

148 FERC ¶ 61,059
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Entergy Arkansas, Inc.

Docket No. ER12-1428-002

OPINION NO. 532

ORDER AFFIRMING INITIAL DECISION

(Issued July 23, 2014)

1. This case, which is before the Commission on exceptions to an Initial Decision issued March 12, 2013,¹ involves Entergy Services, Inc. (Entergy), as agent for, and on behalf of, the Entergy Operating Companies,² submitting revisions to the Entergy Operating Companies' Open Access Transmission Tariff (OATT) to recover costs associated with the Weekly Procurement Process (WPP). In this order, the Commission affirms the determinations of the Presiding Administrative Law Judge (Presiding Judge) relating to the justness and reasonableness of Entergy's WPP cost recovery. Specifically, the Commission finds that the costs of the WPP are appropriately functionalized to transmission to be recovered by Entergy's network transmission customers, as further discussed herein.

I. Background and Procedural History

A. Entergy Corporate and Operating Structure

2. Entergy Corporation is a public utility holding company and the corporate parent of the six Entergy Operating Companies. The Entergy Operating Companies own and operate generation, transmission, and distribution facilities in Arkansas, Louisiana,

¹ *Entergy Arkansas, Inc.*, 142 FERC ¶ 63,017 (2013) (Initial Decision).

² Entergy Services, Inc. Transmittal Letter at 2. The Entergy Operating Companies are: Entergy Arkansas, Inc.; Entergy Gulf States Louisiana, L.L.C.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Texas, Inc.

Mississippi, and Texas. They provide electric service to retail customers subject to state and local regulation, and transmit and sell power at wholesale, subject to regulation by the Commission. Entergy is a wholly-owned subsidiary of Entergy Corporation, providing management, administrative, accounting, legal, engineering, and other services to the subsidiaries of Entergy Corporation. Entergy's Energy Management Organization is responsible for bid solicitation on behalf of Entergy's native load and the other commercial activities and decisions associated with the WPP.³

3. Since the time of this filing, the Entergy Operating Companies became transmission owning members of Midcontinent Independent System Operator, Inc. (MISO) and began taking transmission service under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff on December 19, 2013. Accordingly, Entergy has cancelled the entire OATT, including schedules and attachments, effective as of December 19, 2013. Included in this cancellation was Attachment V to the Entergy Operating Companies' OATT, which included the WPP.⁴ The result of this cancellation is that the period of time at issue in this proceeding is June 1, 2012 to December 19, 2013.

B. Background

4. In a partial settlement approved by the Commission, Entergy established a formula rate to derive charges for service on its bulk transmission facilities.⁵ The Entergy Operating Companies' OATT formula rate provides for an annual redetermination of rates for long-term and short-term firm point-to-point transmission service and non-firm point-to-point transmission service (point-to-point service), and network integration transmission service (network service), according to a formula in the Entergy Operating Companies' OATT, based on actual data for the immediately preceding calendar year.

5. Prior to implementation of the WPP, Entergy's Energy Management Organization integrated merchant generation and other suppliers into its procurement decisions by engaging in a long-term procurement process and the Weekly Request for Proposals

³ *Id.* at 3.

⁴ The Commission accepted this cancellation in *Entergy Servs., Inc.*, Docket No. ER14-648-000 (Jan. 31, 2014) (delegated letter order).

⁵ The OATT formula rate approved by Opinion No. 430 is found in the OATT Schedule 7 for point-to-point transmission service and at Attachment H for network transmission service. *Entergy Servs., Inc.*, Opinion No. 430, 85 FERC ¶ 61,163 (1998), *order on reh'g*, 91 FERC ¶ 61,153 (2000).

process, further supplemented by seasonal, monthly, daily and hourly solicitations to purchase power and energy.⁶ The formal Weekly Request for Proposals commenced in April 2002.

6. The concept of the WPP was originally submitted by Entergy in a Petition for Declaratory Order that sought guidance with respect to the major elements of its proposed WPP, which was one component of a package of proposed changes under Entergy's OATT.⁷ Entergy proposed the WPP to facilitate the continued integration of merchant generation and other wholesale suppliers into the procurement processes Entergy uses. Entergy stated that supplier participation in its existing Weekly Request for Proposals process was disappointing, so it proposed changes to the process, which included moving the weekly procurements decisions from Entergy's regulated wholesale merchant function to the transmission function, establishing independent oversight of the process, and further defining the products that will be bid in the process.

7. On May 27, 2005, Entergy submitted a section 205 filing to revise the OATT to establish an Independent Coordinator of Transmission for the Entergy transmission system and a WPP, once the necessary software was developed and tested. In an order issued in 2006, the Commission approved Attachment V to the Entergy Operating Companies' OATT and the Independent Coordinator of Transmission.⁸ The Commission stated that approval of the entire package is predicated in part on Entergy's representations of the substantial benefits associated with the WPP.⁹ There were further proceedings involving the WPP and ultimately in 2009, the Commission allowed the WPP to become effective March 17, 2009.¹⁰ Because the Entergy Operating Companies became members of MISO and began taking transmission service under the MISO Tariff on December 19, 2013, the period of time at issue in this proceeding is June 1, 2012 to December 19, 2013.

⁶ Ex. ESI-4 at 6.

⁷ Entergy Services, Inc., Petition for Declaratory Order, Docket No. EL03-132-000 (filed June 10, 2003).

⁸ *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 at P 3, *order on reh'g*, 116 FERC ¶ 61,275 (2006), *order on reh'g*, 119 FERC ¶ 61,013 (2007).

⁹ *Id.*

¹⁰ *Entergy Servs., Inc.*, 126 FERC ¶ 61,277 at P 1, *order on clarification*, 127 FERC ¶ 61,225 (2009).

C. Entergy's Filing

8. On April 2, 2012, Entergy submitted what it labeled clarifying amendments to the Entergy Operating Companies' OATT in Attachment H and Schedule 7, which contain the formulas for calculation of the rates for network and point-to-point service, respectively.¹¹ Specifically, Entergy proposed amendments to its transmission services formula rates to include certain new accounts pursuant to Order Nos. 668 and 668-A¹² to include the Regional Transmission and Market Operations costs associated with plant and expenses related to the development and implementation of the WPP.

9. Entergy's filing proposed several revisions to the OATT formula rate, including amendments to the formula to add recovery of Regional Transmission and Market Operations costs booked to capital Accounts 380-387 and maintenance expense Accounts 575-576. The Regional Transmission and Market Operations costs that Entergy has booked to capital Accounts 380-387 are exclusively costs associated with the development and implementation of Entergy's WPP.¹³ Entergy's proposed changes to maintenance specify that expense incurred by Entergy to manage market monitoring and maintain computer software booked to Accounts 575 and 576 would be flowed through the OATT formula rate. Finally, Entergy proposed to functionalize these costs as transmission and collect the costs from all OATT customers including network and point-to-point customers.

10. In addition, Entergy proposed to clarify the notes to the formula by explicitly identifying the specific transmission accounts that are included in the Entergy Operating Companies' OATT. Entergy would explicitly identify in the notes to the formula rates

¹¹ Entergy Services, Inc. Transmittal Letter at 1.

¹² *Accounting and Financial Reporting for Public Utilities Including RTOs*, Order No. 668, FERC Stats. & Regs. ¶ 31,199 at PP 87-88, *reh'g denied*, Order No. 668-A, FERC Stats. & Regs. ¶ 31,215, *reh'g denied*, 117 FERC ¶ 61,066 (2006). In Order No. 668, the Commission revised several existing account designations and added new accounts to the Uniform System of Accounts relating to Regional Transmission and Market Operations. Order No. 668 became effective January 21, 2006.

¹³ Although Entergy is amending the OATT to include Accounts 380 through 387 in the formula rate, the FERC Form No. 1 balances for the Entergy Operating Companies shows balances only for Account 382 (Computer Hardware), and Account 383 (Computer Software). These balances total \$24.8 million, which is the Regional Transmission and Market Operations plant in service amount at issue in this proceeding. Ex. ESI-9; Ex. S-1 at 7-8.

the FERC account numbers where Entergy books Regional Transmission and Market Operations investment costs associated with certain computer software and hardware necessary to develop and implement the WPP.

11. According to Entergy, the purpose of the WPP is to optimize the designation of network resources under the OATT and thereby facilitate an improved procurement of power purchases from competing sources.¹⁴ According to Entergy, the creation of the WPP and its implementation is unique for areas that operate outside of organized markets. Entergy stated that the WPP is designed and is available for use by all network service customers under the OATT.

12. Entergy stated that the WPP became operational in March 2009, so the capital costs properly are included in subsequent test years.¹⁵ Entergy stated that the WPP costs are properly treated as transmission costs, and that in Order No. 668, the Commission identified the necessary transmission accounts for recording organized market investments in computer hardware, software, and communication equipment. Entergy booked the WPP costs to these new accounts in its Annual Rate Updates.¹⁶ According to Entergy, in Order No. 668, the Commission stated that it would allow entities to file, pursuant to section 205 of the Federal Power Act (FPA),¹⁷ tariff revisions to conform to the changes adopted in Order No. 668. Entergy maintained that the clarifying amendments it submitted were consistent with that directive.

13. On June 1, 2012, the Commission accepted and nominally suspended the filing, to become effective June 1, 2012, subject to refund, and established hearing and settlement judge procedures.¹⁸

¹⁴ Entergy Services, Inc., Transmittal Letter at 3.

¹⁵ *Id.*

¹⁶ In accordance with the Entergy Operating Companies' OATT, on or before May 1 of each year, the Entergy Operating Companies submit an informational filing to the Commission that updates the charges that will apply for OATT service for the upcoming June 1 through May 31 period using actual data for the immediately prior calendar year (Annual Rate Update).

¹⁷ 16 U.S.C. § 824d (2012).

¹⁸ *Entergy Arkansas, Inc.*, 139 FERC ¶ 61,173 (2012). Via an errata notice dated September 4, 2012, the caption of the order was changed from Entergy Services, Inc. to Entergy Arkansas, Inc.

D. Testimony

14. Testimony was filed by Entergy witnesses Richard Armstrong (Armstrong), William Weber (Weber), and Donald Peters (Peters); Arkansas Electric Cooperative Corporation, South Mississippi Electric Power Association and Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission (Clarksdale), and the Public Service Commission of Yazoo City (Yazoo City) (collectively, Joint Customers) witnesses Stephen Page Daniel (Daniel) and E. Cary Cook (Cook); and Commission Trial Staff witnesses Elton Beasley (Beasley) and Joseph Hoffman (Hoffman).

1. Direct and Answering Testimony

15. Entergy presented the direct testimony of Mr. Weber, who provides a history of the WPP, describes its structure, and describes its operation.¹⁹ According to Mr. Weber, “the WPP was established to replace the [Weekly Request for Proposals] process ...previously used to procure energy each week, which was then included in the resources that served the native load customers of the Entergy Operating Companies.”²⁰ According to Mr. Weber, the WPP is managed by the Weekly Operations Group (Weekly Operations), a group within the Energy Delivery business unit.²¹ Mr. Weber notes that the role of Weekly Operations is limited to the granting of transmission service.²² For that purpose, Mr. Weber notes that Weekly Operations receives information about existing network resources, and a significant amount of data that represents the transmission topology of the Entergy Operating Companies’ transmission system and previously granted transmission service on the system. Weekly Operations then takes this input data and uses the WPP Security Constrained Unit Commitment model to optimize the use of the transmission system and grant new transmission service for supplier offers that are determined by the model to reduce overall production costs. Mr. Weber states that the Independent Coordinator of Transmission oversees the operation of the WPP and grants transmission service for offers that ultimately are selected in the process. Mr. Weber maintains that Weekly Operations and the Independent Coordinator of Transmission work closely throughout each week in administering and overseeing the WPP.

¹⁹ Ex. ESI-4.

²⁰ *Id.* at 3.

²¹ *Id.* at 1.

²² *Id.* at 4.

