

124 FERC ¶ 61,028
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.

Docket No. OA08-61-000

ORDER ON COMPLIANCE FILING

(Issued July 11, 2008)

1. On December 14, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ Southwest Power Pool, Inc. (SPP) submitted its transmission planning process as a proposed attachment to its Open Access Transmission Tariff (OATT), in order to comply with the transmission planning principles outlined by the Commission in Order No. 890.² In this order, we accept SPP's filing, as modified and subject to further compliance filings, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (January 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 73 Fed. Reg. 39,092 (July 8, 2008).

process.³ To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop transmission planning processes that satisfy nine principles (discussed below) and to clearly describe those processes in a new attachment (Attachment K) to their OATTs.⁴

3. As discussed more fully below, the nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. However, although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process and all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.⁵

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

⁴ SPP labeled its Attachment K transmission planning process as “Attachment O.” This was permitted by the Commission in Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 n.246.

⁵ As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need to be codified in the transmission provider’s OATT. Rules, standards and practices that relate to, but do not significantly affect, transmission service may be placed on the transmission provider’s website, provided there is a link to those business practices on its Open Access Same-Time Information System. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in the Attachment K and a reference to planning manuals on their websites, to satisfy their planning obligations under Order No. 890.

4. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as SPP, the Commission explained that when it approved these processes, they were found to be consistent with or superior to the existing *pro forma* OATT. Because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO to either reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order No. 890.⁶ RTOs and ISOs were also directed to indicate in their compliance filings how all participating transmission owners within their footprints will comply with Order No. 890's planning requirements.⁷

II. SPP's Compliance Filing

5. SPP states that, as an RTO, it currently administers a voluntary coordinated regional planning process that is already consistent in significant respects with the transmission planning reforms adopted in Order No. 890. Accordingly, SPP seeks to incorporate into its OATT a new Attachment O that outlines SPP's regional planning process in detail, and demonstrates how it is consistent with or superior to the requirements set forth in Order No. 890's nine planning principles.⁸ SPP requests that the revised tariff sheets of Attachment O be made effective December 14, 2007.

III. Notice of Filing and Responsive Pleadings

6. Notice of SPP's filing was published in the *Federal Register*, 72 Fed. Reg. 74,280 (2007), with interventions and protests due on or before January 4, 2008. On December 20, 2007, the Commission issued a notice of extension of time to and including January 7, 2008.

7. On January 3, 2008, Southwestern Power Administration filed a motion to intervene. On January 7, 2008, Exelon Corporation, Western Farmers Electric Cooperative, Golden Spread Electric Cooperative, Inc., East Texas Cooperative, Arkansas Electric Cooperative Corporation and Electric Power Supply Association

⁶ See Order No. 890, FERC Stats. & Regs. ¶ 31, 241 at P 439; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 174-5.

⁷ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

⁸ SPP's compliance with the requirement that it ensure that all of its participating transmission owners comply with Order No. 890's planning requirements will be discussed below.

filed motions to intervene. ITC Great Plains, LLC (ITC) filed a motion to intervene and comments and Xcel Energy Services, Inc. and Southwestern Public Service Company (together, Xcel) filed a joint motion to intervene and conditional protest on January 7, 2008. On January 8, 2008, Oklahoma Gas and Electric Company (OG&E) filed a motion to intervene out-of-time. On January 16, 2008, American Electric Power Service Corporation (AEP) filed a motion to intervene out-of-time. On January 22, 2008, SPP and OG&E filed answers.

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 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2008), we will grant OG&E and AEP's unopposed, late-filed motions to intervene given their interests in the proceeding, the early stage of the 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) (2008), prohibits an answer to a protest, unless otherwise ordered by the decisional authority. We will accept SPP and OG&E's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

10. We find that SPP's Attachment O transmission planning process, with certain modifications, complies with each of the nine planning principles and other planning requirements adopted in Order No. 890. Accordingly, we accept SPP's Attachment O to be effective December 14, 2007, subject to a further compliance filing as discussed below. SPP is directed to make the compliance filing within 90 days of the date of issuance of this order.

11. While we accept SPP's transmission planning process in Attachment O, we nevertheless encourage further refinements and improvements to SPP's planning process as SPP and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance

filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas that may need improvement.

C. SPP's Compliance with Order No. 890's Planning Principles

1. Coordination

12. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development. In its Attachment K planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.⁹

a. SPP's Filing

13. SPP explains that its planning process provides for significant internal and external coordination. Specifically, in section III.2 of SPP's proposed Attachment O, SPP provides for the participation of SPP's stakeholder working groups in the planning process. All stakeholder working groups' representatives are appointed and chaired in accordance with SPP's bylaws and all meetings are open to all entities. Stakeholder working groups that work on transmission planning meet at least quarterly, with additional meetings, teleconferences and web conferences, when needed.

14. SPP proposes, as it does currently, to chair and facilitate planning summits, so that SPP and its stakeholders may share current information regarding SPP transmission network issues, develop study scopes, provide alternative solutions and review study findings. The planning summits will be open to all entities, held semi-annually, and include sub-regional breakout sessions.¹⁰

⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

¹⁰ Attachment O, section III.3(a), First Revised Sheet No. 298.

