

126 FERC ¶ 61,106  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Ohio Valley Electric Corporation

Docket No. OA08-19-000

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED

(Issued February 10, 2009)

1. On December 7, 2007, pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> Ohio Valley Electric Corporation (Ohio Valley), on behalf of itself and its wholly-owned subsidiary Indiana-Kentucky Electric Corporation, submitted its transmission planning process as a proposed attachment to its Open Access Transmission Tariff (OATT), as required by Order No. 890.<sup>2</sup> In this order, we accept Ohio Valley's filing, as modified, 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 process.<sup>3</sup> To remedy the

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</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, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

<sup>3</sup> 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

(continued...)

potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles (discussed below) and to clearly describe that process in a new attachment (Attachment K) to their OATTs.<sup>4</sup>

3. In Order No. 890, the Commission required that each transmission provider's transmission planning process satisfy the following nine principles: (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 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.<sup>5</sup>

4. 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

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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.

<sup>4</sup> Ohio Valley's transmission planning attachment is labeled "Attachment M," rather than "Attachment K," because of a pre-existing attachment to its OATT labeled with the letter "K." In this order, we refer to Ohio Valley's transmission planning attachment as "Attachment K" for uniformity with other Commission orders.

<sup>5</sup> 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 providers' websites, provided there is a link to those business practices on Open Access Same-Time Information System (OASIS). *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 website, to satisfy their planning obligations under Order No. 890.

will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.<sup>6</sup>

## **II. Ohio Valley's Compliance Filing**

5. Ohio Valley states that it was formed by various electric utility holding companies and their subsidiaries, its owners, to supply the electric power requirements of a single retail customer, the predecessor to the U.S. Department of Energy's uranium enrichment project near Portsmouth, Ohio. Due to the highly critical nature of the load at the project, stringent design criteria were adopted for planning and constructing the transmission system. Ohio Valley currently has no transmission customers and only a single bundled retail customer, the U.S. Department of Energy. Under a short-term power service agreement approved by the Public Utilities Commission of Ohio, the U.S. Department of Energy's maximum load is limited to 50 MW and its actual load is fairly predictable.

6. Ohio Valley states that its system was constructed and has been operated and maintained in a coordinated manner with its neighboring systems. The Ohio Valley system is primarily an extra-high voltage network, with all lower voltage facilities being associated with interconnections to the transmission systems of its owners. Because of the stringent criteria used in its initial system design, the coordination of its transmission facilities with its neighboring systems, and relatively predictable and limited load, Ohio Valley states that it has been unnecessary to regularly carry out facility planning studies for its system. Ohio Valley participates in system appraisals conducted by ReliabilityFirst Corp. and as otherwise required by the Commission or the Nuclear Regulatory Commission. In addition, Ohio Valley's performance is assessed as part of system impact studies carried out at the request of independent power producers seeking to connect to the Ohio Valley system.

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

7. Notice of Ohio Valley's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. The Commission extended this comment period to January 7, 2008. The Electric Power Supply Association filed a motion to intervene raising no substantive issues on January 7, 2008.

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<sup>6</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

#### **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 motion to intervene of the Electric Power Supply Association serves to make it a party to this proceeding.

##### **B. Substantive Matters**

9. We find that Ohio Valley's Attachment K transmission planning process, with certain modifications, complies with the planning process requirements adopted in Order No. 890. At the outset, we note that the Ohio Valley system is designed predominantly to serve a single customer, the U.S. Department of Energy. While Ohio Valley operates and maintains its system in coordination with its neighboring systems, it has not historically been necessary for Ohio Valley to perform facility planning studies for its system. We therefore have evaluated Ohio Valley's compliance with the planning-related requirements of Order No. 890 in light of the particular circumstances surrounding the operation and maintenance of its system. We accept Ohio Valley's Attachment K, effective December 7, 2007, subject to a further compliance filing, as discussed below, to be filed within 90 days of issuance of this order.

10. We nevertheless encourage further refinements and improvements to Ohio Valley's planning process as Ohio Valley and its customer and stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine whether adjustments are necessary and will inform Ohio Valley and the Commission of any such recommendations. Later in the year, the Commission will convene regional technical conferences similar to the 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. Compliance with Order No. 890's Planning Principles**

###### **1. Coordination**

###### **a. Order No. 890**

11. 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.<sup>7</sup>

**b. Ohio Valley's Proposal**

12. Ohio Valley states that it will form a planning committee made up of representatives from its owners and a representative from the Department of Energy. Any other stakeholders, including representatives from state utility commissions, may participate. All meeting notices will be posted on OASIS.

