149 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

PacifiCorp	Docket Nos.	ER13-64-002
Deseret Generation & Transmission Cooperative, Inc.		ER13-65-002
NorthWestern Corporation		ER13-67-002
Portland General Electric Company		ER13-68-002
Idaho Power Company		ER13-127-003

ORDER ON COMPLIANCE FILINGS

(Issued December 8, 2014)

1. On April 17, 2014, the Commission issued an order accepting,[1] subject to modifications, the second compliance filings of those public utility transmission providers engaged in transmission planning in the Northern Tier Transmission Group (NTTG) transmission planning process, including PacifiCorp, Deseret Generation & Transmission Cooperative, Inc. (Deseret), NorthWestern Corporation (NorthWestern Montana), Portland General Electric Company (Portland General), and Idaho Power Company (Idaho Power) (collectively, Filing Parties). The second compliance filings were made to comply with a May 13, 2013 order[2] accepting, subject to modifications, the first compliance filings that Filing Parties made to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.[3]

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[1] *PacifiCorp*, 147 FERC ¶ 61,057 (2014) (Second Compliance Order).

[2] *PacifiCorp*, 143 FERC ¶ 61,151 (2013) (First Compliance Order).

[3] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order

(continued...)

2. On June 13, 17, and 18, 2014,[4] Filing Parties separately submitted, pursuant to section 206 of the Federal Power Act (FPA),[5] revisions to Attachment K of their respective Open Access Transmission Tariffs (OATT) to comply with the Second Compliance Order (Third Compliance Filings).[6] For the reasons discussed below, we accept Filing Parties' respective proposed OATT revisions, subject to conditions, and direct Filing Parties to submit further revisions to their respective OATTs in compliance filings due within 30 days of the date of issuance of this order.

3. Specifically, we direct Filing Parties to (1) revise their respective OATTs to explicitly state that stakeholders may submit ideas for consideration in the transmission planning process without providing all of the information required of a transmission developer and (2) revise the Funding Enrollment Process section of their respective OATTs to change "a reciprocity Open Access Transmission Tariff" to "an Open Access Transmission Tariff,"[7] as discussed below.

No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[4] Deseret, NorthWestern Montana, and Portland General submitted revisions to Attachment K of their Open Access Transmission Tariffs on June 13, 2014. PacifiCorp submitted revisions to Attachment K of its Open Access Transmission Tariff on June 17, 2014. Idaho Power submitted revisions to Attachment K of its Open Access Transmission Tariff on June 18, 2014.

[5] 16 U.S.C. § 824e (2012).

[6] PacifiCorp, Transmission OATT and Service Agreements, Tariff, Attachment K (Transmission Planning Process) (5.0.0) (PacifiCorp OATT, Attachment K); Idaho Power Co., IPCo eTariff, Attachment K (Transmission Planning Process) (0.0.8) (Idaho Power OATT, Attachment K); Deseret Generation & Transmission Cooperative, Inc., OATT, Attachment K (Transmission Planning Process) (6.0.0) (Deseret OATT, Attachment K); NorthWestern Corporation (Montana), FERC Open Access Transmission Tariff Vol. 2, Attachment K (Transmission Planning Process) (4.0.0) (NorthWestern Montana OATT, Attachment K); Portland General Electric Co., Electric OATT Vol. No. 8, Attachment K (Transmission Planning Process) (6.0.0) (Portland General OATT, Attachment K). Citations to a Filing Party's existing OATT, instead of its proposed OATT revisions submitted as part of its compliance filing, will provide the full cite, including the current version numbers.

[7] *See, e.g.*, PacifiCorp OATT, Attachment K § 3.2.3.2.d.

I. **Background**

4. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the transmission planning requirements of Order No. 890[8] to require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its OATT to describe procedures for the consideration of transmission needs driven by public policy requirements in the local and regional transmission planning processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

5. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.

6. On October 10, 2012, and October 15, 2012, Filing Parties submitted initial revisions to Attachment K of their respective OATTs to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000. On May 17, 2013, the Commission accepted Filing Parties' respective compliance filings, subject to further modifications.[9]

7. On September 16, 2013, Filing Parties submitted further revisions to Attachment K of their respective OATTs to comply with requirements of the First Compliance Order. On April 17, 2014, in the Second Compliance Order, the Commission found that Filing Parties generally complied with the regional transmission planning requirements, nonincumbent transmission developer reforms, and cost

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

[9] First Compliance Order, 143 FERC ¶ 61,151.

allocation requirements of Order No. 1000. Where Filing Parties failed to comply, the Commission directed revisions to their respective OATTs.