15. SPP also explains that it will define sub-regions from time to time to discuss unresolved local stakeholder issues and transmission solutions identified at general regional planning meetings. The sub-regional planning meetings will be open to all entities and will be held annually for each individual sub-region. SPP states that this will provide stakeholders with the opportunity to make recommendations to SPP and transmission owners about local needs, as well as provide a forum to review local planning criteria.¹¹ Notice of meetings, planning summits, sub-regional planning meetings, teleconferences, and web conferences will be posted on SPP's website and distributed via email distribution lists. In addition, meeting agendas and minutes also will be posted on SPP's website and distributed via email distribution lists. Further, any regulatory agency with jurisdiction over an SPP member may participate fully in SPP's planning process.

b. Commission Determination

16. We find that SPP's Attachment O clearly identifies the details of how its planning process will be coordinated with interested parties. As noted, SPP's Attachment O provides for stakeholder working groups to provide technical advice, assistance and oversight for all aspects of the regional, sub-regional, and local planning process.¹² The stakeholder groups that work with SPP will meet at least quarterly, and SPP's Attachment O provides for additional meetings, web, and telephone conferences as needed.¹³ In addition, SPP also manages and coordinates its planning summits to permit participation by all entities. Attachment O states that SPP will coordinate with adjacent transmission providers by sharing system plans and identifying enhancements to relieve inter-regional congestion or integrate new resources.¹⁴

2. Openness

17. 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

¹¹ Attachment O, section III.3 (b), First Revised Sheet Nos. 298-299.

¹² As discussed below, we will require a compliance filing regarding elements of SPP's transmission owner local planning process.

¹³ Attachment O, section III.2 (e).

¹⁴ *Id.* section XI.1 (a) and (b).

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.¹⁵ 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.¹⁶

a. SPP's Filing

18. SPP states that its transmission planning process is an open process. SPP notes that pursuant to section III(2)(b) of Attachment O, all meetings of the stakeholder working groups, planning summits, and sub-regional planning meetings are open to all entities, including regulatory agencies with rates and services jurisdiction over an SPP member.

b. Commission Determination

19. We find that SPP complies with this principle because its planning process is open to all entities. Attachment O requires planning summits to be noticed on SPP's website and distributed via email to distribution lists. Similarly, SPP's screening analysis of economic upgrades must be posted on its website and discussed at a planning summit or web conference.¹⁷ Further, SPP has developed and incorporated the requisite CEII and confidentiality provisions as discussed in the Information Exchange section below.

3. Transparency

20. The transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in its planning process the methods it will use to disclose the

¹⁵ The Commission made clear in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's planning process, because all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Reg. ¶ 31,261 at P 194.

¹⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

¹⁷ Attachment O, section IV.4 (f).

criteria, assumptions, and data that underlie its transmission system plans.¹⁸ The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers also were directed to provide information regarding the status of upgrades identified in the transmission plan.

21. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate affiliate abuse concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand response resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.¹⁹

a. SPP's Filing

22. SPP states that it has satisfied the transparency requirement because it has provided detailed information about its annual planning process in section VI of Attachment O. Section VI of Attachment O includes subsections one through six that detail SPP's annual planning process. For example, subsections one through three include a flow chart of the process to develop the list of reliability upgrades and economic upgrades and the annual planning cycle and milestones, procedures to initiate the stakeholder process to develop the annual SPP Transmission Expansion Plan (STEP), and an explanation of how SPP will develop the assessment study scope, including methodology, criteria, assumptions, reliability upgrade data, and economic upgrade data with input from the stakeholders. SPP states that its reliability studies will accommodate and reflect demand response resources, which will be permitted to participate in the planning process. SPP will present the reliability and economic assessment to the stakeholder working groups and the planning summit, and encourage feedback, including potential alternatives for

¹⁸ In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, because these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,241 at P 199.

¹⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

improvements from the stakeholder working groups and other stakeholders attending the various planning summits.

23. Subsections four through six outline how SPP will perform the required studies to analyze the potential alternatives for improvements, develop the recommended reliability and economic transmission projects, and disclose its planning information and address CEII requirements.

24. The procedures also provide that specific requested economic upgrades will be included in the transmission system planning model when a contract is executed by a project sponsor or when such upgrade is otherwise funded under SPP's OATT. The annual list of potential economic upgrades and any requested upgrades must be endorsed by SPP's Markets and Operations Policy Committee (MOPC) and approved by SPP's board of directors in order to be included in the STEP and funded under the cost allocation provisions of SPP's OATT.²⁰ SPP provides for modifications on a quarterly basis between annual approvals, as required to maintain system reliability and meet new identified business opportunities, and will post them on SPP's website. The modifications will be reviewed by stakeholders, SPP's Regional State Committee, endorsed by stakeholder working groups and the MOPC and approved by SPP's board of directors. Upgrade removal also requires consultation with stakeholders, and the transmission owner who has incurred costs will be reimbursed for such expenses. Further, SPP has a tracking system for planning system upgrades to ensure projects are completed on time, or acceptable mitigation plans are put in place to meet customer or system needs. SPP will report to the MOPC, the Regional State Committee and its board of directors on the status of approved planned system upgrades, and post this information on the website on a quarterly basis.

b. Commission Determination

25. We find that SPP complies with this principle because SPP's Attachment O adequately reduces to writing and makes available the basic methodology, criteria, and processes used to develop transmission plans. For each planning cycle, SPP will develop the assessment study scope with input from stakeholders including the methodology, criteria, assumptions, and data to be used to develop the list of reliability upgrades and economic upgrades.²¹ Attachment O also adequately describes the methodology that SPP will use to disclose the criteria, assumptions, and data that underlie its transmission system plans and information regarding the status of upgrades that are identified in its plan. Specifically, section VI.6 (b)

²⁰ Attachment O, section VII.2.

