clarified in Order No. 1000-B that it did not intend to remove the “likely future scenarios” concept from transmission planning and that likely future scenarios can be an important factor in public utility transmission providers’ consideration of transmission projects and in the identification of beneficiaries consistent with the cost causation principle.<sup>288</sup>

217. Regional Cost Allocation Principle 3 specifies that if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. Public utility transmission providers may choose to use such a threshold to account for uncertainty in the calculation of benefits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the transmission planning region or public utility transmission provider justifies, and the Commission approves, a higher ratio.<sup>289</sup>

218. Regional Cost Allocation Principle 4 specifies that the allocation method for the cost of a transmission facility selected in a regional transmission plan for purposes of cost allocation must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. However, the transmission planning process in the original region must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees

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<sup>286</sup> *Id.* P 641.

<sup>287</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 690.

<sup>288</sup> Order No. 1000-B, 141 FERC ¶ 61,044 at P 72.

<sup>289</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 646.

to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.<sup>290</sup>

219. Regional Cost Allocation Principle 5 specifies that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.<sup>291</sup>

220. Regional Cost Allocation Principle 6 specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, such as transmission facilities needed for reliability, congestion relief, or to achieve Public Policy Requirements.<sup>292</sup> If the public utility transmission providers choose to have a different cost allocation method for each type of transmission facility, there can be only one cost allocation method for each type.<sup>293</sup> In addition, if public utility transmission providers choose to propose a different cost allocation method or methods for different types of transmission facilities, each method would have to be determined in advance for each type of facility.<sup>294</sup> A regional cost allocation method for one type of regional transmission facility or for all regional transmission facilities may include voting requirements for identified beneficiaries to vote on proposed transmission facilities.<sup>295</sup> However, the public utility transmission providers in a region may not designate a type of transmission facility that has no regional cost allocation method applied to it.<sup>296</sup>

**i. SCE&G's Filing**

221. SCE&G explains that its proposed regional cost allocation method is based upon the transmission costs avoided due to the regional transmission project. The benefits

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<sup>290</sup> *Id.* P 657.

<sup>291</sup> *Id.* P 668.

<sup>292</sup> *Id.* P 685.

<sup>293</sup> *Id.* P 686; *see also id.* P 560.

<sup>294</sup> *Id.* P 560.

<sup>295</sup> *Id.* P 689.

<sup>296</sup> *Id.* P 690.

under this method will be the cost savings of the transmission projects that no longer need to be built as a result of including the regional transmission project in the regional transmission plan for purposes of cost allocation. SCE&G states that the beneficiaries of a proposed project will be the transmission providers that themselves benefit or benefit on behalf of their customers.<sup>297</sup>

222. SCE&G states that this cost allocation method complies with the six cost allocation principles described in Order No. 1000. SCE&G explains that it satisfies Regional Cost Allocation Principle 1 because the transmission providers will be allocated costs in proportion to their respective benefit. SCE&G notes that the benefits are quantifiable benefits of avoided transmission. It further explains that since the benefits are quantifiable, the cost allocation method and data requirements for determining benefits and identifying beneficiaries are transparent with adequate documentation to allow stakeholders to determine how they were applied to a proposed transmission facility, thus satisfying Regional Cost Allocation Principle 5. SCE&G states this approach complies with Regional Cost Allocation Principle 2 and Regional Cost Allocation Principle 4 because only a transmission provider in the SCRTP region that avoids transmission cost will be allocated the cost of the regional transmission project. SCE&G explains that it will apply this straight-forward approach to all types of transmission facilities in the regional transmission plan (regardless of whether they are intended to achieve reliability or economic benefits or to achieve public policy requirements), satisfying Regional Cost Allocation Principle 6.<sup>298</sup>

## ii. Protests/Comments

223. LS Power asserts that the avoided cost framework is unworkable in the details of the proposal, places a new entrant at a decided disadvantage to the incumbent transmission developers, and makes the selection process discriminatory. LS Power asserts that such a method fails to account for a full range of benefits as it does not adequately account for economic or public policy benefits that a regional transmission project may bring. LS Power argues that for example, a needed regional transmission project might never be considered if it costs more than the combined costs of the local transmission projects that incumbent transmission providers chose to put in their local plans, even though the reliability or economic benefits specific to the regional transmission project are substantially greater than its cost. This problem is further

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<sup>297</sup> SCE&G FERC Electric Tariff, Third Revised Volume No. 5, Attachment K, Section VII.J.