8. On June 13, 17, and 18, 2014, Filing Parties separately submitted the Third Compliance Filing to comply with the requirements of the Second Compliance Order.

II. Notice of Filings and Responsive Pleadings

9. Notice of Filing Parties' compliance filings was published in the *Federal Register*, 79 Fed. Reg. 35,748 (2014), with interventions and protests due on or before July 3, 2014. None was filed.

III. Discussion

A. Procedural Matters

10. We note that the tariff records Filing Parties submitted here in response to the Second Compliance Order also include tariff provisions pending in tariff records that Filing Parties separately filed on May 10, 2013 to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000. The tariff records Filing Parties submitted in their interregional compliance filings are pending before the Commission and will be addressed in a separate order. Therefore, any acceptance of the tariff records in the instant filings that include tariff provisions submitted to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000 is made subject to the outcome of the Commission order addressing the Filing Parties' interregional compliance filings in Docket Nos. ER13-1448-000, ER13-1457-000, ER13-1463-000, ER13-1467-000, and ER13-1473-000.

B. Substantive Matters

11. We find that Filing Parties' respective compliance filings partially comply with the directives in the Second Compliance Order. Accordingly, we accept Filing Parties' compliance filings effective October 1, 2013, subject to further compliance filings, as discussed below. We direct Filing Parties to submit the compliance filings within 30 days of the date of issuance of this order.

1. Regional Transmission Planning Requirements - Enrollment Process

a. Second Compliance Order

12. In the Second Compliance Order, the Commission found that Filing Parties' proposed enrollment process partially complied with the directives in the First

Compliance Order and directed Filing Parties to remove the requirement for a non-public utility transmission provider to have a Commission-approved reciprocity OATT in order to enroll in the NTTG transmission planning region as a Full Funder.[10] The Commission found that some requirements for enrollment, such as a publicly available transmission tariff, may be appropriate in order to provide greater transparency regarding how the regional transmission planning and cost allocation processes will be implemented, given the participation of non-public utility transmission providers without reciprocity OATTs on file with the Commission. However, the Commission found the requirement for a non-public utility transmission provider to have a Commission-approved reciprocity OATT is overly burdensome because it would prevent a non-public utility transmission provider from enrolling in the region even if the non-public utility transmission provider otherwise provides comparable transmission service to public utility transmission providers in the region through a tariff or other agreement that is not filed with the Commission.[11]

b. Summary of Compliance Filings

13. Filing Parties propose to revise their respective OATTs to remove the requirement for a non-public utility transmission provider to have a Commission-approved reciprocity OATT in order to enroll in the NTTG transmission planning region as a Full Funder. In its place, Filing Parties propose to require a non-public utility transmission provider that wishes to enroll in the NTTG transmission planning region as a Full Funder to adopt and post on its website a reciprocity OATT or other agreement(s) providing for comparable transmission service and that contains regional, interregional and interconnection-wide transmission planning provisions that are the same as those expressed in Attachment K of the other public utility transmission providers that have enrolled.[12]

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[10] Second Compliance Order, 147 FERC ¶ 61,057, at P 25. A Full Funder will utilize the NTTG regional transmission planning processes or services to meet transmission planning and cost allocation requirements set forth in Order No. 890, Order No. 1000, or related successor regulations or orders for its transmission facilities located within the Western Interconnection. Funding Agreement § 8.1.2.

[11] Second Compliance Order, 147 FERC ¶ 61,057 at P 25.

[12] Transmittal Letter at 3; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.2.3.2.d. We note that the transmittal letters attached to all five Filing Parties' submittals are identical, both in language and pagination, and therefore we refer to them jointly as Transmittal Letter throughout.