²¹ *Id.* VI.2.

provides that the related study results, criteria, assumptions and underlying data shall be posted on the SPP website, with password protected access, if required to preserve the confidentiality of the information. Similarly, section VIII.3 states that SPP will track the status of planned upgrades to ensure that projects are built in time and, at a minimum, on a quarterly basis, will report to the MOPC, the SPP Regional State Committee, and the SPP board of directors, about the status of the network upgrades approved in the STEP.

4. **Information Exchange**

26. 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 that used by transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and identify the receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.²² Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

27. The Commission also provided that, to the extent applicable, transmission customers should provide information on existing and planned demand resources and their effects on demand and peak demand. Stakeholders, in turn, should provide proposed demand response resources if they wish to have them considered in the development of the transmission plan. The Commission stressed that information collected by transmission providers to provide transmission service to their native load customers must be transparent, and equivalent information must be provided by transmission customers to ensure effective planning and comparability. In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information. To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.²³

²² Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

²³ *Id.* P 206.

28. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange relates to planning, not other studies performed in response to interconnection or transmission service requests.²⁴

a. SPP's Filing

29. SPP states that it has complied with the information exchange principle by developing the information exchange process in section X of its proposed Attachment O. Section X, subsections one through eight, provides details on data requirements, including procedures that require that any entity subject to North American Electric Reliability Corporation's (NERC) reliability standards must provide data to SPP in accordance with the NERC reliability standards for modeling data and analysis. It also requires any entity that develops a preliminary engineering concept for new facilities that affects the interconnected operation of SPP's transmission system to contact SPP, so the optimal integration of any new facilities and their potential to offer benefits are identified. Transmission customers with planned or existing demand response resources must provide SPP with information about such resources and their effect on demand and peak demand. All SPP members, transmission customers, transmission owners, generation interconnection customers, and all other stakeholders must provide specific data for each annual planning cycle. Any changes to this data must be provided to SPP in writing in a timely manner. Further, the format required to submit modeling data will be posted on SPP's website and the modeling data itself will be posted with password protected access. However, SPP will exchange with neighboring transmission providers and RTOs data required for the development of powerflow, short-circuit, and stability cases over a 10-year planning period. SPP will provide a secure web-based workspace for hosting and sharing planning information, data and models, which will be password protected and require CEII clearance. Specific confidentiality requirements of SPP's information exchange require SPP to take appropriate steps to protect CEII information.

b. Xcel's Conditional Protest

30. While Xcel does not object to the information exchange provision in Attachment O, it protests the inconsistency between the proposed language in Attachment O and the actual operating practice SPP indicated it will use to

²⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

implement the information exchange section. Xcel explains that while subsection 7(b) indicates that entities are required to execute a confidentiality agreement, SPP has indicated that all employees or representatives of members and market participants seeking access to the data must individually execute SPP's confidentiality agreement. Xcel also objects to SPP's stated requirement that transmission planning and similar pre-screened employees must request Commission authorization under the CEII rules to continue to have their current access privileges to SPP's website. Xcel states that it believes the confidentiality and CEII administrative practices proposed by SPP are not consistent with Attachment O. Xcel acknowledges, however, that one day before filing its motion to intervene and conditional protest, SPP sent an email to its affected members and market participants stating that it is rethinking the confidentiality requirements.

c. SPP's Answer

31. In its answer, SPP states that it is in the process of synchronizing its administrative practices with its proposed Attachment O. SPP states that it will provide entities that have executed a confidentiality agreement access to confidential information. SPP also states that it is in the process of developing a more permanent process of allowing access to market sensitive data and that it can complete this development within 180 days.

d. Commission Determination

32. We find that SPP complies with the Information Exchange principle because SPP's Attachment O provides clear guidelines and schedules for submittal of customer information as required by Order No. 890. Specifically, section X (subsections 1-8) provides detailed data requirements and procedures for all entities, including transmission owners, generation owners, transmission customers, and neighboring transmission providers, to submit and/or exchange data in order to conduct their annual transmission planning processes. We also find that Xcel's concern regarding access to confidential information is satisfied by SPP's statement that it will provide confidential data to entities that have executed a confidentiality agreement.