<sup>298</sup> SCE&G Transmittal Letter at 6.

compounded since, as previously noted, SCE&G fails to clarify which local transmission projects costs are to be included.<sup>299</sup>

**iii. Answer**

224. In response, SCE&G disagrees with the assertion by LS Power that the proposed cost allocation method does not adequately account for economic and public policy benefits. SCE&G contends that transmission planning in the SCRTP region is resource driven and the appropriate transmission projects will be built to meet transmission needs. SCE&G argues that if transmission capacity is needed to connect a lower-cost generator to more load pockets, then that transmission project assists with meeting economic transmission needs, and if a public policy requirement mandates a greater use of off-shore wind, then transmission will be built to connect that new wind power to load in other parts of the region.<sup>300</sup> Moreover, SCE&G contends that since SCE&G and Santee Cooper are the only entities to which costs may be allocated, the Commission should exercise deference to the manner in which the incumbent transmission providers quantify the transmission project benefits and allocate the costs.

**iv. Commission Determination**

225. We find that SCE&G's filing does not comply with the regional cost allocation principles of Order No. 1000. SCE&G proposes a single cost allocation method for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation, regardless of whether a project will serve transmission needs driven by reliability concerns, economic considerations, or public policy requirements, or some combination thereof. Therefore, we consider here whether the proposed cost allocation method adequately assesses the potential benefits of all such transmission facilities. As a threshold matter, we find that SCE&G's proposed avoided cost method does not satisfy Cost Allocation Principle 1 and, thus, we reject SCE&G's cost allocation proposal as a whole.<sup>301</sup> Accordingly, we direct SCE&G to file, within 120 days of the date of issuance of this order, a further compliance filing that proposes a cost allocation method or methods for transmission facilities selected in the regional transmission plan for purposes of cost allocation that adequately assesses the potential

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<sup>299</sup> LS Power Protest at 26.

<sup>300</sup> SCE&G Answer at 19.

<sup>301</sup> We note that the use of an avoided cost method may satisfy the regional cost allocation principles when used to measure reliability benefits. *See Public Service Co. of Colorado*, 142 FERC ¶ 61,206, at P 311 (2013).

benefits associated with addressing reliability, economic, and public policy-related transmission needs in a manner that satisfies the six Regional Cost Allocation Principles described in Order No. 1000.

226. We agree with LS Power that using a single avoided cost method to account for benefits associated with addressing reliability, economic, and public policy-related transmission needs does not satisfy Order No. 1000's regional cost allocation principles. Specifically, we find that SCE&G's proposed cost allocation method for all transmission facilities selected in the regional transmission plan for purposes of cost allocation does not comply with Regional Cost Allocation Principle 1. Relying on the avoided cost method alone to allocate the costs of a transmission facility selected in the regional transmission plan for purposes of cost allocation does not allocate costs in a manner that is at least roughly commensurate with estimated benefits because it does not adequately assess the potential benefits provided by that transmission facility. The avoided cost method as proposed only considers as benefits the cost savings that result when a local transmission project is avoided due to the selection of a transmission facility in the regional transmission plan for purposes of cost allocation, failing to account for other benefits associated with addressing economic and public policy-related transmission needs that the regional transmission facility provides and limiting the consideration by stakeholders on a more aggregated basis of whether a particular transmission facility may represent the more efficient or cost-effective means of fulfilling a given transmission need. This limitation is inconsistent with the requirements of Order No. 1000.

227. The proposed avoided cost method fails to account for benefits that were not identified in the local transmission planning processes, but that could be recognized at the regional level through a regional analysis of more efficient or cost-effective solutions to regional transmission needs. The following example helps illustrate the concern: Member A has an economic transmission project in its local transmission plan that costs \$50 million and Member B has an economic transmission project in its local transmission plan that also costs \$50 million (for a total cost of \$100 million). Each of the local economic transmission projects provides \$75 million in economic benefits, for a total of \$150 million in economic benefits. Under SCE&G's proposal, a regional transmission project that can displace the transmission need for Member A's and Member B's local economic transmission projects must cost less than \$80 million to be selected in the regional transmission plan for purposes of cost allocation (to meet the 1.25 benefit-to-cost ratio); there is no consideration of the value of further benefits that could be realized by the economic transmission project. For instance, there may be a regional economic transmission project that could provide the same economic benefit (i.e., \$150 million) as the local economic transmission projects, thus replacing both Member A's and Member B's local transmission projects, but would also bring an additional \$30 million of economic benefits to each member (such that the regional economic transmission project provides a total of \$210 million in economic benefits). However, if this regional economic transmission project costs \$120 million, it would not be approved under

SCE&G's avoided cost method because it is more expensive than the two local transmission projects, and the additional \$60 million in economic benefits would not be recognized. In short, under SCE&G's proposal, the region could identify a regional transmission project that costs a total of \$120 million and provides \$105 million dollars in economic benefits to each member (for a total of \$210 million in economic benefits), but that regional transmission project will not qualify for selection in the regional transmission plan for purposes of cost allocation, even though it would have a higher benefit-to-cost ratio,<sup>302</sup> and provide more benefits, than the economic transmission projects in the local transmission plans.