16. Entergy's Mr. Weber states that Entergy initially did not propose to make the WPP available to other load serving entities other than the Entergy Operating Companies; however, because a number of parties requested Entergy to consider ways to allow further participation, Entergy agreed to expand the scope of the WPP to allow other network service customers under the Entergy Operating Companies' OATT to participate.²³

17. Entergy presented the direct testimony of Mr. Armstrong²⁴ who explains the history of the regulatory approval process for the WPP and the various Commission orders related thereto, describes facts regarding the development and operation of the WPP, and argues that WPP costs are properly included in OATT rates. There is a total of \$24.8 million dollars in WPP hardware and software development costs.²⁵ According to Mr. Armstrong, Entergy submitted a filing under section 205 of the FPA on May 27, 2005 to revise the Entergy Operating Companies' OATT to establish an Independent Coordinator of Transmission for the Entergy transmission system and a WPP, once the necessary software was developed and tested. Mr. Armstrong states that the Independent Coordinator of Transmission would, among other things, grant or deny requests for transmission service, calculate available flowgate capacity on the transmission system, administer Entergy's Open Access Same Time Information System, and oversee the operation of the WPP.²⁶ He states that, by order dated March 17, 2009, the Commission, among other things, allowed the WPP to become effective March 27, 2009, and further specified the metrics to be used by the Southwest Power Pool, Inc., as the Independent Coordinator of Transmission, in quarterly reports to the Commission including calculating the savings to the Entergy Operating Companies and each of the participating network service customers under the WPP.²⁷

18. According to Mr. Armstrong, under the Standards of Conduct in Part 358 of the Commission's regulations, transmission function employees must function independently

²³ *Id.* at 8.

²⁴ Ex. ESI-1.

²⁵ Ex. ESI-9.

²⁶ Ex. ESI-1 at 8.

²⁷ *Id.* at 10 (citing *Entergy Servs., Inc.*, 126 FERC ¶ 61,227 (2009)). Effective December 1, 2012, the Independent Coordinator of Transmission function and responsibilities was transferred to MISO. See *Entergy Arkansas, Inc.*, 141 FERC ¶ 61,011 (2012).

from employees of marketing and energy affiliates.²⁸ Mr. Armstrong states that in order to comply with these regulations, the Weekly Operations employees only perform transmission-related work. According to Mr. Armstrong, but for costs related to the WPP, most of the new accounts identified in Order Nos. 668 and 668-A are simply place holders in the Entergy OATT rate formulae and costs currently are not being recovered through them.²⁹ He states that costs recorded in Accounts 382 (Computer Hardware) and 383 (Computer Software) are costs associated with the design and development of the WPP.

19. Entergy presented the direct testimony of Mr. Peters, who explains in detail the tariff revisions to the OATT that Entergy proposed and the new accounts that were adopted pursuant to the Commission's Order Nos. 668 and 668-A, and further explains how those accounts apply to costs associated with the development of the WPP, as authorized by the Commission.³⁰ Mr. Peters explains that Entergy's filing in this proceeding requests specific Commission authorization to revise Attachment H and Schedule 7 to the Entergy Operating Companies' OATT to clarify the notes to the formula by explicitly identifying the specific new accounts that were adopted pursuant to Order Nos. 668 and 668-A.³¹ These accounts will specifically apply to costs associated with the plant in service and deferred Operations and Maintenance Expenses related to the development of the WPP. Mr. Peters maintains that network service customers are responsible for 13.4 to 13.5 percent and point-to-point service customers are responsible for 7.2 to 8.6 percent of the WPP costs.³²

20. Joint Customers presented the direct testimony of Mr. Daniel, who describes the respective interests of Joint Customers regarding Entergy Operating Companies' OATT including the transmission formula rates thereunder.³³ Mr. Daniel explains that the Arkansas Electric Cooperative Corporation and the South Mississippi Electric Power Association from time to time are point-to-point service customers under the Entergy Operating Companies' OATT, and the Mississippi Delta Energy Agency, Clarksdale and

²⁸ Ex. ESI-1 at 11.

²⁹ *Id.* at 2.

³⁰ Ex. ESI-7.

³¹ *Id.* at 4.

³² Ex. ESI-17 at 4.

³³ Ex. JC-1 at 5.

Yazoo City receive network service pursuant to the Entergy Operating Companies' OATT. According to Mr. Daniel, Entergy's proposed formula rate amendments, if approved, would increase the transmission revenue requirement and rates and charges to each of these entities by including in such rates and charges Entergy's Regional Transmission and Market Operations costs associated with its WPP.³⁴ Mr. Daniel argues that the WPP process and activities of the Independent Coordinator of Transmission are totally related to the production function.³⁵ Mr. Daniel claims that: (1) the nature and purpose of the WPP is to create an energy market, which is a production-related function³⁶; (2) the Independent Coordinator of Transmission's quarterly reporting process confirms that the WPP is a production function because it reports production cost savings created by the WPP³⁷; and (3) the WPP limits entities that qualify to participate and provides no benefits to non-participants.³⁸

21. Joint Customers also presented the direct testimony of Mr. Cook, who addresses the impact on the Entergy Operating Companies' OATT formula rates and revenue requirements of Entergy's proposed recovery of Regional Transmission and Market Operations costs.³⁹ Mr. Cook addresses the impact on the Entergy Operating Companies' OATT formula rates and revenue requirements of Entergy's proposed recovery of Regional Transmission and Market Operations costs in Entergy's 2011 and 2012 Annual Rate Updates. According to Mr. Cook, the Annual Rate Updates developed by Entergy are filed with the Commission each year to update the Entergy Operating Companies' OATT formula rates and revenue requirements. Mr. Cook said Entergy included Regional Transmission and Market Operations costs in its 2011 and 2012 Annual Rate Updates.⁴⁰ Mr. Cook maintains that if the Commission agrees with Joint Customers in this docket that the Regional Transmission and Market Operations costs should not be included in Entergy's updates, then Entergy should be ordered to make a compliance

³⁴ *Id.* at 6.

³⁵ *Id.* at 15-20.

³⁶ *Id.* at 15.

³⁷ *Id.* at 17.

³⁸ *Id.* at 21-27.

³⁹ Ex. JC-7 at 4.

⁴⁰ *Id.* at 5.

filing removing all Regional Transmission and Market Operations-related expenses included in the 2011 and 2012 Annual Rate Updates.

22. According to Mr. Cook, including the Regional Transmission and Market Operations costs in Entergy's 2011 Annual Rate Update⁴¹ increases Entergy's proposed firm point-to-point service rate by \$0.02062/kW from \$1.45677/kW to \$1.47739/kW.⁴² According to Mr. Cook, including these Regional Transmission and Market Operations costs in Entergy's 2012 Annual Rate Update⁴³ increases Entergy's proposed firm point-to-point service rate by \$0.02369/kW from \$1.52507/kW to \$1.54876/kW.⁴⁴

23. Trial Staff presented the direct and answering testimony of Mr. Beasley, who recommended that the Regional Transmission and Market Operations costs should be recovered only from Entergy's network service customers taking service under the Entergy Operating Companies' OATT and not from point-to-point service customers.⁴⁵ Mr. Beasley notes that the WPP is not available to point-to-point service customers. Mr. Beasley states that his determination is based on Entergy's presentation to date that none of the WPP computer software and hardware costs have been booked to production accounts. Mr. Beasley notes that the Commission allowed the WPP to become effective March 17, 2009 and further specified certain metrics to be used by the Independent Coordinator of Transmission in quarterly reports to the Commission.⁴⁶

⁴¹ On May 27, 2011, in Docket No. ER11-3657-000, Entergy filed the 2011 Annual Rate Update under the Entergy Operating Companies' OATT. In *Entergy Servs., Inc.*, 144 FERC ¶ 61,225 (2013), the Commission approved a settlement which resolved all issues related to the 2011 Annual Rate Update.

⁴² Ex. JC-7 at 6.

⁴³ On May 31, 2012, in Docket No. ER12-1895-000, Entergy filed the 2012 Annual Rate Update under the Entergy Operating Companies' OATT. In *Entergy Servs., Inc.*, 144 FERC ¶ 61,225 (2013), the Commission approved a settlement which resolved all issues.

⁴⁴ Ex. JC-7 at 6.

⁴⁵ Ex. S-1 at 10.

⁴⁶ *Id.* at 13 (citing *Entergy Servs., Inc.*, 126 FERC ¶ 61,227, *order on reh'g*, 127 FERC ¶ 61,255 (2009)).

24. Trial Staff also presented the direct and answering testimony of Mr. Hoffman, who quantifies the impact of the Regional Transmission and Market Operations costs on Entergy's transmission formula rate between Joint Customers' position (i.e., the costs are all production-related and should be excluded) and Entergy's position (i.e., the costs are all transmission-related and should be fully included).⁴⁷

2. Cross-Answering Testimony and Rebuttal Testimony

25. Joint Customers' Mr. Daniel's cross-answering testimony responded to Trial Staff's positions which, according to Mr. Daniel, appear to be driven almost completely by Entergy's accounting treatment for WPP-related costs.⁴⁸ According to Mr. Daniel, the WPP is a mechanism for obtaining competitive power supply through the buying and selling of energy.⁴⁹

26. Entergy's Mr. Armstrong submitted rebuttal testimony to respond to Joint Customers' Mr. Daniel's direct and cross-answering testimonies and to respond to the Trial Staff's proposal to recover WPP costs from only network service customers.⁵⁰ Mr. Armstrong disagrees with Mr. Daniel's assertion that the WPP is a production function cost because the Independent Coordinator of Transmission generated reports that included discussions of savings resulting from lower production-related costs achieved through the WPP; he contends that there is nothing remarkable about discussing production cost savings in the context of providing OATT transmission service and related issues.⁵¹ Furthermore, Mr. Armstrong asserts that Entergy is proposing to recover only the costs associated with what the Commission already has determined to be the transmission function in transmission rates.⁵²

27. Entergy's Mr. Weber submitted rebuttal testimony to respond to Joint Customers' Mr. Daniel's direct testimony.⁵³ Mr. Weber explains the differences between the WPP

⁴⁷ Ex. S-6 at 3.

⁴⁸ Ex. JC-11 at 3.

⁴⁹ *Id.* at 6.

⁵⁰ Ex. ESI-11 at 1.

⁵¹ *Id.* at 2.

⁵² *Id.* at 4.

⁵³ Ex. ESI-12 at 1.

and Weekly Request for Proposals process that Energy used to procure energy prior to implementation of the WPP and explains the process for requesting and granting transmission service through Entergy's OASIS.⁵⁴

28. Entergy's Mr. Peters submitted rebuttal testimony to respond to Joint Customers' Mr. Daniel's direct testimony and Trial Staff's Mr. Hoffman's direct and answering testimony.⁵⁵ In particular, Mr. Peters makes corrections to Mr. Daniel's load divisor and associated percentage of the Entergy transmission system and he corrects the percent allocation of WPP costs between the Entergy Operating Companies and the OATT network service customers for 2011 that is reflected in Mr. Hoffman's testimony. According to Mr. Peters, Mr. Hoffman used the data from Mr. Daniel's testimony, which was incorrect, thus, the calculation by Mr. Hoffman is likewise incorrect.

E. Initial Decision

29. A hearing was held on January 8, 2013 that resulted in the Initial Decision. Briefs on exceptions were filed by Entergy and Joint Customers on April 11, 2013. Briefs opposing exceptions were filed by Entergy, Joint Customers, and Trial Staff on May 1, 2013.

30. The Initial Decision addressed whether Entergy's proposal to amend the Entergy Operating Companies' OATT formula rate to include its WPP costs in the OATT revenue requirement that is recovered from all OATT customers is just and reasonable. In the Initial Decision, the Presiding Judge found that: (1) Entergy has the burden of proof since Entergy's proposal in this case is a change in the filed rate, which includes recovery for costs never before incorporated into that rate⁵⁶; (2) the WPP costs are properly functionalized as transmission for purposes of Entergy's cost recovery proposal;⁵⁷ and (3) the principle of cost causation permits Entergy to recover WPP costs only from network service customers and allocating WPP expenses to point-to-point service customers is neither just nor reasonable.⁵⁸

⁵⁴ *Id.*

⁵⁵ Ex. ESI-17 at 1.

⁵⁶ Initial Decision, 142 FERC ¶ 63,017 at P 36.

⁵⁷ *Id.* P 76.

⁵⁸ *Id.* P 114.

II. Discussion

31. Having fully evaluated the Initial Decision, the briefs on and opposing exceptions, and the record before us, we affirm the determinations of the Presiding Judge for the reasons set forth below.