5. Comparability

33. The comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In Order No. 890, the Commission expressed concern that transmission providers

historically have planned their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. Through the comparability principle, the Commission required that the transmission providers' similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should, where appropriate, be considered on a comparable basis to the service provided by generation resources.²⁵ Lastly, in Order No. 890-A, the Commission clarified that, as part of its Attachment K planning process, each transmission provider is required to identify how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.²⁶

a. SPP's Filing

34. SPP states that its proposed Attachment O is consistent with or superior to the comparability planning principle and is designed to accommodate the views of all stakeholders. SPP's transmission-owning members and customers have equal access to each phase of the planning process. SPP's planning process provides not only for upgrades needed for reliability purposes, but also for those that provide economic benefits to its members and customers. Further, SPP states that its planning process provides for consideration of demand response resources, which serves the interests of both its transmission-owning members and its customers.

b. ITC's Comments

35. ITC comments that section IX of SPP's Attachment O appears to violate the comparability principle because it discriminates against third parties that seek to build and own transmission facilities within SPP. ITC cites two provisions of Section IX that it claims create a broad right of first refusal for existing SPP transmission owners to construct new transmission projects that is limited only by SPP's determination as to what is "timely."²⁷ ITC states that this is another effort by

²⁵ *Id.* P 494-95.

²⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

²⁷ ITC cites sections IX.4 and 5 of Attachment O which state in pertinent part:

"If the project forms a connection between facilities of a single Transmission Owner, that Owner will be designated to provide the new facilities. If the project forms a connection between two different Transmission Owners . . . , both entities will be designated to provide the new facilities." (Attachment O, IX.4).

existing SPP transmission owners to undermine third-party development and ownership of transmission facilities. ITC suggests that the broad right of first refusal should be replaced with a limited right of first refusal that would balance the interests of existing transmission owners within SPP with the interests of third parties that seek to construct and own new transmission facilities. ITC claims that the limited right of first refusal would be consistent with the requirement to “use diligence to construct transmission facilities.”²⁸ ITC suggests that Section IX.5 be revised with the requirement that a transmission owner provide a firm commitment to construct within 90 days of SPP’s approval. If a firm commitment is not provided, SPP would solicit interest and evaluate qualifications for the project from third parties that seek to construct and own new transmission facilities.

c. **OG&E’s Answer**

36. OG&E states that ITC’s concerns, claiming that section IX of Attachment O (Construction of Transmission Facilities) is an effort by existing SPP transmission owners to undermine third-party development and ownership of transmission facilities, are beyond the scope of this proceeding. OG&E points out that the cited language was accepted in SPP’s pre-Order No. 890 OATT and the SPP Membership Agreement. OG&E also states that Order No. 890 does not require any change to such pre-existing provisions, and it does not dictate how a transmission provider should designate the entity to construct transmission upgrades. Further, the comparability principle requires that transmission system plans meet the specific service request of the transmission provider’s customers, and treat similarly-situated customers (e.g., network and retail native load) comparably, but there are no procedures for deciding who should construct needed facilities. In addition, OG&E states that the Commission declined to require open season procedures to allow market participants to participate in joint ownership of transmission facilities “[i]f a transmission owner declines to construct an identified upgrade.” Rather, the Commission encouraged “customers and third parties to consider . . . development and ownership of a project . . .”²⁹ OG&E claims SPP’s Attachment O is consistent with this policy since the OATT provides that if the transmission owner designated by SPP declines to implement a needed project in a

“If a designated provider or providers do not or cannot agree to implement the project in a timely manner, the Transmission Provider will solicit and evaluate proposals for the project from other entities and select a replacement designated provider.” (Attachment O, IX.5).

²⁸ Attachment O, IX.2.

²⁹ Order No. 890, FERC Stats. & Regs. ¶ 31, 241 at P 594.

timely manner, SPP will solicit and evaluate proposals and select a replacement provider.

37. OG&E also asserts that requiring transmission owners to commit to every transmission project approved in the STEP within 90 days is unreasonable because STEP addresses many different types of projects, some of which are unneeded for many years. Further, SPP, as an independent transmission service provider is better suited to decide how quickly a construction commitment is needed, and to determine whether a designated transmission owner has agreed to construct a project in a “timely manner.”

d. SPP’s Answer

38. SPP states that the construction provisions of SPP’s Attachment O are consistent with the provisions of its current OATT and Membership Agreement. SPP states that it is undertaking the necessary review through its stakeholder process to examine the revisions to its OATT, bylaws and Membership Agreement to clarify the rights, powers and obligations of SPP and its members concerning network upgrades and to develop a process and rules to assign or select a qualified entity to construct and own approved projects. SPP asks that to the extent any revisions are necessary to address ITC’s concerns, it be permitted to review these matters through its stakeholder process.

e. Commission Determination

39. With the exceptions noted below, we find that SPP’s Attachment O transmission system planning process is consistent with Order No. 890’s comparability planning principle. As SPP indicates, its transmission-owning members and customers have equal access to each phase of the planning process. Specifically, at the beginning of the planning cycle, SPP will initiate the stakeholder process by noticing the commencement of the process on its website and through email distribution lists.³⁰ In addition, throughout the year, the transmission summits, stakeholder meetings, and sub-regional meetings will be noticed and are open to all.³¹ Moreover, SPP’s planning process provides not only for upgrades needed for reliability purposes, but also for those that provide economic benefits to its members and customers. Attachment O also includes provisions to accommodate and reflect demand response resources and permits the demand

³⁰ Attachment O, VI.2.