14. Additionally, Filing Parties propose to revise their respective OATTs to require that, in order to remain enrolled in the NTTG transmission planning region as a Full Funder, a public or non-public utility transmission provider must: (1) implement its OATT (or other agreement(s) providing for comparable transmission service, as applicable);[13] (2) modify its OATT (or other agreement(s) providing for comparable transmission service, as applicable) consistent with any applicable Commission orders;[14] and (3) not take any action within the Steering Committee or other committees of NTTG that prevents an enrolled public utility transmission provider from complying with its OATT or other agreements.[15] Filing Parties also propose to revise their respective OATTs to require that a non-public utility transmission provider not include in its OATT or other agreement(s) providing for comparable transmission service any provision that conflicts with a provision in the OATTs of any enrolled public utility transmission provider.[16] Filing Parties state that, in light of all these proposed OATT revisions, they also propose to revise their respective OATTs to clarify that a public or non-public utility transmission provider ceases to be enrolled in NTTG on the date the Steering Committee determines that the public or non-public utility transmission provider has not satisfied the enrollment obligations, and upon such finding, obligates the public or non-public utility transmission provider to remove the NTTG Attachment K from its OATT or other agreement(s) providing for comparable transmission service.[17]

c. Commission Determination

15. We find Filing Parties proposal to remove the requirement for a non-public utility transmission provider to have a Commission-approved reciprocity OATT in order to enroll in the NTTG transmission planning region as a Full Funder complies with the directives in the Second Compliance Order.

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[13] *E.g.*, PacifiCorp OATT, Att. K §§ 3.2.3.3.d.i and 3.2.3.3.e.i.

[14] Transmittal Letter at 4; *see also, e.g.*, PacifiCorp OATT, Att. K §§ 3.2.3.3.d.ii and 3.2.3.3.e.ii. However, a non-public utility transmission provider need not file its OATT or other agreement(s) providing for comparable transmission service with the Commission. *Id.* § 3.2.3.3.e.ii.

[15] *E.g.*, PacifiCorp OATT, Attachment K §§ 3.2.3.3.c and 3.2.3.3.e.iii.

[16] Transmittal Letter at 4; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.2.3.3.e.iv.

[17] Transmittal Letter at 4; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.2.3.4.

16. We find Filing Parties' proposal to require that a non-public utility transmission provider adopt and post on its website an OATT or other agreement(s) providing for comparable transmission service is consistent with the Commission's statement in the Second Compliance Order that some requirements for enrollment, such as a publicly available transmission tariff, may be appropriate in order to provide greater transparency about how the regional transmission planning and cost allocation processes will be implemented, given the participation of non-public utility transmission providers without reciprocity OATTs on file with the Commission.[18] In addition, in *South Carolina Electric & Gas Company*, the Commission has previously accepted a similar requirement.[19] Therefore, we accept Filing Parties' proposal.

17. However, while Filing Parties' transmittal letter states that the reciprocity obligation was replaced with an obligation for the non-public utility transmission provider to "adopt and post on its website 'an Open Access Transmission Tariff or other agreement(s) providing for comparable transmission service',"[20] the OATT states that the non-public utility transmission provider shall "adopt and post on its website a *reciprocity* Open Access Transmission Tariff or other agreement(s) providing for comparable transmission service."[21] We believe Filing Parties' intention was to delete "reciprocity" from their respective OATTs as is reflected in the transmittal letter, particularly given the directives in the Second Compliance Order. Accordingly, we direct Filing Parties to submit, within 30 days of the date of issuance of this order, further compliance filings to revise their respective OATTs to change "a reciprocity Open Access Transmission Tariff" to "an Open Access Transmission Tariff," as is reflected in their transmittal letter.

18. We accept for filing Filing Parties' OATT revisions that more fully describe certain responsibilities for enrolled entities.[22] We also accept Filing Parties' OATT revisions clarifying when a public or non-public utility transmission provider ceases to be

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[18] Second Compliance Order, 147 FERC ¶ 61,057 at P 25.

[19] *See, e.g.*, *S.C. Elec. & Gas Co.*, 143 FERC ¶ 61,058, *order on reh'g and compliance*, 147 FERC ¶ 61,126, at P 35 (2014) (accepting provision in company's OATT that states that, in order to enroll as a transmission provider in the SCRTP region, an entity must offer transmission service under a publicly-available transmission tariff).

[20] *E.g.*, PacifiCorp Transmittal Letter at 3 (citing PacifiCorp OATT, Attachment K § 3.2.3.2.d).

[21] *E.g.*, PacifiCorp OATT, Attachment K § 3.2.3.2.d (emphasis added).