A. What is The Proper Burden of Proof?

32. The Presiding Judge noted that Entergy characterized the proposed changes as “clarifying amendments...to the Entergy Operating Companies” OATT that are “purely to eliminate any confusion about the proper inclusion of [Regional Transmission and Market Operations]... costs in the formula.”⁵⁹ The Presiding Judge further noted that Entergy maintained that these clarifications were necessary because they provide the needed specificity to eliminate the potential for varying interpretations of these components of the formula.⁶⁰ The Presiding Judge said Entergy contended that the clarifying amendments are consistent with Order No. 668 and that the Commission has previously accepted filings from other utilities proposing to incorporate the changes adopted in Order No. 668 into OATT formula rates.⁶¹ The Presiding Judge further noted that, according to Entergy, these proposed amendments permit recovery from all customers under the OATT for costs booked to new accounts pursuant to Order No. 668 and will specifically apply to costs associated with the plant in service and deferred Operations and Maintenance expenses related to the development of the WPP.⁶²

33. The Presiding Judge noted that Joint Customers argued that the filing is not a clarification but rather a proposal for a substantive change, meaning that it is subject to the FPA section 205 burden of proving that the change is just and reasonable and not unduly discriminatory or preferential.⁶³ The Presiding Judge pointed out that Joint Customers cite *Midwest Independent Transmission System Operator, Inc.* in which the Commission stated that to classify a change as a clarification rather than a tariff revision implies that the change has already been shown to be just and reasonable, and MISO

⁵⁹ *Id.* P 28 (citing Entergy Services, Inc. Transmittal Letter at 1, 4).

⁶⁰ *Id.* (citing Entergy Services, Inc. Transmittal Letter at 4).

⁶¹ *Id.* (citing Entergy Services, Inc. Transmittal Letter at 3 where Entergy cites *Me. Pub Serv. Co.*, Docket No. ER07-952-000 (June 25, 2008) (delegated letter order)).

⁶² *Id.* (citing Entergy Services, Inc. Transmittal Letter at 1).

⁶³ *Id.* P 29.

made no showing that would support a finding that the Commission already determined that all of the proposed exemptions were just and reasonable.⁶⁴ The Presiding Judge also noted that Trial Staff agreed with Joint Customers that the amendments proposed in Entergy's Filing represent more than mere clarification.⁶⁵

34. The Presiding Judge found that Entergy had the burden of proof because Entergy's proposal in this case is a change in the filed rate, which includes recovery for costs never before incorporated into that rate.⁶⁶ According to the Presiding Judge, Entergy and Trial Staff were incorrect in arguing that whether Entergy's April 2, 2012 filing is a clarification or a change is not important to this proceeding.⁶⁷ The Presiding Judge stated that in this case, Entergy has not shown that its proposal to recover the WPP costs from all of its OATT customers has already been shown to be just and reasonable, as the Commission explained would be required to classify a proposal as a mere "clarification."⁶⁸

35. Entergy did not file exceptions to the Judge's determination and has, therefore, waived any objections to this decision.⁶⁹

B. Are the WPP Costs that Entergy Seeks to Recover Properly Classified as Transmission?

36. The Presiding Judge, after having considered all of the arguments made and evidence offered, found that the WPP costs are properly functionalized as transmission.⁷⁰ The Presiding Judge noted that whether the WPP costs are properly characterized as transmission or production is a dispositive issue because the costs cannot be included in the Entergy Operating Companies' OATT transmission revenue requirement unless they result from a transmission function. According to the Presiding Judge, only after a

⁶⁴ *Id.* (citing *Midwest Indep. Transmission System Operator, Inc.*, 132 FERC ¶ 61,184, at P 36 (2010) (*MISO*)).

⁶⁵ *Id.* P 31 (citing Staff Reply Br. at 6).

⁶⁶ *Id.* P 36.

⁶⁷ *Id.* P 34 (citing Entergy Reply Brief at 14; Trial Staff Reply Brief at 7-8).

⁶⁸ *Id.* P 35 (citing *MISO*, 132 FERC ¶ 61,184 at P 36).

⁶⁹ 18 C.F.R. § 385.711 (d)(2) and (3) (2013).

⁷⁰ Initial Decision, 142 FERC ¶ 63,017 at P 39.

determination that the WPP costs are transmission-related must he resolve the issue of which customers should pay for the WPP, consistent with the Commission's ratemaking principle of cost causation.⁷¹ Furthermore, according to the Presiding Judge, in Order No. 668, the Commission recognized that some or perhaps most computer hardware, software and communication assets are joint use assets and that allocation approaches used by public utilities must ensure that a reasonable portion of the cost of maintaining these joint use assets are allocated to the transmission function.

37. In concluding that the WPP costs that Entergy seeks to recover are properly functionalized as transmission, the Presiding Judge addressed the following topics: (1) Commission approval of the WPP structure as consistent with the Standards of Conduct; (2) the objective of the WPP; (3) production cost savings as a measure of benefits; (4) comparison of the Weekly Request for Proposals and WPP; and (5) incidental provision of transmission service.

1. Commission Approval of the WPP Structure as Consistent with the Standards of Conduct

a. Initial Decision

38. According to the Presiding Judge, the Commission made clear in its order on petition for declaratory order that having Entergy's Energy Management Organization perform all aspects of the WPP was inconsistent with Order Nos. 888 and 889, which required each public utility to implement standards of conduct to functionally separate transmission and wholesale power merchant functions.⁷² The Presiding Judge said the Commission would not have made this determination if the WPP did not include both transmission and merchant functions, both of which were being performed by the merchant entity. Once Entergy separated the merchant and transmission functions between the Energy Management Organization and Weekly Operations, respectively, the Presiding Judge noted that the Commission approved the WPP structure as consistent with the Commission's Order No. 888 and 889 requirements for functional separation of the merchant and transmission functions.⁷³

⁷¹ *Id.* P 37 (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) (describing the cost causation principle and how compliance with it is evaluated)).

⁷² *Id.* P 43 (citing *Entergy Servs., Inc.*, 104 FERC ¶ 61,336, at P 24 (2003)).

⁷³ *Id.* (citing *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 at P 291).

b. Briefs on Exceptions

39. Joint Customers argue that the Initial Decision errs in finding that the Commission has already determined, at least implicitly, that the WPP is a transmission function and that the costs Entergy seeks to recover are transmission-related.⁷⁴ According to Joint Customers, the Initial Decision fails to explain how compliance with the Commission's Standards of Conduct functional separation requirements has any bearing on the functionalization issue presented in this proceeding.

40. Joint Customers maintain that compliance with the Commission's Standards of Conduct functional employee separation in no way negates the fact that what the WPP does, using the hardware and software-driven elements of the WPP, is designed to achieve energy cost savings, which is a production function.⁷⁵ They argue that compliance with the Commission's Standards of Conduct was never contemplated as a methodology for functionalizing costs and should not be relied upon for determining cost allocation here.

c. Briefs Opposing Exceptions

41. Entergy maintains that Joint Customers' position is untenable and is inconsistent with the Commission's prior statements on the necessary separation of functions of the WPP.⁷⁶ Entergy states that it is not possible under the Commission's separation of function requirements for transmission function employees – those who run the WPP on a day-to-day basis – to perform production or market-related functions because it is just not allowed. Entergy argues that the Commission's finding that transmission function employees will operate the WPP shows that the WPP is a transmission function.

42. Trial Staff disagrees with Joint Customers' reasoning and finds their arguments are without merit.⁷⁷ First, Trial Staff states that it is clear that in approving the WPP, the Commission found that the WPP serves a transmission function. According to Trial Staff, the only pertinent difference between the version of the WPP rejected by the Commission in 2003 and the one approved in 2006 is that the earlier version involved all aspects of the program being performed by Entergy's marketing employees, and the later

⁷⁴ Joint Customers Brief on Exceptions at 14.

⁷⁵ *Id.* at 15-16.

⁷⁶ Entergy Brief Opposing Exceptions at 10.

⁷⁷ Trial Staff Brief Opposing Exceptions at 24.

version required the procurement of transmission reservations to be performed by transmission employees. Thus, Trial Staff concludes that, as the Initial Decision points out, the critical change in the program involved the separation, or functionalization, of the marketing and transmission aspects of the WPP.

2. The Objective of the WPP

a. Initial Decision

43. The Presiding Judge found that the overall objective of the WPP is to provide for efficient use of Entergy's transmission system and not merely to grant transmission service, as Entergy argues, or to minimize production costs, as Joint Customers contend.⁷⁸ According to the Presiding Judge, statements made before Entergy proposed a recovery scheme for WPP costs demonstrate that the purpose of the WPP is to improve the efficient operation of Entergy's transmission system. The Presiding Judge noted that in responding to Entergy's statements, the Commission held that despite delays and structural changes, it remained convinced that the WPP has the potential to provide a better optimization of the transmission system by allowing the evaluation of multiple resource alternatives for the same customer without the need for multiple transmission requests and by taking generator economics into account when qualifying new network resources.⁷⁹ According to the Presiding Judge, the fact that Weekly Operations, Entergy's transmission function, operates the WPP and that the Independent Coordinator of Transmission, a strictly transmission-related entity, oversees the WPP and the granting of transmission service, is further support that the purpose of the WPP is to efficiently operate Entergy's transmission system.⁸⁰

b. Briefs on Exceptions

44. Joint Customers argue that it is error for the Initial Decision to find that the overall objective of the WPP is to provide for efficient use of Entergy's transmission system and not to minimize production costs.⁸¹ Joint Customers maintain that an examination of the

⁷⁸ Initial Decision, 142 FERC ¶ 63,017 at P 52.

⁷⁹ *Id.* P 53 (citing *Entergy Servs., Inc.*, 126 FERC ¶ 61,227 at P 88).

⁸⁰ *Id.* P 54 (citing *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 at P 291 (describing the importance of Independent Coordinator of Transmission oversight); Ex. ESI-4 at 4:7-17 (explaining Weekly Operations' role in the WPP operation)).

⁸¹ Joint Customers Brief on Exceptions at 17.

WPP demonstrates that its full purpose and its primary nature is the production function of reducing energy costs by replacing more expensive owned generation with less expensive purchased power costs for any participating load-serving entity.

45. According to Joint Customers, there is no record evidence showing any improved functioning of the transmission system due to the operation of the WPP, or expanded access, or reduced transmission costs for those not participating in the WPP.⁸² Joint Customers maintain that the only benefits found in the record are the production cost savings for Entergy's native load customers.

46. Joint Customers argue that when Entergy's Mr. Weber was asked to explain Entergy's claim that the WPP was intended to make more efficient use of the transmission system, he made clear that the efficiency claimed was minimization of power production costs.⁸³ According to Joint Customers, Mr. Weber's testimony confirms that the fundamental purpose of the WPP is to minimize production costs for the benefit of Entergy's power supply customers, and that alterations in the provision of transmission service are incidental to that primary purpose.

c. Briefs Opposing Exceptions

47. Entergy takes exception to Joint Customers' argument and maintains that the Initial Decision properly reviewed the Commission's precedent and the record evidence provided in this proceeding when it concluded that the efficient use of the transmission system is the overall objective of the WPP.⁸⁴ According to Entergy, Joint Customers rely on statements made by Entergy's Mr. Weber and characterize them as a concession or an admission of some type that the fundamental purpose of the WPP is not to maximize use of the transmission system. However, Entergy maintains that this line of reasoning fails to recognize that the Commission regularly measures the efficiency of the transmission system in terms of production costs. Thus, according to Entergy, Joint Customers' attempt to promulgate Mr. Weber's testimony as inconsistent with the fundamental goal of the WPP – which is to maximize the efficient use of the transmission system – is misplaced.

48. Trial Staff disagrees with Joint Customers' assertion that the full purpose and primary nature of the WPP is a production function focused solely on the procurement of

⁸² *Id.* at 18.

⁸³ *Id.* at 19.

⁸⁴ Entergy Brief Opposing Exceptions at 9.

alternative, lower-cost generating resources for the WPP participants.⁸⁵ To the contrary, according to Trial Staff, the record shows that the WPP incorporates transmission information and is designed to determine the optimal combination of energy resources and transmission capacity to authorize the most economic transactions.

49. Trial Staff disagrees with Joint Customers' contention that the fact that benefits of the WPP are measured in terms of production cost savings indicates that the main purpose of the program is to reduce production costs. Trial Staff also disagrees with Joint Customers' contention that no evidence exists that the WPP has reduced congestion on the transmission system, reduced transmission losses, or enhanced system reliability.⁸⁶ Trial Staff points out that Joint Customers have not explained how such benefits could be quantified. Indeed, according to Trial Staff, the lower production costs engendered by the WPP demonstrate that the transmission system is being used more efficiently to bring economic energy supplies into the system for delivery to customers.