³¹ *Id.* III.2(b); III.3(a)(ii) and (v); III(b)(iii).

resources to participate in the planning process on a comparable basis to other generation resources.³²

40. Regarding ITC's comment that section IX of SPP's Attachment O appears to violate the comparability principle because it discriminates against third parties that seek to build and own transmission facilities within SPP, we note that the focus of Order No. 890 was to facilitate the ability of all stakeholders to participate in the planning process and to offer solutions to reliability and economic concerns on the grid. More broadly, the Commission has encouraged the construction and ownership of transmission facilities by third party transmission owners.³³ Here, we find that it is unclear whether SPP's Attachment O creates a broad right of first refusal for existing SPP transmission owners. Section IX(4) of Attachment O refers to "new transmission projects" that have been approved for construction in the STEP and states that a new project that connects existing facilities of a single transmission owner will be "designated" for construction by that transmission owner. A project that forms a connection between facilities owned by two transmission owners will be "designated" for construction by both entities. The STEP, however, may include transmission projects requested by "any entity" that is "willing to assume the cost" of such upgrade.³⁴ We find that it is unclear whether Section IX refers to all transmission projects included in the STEP, including projects that are proposed by third party transmission owners. The Commission believes that participation in the planning process may be discouraged if projects proposed by third-party transmission owners are subject to a potential, but unspecified right by existing transmission owners to undertake construction of such projects. In addition, a broad right of first refusal may violate the Commission's precedent.³⁵

41. We note SPP's intention to clarify the rights and obligations regarding construction of upgrades through its Transmission Ownership/Construction Task

³² *Id.* III.4(f).

³³ See Order No. 890, FERC Stats. & Regs. ¶ 31, 241 at P 593-4; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 263-4. See also *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 131, 176 and 224, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, at P 77 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

³⁴ Attachment O, V.

³⁵ See, e.g., *Carolina Power and Light Company*, 94 FERC ¶ 61,273, at 62,010 (2001), *order on reh'g*, 95 FERC ¶ 61,282 (2001).

Force and its Regional Tariff Working Group. We therefore direct SPP to clarify its Attachment O provisions regarding construction of upgrades proposed by third party transmission owners in a compliance filing to be submitted within 90 days.

42. In addition, we note that Order No. 890-A was issued on December 27, 2007, after SPP submitted its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process “how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.”³⁶ Here, SPP has submitted tariff language providing that, as a general matter, demand response resources will be treated comparably.³⁷ However, since Order No. 890-A was issued subsequent to the filing before us, SPP did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, SPP is directed to file within 90 days of issuance of this order, a compliance filing providing the necessary demonstration required by Order No. 890-A.³⁸ This compliance filing should also address how SPP intends to ensure that its participating transmission owners also comply with this requirement found in Order No. 890-A for any planning they conduct.

6. Dispute Resolution

43. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how their procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers and other stakeholders to utilize the Commission’s dispute resolution service to help develop a three-step dispute resolution process, consisting of negotiation, mediation and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider’s dispute resolution

³⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216. *See also* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479, 487, 494 and 549.

³⁷ Attachment O, section III.4(c) and (f).

³⁸ For example, tariff language should provide for participation throughout the transmission planning process by sponsors of transmission solutions, generation solutions, and solutions utilizing demand resources.

process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.³⁹

a. SPP's Filing

44. SPP states that any dispute regarding the planning process will be resolved using procedures identical to those set forth in Section 12 of SPP's OATT. Section 12 provides that any dispute between two parties will be referred to a senior representative of each party for resolution on an informal basis. If the representative is unable to resolve the dispute within 30 days, the dispute may go to arbitration, which will be conducted by a single neutral arbitrator or a three-member arbitration panel. The arbitrator will render a decision within 90 days of appointment and notify parties in writing of the decision and the reasons therefor. The decision of the arbitrator is binding upon parties and judgment on the award may be entered in any court with jurisdiction over them. Each party will be responsible for its own costs incurred during the process, including the costs of the arbitrator. Further, nothing in section 12 restricts the rights of any party to file a Federal Power Act section 206 complaint with the Commission.

b. Commission Determination

45. We find that SPP complies with this principle because SPP's Attachment O provides for an adequate dispute resolution process to manage both procedural and substantive disputes that arise from the planning process.⁴⁰

³⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

⁴⁰ We note that SPP omitted the second step, mediation, of a three step dispute resolution process consisting of negotiation, mediation and arbitration. While we are not directing SPP to include mediation, we strongly encourage it to consider including a mediation step in its dispute resolution process. We have found that a high percentage of disputes sent to the Commission's Dispute Resolution Service or another mediator or an Administrative Law Judge serving as a Settlement Judge settle without adjudication. If SPP desires to include the mediation step, it should do so in the compliance filing required at the end of this order.