13. The planning committee will meet on April 1<sup>st</sup> and October 1<sup>st</sup>, or other dates selected by Ohio Valley with at least 30 days notice to the planning committee, to develop the annual Ohio Valley transmission plan. The plan will consider projected transmission needs up to ten years in the future. At the April 1st meeting, Ohio Valley will present its latest transmission plan and request information from the planning committee on the projects, expansions, and other considerations that should be taken into account in developing the next transmission plan. Ohio Valley will permit committee members 30 days from the date of that meeting to submit written comments or other information for the next transmission plan.

14. At the October 1<sup>st</sup> meeting, Ohio Valley states that it will finalize the transmission plan for the current year. At least 30 days before that meeting, Ohio Valley will provide a draft of the proposed final transmission plan to the planning committee for its review and comment. Ohio Valley states that it will include all planning committee comments, and as it deems reasonable, incorporate such comments into Ohio Valley's transmission plan as soon as reasonably practicable.

15. The plan will consider projected transmission needs up to ten years in the future. In developing Ohio Valley's transmission plan, the committee will address recent operating conditions, requests for service, and projections of future load.

**c. Commission Determination**

16. We find that Ohio Valley's proposed Attachment K complies with the coordination principle stated in Order No. 890. Ohio Valley identifies in detail how its

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<sup>7</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

planning process will be coordinated with interested parties to allow them to provide input into Ohio Valley's transmission plans.

**2. Openness**

**a. Order No. 890**

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 particular meeting of a sub-regional group, the Commission emphasized that the overall development of the transmission plan and the planning process must remain open.<sup>8</sup> 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>9</sup>

**b. Ohio Valley's Proposal**

18. According to Ohio Valley, all committee meetings are open to all stakeholders, and they all can submit comments regarding planning activities. In order to participate in the committee meetings or receive information, the requesting entity must execute a confidentiality agreement. Ohio Valley states that it will also comply with Commission requirements regarding the use and dissemination of CEII.

**c. Commission Determination**

19. We find that Ohio Valley's proposed Attachment K partially complies with the openness principle. Ohio Valley will provide an opportunity for all affected parties to participate in the transmission planning process. However, it is not appropriate to condition participation in planning meetings or the receipt of any planning-related information on the execution of a confidentiality agreement. In Order No. 890, the Commission required that transmission providers, in consultation with affected parties,

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<sup>8</sup> 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 Attachment K planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

<sup>9</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

develop mechanisms, such as confidentiality agreements and password-protected access to information, to manage confidentiality and CEII concerns.<sup>10</sup> While it would be appropriate for Ohio Valley to limit access to confidential information or CEII, stakeholders should be able to obtain non-confidential information and participate in the planning process without executing confidentiality agreements.<sup>11</sup> Accordingly, we direct Ohio Valley to file, within 90 days of issuance of this order, a further compliance filing that revises its Attachment K to provide that only confidential information or CEII is subject to confidentiality agreements or password-protected access, as relevant for each class of material.

### 3. Transparency

#### a. Order No. 890

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 Attachment K the method(s) it will use to disclose the criteria, assumptions, and data that underlie its transmission system plans.<sup>12</sup> The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers were also 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 Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand resources in transmission planning. Where demand resources are capable of

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<sup>10</sup>*Id.*

<sup>11</sup> *E.ON U.S. LLC*, 124 FERC ¶ 61,263, at P 19 (2008).

<sup>12</sup> In Order No. 890-A, the Commission made clear that this disclosure should include transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, the Commission concluded they should be permitted to participate in that process on a comparable basis.<sup>13</sup>

**b. Ohio Valley's Proposal**

22. Ohio Valley states that its transmission system planning guidelines are available on OASIS and in Part 4 of its Form No. 715. These guidelines outline the basic criteria, assumptions, and data that underlie Ohio Valley's transmission planning, such as: (1) adherence to North American Electric Reliability Corporation (NERC) and ReliabilityFirst Corp. reliability standards; (2) treatment of native load; (3) transmission contingencies and monitored facilities; (4) thermal and voltage limits; (5) generation dispatch assumptions; (6) minimum operating voltage at generators; and (7) other modeling considerations.