50. Trial Staff notes that Joint Customers misconstrued Entergy's Mr. Weber's testimony in an attempt to show that it proves that the purpose of the WPP is primarily to lower production costs.⁸⁷ According to Trial Staff, Mr. Weber makes clear that while the purpose of the Security Constrained Unit Commitment logic is to minimize production costs, the overall objective of the WPP is to find the best and most efficient way to utilize the transmission system to meet that objective function.

3. Production Cost Savings as a Measure of Benefits

a. Initial Decision

51. The Presiding Judge found that quantifying the benefits of the WPP in terms of production cost savings does not indicate that the WPP is a production function, as Joint Customers argue.⁸⁸ As an initial matter, the Presiding Judge noted that while Joint Customers point to a 2009 Commission order in which the Commission approved of production cost savings as a measure of benefits, Joint Customers are not completely accurate in stating that Entergy proposed this measure.⁸⁹ Rather, the Presiding Judge

⁸⁵ Trial Staff Brief Opposing Exceptions at 27.

⁸⁶ *Id.* at 28.

⁸⁷ *Id.* at 29.

⁸⁸ Initial Decision, 142 FERC ¶ 63,017 at P 61.

⁸⁹ *Id.* P 62 (citing *Entergy Servs., Inc.*, 126 FERC ¶ 61,277 at P 85).

found that the Commission stated that it would be looking at the level of savings.⁹⁰ The Presiding Judge found that while it is true that Entergy proposed the more specific method of calculating savings, Joint Customers' argument that Entergy is entirely responsible for production cost savings being the measure of WPP benefits is misleading.

52. According to the Presiding Judge, it makes sense that the Independent Coordinator of Transmission considers production cost savings to be a meaningful measure of WPP benefits.⁹¹ Under the Weekly Request for Proposals, which was Entergy's prior system, the Presiding Judge said the transmission system was not being used efficiently because supplier offers had to be analyzed individually, and, if the Energy Management Organization found an offer would lower production costs, it had to request transmission service using the OATT process after analysis was complete. However, according to the Presiding Judge, under the WPP, production cost savings have increased because through simultaneous consideration of supplier offers, the most efficient resources are being dispatched, thereby increasing the efficiency of the transmission system as a whole.

53. The Presiding Judge rejected Joint Customers' arguments that the WPP is merely a program designed for Entergy to procure lower-cost resources from third-party suppliers and that the provision of transmission service is incidental to that primary function. The Presiding Judge stated that contrary to arguments made by Joint Customers, the WPP makes more efficient use of Entergy's existing transmission system, thereby benefiting transmission customers, consistent with the Commission's goals in Order Nos. 888 and 889.⁹²

b. Briefs on Exceptions

54. According to Joint Customers, the production-related nature of the WPP is clear from the analysis of benefits resulting from implementation of the WPP as set forth in the Independent Coordinator of Transmission's quarterly reports to the Commission.⁹³ Joint Customers note that the Commission required the submission of those quarterly reports.⁹⁴ According to Joint Customers, that order makes clear that the focus on production cost

⁹⁰ *Id.*

⁹¹ *Id.* P 64.

⁹² *Id.* P 65.

⁹³ Joint Customers Brief on Exceptions at 11.

⁹⁴ *Id.* (citing *Entergy Servs. Inc.*, 126 FERC ¶ 61,277 at P 85).

savings as the measure of WPP benefits was proposed by Entergy itself and was explicitly approved by the Commission.

55. Joint Customers maintain that it is error for the Initial Decision to find that quantifying the benefits of the WPP in terms of production cost savings does not indicate that the WPP is a production function.⁹⁵ According to Joint Customers, the Initial Decision incorrectly infers that the purpose of the WPP must be transmission-related because Entergy replaced the Weekly Request for Proposals with the WPP. Joint Customers state that the WPP was intended to be an improved replacement for the Weekly Request for Proposals, but that did not alter its function. Joint Customers state that they never denied that some redirection of transmission service is afforded by the WPP as part of its generation cost savings decisions. However, Joint Customers argue that the point remains that the primary purpose of the WPP is not to achieve some abstract transmission-related goals, but to achieve the generation cost savings.⁹⁶

56. Joint Customers maintain that there is no basis for the Initial Decision's conclusion that because other Commission policies, such as its open access transmission policies and regional transmission markets, have been justified in terms of production cost savings, Joint Customers' determination that the sole focus of the WPP is production costs savings is wrong.⁹⁷ Joint Customers argue that the WPP's resource selections are made for the purpose of and on the basis of generation cost savings and that is the reason the generation cost savings metrics are employed. Joint Customers state that they in no way argue that any thought of achieving energy cost savings renders an activity production-related regardless of any other factors.⁹⁸ Joint Customers' point is that the WPP's resource selections are made, first and foremost, for the purpose of and on the basis of generation cost savings, and that is the reason the generation cost savings are employed.

c. Briefs Opposing Exceptions

57. Entergy disagrees with Joint Customers' assertion that the nature and purpose of the WPP are related to power supply for Entergy and, hypothetically, other WPP

⁹⁵ *Id.* at 21.

⁹⁶ *Id.* at 22.

⁹⁷ *Id.*

⁹⁸ *Id.* at 23.

participants, not transmission service.⁹⁹ According to Entergy, Joint Customers' assertion that the production-related nature of the WPP is clear from the analysis of benefits resulting from implementation of the WPP as set forth in the quarterly reports to the Commission submitted by the Independent Coordinator of Transmission has no merit. Entergy's Mr. Armstrong explained there is nothing remarkable or unique about substituting third-party suppliers for network resources through the granting of transmission service in order to achieve cost savings.

58. Entergy disagrees with Joint Customers' assertion that the record contains no evidence that any transmission-related metric has ever been used, or even considered, for the WPP.¹⁰⁰ According to Entergy, this is not true because the reports by the Independent Coordinator of Transmission that Joint Customers cite contain transmission-related metrics regarding transmission constraints, flexibility information, flowgate capability availability, operating reserves, and line flow data.

59. Entergy disagrees with Joint Customers' assertion that the WPP's selection of resources is made on the basis of generation cost savings.¹⁰¹ According to Entergy, Joint Customers ignore the fact that most short-term transmission service is secured for economic reasons determined by the OATT customers reserving that service, just like the transmission service offered in the WPP.

60. Trial Staff disagrees with Joint Customers and maintains that Entergy implemented the WPP specifically to address the uncertainty under the Weekly Request for Proposals process of securing transmission for the lower-cost resources identified in that process.¹⁰² According to Trial Staff, Joint Customers failed to illuminate why the Initial Decision's conclusion regarding the Commission's reliance on production cost savings in other significant policy areas is erroneous, and merely reiterated their unsupported claim that the WPP is primarily a vehicle for reducing generation costs.

61. Trial Staff notes that Joint Customers failed to mention the Initial Decision's analysis regarding how increased efficiency of the transmission system under the WPP has led to greater production cost savings.¹⁰³ Trial Staff says, as the Initial Decision

⁹⁹ Entergy Brief Opposing Exceptions at 7.

¹⁰⁰ *Id.* at 8.

¹⁰¹ *Id.* at 9.

¹⁰² Trial Staff Brief Opposing Exceptions at 32.

¹⁰³ *Id.* at 33.

noted, the WPP considers supplier offers in conjunction with a large amount of transmission system data to determine the most efficient combination of generation resources and transmission. According to Trial Staff, this exercise increases the efficiency of the transmission system as a whole and allows for the utilization of lower-cost generation, and Joint Customers' decision to not respond to these findings indicates that they could not devise an effective counterargument.

4. Comparison of the Weekly Request for Proposals and WPP

a. Initial Decision

62. Entergy and Trial Staff agreed that comparing the WPP to the Weekly Request for Proposals, which the WPP was designed in part to replace, demonstrates that the WPP is a transmission function. The Presiding Judge agreed, stating that not only do the differences between the two processes indicate that the WPP is a transmission function, but that Joint Customers' Mr. Daniel's testimony to the contrary is unpersuasive.¹⁰⁴ The Presiding Judge found that while Mr. Daniel correctly characterized Entergy's Energy Management Organization function under the Weekly Request for Proposals as production, and correctly stated that the Energy Management Organization performs a similar merchant function under the WPP, Mr. Daniel failed to recognize that no Energy Management Organization-related costs are being recovered through transmission rates. Further, the Presiding Judge found that Mr. Daniel omitted from his testimony a discussion of Weekly Operations, the transmission entity within Entergy that handles the transmission-related aspects of the WPP, along with the Independent Coordinator of Transmission. According to the Presiding Judge, if the WPP were meant to perform the same function as the Weekly Request for Proposals, Entergy presumably would not have expended the time and resources to develop the WPP.

b. Briefs on Exceptions

63. Joint Customers say it is error for the Initial Decision to find that the distinction between the Weekly Request for Proposals and the WPP further indicates that the WPP is a transmission function.¹⁰⁵ They rely on Mr. Daniel's testimony that the WPP did not change the objective of the Weekly Request for Proposals to identify lower power cost alternatives to displace Entergy's higher-cost generation – a production function.¹⁰⁶ Joint

¹⁰⁴ Initial Decision, 142 FERC ¶ 63,017 at P 68.

¹⁰⁵ Joint Customers Brief on Exceptions at 23.

¹⁰⁶ *Id.* at 23-24.

Customers argue that procurement of third-party power supply options under the WPP remains a production-related function focused on least-cost dispatch.¹⁰⁷ In finding that Mr. Daniel correctly characterizes Entergy's Energy Management Organization's function under both the Weekly Request for Proposals and WPP as production, but discounting that finding under a claim that no Energy Management Organization-related costs are to be recovered under the Entergy proposal, the Joint Customers argue that the Initial Decision fails to recognize that Mr. Daniel's discussion is not intended to characterize the costs of the Energy Management Organization, but to demonstrate the lack of a difference in purpose between the Weekly Request for Proposals and the WPP.¹⁰⁸

64. According to Joint Customers, the Initial Decision's distinction between the Weekly Request for Proposals and the WPP is based on: (1) the testimony of Entergy's Mr. Weber that the Weekly Request for Proposals process did not provide any assurance that the necessary transmission would be available, while the WPP includes transmission information in the WPP optimization process, and (2) testimony from Trial Staff's Mr. Beasley that this distinction makes cost recovery through transmission rates appropriate.¹⁰⁹ Joint Customers maintain that this testimony provides no real basis for the distinction adopted in the Initial Decision.

c. Briefs Opposing Exceptions

65. Entergy disagrees with Joint Customers' assertion that the Presiding Judge relied upon a tenuous line of reasoning when he found that the distinction between Entergy's prior Weekly Request for Proposals and the WPP supports the conclusion that the WPP is a transmission function.¹¹⁰ According to Entergy, the WPP was designed, in part, to replace the Weekly Request for Proposals previously used to procure power on a week-ahead basis. In the Weekly Request for Proposals, according to Entergy, supplier offers were analyzed one at a time. If an offer would lower production costs, a transmission service request for that offer was submitted manually. According to Entergy, the process of analyzing and granting transmission service requests under the Weekly Request for Proposals process was a transmission function. According to Entergy, the transmission service request was submitted and analyzed sequentially, and either confirmed or refused,

¹⁰⁷ *Id.* at 24.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Entergy Brief Opposing Exceptions at 11.

based on the normal process of evaluating transmission service requests under the OATT. In contrast, Entergy says the WPP allows for all transmission service requests to be evaluated simultaneously using the WPP model. Entergy says a transmission service request is approved if it reduces production costs of the participating network service customer(s) and thus optimizes use of the transmission grid.

66. Entergy notes that the costs at issue in this proceeding directly relate to the development of the transmission model and software that is used to analyze the transmission service requests simultaneously in the WPP, taking into account the offer and cost data submitted in the WPP, and to grant the transmission services that optimize use of the transmission system.¹¹¹ Entergy maintains that in terms of the function being performed, the WPP is equivalent to the process of granting transmission service requests under the Weekly Request for Proposals.

67. Trial Staff disagrees with Joint Customers, stating that Joint Customers essentially restate the arguments that the Initial Decision dismissed.¹¹² According to Trial Staff, Joint Customers ignore the fact that the Initial Decision refers to the inclusion of transmission information in the procurement process and that all transmission service requests are considered simultaneously in the model, as reasons for finding that the differences between the Weekly Request for Proposals and the WPP indicate that the WPP is a transmission function. Trial Staff maintains that the record clearly demonstrates that the differences between the Weekly Request for Proposals and the WPP indicate that the WPP is a transmission function.