7. Regional Participation

46. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to (1) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data; and (2) identify system enhancements that could relieve congestion or integrate new resources. The specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region, and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and sub-regions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes is not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.⁴¹

47. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.⁴² In Order No. 890-A, the Commission also emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information and assumptions to maintain reliability and allow customers to consider resource options that span the regions.⁴³

a. SPP's Filing

48. SPP states that it complies with the regional participation principle. SPP states that it will coordinate any studies required to assure the reliable, efficient and effective operation of its transmission system with, at a minimum, first-tier adjacent interconnected systems by sharing system plans to ensure that such plans are

⁴¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

⁴² Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

⁴³ *Id.*

simultaneously feasible. SPP states that it will use consistent assumptions and data, and identify system enhancements that could relieve inter-regional congestion or integrate new resources on an aggregate basis.⁴⁴ SPP will coordinate any studies with other transmission providers primarily through participation in the agreements listed in Addendum 1 of Attachment O. SPP will also annually review the ongoing planning process under the agreements in Addendum 1 to determine the need for any additional inter-regional studies and share its review with the stakeholders and seek input for additional inter-regional studies that should be initiated.

b. Commission Determination

49. The regional participation principle provides that transmission providers: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. We find SPP's regional participation and its compliance with these two requirements sufficient with respect to the transmission owners in the SPP footprint. However, with respect to SPP's inter-regional coordination, we find it insufficient for SPP to simply reference inter-regional coordination agreements listed in Addendum 1 of Attachment O without elaborating how the agreements will meet the inter-regional coordination requirement in the regional participation principle. We therefore direct SPP, in the compliance filing directed below, to describe how the provisions of each of the agreements with its neighboring regions, meet the inter-regional coordination requirement of Order No. 890 (and, if necessary, propose revised Attachment O language.)

8. Economic Planning Studies

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

⁴⁴ Attachment O, section XI, Original Sheet Nos. 300N-300O.

51. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholders requesting the study.⁴⁵

52. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.⁴⁶ In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like other stakeholders and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.⁴⁷ Additionally, in Order No. 890-A, the Commission clarified that to the extent an RTO or ISO delegates any of its responsibilities in the context of economic planning, it will be the obligation of the RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.⁴⁸

a. SPP's Filing

53. SPP states that it provides details of the process in determining how economic upgrades are identified and added to the STEP in Section IV of its proposed Attachment O. Economic upgrades are defined as those transmission upgrades and additions that have been shown to provide customers access to generation options such that the potential energy savings exceed the cost of the proposed transmission upgrades. The economic assessment will be based on the most current planning models and address congestion within the SPP region and between the SPP region and other regions and balancing areas. SPP will propose economic upgrades and solicit suggestions of potential economic upgrades, which will be posted on its website. Such plans will not require a specific request for transmission service or interconnection service, but SPP may perform a screening

⁴⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

⁴⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261.

⁴⁷ *Id.* P 237.

⁴⁸ *Id.* P 238.

analysis of the potential economic upgrades individually or in various combinations, assessing a portfolio of economic upgrades to achieve a general balance of benefits throughout the region. SPP will seek input from the stakeholders and the SPP Regional State Committee to be used to determine the combinations of upgrades, to be screened. It will also establish a relative ranking of the potential economic upgrades based on a ratio of the estimated benefit to the estimated cost, and all results will be posted on its SPP's website.

54. SPP, in consultation with the stakeholders, will then identify at least three high priority economic upgrades to be studied using the screening analysis as input. These high priority potential economic upgrades will be studied in accordance with the Transmission Network Economic Modeling and Methods manual including quantification of benefit to cost and analysis of the sensitivity of the economics of the project to changes in assumptions. SPP will also identify, with any stakeholder input, the reliability impacts of the upgrade, if any. Further, SPP's planning process allows entities to request studies for potential economic upgrades, and SPP will allocate the costs according to cost recovery principles in section XII of SPP's Attachment O.

b. Commission Determination

55. We find that SPP's Attachment O complies with Order No. 890's economic planning studies principle because SPP's Attachment O allows potential economic upgrades and allows entities to request studies for such upgrades. Specifically, section IV.2(b) describes that the economic assessment will be based on the most current planning model(s) which will reflect congestion within the SPP region and between the SPP region and other regions and balancing areas. Additionally, SPP will propose, as well as solicit, suggestions for potential economic upgrades, which do not require the submission of a specific request for transmission service or interconnection service.⁴⁹ SPP also proposes to screen potential economic upgrades to estimate the cost and benefit due to the upgrade and establish a ranking of the potential economic upgrades based on the ration of estimated benefits and costs.⁵⁰ We also find that, as required in Order No. 890, SPP factors into its planning process both economic and reliability concerns. In addition, SPP's Attachment O includes procedures to identify and study high priority economic upgrades. As noted, SPP will identify at least three high priority economic upgrades to be studied

⁴⁹ Attachment O, IV.3.

⁵⁰ *Id.* IV.4(c) and (d).

using the screening analysis as input and identify the benefits and reliability impacts, if any, of the upgrade.⁵¹

9. Cost Allocation

56. The cost allocation principle requires that transmission providers address in their planning process the allocation of costs of new facilities that do not fit within existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fit their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

57. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors should be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across a region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than renegotiate them each time a project is proposed.⁵² In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, because participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁵³

a. SPP's Filing

58. SPP states that consistent with the cost allocation principle, Section XIII of Attachment O provides that the costs associated with new or upgraded transmission

⁵¹ *Id.* IV.5.

⁵² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

⁵³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

facilities will be allocated in accordance with Attachment J (Recovery of Costs Associated With New Facilities) of its OATT. SPP's Attachment J details SPP's Commission-approved transmission cost allocation plan.⁵⁴

b. ITC's Comments

59. ITC asserts that Attachment J not only fails to satisfy the Order No. 890 cost allocation principle for new projects, but also fails to comply with a previous Commission directive to establish an appropriate compensation method for third-party ownership of transmission upgrades. ITC argues that in its orders accepting SPP's Attachment J, the Commission directed SPP to delete a proposed right of first refusal provision and to establish an "appropriate compensation method" for third-party ownership of transmission upgrades. ITC states that in a May 2005 compliance filing, SPP deleted the right of first refusal provision but did not include revisions to address third-party ownership of transmission upgrades.