[22] *E.g.*, *id.* § 3.2.3.3.

enrolled in NTTG and stipulating further obligations for the public or non-public utility transmission provider to remove the NTTG Attachment K from its OATT or other agreement(s) providing for comparable transmission service.[23] We find that these provisions provide clarity and transparency and provide public and non-public utility transmission providers with sufficient information to understand their obligations if they make the choice to enroll in the NTTG transmission planning region.

2. Regional Transmission Planning Requirements - Affirmative Obligation to Plan

a. Second Compliance Order

19. In the Second Compliance Order, the Commission found that it is unclear whether, and if so, how the NTTG regional transmission planning process will perform an analysis to identify transmission solutions outside of those proposed and sponsored by a potential developer that may be more efficient or cost-effective. Additionally, presuming that analysis does occur, the Commission found it unclear whether transmission projects identified as a result of an analysis will be considered in the current or subsequent transmission planning cycle.[24] Accordingly, the Commission directed Filing Parties to submit further compliance filings that detail how and when during the regional transmission planning process the NTTG Planning Committee will: (1) analyze on a regional basis, irrespective of whether any transmission projects have been proposed for possible selection in the regional transmission plan for purposes of cost allocation, whether there are more efficient or cost-effective transmission solutions that may be selected in the regional transmission plan for purposes of cost allocation, and (2) identify unsponsored transmission projects through the regional analysis.[25]

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[23] *E.g.*, *id.* § 3.2.3.4. We note that a public utility transmission provider that ceases to be enrolled in the NTTG transmission planning region will have to make a filing with the Commission to demonstrate how it complies with the requirements of Order No. 1000.

[24] Second Compliance Order, 147 FERC ¶ 61,057 at P 53.

[25] *Id.* P 54.

b. Summary of Compliance Filings

20. Filing Parties clarify that, during quarter 1, stakeholders can submit unsponsored transmission projects for consideration in the regional transmission planning process.[26] They also clarify that the Planning Committee may identify unsponsored transmission projects, which may be based upon a stakeholder-submitted transmission project with incomplete data, as well as from the data gathering and review that occurs.[27] In addition, Filing Parties clarify that the Biennial Study Plan, as developed by the Planning Committee during quarter 2, will describe sponsored transmission projects, transmission projects submitted by stakeholders, transmission projects submitted by merchant transmission developers, and unsponsored transmission projects identified by the Planning Committee, all of which are collectively defined as Alternative Projects. Filing Parties also propose revisions to their respective OATTs to state that during quarter 2, the Planning Committee includes in the Biennial Study Plan unsponsored transmission projects included in the prior regional transmission plan, unsponsored transmission projects submitted by stakeholders, and unsponsored transmission projects identified by the Planning Committee.[28] Filing Parties also propose revisions to state that the Planning Committee will identify unsponsored transmission projects during quarter 2, using its "knowledge of the transmission system and professional judgment."[29]

21. Filing Parties clarify that during the Planning Committee's analysis conducted in quarters 3 and 4, each of the Alternative Projects, including unsponsored transmission projects identified by the Planning Committee and stakeholders, will be analyzed using change cases to determine if a change case is a more efficient or cost-effective solution for the initial regional transmission plan.[30] Further, Filing Parties also propose to revise their respective OATTs to state that, during the Planning Committee's analysis conducted during quarters 3 and 4, the Planning Committee "shall consider the Transmission Providers' and stakeholders' identified transmission needs vis-à-vis the projects

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[26] Transmittal Letter at 5; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.2.2.

[27] Transmittal Letter at 6.

[28] *Id.*; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.3.2.

[29] Transmittal Letter at 6; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.3.4.

[30] Transmittal Letter at 6; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.4.1.

identified in the Biennial Study Plan to determine whether there are other alternatives (including unsponsored projects) which may be more efficient or cost effective in meeting the region's transmission needs."[31]