68. According to Trial Staff, prior to implementation of the WPP, Entergy procured energy through use of the Weekly Request for Proposals process, which analyzed and selected supplier offers but then attempted to secure transmission for the selected offers through the normal OASIS procedures.¹¹³ Trial Staff states that the production costing model under the Weekly Request for Proposals process did not include any detailed transmission input data or specific transmission logic embedded in the code. Furthermore, according to Trial Staff, because the Weekly Request for Proposals process was operated entirely by Entergy's merchant function, the costs of the process were primarily charged to production Operation and Maintenance accounts and not reflected in the Entergy Operating Companies' OATT rates.

¹¹¹ *Id.* at 12.

¹¹² Trial Staff Brief Opposing Exceptions at 35.

¹¹³ *Id.* at 36.

69. Further, according to Trial Staff, the WPP process is operated entirely by the Weekly Operations group, which is located within Entergy's transmission function.¹¹⁴ Trial Staff states that the role of Weekly Operations is limited to processes related to the granting of transmission service. Moreover, according to Trial Staff, the WPP process is overseen by the Independent Coordinator of Transmission. Trial Staff notes that the Commission approved the structure of the WPP and found that the Independent Coordinator of Transmission's oversight of transmission-related aspects of the WPP and its ability to recommend remedies and to report issues to the Commission and to retail regulators will assure that transmission access will be granted on a fair basis.¹¹⁵ According to Trial Staff, even though the WPP process results in some production-related savings, its primary benefit is in ensuring that each supplier offer accepted through the process is guaranteed delivery by the simultaneous reservation of transmission capacity for that offer.

70. Finally, Trial Staff notes that Joint Customers' Mr. Daniel agrees that the WPP was formulated at least in part in response to the lack of assurance of securing transmission under the Weekly Request for Proposals process.¹¹⁶ According to Trial Staff, if Entergy's goal had been solely to reduce production costs, it already had the Weekly Request for Proposals process in place which was designed to do just that, so the unavoidable conclusion is that Entergy developed the WPP to address the problems with securing transmission capacity.

5. Incidental Provision of Transmission Service

a. Initial Decision

71. The Presiding Judge also found that transmission service under the WPP is not merely incidental to the power purchases.¹¹⁷ The Presiding Judge discussed the fact that, while Entergy and Trial Staff find noteworthy that Joint Customers admit that the WPP provides transmission service, and Trial Staff contends that there is an important distinction between a provision of transmission service as compared to a grant of

¹¹⁴ *Id.* at 37.

¹¹⁵ *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 at P 291.

¹¹⁶ Trial Staff Brief Opposing Exceptions at 38.

¹¹⁷ Initial Decision, 142 FERC ¶ 63,017 at P 72.

transmission service, Joint Customers have not denied that the WPP provides transmission service.¹¹⁸

b. Briefs on Exceptions

72. Joint Customers maintain that it is error for the Initial Decision to find that transmission service under the WPP is not merely incidental to the power purchases.¹¹⁹ According to Joint Customers, as the WPP has been implemented, provision of transmission service under the WPP is entirely incidental to the selection of lower-cost power resources through the production cost optimization process. According to Joint Customers, there is no award of transmission service under the WPP separate and apart from the purchase of lower cost short-term resources by Entergy. Moreover, they say, the incidental transmission service resulting from the WPP exclusively benefits purchasers of energy under the WPP (to date only Entergy) with no benefits flowing to the transmission system or any other transmission customers.

c. Briefs Opposing Exceptions

73. Entergy disagrees with Joint Customers' assertion that multiple exhibits and cross-examination make clear that the Initial Decision erroneously dismissed Joint Customers' arguments that transmission service is merely incidental to the WPP.¹²⁰ Entergy maintains that Joint Customers ignore the record evidence that shows the development of the WPP in the various Commission orders that address the overall intent of the WPP and various aspects of it, and they ignore the record evidence that describes WPP day-to-day operations.

74. Trial Staff also disagrees with Joint Customers, finding that Joint Customers incorrectly characterize the finding in paragraph 73 of the Initial Decision, which provides that: (1) the objective of the WPP is efficient use of Entergy's transmission system, and (2) efficient use of the transmission system cannot be achieved without a confirmed transmission reservation for low-cost supplier offers.¹²¹

¹¹⁸ *Id.* P 75 (citing Ex. JC-1 at 23:8-18).

¹¹⁹ Joint Customers Brief on Exceptions at 25.

¹²⁰ Entergy Brief Opposing Exceptions at 11.

¹²¹ Trial Staff Brief Opposing Exceptions at 40.

6. Commission Determination

75. We affirm the Presiding Judge's finding that the WPP costs are properly functionalized as transmission for the reasons discussed below.

76. We affirm the Presiding Judge's conclusion that the overall objective of the WPP is to provide for efficient use of Entergy's transmission system, and thereby reduce production costs. The record shows that the WPP was created to address the need to secure transmission for economic energy purchases and to do so in a way that optimizes the transmission system. As noted by Entergy's Mr. Weber, the overall objective of the WPP is to provide suppliers an opportunity to submit offers to be evaluated, and if shown to have the effect of lowering production costs, to grant new transmission service for the offers selected. However, Mr. Weber states that, under the WPP, that function is accomplished through the simultaneous optimization of existing transmission service and supplier offers, subject to the transmission and operating constraints of the system.¹²² As the Presiding Judge stated, by creating Weekly Operations, Entergy demonstrated the importance of the transmission-related aspects of the WPP and how inseparable they were from the proposal to create the WPP. Therefore, we find it reasonable to functionalize the costs of the WPP to transmission given the transmission-related aspects of the WPP and the fact that the program is administered by the transmission employees.

77. As the Presiding Judge noted, optimizing the transmission system and reducing production costs are not mutually exclusive functions; using more efficient generation to serve load is synonymous with using the transmission system more efficiently.¹²³ Recognizing that an important feature of the WPP is to simultaneously optimize transmission system use and create lower production costs, given the facts here, we find it appropriate that the costs be functionalized to transmission.

78. We affirm the Presiding Judge's conclusion that quantifying the benefits of the WPP in terms of production cost savings does not dictate that the WPP is a production function. Joint Customers argue that the WPP's resource selections are made for the purpose of and on the basis of generation cost savings, and that is the reason the generation cost savings metrics are employed. However, the efficacy of transmission service and planning is regularly discussed in terms of production cost savings. While the WPP selects for transmission service on the basis of generation cost savings, that selection is made entirely in the context of evaluating the availability of transmission capacity and granting transmission service. Whereas previously all transmission service

¹²² See Ex. ESI-4 at 7-8.

¹²³ Initial Decision, 142 FERC ¶ 63,017 at P 56 (citing Entergy Reply Brief at 5).

requests were evaluated on a sequential basis, prioritized on a first come, first served basis, the WPP evaluates all requests for weekly network resource designations submitted through it simultaneously, and grants transmission service prioritized based on overall production cost savings, considering existing transmission service and supplier offers, subject to the transmission and operating constraints of the system. The fact that the WPP grants transmission service on the basis of production cost savings does not negate the fact that the core purpose of the WPP is granting or denying transmission service. As Trial Staff explains, the WPP is run by Weekly Operations, is overseen by the Independent Coordinator of Transmission, results in a confirmed transmission reservation, and optimizes use of the transmission system, taking constraints into account. The Presiding Judge notes that the Independent Coordinator of Transmission measures the success of the WPP in terms of production cost savings in its reports to the Commission and, at least in the Transmission Quarterly Report for March 2012 to May 2012, considering this measure to be the most meaningful assessment of the benefits associated with the operation of the WPP.¹²⁴ We agree with the Presiding Judge that it makes sense that the Independent Coordinator of Transmission considers production cost savings to be a meaningful measure of WPP benefits, given that production cost savings are a factor in considering whether to grant weekly network resource designations in the WPP.¹²⁵

79. We affirm the Presiding Judge's conclusion that the distinction between the Weekly Request for Proposals and the WPP discussed by Entergy and Trial Staff further indicates that the WPP is appropriately allocated to the transmission function. We agree with the Presiding Judge that not only do the differences between the two processes indicate that the WPP is a transmission function but Joint Customers' Mr. Daniel's testimony to the contrary is unpersuasive. Specifically, we reject Joint Customers' arguments that since the WPP superseded the Weekly Request for Proposals, its objective remained that of the Weekly Request for Proposals- to identify lower power cost alternatives to displace Entergy's higher cost generation- a production function. Previously, transmission service requests were processed sequentially on a first come, first served basis, subsequent to Energy Management Organization's selection of supply offers to lower production costs in the Weekly Request for Proposals, whereas now Energy Management Organization submits supply offers to Weekly Operations, which selects the offers for which transmission service will be granted based on over-all production cost savings given existing transmission service and the constraints of the transmission system. As discussed above, the fact the Weekly Operations grants

¹²⁴ *Id.* P 63.

¹²⁵ *Id.* P 64.

transmission service in the WPP on the basis of production cost savings does not negate the fact that the core function and objective of Weekly Operations in the WPP remains granting or denying transmission service.

80. We affirm the Presiding Judge's conclusion that transmission service under the WPP is not merely incidental to the power purchases but rather, a key part of the WPP process. We agree with the Presiding Judge that Joint Customers recognize the difficulty in separating the energy purchase from the granting of transmission service and that Joint Customers have not denied that the WPP provides transmission service. The Joint Customers rely on Attachment V to the Entergy Operating Companies' OATT,¹²⁶ which they state makes clear that transmission service under the WPP is granted *only* to resources that are selected through the production cost optimization process and that Entergy is required to accept for purposes of minimizing Entergy's overall production costs.¹²⁷ However, as the Presiding Judge points out, the sections of Attachment V to which the Joint Customers cite merely provide descriptions of the WPP process.¹²⁸ The WPP is a process for facilitating an improved procurement of power purchases from competing sources by taking bids and cost data into account simultaneously with transmission information to prioritize access to transmission capacity and grant or deny transmission service. We therefore agree with the Presiding Judge that the WPP costs are properly functionalized as transmission given the facts of this case.

C. Does The Principle of Cost Causation Permit Entergy to Recover the WPP Costs from Network Service Customers and Point-to-Point Customers?

81. Having determined that the WPP costs are properly allocated to the transmission function, the Presiding Judge, after having considered all the arguments made and evidence offered, found that the WPP costs were properly recoverable from network customers, and found no basis to allocate such costs to point-to-point customers. In making these findings, the Presiding Judge addressed the following topics: (1) general principles of cost causation and the application of the principle of cost causation to Entergy's network service customers; (2) application of the principle of cost causation to

¹²⁶ Attachment V of Entergy Operating Companies' OATT includes the terms and conditions that apply to the WPP.

¹²⁷ Joint Customers Brief on Exceptions at 25-27 (citing Ex. JC-4, Entergy OATT Attachment V-Weekly Procurement Process).

¹²⁸ Initial Decision, 142 FERC ¶ 63,017 at P 74.

Entergy's point-to-point service customers; and (3) cost allocation percentages and rate structure.¹²⁹

1. Cost Causation and Network Service Customers

a. Initial Decision

82. The Presiding Judge examined the principles of cost causation. He found that the cost causation principle requires that all approved rates reflect to some degree the costs actually caused by the customer who must pay them.¹³⁰ He states this means that the Commission is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.¹³¹

83. According to the Presiding Judge, in determining whether a proposed cost allocation satisfies this principle, the Commission compares the cost assessed against a party to the burdens imposed or benefits drawn by that party.¹³² Furthermore, he notes that to the extent that a utility benefits from the costs of new facilities, it may be said to

¹²⁹ *Id.* P 77.

¹³⁰ *Id.* P 78 (citing *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992); *Pa. Elec. Co. v. FERC*, 11 F.3d 207, 211 (D.C. Cir. 1993) (“Utility customers should normally be charged rates that fairly track the costs for which they are responsible.”); *Cal. Indep. Sys. Operator Corp.*, 108 FERC ¶ 61,022, at P 62, *order on reh’g*, 109 FERC ¶ 61,097 (2004) (citation omitted) (“As a general matter, the Commission believes that the entities that cause costs should pay for such costs.”); *Fla. Power & Light Co.*, 98 FERC ¶ 61,326, at P 79 (2002) (“Basic principles of equity and cost causation require the party that causes costs to be responsible for such costs.”)).