60. ITC also claims that SPP provides no explanation of how Attachment J is consistent with the following three factors: (1) whether the cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them, (2) whether a cost allocation proposal provides adequate incentives to construct new transmission, and (3) whether the proposal is generally supported by state authorities and participants across the region as required by Order No. 890. Therefore, ITC states that SPP fails to address third-party ownership of transmission upgrades.

c. SPP's Answer

61. In its answer, SPP states that its cost allocation provisions satisfy the three guiding principles outlined by the Commission in Order No. 890. Specifically, SPP states that its provisions fairly assign costs among participants, provide adequate incentives to construct new transmission, and are generally supported by state authorities and participants across the region. As for ITC concerns relating to SPP's compensation method for third-party ownership of transmission upgrades, SPP states that transmission upgrades that are constructed and owned by third parties are paid for in the same manner as upgrades constructed by any other SPP transmission owner. If the specific upgrade is necessary for reliability purposes, i.e., it is a Base Plan Upgrade, the cost of the upgrade will be allocated according to provisions of Attachment J. If the upgrade is an economic upgrade, the third-party will bear the

⁵⁴ *Southwest Power Pool, Inc.*, 111 FERC 61,118 (2005); *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,319 (2005) (*order on reh'g*); *Southwest Power Pool, Inc.*, 114 FERC ¶61,021 (2006) (*order on compliance filing*).

upfront cost of constructing the upgrade, but is eligible for credits pursuant to Attachment Z, SPP's Aggregate Transmission Service Study Procedures.

d. Commission Determination

62. We find that Attachment O's adoption of SPP's previously accepted Attachment J cost allocation methodology to allocate costs of new facilities meets the requirements of Order No. 890. SPP's Attachment J outlines the cost recovery procedures associated with new facilities, i.e., direct assignment facilities and network upgrades. Network upgrades include base plan upgrades, economic upgrades, requested upgrades, and generation interconnection-related network upgrades.⁵⁵ We disagree with ITC's assertion that SPP has failed to comply with the Commission directive regarding third-party compensation. On August 2, 2005, SPP filed revisions to its OATT that, among other things, provided for the distribution of revenue among multiple entities owning transmission facilities in a single zone. Specifically, SPP proposed revisions to its Attachment L (Treatment of Revenues) to specify revenue distribution of point-to-point and network transmission service revenues for transmission owners in a single pricing zone and for zones where there are multiple owners. These provisions were accepted by the Commission in a September 30, 2005 order.⁵⁶

D. Recovery of Planning Costs

63. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁵⁷

⁵⁵ SPP OATT, Original Sheet Nos. 226-237.

⁵⁶ *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,355 (2005), *order denying reh'g*, 114 FERC ¶ 61,242 (2006).

⁵⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

1. SPP's Filing

64. SPP states that Section XII of Attachment O describes how SPP will recover its planning process costs. Specifically, costs associated with the planning process and associated studies will be recovered under Schedule 1-A of SPP's OATT, which provides for the application of an administrative charge to all transmission service taken under SPP's OATT. As for the costs of studies for potential requested upgrades or potential economic upgrades, excluding the high priority economic planning studies, those costs will be the responsibility of the entities that request them. Further, costs for studies associated with long-term firm transmission service requests and for interconnection service will be recovered under Attachments Z and V of SPP's OATT.

2. Commission Determination

65. We find that SPP complies with this principle because SPP's Attachment O provides a cost recovery mechanism consistent with the requirements of Order No. 890.

E. SPP Transmission Owner Local Planning

66. In Order No. 890, the Commission found that in order for an RTO or ISO's planning process to be open and transparent, transmission customers and stakeholders must be able to participate in each underlying transmission owner's planning process. Accordingly, as part of their Order No. 890 compliance filings, RTOs and ISOs were directed to indicate how all participating transmission owners within their footprints will comply with Order No. 890's planning requirements. The Commission emphasized that while it left the mechanics of such compliance to each RTO and ISO, it would nevertheless find an RTO or ISO's planning process to be insufficient if its underlying transmission owners are not also obligated to engage in transmission planning that complies with Order No. 890.⁵⁸ In Order No. 890-A, the Commission made clear that each RTO and ISO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, their transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. The Commission concluded, however, that in the end each RTO and ISO was responsible for demonstrating compliance with each of the nine planning principles adopted in Order No. 890 since it is the entity with the planning process on file.⁵⁹ This includes ensuring that any plans developed by an RTO or ISO's transmission-

⁵⁸ *Id.* at P 440.