22. Filing Parties also propose to revise their respective OATTs to state that stakeholders may submit comments during the quarter 5 review of the draft regional transmission plan, which may include the identification of a new unsponsored transmission project. Filing Parties propose further revisions stating that any new unsponsored transmission project identified during quarter 5 will, to the extent feasible, be considered for the current regional transmission plan, but if it is infeasible to consider the new unsponsored project without delaying the plan, then the project will be noted in the plan and carried over for consideration in the next regional transmission planning cycle.[32] Additionally, Filing Parties propose revisions stating that any unsponsored transmission project included in the final regional transmission plan may be resubmitted as a sponsored project in the following regional transmission planning cycle, and will be subject to reevaluation until the project is committed.[33]

c. Commission Determination

23. We find that Filing Parties' proposed OATT revisions comply with the Commission directive to provide detail on how and when the Planning Committee will identify unsponsored transmission projects through the regional analysis.[34] Filing Parties' OATT revisions make clear that such projects will be identified at several points in the planning process. Specifically, the Planning Committee will identify unsponsored transmission projects: (a) during quarters 1 and 2 using their knowledge of the

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[31] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.4.3.

[32] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.5.2.

[33] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.8. A Committed Project is defined as a project that has all permits and rights of way required for construction, as identified in the submitted development schedule, by the end of Quarter 1 of the current Regional Planning Cycle. *E.g.*, PacifiCorp OATT, Attachment K § 1.7.

[34] Second Compliance Order, 147 FERC ¶ 61,057 at P 54.

transmission system and professional judgment,[35] (b) during quarters 3 and 4 while analyzing change cases and additional alternatives,[36] (c) during quarter 5 by considering comments and additional unsponsored transmission project proposals,[37] and (d) during the next transmission planning cycle by allowing any unsponsored transmission projects that are not selected in the current regional transmission plan for purposes of cost allocation to be carried over to the next regional transmission planning cycle.[38]

3. Nonincumbent Transmission Developer Reforms - Information Requirements

a. Second Compliance Order

24. In the Second Compliance Order, the Commission directed Filing Parties to make a clarifying edit to their procedures governing the proposal of transmission projects for consideration in the regional transmission planning process to ensure that stakeholders may submit ideas into the regional transmission planning process without being required to provide the full scope of information that Filing Parties propose to require for sponsored and unsponsored transmission project proposals.[39] While the Commission found acceptable Filing Parties' proposal to require those seeking to develop transmission projects (including stakeholders) to satisfy the information requirements for a transmission project that they wish to propose in the regional transmission planning process, the Commission also found that requiring stakeholders to satisfy the same information requirements to suggest a potential transmission solution into the NTTG regional transmission planning process would be inconsistent with Order No. 1000's emphasis on an open and inclusive regional transmission planning process. The Commission found that Filing Parties therefore must clarify that the information requirements applicable to entities proposing unsponsored transmission projects apply to those transmission projects that may be considered for selection in the regional

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[35] Transmittal Letter at 6; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.3.4.

[36] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.4.3.

[37] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.5.2.

[38] Transmittal Letter at 7; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.8.

[39] Second Compliance Order, 147 FERC ¶ 61,057 at P 125.

transmission plan for purposes of cost allocation, and not for those potential transmission solutions that stakeholders may suggest as part of providing input into the NTTG regional transmission planning process. Accordingly, while encouraging stakeholders to provide as much information as possible to the Planning and Cost Allocation Committees to ensure that these committees can give meaningful consideration to their transmission project ideas, the Commission directed Filing Parties to revise their respective OATTs to clarify that stakeholders may suggest, as part of providing input into the regional transmission planning process, potential transmission solutions without providing all the information required for proposal of a concrete transmission project for consideration in the regional transmission planning process.

b. <u>Summary of Compliance Filings</u>

25. In response to the Commission's directive in the Second Compliance Order, Filing Parties state that their respective OATTs, without modification, allow the Planning Committee to consider in the regional transmission plan any unsponsored transmission projects that do not meet the information requirements. Filing Parties state that, in particular, if transmission developers or stakeholders proposing any transmission project do not provide all of the information requirements, then the Planning Committee will attempt to remedy deficiencies in the submitted information through informal communications with the transmission developer or stakeholder. If those efforts are not successful by April 15 of quarter 2, then the transmission developer or stakeholder's request will be deemed withdrawn. However, Filing Parties explain that their respective OATTs reflect that the Planning Committee "may still consider the incomplete data in its consideration of whether to include an unsponsored project that resembles a project set forth in a withdrawn submission."[40] Therefore, according to Filing Parties, the Planning Committee may, at its discretion, use the incomplete data from a stakeholder-submitted unsponsored transmission project that was deemed withdrawn because of lack of information to propose an unsponsored project, which resembles the stakeholder-submitted project that was deemed withdrawn, for consideration in the regional transmission plan. Filing Parties state, however, that this provision does not allow the Planning Committee to submit such a transmission project for purposes of cost allocation. Filing Parties assert that further revisions to their respective OATTs are not necessary given the fact that their transmission planning process reflected their respective tariffs already contain the clarity sought by the Commission.[41]

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[40] Transmittal Letter at 10; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.2.6.