228. Furthermore, under SCE&G's proposed regional cost allocation method, a regional transmission facility that results in a more efficient or cost-effective transmission solution than what is included in the roll-up of local transmission plans would not be eligible for regional cost allocation if there is no transmission facility in the local transmission plans that it would displace. We therefore conclude that SCE&G's proposed regional cost allocation method fails to allow for the possibility of resolving transmission needs or realizing opportunities at a regional level where, in the local transmission planning process, the benefits of resolving the identified transmission need or realizing the identified opportunity did not outweigh the costs of doing so.

229. The following scenario illustrates this concern: Member A and Member B of a transmission planning region both recognize the possibility of building local transmission facilities to achieve \$100 million each in production cost savings in their local transmission planning processes, for a total of \$200 million of savings. In each case, though, the local transmission facility needed to realize the identified production cost savings would cost \$150 million. Because the cost of each facility (\$150 million) would outweigh its benefits (\$100 million) in each local transmission plan, neither would be included in either of the members' local transmission plans. However, even if a regional transmission facility was proposed or otherwise identified in the regional transmission planning process that realized the same \$100 million of benefits for both Member A and Member B (i.e., a total of \$200 million in benefits), but cost only \$150 million in total, such regional transmission facility would not be selected in the regional transmission plan for purposes of cost allocation under SCE&G's proposed cost allocation method because the local transmission facilities considered were not included in the local transmission plan and, therefore, could not be displaced.

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<sup>302</sup> Specifically, each of the local economic transmission projects has benefit-to-cost ratio of 1.5 to 1. The regional economic transmission project has a benefit-to-cost ratio of 1.75 to 1 for each member.

230. In a similar fashion, SCE&G's proposal does not provide a method to "clearly and definitively specify the benefits and the class of beneficiaries" associated with transmission facilities needed to address public policy requirements that are selected in the regional transmission plan for purposes of cost allocation.<sup>303</sup>

231. In sum, we find that a regional transmission planning process that only considers whether a proposed transmission facility would displace transmission facilities in a local transmission plan and allocates costs on that basis alone does not adequately assesses the potential benefits associated with addressing reliability, economic, and public policy-related transmission needs on a regional basis and may not account for transmission needs not identified or identified in isolation, and thus not resolved, in the local transmission planning processes. We thus conclude that SCE&G's proposed regional cost allocation method does not allocate costs in a manner that is at least roughly commensurate with estimated benefits and, accordingly, does not comply with the requirements of Order No. 1000.

232. We note, however, that a regional cost allocation method that includes, but does not rely solely upon, avoided costs could be a reasonable approach for allocating costs in a manner that is at least roughly commensurate with benefits.<sup>304</sup> Such an approach could recognize additional benefits of transmission while also accounting for the value of displacing the costs of certain transmission projects from the roll-up of local transmission plans. For example, in addition to identifying as benefits the costs of avoided transmission facilities in local transmission plans, a regional cost allocation method could also identify economic benefits, such as cost savings resulting from reduced losses, production cost savings, or congestion relief,<sup>305</sup> and benefits associated with addressing public policy-related transmission needs. Order No. 1000 allows a public utility transmission provider through its participation in a transmission planning region to

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<sup>303</sup> See Order No. 1000-A, 139 FERC ¶ 61,132 at P 678.

<sup>304</sup> See, e.g., *Public Service Co. of Colorado*, 142 FERC ¶ 61,206 (2013) at P 314 (finding that the use of production cost savings and reductions in reserve sharing requirements reasonably identifies beneficiaries and accounts for economic benefits) and P 317 (finding that identifying beneficiaries, defining benefits, and allocating costs based on the number of megawatts of public policy resources enabled by a transmission project to address transmission needs driven by public policy requirements allocates costs in a manner that is at least roughly commensurate with estimated benefits because it reflects which entities are expected to rely on particular public policy resources to meet applicable public policy requirements).

<sup>305</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622.

distinguish among transmission needs driven by reliability, economics, and public policy requirements as long as each of the three types is considered in the regional transmission planning process and there is a means for allocating the costs of each type of transmission facility to beneficiaries.<sup>306</sup>

233. Given that we find that SCE&G's proposed avoided cost method does not comply with Regional Cost Allocation Principle 1 because it is applied to all transmission projects selected in the regional transmission plan for purposes of cost allocation, we will not make a finding on whether SCE&G's proposed regional cost allocation method complies with Regional Cost Allocation Principles 2 through 6. We will evaluate whether SCE&G's revised proposal complies with all six of Order No. 1000's Regional Cost Allocation Principles in the order addressing SCE&G's revised proposal.

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<sup>306</sup> *Id.* P 689.

The Commission orders:

(A) SCE&G's compliance filing is hereby accepted, as modified, effective the day after the Commission issues this order, subject to a further compliance filing, as discussed in the body of this order.

(B) SCE&G is hereby directed to submit a further compliance filing, within 120 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.