¹³¹ *Id.* (citing *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (2009); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 559 (“[W]e consider whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them.”), *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

¹³² *Id.* P 78 (citing *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (*MISO Transmission Owners v. FERC*)).

have caused a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed.¹³³

84. The Presiding Judge further states that, pursuant to the cost causation principle, the Commission is not required to allocate costs with exacting precision¹³⁴ or to calculate benefits to the last penny,¹³⁵ but rather the Commission must have an articulable and plausible reason to believe that the benefits are at least roughly commensurate with the costs being allocated.¹³⁶ The Presiding Judge notes that a claim of generalized system benefits is not enough to support cost allocation, nor are speculative and unsupported claims.¹³⁷

85. The Presiding Judge found that the principle of cost causation permits Entergy to recover a portion of the WPP costs from its network service customers.¹³⁸ According to the Presiding Judge, the proposition that the option to participate in the WPP provides a benefit to network service customers is further supported by the fact that these customers requested the ability to participate. The Presiding Judge noted that the fact that no network service customers have taken advantage of the WPP to date does not inevitably lead to the conclusion that there is no economic or other operational benefit to themselves in participating.

86. According to the Presiding Judge, while Joint Customers argue that, at most, Entergy should be able to recover only those incremental costs it incurred to expand the WPP, this is inconsistent with the cost causation principle.¹³⁹ The Presiding Judge noted

¹³³ *Id.* (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 476).

¹³⁴ *Id.* (citing *MISO Transmission Owners v FERC*, 373 F.3d at 1369).

¹³⁵ *Id.* P 79 (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 477).

¹³⁶ *Id.*

¹³⁷ *Id.* (citing *Transcontinental Gas Pipe Line Corp.*, 112 FERC ¶ 61,170, at PP 109, 111 (2005) (*Transco*)). The proper percentage allocation to network customers is discussed in section II.C, *infra*.

¹³⁸ *Id.* P 86.

¹³⁹ *Id.* P 90.

that to the extent that a customer benefits from the costs of new facilities, it may be said to have caused a part of those costs to be incurred.¹⁴⁰

87. The Presiding Judge noted that Joint Customers disagree with Entergy and Trial Staff that the option to participate in the WPP is sufficient to justify cost recovery from customers who do not participate in the WPP. Joint Customers, citing *Entergy Services, Inc.* and *NorthWestern*, argue that customers are generally entitled to select the service they wish to purchase and are charged only for those they select.¹⁴¹ The Presiding Judge noted that Entergy and Trial Staff distinguish those cases. Entergy contended that the Commission's prohibition in *Entergy Services, Inc.* of an OATT charge for service that may be, and is, self-supplied by a transmission customer is not relevant to the facts here, which do not involve a service that a customer can otherwise self-supply. The Presiding Judge noted that Entergy explained that the facts there involved an automatic charge for an ancillary service under the OATT, even if the customer self-supplied that service as permitted by the OATT.

88. The Presiding Judge agreed with Entergy and Trial Staff that *NorthWestern* is also distinguishable from the case at hand.¹⁴² First, according to the Presiding Judge, the Commission in *NorthWestern* rejected the utility's proposal to charge self-supplying customers for backstop service outright without setting the issue for hearing.¹⁴³ According to the Presiding Judge, if the policy engendered by this case had been clearly applicable to Entergy's proposal here, the Commission presumably would not have set this case for hearing, and it did. In addition, the Presiding Judge stated that the Commission in *NorthWestern* found important the fact that the utility provided no evidence that self-supply arrangements are anything but dependable, or that customers have leaned on or are likely to lean on its system.¹⁴⁴ In contrast, according to the Presiding Judge, the customers that Entergy seeks to charge for a portion of the WPP costs requested the ability to participate in the WPP, which is a clear indication that they are likely to lean on Entergy's WPP process. Moreover, he agreed with Entergy and Trial Staff that *NorthWestern* is factually distinct from the instant case because there is no

¹⁴⁰ *Id.* (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 476).

¹⁴¹ *Id.* P 93 (citing *Entergy Servs., Inc.*, 109 FERC ¶ 61,095, at P 56 (2004) and *NorthWestern Corp.*, 137 FERC ¶ 61,248 (2011), *reh'g denied*, 140 FERC ¶ 61,020 (2012) (*NorthWestern*)).

¹⁴² *Id.* P 100.

¹⁴³ *Id.* (citing *NorthWestern*, 137 FERC ¶ 61,248 at P 28).

¹⁴⁴ *Id.* (citing *NorthWestern*, 140 FERC ¶ 61,020 at PP 18, 21).

service here that a network customer can otherwise self-supply and Entergy's network service customers are in a different posture because Entergy initially denied them the option of participating in the WPP.

89. The Presiding Judge rejected Joint Customers' argument that Entergy's network service customers receive no benefit from the option to participate in the WPP.¹⁴⁵ The Presiding Judge further stated that, although Joint Customers' Mr. Daniel argued that, if Entergy's proposal is accepted, "any entity that does not participate in the WPP will pay the same rates for transmission service that it would have paid had the WPP not been implemented plus... the added costs of the WPP,"¹⁴⁶ given the objective of the WPP, such additional charge will only serve to encourage efficient use of Entergy's transmission system.

90. According to the Presiding Judge, *MISO Transmission Owners v. FERC* provides further support for cost recovery from Entergy's network service customers.¹⁴⁷ The Presiding Judge said that in that case the court agreed with the Commission's approval of allocating administrative costs of having an independent system operator to customers even if they are not in some sense using the independent system operator. There, according to the Presiding Judge, the customers who did not want to pay for the independent system operator readily conceded that all transmission customers benefitted from the enhanced reliability and security the independent system operator brings to the transmission grid but they argued that these benefits account for only a small fraction of the costs sought to be recovered. The court disagreed. In the instant case, the Presiding Judge found that network service customers benefit from the option to participate in the WPP. Point-to-point customers cannot participate in the WPP, so they are unlike the litigant in the court's example and should not be required to pay for the system.

b. Briefs on Exceptions

91. According to Joint Customers, the Presiding Judge's description of the cost causation principle is generally consistent with Commission policy and precedent but the Initial Decision's application of the cost causation principle as to recovery of WPP costs from Entergy's network service customers is both contrary to Commission precedent and unsupported by the record.¹⁴⁸ Joint Customers maintain that there is no analysis

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* (citing Ex. JC-1 at 26:3-6).

¹⁴⁷ *Id.* P 109 (citing *MISO Transmission Owners v. FERC*, 373 F.3d 1361).

¹⁴⁸ Joint Customers Brief on Exceptions at 28.

purporting to demonstrate that benefits allegedly received by network service customers are at least roughly commensurate with the WPP costs being allocated to them, as required by *Illinois Commerce Commission v. FERC*.¹⁴⁹ Joint Customers argue that, contrary to *Transco*, the claimed benefits identified by the Initial Decision are both generalized system benefits and speculative and unsupported.¹⁵⁰

92. Joint Customers argue that the only benefit of the WPP to network service customers identified in the Initial Decision is the option to participate. They contend that an option to take an elective service does not justify imposing costs on customers who do not choose to take the service.¹⁵¹

93. Joint Customers except to the Presiding Judge's dismissal of the significance of the *NorthWestern* decision and argue that at the time Joint Customers protested Energy's filing in this proceeding, they had not yet identified the *NorthWestern* case and did not bring it to the Commission's attention. Joint Customers argue that even if they had cited *NorthWestern* in their initial protest, the fact that the Commission set this case for hearing still does not support the Initial Decision's suggestion that this must indicate that the Commission may not consider *NorthWestern* applicable to Entergy's proposal. Joint Customers argue that it cannot be presumed that the Commission effectively determined that the policy set forth in *NorthWestern* is inapplicable to the instant situation.

94. Joint Customers except to the Presiding Judge's assertion that the *NorthWestern* decision is distinguishable based on factual differences.¹⁵² According to Joint Customers, there is no record support for the supposed factual differences on which the Presiding Judge relies. Joint Customers point to the statement in *NorthWestern* noting the absence of evidence in that case that customers had leaned on or were likely to lean on the *NorthWestern* system. They note that the Initial Decision claims that the fact that some Entergy customers requested the ability to participate in the WPP during the development of the WPP provides a clear indication that some Entergy customers are likely to lean on Entergy's WPP process. Joint Customers argue that the Initial Decision identifies no record evidence for this conclusion and claim it is speculative. Moreover, according to Joint Customers, in evaluating whether network service customers receive benefits from the WPP that are roughly commensurate with the costs Entergy seeks to impose on them,

¹⁴⁹ *Id.* at 29 (citing *Ill. Commerce Comm'n v. FERC*, 576 F.3d at 476).

¹⁵⁰ *Id.* (citing *Transco*, 112 FERC ¶ 61,170 at PP 109, 111).

¹⁵¹ *Id.*

¹⁵² *Id.* \

it makes no sense to attach greater significance to customer requests for non-discriminatory access that occurred before the details of the WPP program were known than to the undisputed fact that none of the network service customers have ever chosen to participate in the WPP process after it was fully developed.

95. Joint Customers except to the Presiding Judge's claim that *NorthWestern* is distinguishable because there is no service here that a network service customer otherwise can self-supply.¹⁵³ Joint Customers say the Initial Decision provides no citation to record evidence to support this statement, and that it is factually incorrect.

96. Joint Customers claim that while the Initial Decision dismisses the applicability of *NorthWestern* to the instant proceeding, it does not address the fact that the Commission has applied similar principles in other proceedings.¹⁵⁴ For instance, according to Joint Customers, in *Southern Company Services, Inc.*, the Commission required that the cost of a non-network facility be directly assigned in order to avoid forcing all users to subsidize facilities that benefit only one user.¹⁵⁵ And according to Joint Customers, in *Entergy Services, Inc.*, the Commission determined that allocating costs between transmission customers and native load based on load shares violated the cost causation principle, noting that transmission customers should not be forced to bear costs that do not correspond to the service they receive.¹⁵⁶

97. Joint Customers except to the Presiding Judge's statement that it is appropriate to charge Entergy's network service customers for a service they have not chosen to take because the additional charge will only serve to encourage efficient use of Entergy's transmission system.¹⁵⁷ According to Joint Customers, there is no support in the record for the suggestion that the decision by Entergy's network service customers not to participate in the WPP somehow impairs efficient use of Entergy's transmission system.

¹⁵³ *Id.* at 32.

¹⁵⁴ *Id.* at 33.

¹⁵⁵ *Id.* (citing *Southern Company Servs., Inc.*, 116 FERC ¶ 61,247, at PP 17-20 (2006) (*Southern*)).

¹⁵⁶ *Id.* (citing *Entergy Servs., Inc.*, 109 FERC ¶ 61,095 at PP 56-57).

¹⁵⁷ *Id.* at 33-34.

c. **Briefs Opposing Exceptions**

98. In response to Joint Customers, Entergy maintains that the Initial Decision properly concluded that it is just and reasonable for network service transmission customers to pay a portion of the WPP costs.¹⁵⁸ Entergy reiterates the principle that cost causation requires that all approved rates reflect to some degree the costs actually caused by the customers paying the rates, and disagrees with Joint Customers' argument that the cost causation principle prohibits Entergy's proposed cost allocation to all network service customers. According to Entergy, the facts here, including a statement by Joint Customers' own witness, show that the availability of the WPP benefits all network service customers and that the Presiding Judge correctly found that those benefits warrant an allocation of the costs of the WPP to those customers. Also, according to Entergy, the facts show that costs were incurred to permit all network service customers under the OATT to participate in the WPP as purchasers.

99. Entergy disagrees with Joint Customers' reliance on *NorthWestern*.¹⁵⁹ Entergy notes that the Presiding Judge found that such reliance is misplaced. Entergy maintains that in *NorthWestern*, the Commission determined that it was unjust and unreasonable for a customer to be charged automatically for an ancillary service even if the customer self-supplied that service. Furthermore, according to Entergy, the utility's proposal was at odds with the longstanding Commission policy that transmission providers must allow customers to self-supply regulation reserves where they can show that they have made alternate comparable arrangements. According to Entergy, the Commission's prohibition of an OATT charge for a service that is self-supplied by a transmission customer is not relevant to the facts here, which do not involve a service that a customer can otherwise self-supply. Furthermore, according to Entergy, additional costs were incurred here to make the WPP available to network service customers and the availability of the WPP benefits all customers. Entergy maintains that unlike in *NorthWestern*, customers will not pay twice for WPP service or incur any additional double charge.