[41] Transmittal Letter at 10.

c. Commission Determination

26. We find that Filing Parties do not comply with the directives in the Second Compliance Order. Filing Parties point out that their respective OATTs already allow the Planning Committee to consider, in the regional transmission plan, any unsponsored transmission projects that do not satisfy the information requirements for an entity proposing a transmission project that it intends to develop. Filing Parties add that their OATTs also state that the Planning Committee "may still consider the incomplete data in its consideration of whether to include an unsponsored project that resembles a project set forth in a withdrawn submission."[42] However, the provisions in Filing Parties' OATTs addressing information requirements speak only to the proposal of transmission projects rather than to the proposal of ideas that stakeholders may submit for consideration in the regional transmission planning process. While Filing Parties' OATTs provide that the Planning Committee may consider incomplete transmission project data in the transmission planning process, Filing Parties' OATTs must also contain provisions that allow stakeholders to submit ideas into the regional transmission planning process without being required to provide the full scope of information that Filing Parties propose to require for sponsored and unsponsored transmission project proposals. Accordingly, we direct Filing Parties to file, within 30 days of the date of issuance of this order, further compliance filings to revise their respective OATTs to explicitly state that stakeholders may submit ideas for consideration in the transmission planning process without providing all of the information required of a transmission developer.[43]

4. Other Compliance Directives

27. With respect to the openness principle, the Commission, in the Second Compliance Order, directed Filing Parties to specify how far in advance of public meetings stakeholders will be notified of upcoming meetings.[44] On compliance, Filing Parties have revised their respective OATTs to provide that the date, time, and location of

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[42] *Id.*; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.2.6.

[43] *See, e.g.*, Ariz. Pub. Serv. Co., FERC Electric Tariff, Volume No. 2, Attachment E.III.C (Submission of Data by Customers, Transmission Developers, and Transmission Owners) (1.1.0) ("[A]ny interested stakeholder may submit project ideas for consideration in the Regional Plan without a need for that stakeholder's project to qualify for a project submittal for purposes of cost allocation.").

[44] Second Compliance Order, 147 FERC ¶ 61,057 at P 39.

all public committee meetings will be posted on the NTTG website not less than seven days prior to each meeting.[45]

28. With respect to the consideration of transmission needs driven by public policy requirements, the Commission, in the Second Compliance Order, directed Filing Parties to submit revised tariff language that references *transmission needs* driven by public policy requirements and public policy considerations, as Filing Parties had proposed to post public policy requirements and public policy considerations rather than *transmission needs* driven by such requirements and considerations.[46] On compliance, Filing Parties have revised their respective OATTs to require the posting of transmission needs driven by public policy requirements and public policy considerations.[47]

29. In the Second Compliance Order, the Commission directed Filing Parties to remove the requirement for a prospective transmission developer to have retained a third-party contractor to meet the five years' experience qualification criterion[48] in order to be eligible to submit a bid to develop a transmission facility selected in the regional transmission plan for purposes of cost allocation.[49] On compliance, Filing Parties have deleted the part of the qualification criterion that required a transmission developer to describe any third party contractor "that has been retained" to operate and/or maintain the proposed transmission project. In its place, Filing Parties revised the qualification criterion to require a potential transmission developer to describe any third-party contractor(s) the transmission developer "plans to retain" to operate and/or maintain the proposed project. Filing Parties also propose to require, to the extent the transmission developer plans to rely on a third-party contractor(s) that is not yet under contract, that

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[45] Transmittal Letter at 5; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.4.2.

[46] Second Compliance Order, 147 FERC ¶ 61,057 at P 83.

[47] Transmittal Letter at 8; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.3.3.4.

[48] Filing Parties proposed that a transmission developer, its parent organization, or its third-party contractor that has been retained to operate and/or maintain the proposed project must demonstrate that it has five years' experience in operating and maintaining similar size transmission projects.