⁵⁹ Order No. 890-A, FERC Stats. & Regs. 31,261 at P 175.

owning members, and relied upon by the RTO or ISO, are developed through a process that also complies with the requirements of Order No. 890.⁶⁰

1. SPP's Filing

67. SPP's filing includes no discussion how its proposed Attachment O meets the Order No. 890 local planning requirement by indicating how all participating transmission owners within its footprint will comply with Order No. 890's planning requirements. However, as noted above, Attachment O provides for stakeholder working groups to provide technical advice, assistance and oversight for all aspects of the regional, sub-regional, and local planning process. Attachment O also provides that the sub-regional planning meetings are open to all entities with teleconference availability for the meetings. In terms of local planning criteria, section III.5.b of Attachment O provides that individual transmission owners may develop company specific planning criteria but these criteria must be provided to SPP by April 1 of each year in order to be assessed and have Zonal Reliability Upgrades included in the STEP.⁶¹ In addition, access to individual transmission owner planning criteria will be made available through the SPP website.

2. Commission Determination

68. As an initial matter, we note that the following SPP participating transmission owners filed their own separate Order No. 890 Attachment K transmission planning process compliance filings: OG & E in Docket No. OA08-44-000; Aquila, Inc. in Docket No. OA08-18-000; and Xcel in Docket No. OA08-35-000. The Commission will address in separate orders whether these Attachment K compliance filings comply with the planning requirements found in Order No. 890. As for how the transmission planning conducted by these participating transmission owners will be addressed by the SPP planning process, we note that SPP's Attachment O includes general provisions addressing the incorporation of new facilities in its Information Exchange section. Specifically, section X.1.(b) states that "[w]hen an entity has developed a preliminary engineering concept for new facilities that impact the interconnected operation of the Transmission System, it shall contact the Transmission Provider so

⁶⁰ *Id.* P 175-77.

⁶¹ SPP defines Zonal Reliability Upgrades as "[t]hose upgrades included in and constructed pursuant to the SPP Transmission Expansion Plan in order to ensure the reliability of the Transmission System identified because of application of a Transmission Owner's company-specific planning criteria." (SPP OATT, First Revised Sheet No. 32).

that the optimal integration of any new facilities and potentially benefiting parties can be identified.” In addition, this section provides that if, during the planning cycle, there are material changes to data, the data owners must provide “timely written notice to the Transmission Provider.”⁶² It is unclear, however, except for these general provisions how the specific plans and projects submitted by such transmission owners that choose to have separate local planning processes will be evaluated as part of the SPP planning process for potential inclusion in the STEP, and to what extent local plans developed by these transmission owners will be subject to further review and approval by stakeholders and SPP. Accordingly, we direct SPP to revise Attachment O to state specifically how projects submitted by a transmission owner with a separate local planning process will be evaluated as part of the SPP planning process.⁶³

69. There are, however, several other SPP transmission owners that have not filed a separate Order No. 890 Attachment K transmission planning process.⁶⁴ Presumably, these transmission owners intend to rely on the SPP planning process to ensure that whatever planning they conduct complies with Order No. 890. SPP’s filing, however, is silent on exactly how this is to occur. While as noted above, SPP’s filing does provide stakeholders an opportunity to address certain local planning issues with SPP and the transmission owners at the sub-regional planning meetings, we are not convinced that this will allow stakeholders to participate at an early stage in the transmission planning conducted by SPP’s transmission owners that have not filed their own Attachment K planning processes. As such, we find that SPP’s compliance filing and tariff lack sufficient clarity and specificity with respect to the planning conducted by its participating transmission owners that have not filed their own separate Attachment K planning processes. If these transmission owners are engaging in transmission planning, stakeholders must not be excluded from the development of these transmission owner plans that eventually will become a part of the regional plan implemented by the RTO.

70. Accordingly, we find that SPP’s compliance filing and tariff fail to adequately describe how its planning process will satisfy Order No. 890. SPP must explain, in the compliance filing ordered below, the extent of any transmission planning performed by its participating transmission owners that have not filed their

⁶² Attachment O, section X.1(d).

⁶³ See *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,164, at P 131 (2008).

⁶⁴ Transmission owners in SPP that did not file separate Attachment Ks are Empire District Electric Company, Kansas City Power and Light Company, and Westar Energy, Inc.

own Attachment K planning processes. We direct SPP to file within 90 days of the issuance of this order a further compliance filing that revises its tariff to include language that will ensure that stakeholder input will be incorporated at an early stage in its development into the planning process for local or other transmission planning conducted by SPP's participating transmission owners without their own Attachment K planning processes. Specifically, in order to comply with Order No. 890's local planning requirements for its participating transmission owners without their own Attachment K planning processes, the Commission directs SPP to modify its tariff to: (i) require each such participating transmission owner's local plan to be made available on a website for review by stakeholders in the planning process subject to CEII and existing confidentiality provisions; (ii) provide links to each such participating transmission owner's local plan on SPP's website; (iii) require such participating transmission owners to post the planning criteria and assumptions used in its current local plan; (iv) provide links to each such participating transmission owner's planning criteria and assumptions on SPP's website; and (v) require such participating transmission owners to provide a reasonable opportunity for written comments after the posting of their local plan.⁶⁵

The Commission orders:

(A) SPP's compliance filing is hereby accepted, as modified, effective December 14, 2007, subject to a further compliance filing, as discussed in the body of this order.

(B) SPP is hereby directed to submit a further compliance filing, within 90 days of the date of this order, as discussed in the body of this order

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶⁵ See *PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,163, at P 140-141 (2008); *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,164, at P 132 (2008).