23. Ohio Valley states that the transmission system planning guidelines in its Form 715 allow others to replicate its transmission planning process. Power flow models used in Ohio Valley planning studies are based on the models submitted as Part 2 of FERC Form No. 715. As all Ohio Valley facilities fall within the definition of Bulk Power System facilities, these models contain a complete representation of the Ohio Valley transmission system. To the extent updated modeling information is received from other stakeholders in the course of the planning process, Ohio Valley will make that information available to the planning committee, subject to applicable confidentiality and CEII requirements. Ohio Valley states that it will also post on its OASIS updates on the status of all transmission expansion and transmission improvement projects on its system.

**c. Commission Determination**

24. We find that Ohio Valley partially complies with the transparency principle. Ohio Valley's planning guidelines are available on its OASIS as well as in its Form No. 715. However, the Commission made clear in Order No. 890 that transmission providers must provide sufficient information to "enable customers, other stakeholders, or an independent third party to replicate the results of planning studies."<sup>14</sup> In particular, Ohio Valley must describe how it will disclose the criteria, assumptions, and data that underlie any transmission system plans it may develop. Ohio Valley states that the planning guidelines provided on its Form No. 715 allow others to replicate its transmission planning process, but does not explain whether that information is sufficient to allow stakeholders to replicate the results of planning studies. Order No. 890 found that Form

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<sup>13</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

<sup>14</sup> *Id.* P 471.

No. 715 does not provide timely data needed to perform load flow studies and other analyses to ensure that planning is being conducted on a comparable basis.<sup>15</sup>

Accordingly, we direct Ohio Valley to submit a further compliance filing within 90 days of issuance of this order revising that section of its Attachment K to describe how it will disclose to interested stakeholders the basic methodology, criteria, and processes used to develop transmission plans sufficient for them to be able to replicate a transmission plan.

#### **4. Information Exchange**

##### **a. Order No. 890**

25. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.<sup>16</sup> Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

26. The Commission also provided that, to the extent applicable, transmission customers should provide information on existing and planned demand resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand 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.<sup>17</sup>

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<sup>15</sup> *Id.* P 477.

<sup>16</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

<sup>17</sup> *Id.* P 206.

27. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange relates to planning, not other studies performed in response to interconnection or transmission service requests.<sup>18</sup>

**b. Ohio Valley's Proposal**

28. Ohio Valley states that it currently has no network transmission customers. Its proposed Attachment K requires any future network transmission customers to provide annual updates of their network resource availability forecast for the following year under their network service agreements. Additionally, all network transmission customers would be required to provide annual load forecasts for the next ten years.

29. Ohio Valley states that the primary focus for transmission planning on its system is long-term firm usage under contract. Ohio Valley invites firm point-to-point customers and bundled retail customers to provide information regarding any projected usage that will exceed five years, as well as information regarding planning (including any proposed projects) relating to the portions of the bulk transmission system owned or operated by such retail customers. Ohio Valley also invites owners or operators of electric generation facilities located within or near its system to provide any relevant information about their planning or projections, subject to and in accordance with any confidentiality or other requirements under applicable Standards of Conduct.

**c. Commission Determination**

30. We find that Ohio Valley's proposed Attachment K complies with the information exchange principle. Any customer may submit to Ohio Valley any relevant information regarding its projected usage or the planning of Ohio Valley's system.

**5. Comparability**

**a. Order No. 890**

31. 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

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<sup>18</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

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 interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.<sup>19</sup>

**b. Ohio Valley's Proposal**

32. Ohio Valley notes that it is now the sole transmission customer requesting service on the Ohio Valley system. However, if network customers request service over the Ohio Valley system in the future, they, as well as Ohio Valley's native load, will be treated comparably for the purposes of transmission planning. As noted above, firm point-to-point customers and bundled retail customers also may provide information regarding anticipated uses of the system exceeding five years for consideration by Ohio Valley in the transmission planning process. Where demand resources are able to meet the same criteria as generation resources, Ohio Valley states that demand and generation resources will be treated comparably. Ohio Valley's proposed Attachment K specifies that the same criteria will be applied to the same types of projects. Transmission requests will be addressed on a first-come, first-served basis to ensure that Ohio Valley's interests do not take precedence over those of their similarly situated customers.