100. Further, Entergy maintains that but for the requests of stakeholders, including some of the Joint Customers in the instant proceeding, the WPP would not have been available to other load-serving entities to designate new network resources to serve their native load customers.¹⁶⁰ In fact, according to Entergy, the Commission had approved Entergy's proposal to limit the WPP to the Operating Companies as purchasers, but based

¹⁵⁸ Entergy Brief Opposing Exceptions at 12.

¹⁵⁹ *Id.* at 14.

¹⁶⁰ *Id.* at 15.

on stakeholder feedback, Entergy agreed to expand the WPP to include third-party loads. Entergy argues that expanding the scope of the WPP made development of the WPP software and processes significantly more complicated with the inclusion of third-party loads and related data. Therefore, Entergy concludes that it would be inconsistent with the cost causation principle for the class of customers that requested expansion of the WPP, leading to additional complication and cost to develop the process, to be exempt from paying for the costs of the WPP because they later chose not to participate in the process.

101. Trial Staff maintains that the Presiding Judge's determination that network service customers should pay a share of WPP costs is consistent with the cost causation principle. Trial Staff notes that the Presiding Judge determined that: (1) to the extent Entergy Operating Companies' OATT customers benefit from the WPP beyond the incremental costs caused by their request to participate in it, those costs may be recovered consistent with the cost causation principle; (2) Joint Customers receive benefits from the availability of the WPP; (3) the fact that network service customers asked to be allowed to participate in the WPP supports the finding that the option to participate is a benefit; and (4) the fact that no network service customers have taken advantage of the WPP to date does not inevitably lead to the conclusion that there is no economic or other operational benefit to them.¹⁶¹

102. Moreover, Trial Staff points out that the Initial Decision distinguishes *NorthWestern* by noting that if the policy established by that case were applicable here, the Commission would not have set this case for hearing.¹⁶² Further, Trial Staff points out that the Initial Decision noted that whereas the utility in *NorthWestern* did not show that the self-supply arrangements at issue in that case were not dependable nor that the customers choosing self-supply were likely to lean on the utility's system, here the customers requested the ability to participate in the WPP and thereby are likely to lean on the WPP process.

103. Trial Staff maintains that the other cases to which Joint Customers cite likewise are not relevant.¹⁶³ Trial Staff points out that in *Southern Company Services, Inc.*, the Commission required direct assignment of a non-network facility designed to benefit a single user and while only Entergy has used the WPP to date, it is designed to be used by

¹⁶¹ Trial Staff Brief Opposing Exceptions at 42.

¹⁶² *Id.* at 42-43.

¹⁶³ *Id.* at 44.

any network service customers.¹⁶⁴ Thus, Trial Staff concludes, the single-user facilities in *Southern Company Services, Inc.* are distinct from the WPP.

104. Regarding *Entergy Services*, Trial Staff argues that the case involved including the capacity of summer purchases not directly used to provide ancillary services in the rates charged to some customers but not others. Trial Staff contends that these facts are distinct from those attendant to the WPP, which is a program available to all network service customers and for which Entergy proposes to charge all network service customers.¹⁶⁵

105. Trial Staff disagrees with Joint Customers' claim that there has been no demonstration in this proceeding that network service customers receive any benefit from having the WPP in place, noting that this contradicts the testimony of their own witness.¹⁶⁶ Trial Staff points to the statement made at hearing by Joint Customers' Mr. Daniel that it is a positive thing to have the option to participate, regardless of whether you ultimately choose to participate.

2. Point-to-Point Customers

a. Initial Decision

106. The Presiding Judge found that the WPP costs are not properly recovered from Entergy's point-to-point service customers.¹⁶⁷ The Presiding Judge noted that both Joint Customers and Trial Staff assert that Entergy's point-to-point service customers cannot participate in the WPP, so they should not be required to pay any WPP costs. According to the Presiding Judge, the cost causation principle dictates this result. The Presiding Judge stated that unlike the network service customers, the point-to-point service customers did not ask Entergy to expand the WPP to permit them to participate, thereby causing Entergy to incur costs, nor do the point-to-point service customers derive benefits from the WPP.

107. The Presiding Judge found Trial Staff to be correct that cost recovery for planning redispatch service and conditional firm service (point-to-point services where the costs of the service are allocated to both network and point-to-point service customers) from all

¹⁶⁴ *Id.* (citing *Southern*, 116 FERC ¶ 61,247).

¹⁶⁵ *Id.* (citing *Entergy Servs., Inc.*, 109 FERC ¶ 61,095).

¹⁶⁶ *Id.* at 44-45.

¹⁶⁷ Initial Decision, 142 FERC ¶ 63,017 at P 102.

transmission customers does not serve to support Entergy's position that the Commission does not separate revenue requirements for network and point-to-point services even when the costs are for a service available exclusively to one class.¹⁶⁸ The Presiding Judge found that Entergy was offering planning redispatch service to its network service customers before Order No. 890 required Entergy to offer it to its point-to-point service customers. Moreover, the Presiding Judge noted that the Commission stated its belief that network service customers can benefit from the use of the planning redispatch and conditional firm options available in a point-to-point service request. Thus, according to the Presiding Judge, the Commission justified inclusion of the costs of these services in the revenue requirement of both customer classes on the fact that both customer classes benefit from the services.

108. The Presiding Judge disagreed with Entergy's argument that because the WPP costs are administrative in nature means that, according to *MISO Transmission Owners v. FERC*, they should be recoverable from Entergy's point-to-point service customers.¹⁶⁹ The Presiding Judge noted that in this case, the network service customers are comparable to the litigants who argue they should not have to pay for the court system because they do not use it. The Presiding Judge noted that, as the court explained in *MISO Transmission Owners v. FERC*, the ability to use the system is a benefit that justifies having to pay for the system even while the litigant, or the network service customer, is not using it.¹⁷⁰

b. Briefs on Exceptions

109. Joint Customers disagree with the Presiding Judge's reliance on *MISO Transmission Owners v. FERC*.¹⁷¹ Joint Customers maintain the case is distinguishable from the facts in this case. Joint Customers argue that in that case, the entities that sought to avoid paying the MISO charges readily conceded that they received some benefit from having a regional transmission organization in place. By contrast, according to Joint Customers, there has been no demonstration in this proceeding that network service customers receive any benefit from having the WPP in place.

¹⁶⁸ *Id.* P 105.

¹⁶⁹ *Id.* P 108 (citing *MISO Transmission Owners v. FERC*, 373 F.3d 1361).

¹⁷⁰ *Id.* P 110 (citing *MISO Transmission Owners v. FERC*, 373 F.3d 1371).

¹⁷¹ Joint Customers Brief on Exceptions at 34 (citing *MISO Transmission Owners v. FERC*, 373 F.3d 1361).

110. Entergy takes exception to the Presiding Judge's decision, arguing that it is just and reasonable for all transmission customers to pay a portion of the WPP costs.¹⁷² Entergy maintains that the Commission does not require transmission providers to calculate separate transmission revenue requirements for network and point-to-point services. Entergy argues that the Commission requires the use of a single transmission revenue requirement.

111. Entergy takes exception to the Presiding Judge's finding that the Commission's policy regarding the recovery of costs associated with Planning Redispatch service and Conditional Firm service does not support the recovery of WPP costs from point-to-point service customers.¹⁷³ According to Entergy, the Commission never has required a transmission provider to charge the costs of administering planning dispatch only to point-to-point service customers.

112. Entergy claims that, contrary to Trial Staff's argument and the Initial Decision, the obligation to provide Planning Redispatch to grant new point-to-point service was not first imposed in Order No. 890 (though Entergy states it was modified in that order), but in Order No. 888.¹⁷⁴ Entergy claims that under the Entergy Operating Companies' OATT, a network service customer may redispatch its own resources in order to designate a new network resource, but as the transmission provider under the OATT, Entergy Services does not offer to redispatch its network resources in order to grant new network service. According to Entergy, the Order No. 888 *pro forma* OATT did not require a transmission provider to redispatch its network resources in order to grant new network service, the addition of new network resources, or the addition of new network load. Entergy states that, in contrast, the Planning Redispatch service required under the *pro forma* OATT requires a transmission provider to offer to redispatch its own network resources to provide point-to-point service.

¹⁷² Entergy Brief on Exceptions at 8.

¹⁷³ *Id.* at 9.

¹⁷⁴ *Id.* at 9-10 (citing *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. and Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002)).

113. Entergy maintains that planning redispatch service and conditional firm service under a transmission provider's OATT may benefit network service customers on another transmission provider's transmission system because the point-to-point service that is made available through redispatch or subject to conditions is sufficiently firm to designate a network resource under that other transmission provider's OATT.¹⁷⁵ Entergy explains that conditional firm service and planning redispatch service are examples of point-to-point services the costs of which are allocated both to network service customers and to point-to-point service customers.

114. Entergy also argues that the WPP costs are administrative in nature and should be borne by all customers under Entergy Operating Companies' OATT, similar to the way planning redispatch service and conditional firm service are borne by both network and point-to-point service customers under Entergy Operating Companies' OATT. Entergy argues that although network and point-to-point service each has its own benefits and costs – with the administrative costs of making planning redispatch service and conditional firm service associated only with the availability of point-to-point service – the Commission does not require transmission providers to establish separate revenue requirements for network and point-to-point services.¹⁷⁶

c. Briefs Opposing Exceptions

115. Joint Customers disagree with Entergy's challenge to the Initial Decision's determination that it is unjust and unreasonable to recover the costs of the WPP in rates charged to point-to-point service customers.¹⁷⁷ Joint Customers argue that Entergy failed to rebut the Initial Decision's determination on cost causation. Joint Customers note that the Initial Decision relied upon Joint Customers and Trial Staff's evidence and arguments that Entergy's point-to-point service customers should not be allocated any of the WPP costs because they cannot participate in the WPP and that this result is not only consistent with, but dictated by, the cost causation principle.

116. Joint Customers maintain that Entergy's only argument is the "wholly unsubstantiated claim" that the Commission does not require transmission providers to calculate separate transmission revenue requirements for network and point-to-point services.¹⁷⁸ According to Joint Customers, by failing to take exception to and addressing

¹⁷⁵ *Id.* at 11.

¹⁷⁶ *Id.* at 12.

¹⁷⁷ Joint Customers Brief Opposing Exceptions at 3.

¹⁷⁸ *Id.* at 4-5.

the stated reason for the determination that point-to-point service customers cannot be allocated WPP costs under the cost-causation principle, Entergy has waived any objection to the point. Joint Customers argue that Entergy makes no claim that point-to-point customers receive any benefit from or in any way caused the WPP costs.

117. Joint Customers disagree with Entergy's contention that the Initial Decision erred in not allocating a share of WPP costs to point-to-point customers.¹⁷⁹ According to Joint Customers, Entergy's argument rests solely on the assertion that the Commission does not require transmission providers to calculate separate transmission revenue requirements for network and point-to-point services. Joint Customers maintain that Entergy has provided no citation to any Commission order or opinion establishing any such general proposition. Joint Customers point out that Entergy's primary support for its contention is that it has provided examples of exclusively point-to-point services – namely Conditional Firm service and Planning Redispatch service – where the costs of the service are allocated to both network and point-to-point service customers. Joint Customers note that the Initial Decision properly rejected these arguments, as there is ample evidence in the record distinguishing these services from the WPP and Commission precedent demonstrating that Entergy's arguments are misplaced.

118. Joint Customers state that the Initial Decision properly determined that Conditional Firm service and Planning Redispatch service are readily distinguishable from the WPP, because those services provide benefits to the entire transmission system. Furthermore, according to Joint Customers, when Conditional Firm service or Planning Redispatch service is granted, the result is additional point-to-point service that would otherwise not be granted. Accordingly, Joint Customers maintain that the transmission provider's revenue requirement is spread over more transmission service, which provides a benefit for all transmission customers by lowering the transmission rates they pay. In contrast, as Joint Customers say they have demonstrated in this proceeding, Entergy has acknowledged that the use of the transmission system to deliver substitute resources purchased by Entergy through the WPP does not result in any change in network service loads or produce any additional transmission revenues that could be used to reduce the transmission costs charged to Entergy's transmission customers. Thus, according to Joint Customers, any entity that does not participate in the WPP will pay the same rates for transmission service that it would have paid had the WPP not been implemented.