[49] Second Compliance Order, 147 FERC ¶ 61,057 at P 110.

the transmission developer also indicate when it plans to enter into a definitive agreement with its contractor(s).[50]

30. Furthermore, the Commission directed Filing Parties to revise their respective OATTs to remove their proposed financial qualification criterion that requires a transmission developer to demonstrate, in lieu of showing that it has an investment grade credit rating, that it or its parent company has been in existence for five years and has had positive working capital for the past three years.[51] In response to this directive in the Third Compliance Filings, Filing Parties removed the criterion.

31. With respect to Filing Parties' evaluation process, the Commission directed Filing Parties to clarify the definition of "monetized non-financial incremental costs."[52] In response to this directive, Filing Parties revised their OATTs to include the definition of monetized non-financial incremental costs.[53]

32. In the Second Compliance Order, the Commission directed Filing Parties to revise their respective OATTs to provide a fair and not unduly discriminatory mechanism that the NTTG regional transmission planning process will use to grant a transmission developer the right to use the regional cost allocation method for an unsponsored transmission facility.[54] In response to this directive, Filing Parties propose to revise their respective OATTs to state that "[a]ny unsponsored project in the Final Regional Transmission Plan may be resubmitted … as a Sponsored Project by a pre-qualified

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[50] Transmittal Letter at 8-9; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2 Table 1.

[51] Second Compliance Order, 147 FERC ¶ 61,057 at P 114.

[52] *Id.* P 144.

[53] Monetized non-financial incremental costs means those incremental costs associated with an alternative transmission project that are not directly evaluated and measured in dollars of changed revenues, expenses, or capital investment. Such incremental costs, which are non-financial in nature, will be monetized by applying an appropriate index or conversion factor to convert the units in which the incremental costs were directly evaluated and measured into a dollar value. For example, losses are measured in megawatt hours, so that quantity will be converted to dollars by multiplying the quantity by a dollar per megawatt hour index. Transmittal Letter at 11; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.4.1.

[54] Second Compliance Order, 147 FERC ¶ 61,057 at PP 160-161.

Project Sponsor for consideration in the next Regional Planning Cycle for purposes of cost allocation."[55] Filing Parties state that, once an unsponsored transmission project is resubmitted in the next regional transmission planning cycle as a sponsored transmission project, it will be evaluated as any other sponsored transmission project would be evaluated.[56]

33. Filing Parties also clarify that after pre-qualified transmission developers submit sponsored transmission projects for purposes of cost allocation during quarter 1, the sponsored transmission projects remain fixed for the remainder of the regional transmission planning cycle. Thus, the NTTG regional transmission planning process does not allow for an unsponsored transmission project considered for purposes of cost allocation to become sponsored during the current transmission planning cycle. However, Filing Parties state that at any time an entity may begin development of an unsponsored transmission project. Filing Parties add that such activities are outside of the scope of NTTG.[57]

34. Lastly, in the Second Compliance Order, the Commission found that Filing Parties' proposal did not adequately explain what "ownership-like rights" are and directed Filing Parties to revise their respective OATTs to explain what "ownership-like rights" are and to provide additional detail regarding what "ownership-like rights" may be assumed as part of the regional transmission planning process.[58] In response to this directive, Filing Parties propose to revise their OATTs to state:

> "Ownership-Like Rights," . . . refers to those arrangements where an entity has rights in certain transmission facilities or a transmission path owned by another entity (or entities), which are based upon a percentage of the facility or path's rated capacity, and which rights remain through the in-service life of the facility or path.[59]

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[55] Transmittal Letter at 12; *see also, e.g.*, PacifiCorp OATT, Attachment K § 3.7.8.

[56] Transmittal Letter at 12.

[57] *Id.*

[58] Second Compliance Order, 147 FERC ¶ 61,057 at P 205.

[59] *E.g.*, PacifiCorp OATT, Attachment K § 3.8.2.2.

35. We find that Filing Parties' proposals discussed above comply with the directives in the Second Compliance Order, and therefore these OATT revisions are accepted for filing, to be effective October 1, 2013.

The Commission orders:

(A) Filing Parties' respective compliance filings are hereby accepted, effective October 1, 2013, subject to further compliance filings, as discussed in the body of this order.

(B) Filing Parties are hereby directed to submit further compliance filings, within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.