**c. Commission Determination**

33. We find that Ohio Valley's proposed Attachment K partially complies with the comparability principle stated in Order No. 890. Ohio Valley's planning activities will reflect the needs of firm point-to-point customers, bundled retail customers or network customers that may exist on the system and will apply the same planning criteria to the same types of projects.

34. However, we note that Order No. 890-A was issued on December 27, 2007, after Ohio Valley 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

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<sup>19</sup> *Id.* P 494-95.

transmission planning.”<sup>20</sup> Here, Ohio Valley submitted tariff language providing that, as a general matter, demand resources will be treated comparably if they are able to meet the same criteria as generation resources. Since Order No. 890-A was issued subsequent to the filing before us, Ohio Valley did not have an opportunity to demonstrate that it complies with this requirement of Order No. 890-A. Therefore, we will direct Ohio Valley to file, within 90 days of issuance of this order, a compliance filing providing the necessary demonstration required by Order No. 890-A.<sup>21</sup>

## 6. Dispute Resolution

### a. Order No. 890

35. 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 used, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission’s Dispute Resolution Service to help develop a three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider’s dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.<sup>22</sup>

### b. Ohio Valley’s Proposal

36. Ohio Valley’s Attachment K states that any dispute, claim, or controversy between Ohio Valley and any stakeholder regarding application of, or that results from, the transmission planning procedures in Attachment K shall be resolved in accordance with the following procedures: (1) notice of dispute; (2) dispute resolution by representatives (referral to representatives who shall negotiate in good faith to resolve the dispute); (3)

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<sup>20</sup> 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.

<sup>21</sup> 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.

<sup>22</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

dispute resolution by executive management representatives (referral to an executive management representative who shall negotiate in good faith to resolve the dispute); (4) dispute resolution by mediation; and (5) arbitration or a Commission complaint process.

**c. Commission Determination**

37. We find that Ohio Valley's proposed Attachment K partially complies with the dispute resolution principle stated in Order No. 890. Ohio Valley includes a three-step process for resolving any disputes that may arise from the planning process, including both procedural and substantive planning issues. However, during the representative, executive, and mediation steps in the dispute resolution process, affected parties should retain any rights they may have under FPA section 206 to file a complaint with the Commission.<sup>23</sup> Ohio Valley's dispute resolution process may inappropriately affect the ability of a party to exercise its rights under section 206 of the FPA. Therefore, we direct Ohio Valley to file, within 90 days of issuance of this order, a compliance filing revising its dispute resolution provision to preserve the rights of a party to exercise its rights under section 206 of the FPA.

**7. Regional Participation**

**a. Order No. 890**

38. 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 Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission 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 subregions. 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 are not appropriate for

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

such economic issues, individual regions or subregions must develop alternative processes.<sup>24</sup>

39. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed toward transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.<sup>25</sup> The Commission also emphasized that effective regional planning should include coordination among regions and subregions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.<sup>26</sup>

**b. Ohio Valley's Proposal**

40. Ohio Valley states that it is a member of ReliabilityFirst Corp. and participates in its regional assessment processes. Ohio Valley provides information to ReliabilityFirst Corp. regarding changes on its system, and models used in the Ohio Valley planning process reflect the latest information available about plans and conditions involving surrounding systems so that Ohio Valley's plans reflect regional developments. Ohio Valley transmission planners participate in ReliabilityFirst Corp. study teams assessing seasonal, near-term and long-term transmission performance.

**c. Commission Determination**

41. We find that Ohio Valley partially complies with the regional participation principle stated in Order No. 890. Ohio Valley generally describes commitments to coordinate its planning activities with those of ReliabilityFirst Corp. However, Ohio Valley has not provided any detail regarding the regional assessment process in which it participates. Accordingly, we direct Ohio Valley to file, within 90 days of issuance of this order, a compliance filing describing in detail its process for coordinating with interconnected systems to share system plans in order to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and identify system enhancements that could relieve congestion or integrate new resources.

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<sup>24</sup> *Id.* P 523-28.

<sup>25</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

<sup>26</sup> *Id.*

## 8. Economic Planning Studies

### a. Order No. 890

42. The economic planning studies principle requires transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning 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 solely 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.

43. The Commission also stressed that existing regional processes conducted by RTOs and ISOs are not exempt from economic planning study requirements. 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, and were required to post requests for economic planning studies, as well as responses to the requests, on their OASIS or web sites. The Commission determined that 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 stakeholder(s) requesting the study.<sup>27</sup>

44. 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.<sup>28</sup> The Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.<sup>29</sup> 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

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<sup>27</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

<sup>28</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

<sup>29</sup> *Id.* P 237.

RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.<sup>30</sup>

**b. Ohio Valley's Proposal**

45. Ohio Valley's proposed Attachment K provides that committee members may collectively request up to five economic planning studies per year. Multiple study requests within the same 60-day period will be clustered. The costs of such planning studies, to the extent possible, will be included in Ohio Valley's transmission rates.

46. Economic planning studies may be used to evaluate: (1) network additions or upgrades that are not required to maintain NERC or Reliability *First Corp.* standards of reliability on the Ohio Valley system, or to accommodate a request for interconnection or transmission service, but that may alleviate significant and/or recurring congestion on the transmission system; or (2) network additions or upgrades necessary to integrate new generation resources or load on the transmission system other than as necessary to accommodate a request for interconnection or transmission service. As part of an economic planning study, Ohio Valley states that it will evaluate which customer(s) receive the primary benefit from the upgrade or addition being studied.

47. Ohio Valley states that it will perform the economic planning studies to the extent it has the data necessary to perform such a study. Ohio Valley states that it may ask the requesting customer, committee members, or others for additional information and data necessary to perform the requested economic planning study. Such information and data, including the results of any studies, will be subject to confidentiality provisions and/or the Standards of Conduct, as appropriate.

**c. Commission Determination**

48. We find that Ohio Valley partially satisfies the economic planning studies principle. Ohio Valley has developed a process for evaluating network additions or upgrades that may alleviate significant or recurring congestion or integrate new generation resources or load on its transmission system. However, the scope of such economic planning studies is limited, excluding the integration of other types of resources. In addition, Ohio Valley's proposed Attachment K does not state that requests for economic planning studies, as well as the responses to the requests, will be posted on its OASIS or website, subject to appropriate confidentiality restrictions. In a compliance filing to be made within 90 days of issuance of this order, we direct Ohio Valley to modify its Attachment K to provide for (i) the evaluation of network additions or

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<sup>30</sup> *Id.* P 238.

upgrades necessary to integrate any new resource on the transmission system and (ii) posting of any request for economic planning studies and responses to the request.

**9. Cost Allocation**

**a. Order No. 890**

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

50. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors 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 the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them re-litigated each time a project is proposed.<sup>31</sup> In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.<sup>32</sup>

**b. Ohio Valley's Proposal**

51. Ohio Valley's proposed Attachment K states that, if a network upgrade or addition is identified in an economic planning study and is then approved for construction, the entity requesting the upgrade and all benefiting customers shall jointly agree as to how the costs of the upgrade shall be allocated among the entities identified in the planning

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

<sup>32</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

study. As noted above, Ohio Valley states that it will evaluate, as part of any economic planning study performed, which customer(s) receive the primary benefit from the upgrade or addition being studied.

52. Ohio Valley states that this cost allocation principle is not applicable to the costs to interconnection or transmission customers requesting such services, which are governed by existing cost allocation mechanisms. Similarly, this method of cost allocation does not apply to network upgrades or additions necessary to maintain Ohio Valley's transmission system reliability under NERC or Reliability *First Corp.* standards.

**c. Commission Determination**

53. We find that Ohio Valley's proposed Attachment K complies with the cost allocation principle stated in Order No. 890. The cost of upgrades associated with reliability needs or requests for service will be allocated in accordance with existing mechanisms, while the cost of upgrades identified in an economic planning study and approved for construction will be allocated as determined by the entity requesting the upgrade and those beneficiaries of the upgrade identified by Ohio Valley.

**10. Recovery of Planning Costs**

**a. Order No. 890**

54. 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.<sup>33</sup>

**b. Commission Determination**

55. Ohio Valley's proposed Attachment K does not provide any information regarding the recovery of planning costs. We direct Ohio Valley, within 90 days of issuance of this order, to revise its Attachment K to address the recovery of its planning costs, as required by Order No. 890.

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<sup>33</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

The Commission orders:

(A) Ohio Valley's compliance filing is hereby accepted, as modified in accordance with Ordering Paragraph (B), effective December 7, 2007, as discussed in the body of this order.

(B) Ohio Valley is hereby directed to submit a compliance filing, within 90 days of issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Kelliher is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.