119. Joint Customers also take exception to Entergy's second rationale for allocating WPP costs to point-to-point customers, which is that the Initial Decision's finding could require transmission providers to separately identify costs of functions based on the specific services to which they apply, and allocate those costs only to those specific

¹⁷⁹ *Id.* at 7.

services.¹⁸⁰ Joint Customers note that Entergy claims the Initial Decision represents a significant departure from Commission policy. Joint Customers take exception to Entergy's conclusion that the administrative burden of complying with the Initial Decision is not warranted because: (1) Entergy has provided no citation to any Commission opinion or order establishing any such policy; (2) the Commission's cost causation policy has never been limited to instances where there is a minimal administrative burden for the transmission provider to segregate costs by customer class; and (3) Entergy has provided no demonstration of what burden, if any, would come from complying with the Initial Decision. Joint Customers maintain that Entergy's request for a separate OATT schedule (discussed later), if granted, would eliminate the need to calculate separate revenue requirements and any material administrative burden.

120. Joint Customers take exception to Entergy's assertion that the Initial Decision represents a departure from Commission precedent and industry practice.¹⁸¹ According to Joint Customers, there is ample precedent where transmission providers have separately identified costs applicable only to one type of customer taking service under a transmission tariff. Joint Customers cite to *Public Service Company of New Mexico*, where the Commission approved a revision to an attachment to Public Service Company of New Mexico's OATT that was designed to assign cost responsibility for the redispatch of designated network resources of both Public Service Company of New Mexico and its network service customers to ensure the reliability of the transmission system.¹⁸² According to Joint Customers, the Commission found that it was not necessary to charge both network and point-to-point service customers because it is consistent with Order No. 890 that firm point-to-point customers will not be redispatched for reliability purposes, and that redispatch cost are allocated only to native load and network service customers.¹⁸³ Joint Customers also cite to Schedule 16 to the MISO OATT which provides for the recovery of MISO Financial Transmission Rights Administrative Service costs only from those customers holding Financial Transmission Rights, not from all customers under the tariff.¹⁸⁴

¹⁸⁰ *Id.* at 10.

¹⁸¹ *Id.* at 11.

¹⁸² *Id.* (citing *Public Service Co. of New Mexico*, 140 FERC ¶ 61,024 (2012)).

¹⁸³ *Id.* at 12 (citing *Public Service Co. of New Mexico*, 140 FERC ¶ 61,024 at P 27).

¹⁸⁴ *Id.* (citing MISO OATT, Schedule 16, Version 2.0.0 (eff. Dec. 1. 2011)).

3. Cost Allocation Percentages and Rate Structure

a. Initial Decision

121. The Presiding Judge adopted Trial Staff's proposal for recovering the WPP costs only from network service customers.¹⁸⁵ The Presiding Judge also adopted the corrected data provided by Entergy's Mr. Peters that shows an allocation of WPP costs to the Entergy Operating Companies of 85.4 percent and an allocation to network service customers of 14.6 percent based on data for the 2011 test year.¹⁸⁶

b. Briefs on Exceptions

122. Entergy asks that, if WPP costs can be recovered only from network service customers, the Commission permit it to recover WPP costs under a separate OATT schedule.¹⁸⁷ According to Entergy, the structure adopted in the Initial Decision will require a modification of the formula rates in the Entergy Operating Companies' OATT in order to reflect the calculation of two revenue requirements along with the use of two load ratios for determining the allocation of costs to network service customers. Entergy requests that rather than make these revisions to the formula rates, the Commission allow the recovery of WPP costs from network service customers through a separate OATT schedule. According to Entergy, this same recovery rate mechanism has been approved by the Commission for the recovery of Independent Coordinator of Transmission costs (Schedule 10 of the Entergy Operating Companies' OATT)¹⁸⁸ and would be easier to administer than the approach adopted in the Initial Decision.

c. Briefs Opposing Exceptions

123. Joint Customers state that Entergy only provides a general, conceptual description of its rate design proposal and that there is no proposed tariff language for a WPP cost recovery schedule and no quantification of the specific charges Entergy would propose to

¹⁸⁵ Initial Decision, 142 FERC ¶ 63,017 at P 117.

¹⁸⁶ *Id.* P 188.

¹⁸⁷ Entergy Brief on Exceptions at 13.

¹⁸⁸ *Id.* at 14. Entergy states that the Commission approved an uncontested settlement in the Docket No. ER07-93-000 proceeding, which accepted Schedule 10 (Recovery of Ongoing Independent Coordinator of Transmission Operation Costs) to the Entergy Operating Companies' OATT.

apply, much less any supporting information showing the derivation and computation of a proposed charge.¹⁸⁹

124. Joint Customers do not oppose the concept of allowing Entergy to implement such recovery through a separate rate schedule rate applicable to network service customers, as requested by Entergy.¹⁹⁰ However, Joint Customers maintain that any acceptance of the rate design concept suggested in Entergy's brief on exceptions should be conditioned on submission and full review of detailed proposed tariff provisions and supporting information, including an opportunity for OATT customers to comment on the specific terms of any rate schedule proposed by Entergy to implement recovery of WPP costs from network service customers.

4. Commission Determination

125. We affirm the Presiding Judge. We agree with the Presiding Judge that the record in this case fails to provide conclusive evidence to support an allocation of the WPP costs to Entergy's point-to-point customers, as they do not, and in fact cannot, receive the benefits afforded customers of the Entergy Operating Companies and network customers through the function of the WPP. For this reason, we agree with the Presiding Judge that allocating any of the WPP expenses to point-to-point customers would be neither just nor reasonable.

126. As described by Entergy, the WPP was originally intended to facilitate the further integration of merchant generation and other wholesale suppliers into the mix of resources the Entergy Management Organization uses to serve the native load customers of the Entergy Operating Companies, and to establish an additional mechanism for granting short-term point-to-point transmission service through redispatch. However, due to programming difficulties, the point-to-point function was eliminated.¹⁹¹ In its brief on exceptions, Entergy attempted to advance several arguments to recover WPP costs from point-to-point customers. Entergy's first argument was that Commission precedent dictates assessing the costs to both network and point-to-point service customers because the Commission requires the use of a single transmission revenue requirement. Entergy's second argument was that an analysis shows that point-to-point customers actually can benefit from the WPP. Entergy's third argument was that the costs are administrative in nature and should be borne by all customers under Entergy

¹⁸⁹ Joint Customers Brief Opposing Exceptions at 13.

¹⁹⁰ *Id.*

¹⁹¹ *See* Ex. ESI-1 at 4, 10.

Operating Companies' OATT, both network and point-to-point. The Presiding Judge applied cost causation across the board and found that since point-to-point service customers cannot participate in the WPP, those customers should not be assessed any of the costs. Fundamentally, since there were programming difficulties which precluded point-to-point service customers from being able to participate in the WPP, under a cost-causation theory, these customers should not be responsible for these costs.

127. We reject Entergy's argument that the Initial Decision is inconsistent with Commission policy because it could require transmission providers to separate costs of functions that apply only to network service or point-to-point service.¹⁹² Entergy argues that Commission policy is not to establish separate revenue requirements for network and point-to-point service. We agree with Trial Staff that the Commission has recognized that a class of customers should not be charged for something from which they receive no benefit.¹⁹³ In Order No. 890, in applying the cost causation principle to capacity benefit margin set-asides, the Commission stated that it would require transmission providers to design their transmission charges to ensure that the class of customers not benefitting from the capacity benefit margin set-asides, i.e. point-to-point service customers, do not pay a transmission charge that includes the cost of capacity benefit margin set-asides.¹⁹⁴ Similarly, the record here demonstrates that point-to-point service customers cannot participate in the WPP and Entergy should design its rate to shield these customers from WPP costs.

128. We also affirm the Presiding Judge's finding that the principle of cost causation permits Entergy to recover a portion of the WPP costs from its network service customers. We note that, as originally proposed, the WPP was intended to serve the native load customers of the Entergy Operating Companies and to establish an additional mechanism for granting short-term firm point-to-point service through redispatch. Entergy, responding to certain parties' requests, amended the WPP proposal to allow other network service customers under the Entergy Operating Companies' OATT to participate. Network service customers would not have asked for the option to participate in the WPP if they did not believe they could receive some benefit from it. The fact that no network service customers have taken advantage of the WPP to date does not inevitably lead to the conclusion that there is no economic or other operational benefit to them. As the Presiding Judge noted, there may be many non-economic reasons for the lack of participation. We reject arguments by Joint Customers that the benefits received

¹⁹² Entergy Brief on Exceptions at 7.

¹⁹³ Trial Staff Brief Opposing Exceptions at 46.

¹⁹⁴ Order No. 890, FERC Stats & Regs. ¶ 31,241 at P 263.

by network service customers are not roughly commensurate with the WPP costs being allocated to them. The Presiding Judge agreed with Entergy that the mere option to network service customers of the ability to participate in the WPP provides a benefit to them,¹⁹⁵ and we believe the fact that these customers requested the ability to participate¹⁹⁶ supports the notion that network service customers believed there were benefits to participating in the WPP, regardless of whether they decided at a later date, not to participate.

129. We also reject arguments by Joint Customers that the Initial Decision lacks any analysis of benefits received versus costs allocated to customers. While the Presiding Judge may not have done a benefits analysis, we believe there are specific benefits that accrue to network service customers under the WPP. As mentioned in the Independent Coordinator of Transmission Quarterly Report for March 2012 to May 2012, the WPP facilitated the integration of merchant generation with Entergy's network resources and afforded third-party suppliers an opportunity to compete to serve Entergy's network load and displace Entergy's higher-cost resources.¹⁹⁷

130. We also affirm the Presiding Judge's finding that the *NorthWestern* case is not on point here. In *NorthWestern*, the Commission found that an option to take an elective service does not justify imposing costs on customers who do not choose to take that service.¹⁹⁸ In *NorthWestern*, the Commission rejected the imposition of additional standby charges on customers choosing to self-supply regulation service. Pointing to a statement in the *NorthWestern* decision noting the absence of evidence in that case that customers had leaned on or were likely to lean on the Northwestern transmission system, the Presiding Judge found that the fact that some Entergy customers requested the ability to participate in the WPP during the development of the WPP provides clear indication

¹⁹⁵ Initial Decision, 142 FERC ¶ 63,017 at P 90.

¹⁹⁶ As noted by Entergy's Mr. Armstrong, the WPP originally was intended to facilitate the further integration of merchant generation and other wholesale suppliers into the mix of resources the Energy Management Organization uses to serve the native load customers of the Entergy Operating Companies and would not have been available to other load serving entities to designate new network resources to serve their native load customers. However, a number of parties objected to the proposed scope of the WPP and many argued for broader participation in the WPP in the Docket No. EL03-132-000 proceeding. See Ex. ESI-1 at 4-5.

¹⁹⁷ See Ex. ESI-2 at 6.

¹⁹⁸ *NorthWestern*, 140 FERC ¶ 61,020 at P 24.

that they are likely to lean on Entergy's WPP process.¹⁹⁹ We also agree with the Presiding Judge that *MISO Transmission Owners v. FERC* provides support for WPP cost recovery from Entergy's network customers. Even though network customers chose not to participate in the WPP, the analogy of the court and potential litigants is apt here. The WPP was made available to network customers thereby proving a benefit to those customers, albeit an unrealized benefit.

131. We also affirm the Presiding Judge's adoption of the percentage allocation, accepting Entergy's Mr. Peters' calculation of the percentage allocation to network service customers based on Trial Staff's Mr. Beasley's recommendation. Using corrected data, Mr. Peters found that 85.4 percent of the WPP costs should be allocated to Entergy and 14.6 percent should be allocated to Entergy's network service customers.

132. In summary, we approve the overall level of costs to be collected under the WPP and note that the overall costs have not been challenged in this proceeding.²⁰⁰ However, the *allocation* of such costs to point-to-point customers has been challenged. While we affirm the Presiding Judge and find that point-to-point customers should not bear a portion of the WPP costs, we decline to order refunds during the locked in period of June 1, 2012 to December 31, 2013 consistent with the Commission's traditional policy not to order refunds in cases involving rate design or cost allocation.

133. Because we are not ordering refunds and this proceeding concerns a locked-in period ending with the cancellation of the Entergy Operating Companies' OATT effective December 19, 2013, Entergy's proposal to create a separate schedule to recover WPP costs should the Commission deny allocation of any of these costs to point-to-point customers is moot.

¹⁹⁹ Initial Decision, 142 FERC ¶ 63,107 at P 100.

²⁰⁰ The total WPP-related plant in service at issue in this proceeding is \$24.8 million. *See* Ex. ESI-9.

The Commission orders:

We hereby affirm the Initial Decision in this proceeding, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.