

126 FERC ¶ 61,128
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Aquila, Inc.

Docket No. OA08-18-000

ORDER ON COMPLIANCE FILING

(Issued February 17, 2009)

1. On December 6, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ Aquila, Inc., on behalf of its three operating divisions, Aquila Networks-MPS (MPS), Aquila Networks-L&P (L&P), and Aquila Networks-WPC (WPC) (collectively, Affiliates), submitted transmission planning processes as proposed attachments to the Aquila Open Access Transmission Tariffs (OATTs), as required by Order No. 890.² In this order, we accept Aquila's filing, subject to further compliance filings, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process.³ To remedy the

¹ 16 U.S.C. § 824e (2006).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

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

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

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

II. Aquila's Compliance Filing

4. On December 6, 2007, Aquila submitted revised tariff sheets setting forth its transmission planning process. The planning process for WPC is stated in a new Attachment K to its OATT, and the planning process for MPS and L&P is stated in a new Attachment L to their respective OATTs.⁶ Aquila states that WPC participates in the

⁴ Aquila labeled its Attachment K transmission planning process as "Attachment L" for MPS and L&P. This was permitted by the Commission in Order No. 890. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at n.246.

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

⁶ The MPS and L&P Attachment Ls are identical.

Colorado Coordinated Planning Group (CCPG),⁷ coordinating its planning activities with other transmission providers in its region. Aquila states that MPS and L&P are members of the Southwest Power Pool, Inc. (SPP) and that their transmission systems have been placed under SPP's functional control. Aquila states that Attachment L to the MPS and L&P OATT reflects their participation in the SPP transmission planning process outlined in Attachment O of the SPP OATT, as revised to comply with Order No. 890. Aquila requests a December 7, 2007 effective date, consistent with the requirements of Order No. 890.

III. Notice of Filing and Responsive Pleadings

5. Notice of Aquila's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 27, 2007. The Commission extended this comment period until January 7, 2008. A timely motion to intervene was submitted by the Electric Power Supply Association.

IV. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed⁷ motion to intervene serves to make the entity that filed it a party to this proceeding.

B. Substantive Matters

7. We find that the Affiliates' Attachment K and L transmission planning processes, with certain modifications discussed below, comply with the nine principles and other planning requirements adopted in Order No. 890. Accordingly, we accept the Affiliates' Attachment K and Ls to be effective December 7, 2007, subject to a further compliance filing as discussed below. Aquila is directed to file the compliance filing within 90 days of the date of issuance of this order.

8. While we accept the Affiliates' transmission planning processes, we nevertheless encourage further refinements and improvements to Aquila's planning processes as Aquila and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the

⁷ CCPG is comprised of a number of transmission providers in Colorado, southern Wyoming, and parts of Nebraska. CCPG is a part of WestConnect, a larger regional planning group that covers the states of Colorado, New Mexico, Arizona, and Nevada, as well as parts of South Dakota, Wyoming, California, and Nebraska.

implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

C. Compliance with Order No. 890 Planning Principles

1. Coordination

9. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development. In its planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.⁸

a. WPC

i. Proposed Attachment K

10. Aquila states that it conducts its transmission planning for WPC on a calendar year basis for a ten-year planning horizon updated annually.⁹ Aquila states that it will hold at least one open public transmission planning meeting each year to receive comments and advice from interested stakeholders. Aquila states that the meetings will (1) allow WPC to maximize its understanding of its customers' forecast needs; (2) offer stakeholders an opportunity to be informed about, as well as offer input and advice into, the WPC transmission planning process, as well as to propose alternatives for any upgrades identified by WPC; (3) review study results; and (4) review transmission plans.¹⁰

⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

⁹ WPC Attachment K, section 2.3.2.

¹⁰ *Id.* at section 2.2.2.b.

Through these meetings, Aquila states that transmission providers, state regulatory authorities, customers and other interested stakeholders can discuss any aspect of Aquila's transmission planning activities, including but not limited to methodology, study inputs, and study results. WPC will post meeting notices, including the date, time, place, and meeting agenda on its OASIS and the WestConnect website at least 30 days prior to the meeting.¹¹

ii. Commission Determination

11. We find WPC's Attachment K complies with the requirements of the coordination principle stated in Order No. 890. WPC's Attachment K details its local planning processes including how and when customers and interested stakeholders can review information and provide input in the early stages of the planning process. For example, WPC identifies how it will disclose information and solicit input through regularly scheduled stakeholder meetings, notice of which will be posted on WPC's OASIS and the WestConnect website.

b. MPS and L&P

i. Proposed Attachment L

12. Aquila states that MPS and L&P satisfy the coordination principle by participating in the SPP Transmission Working Group and SPP Model Development Working Group (MDWG)—the working groups responsible for the development of SPP's region-wide transmission plan.¹² Aquila states that the details for the SPP coordinated planning process, including relevant meeting and communication notice, schedule, and participation information, are set out in detail in Attachment O of the SPP OATT.

13. Aquila adds that there are occasions when due to load growth or a new large load the Aquila transmission planners may determine a need for a transmission addition or modification that has not been identified in the SPP planning process. Aquila states that it will post the results of planning studies completed for such projects on Aquila's OASIS so that stakeholders have an opportunity to review the studies. Any such proposed addition or modification is submitted to SPP for inclusion in the SPP Transmission

¹¹ *Id.* at section 2.2.2. Aquila's participation in WestConnect activities is described in greater detail below.

¹² MPS and L&P Attachment Ls, section 3.1.

Expansion Plan.¹³ Aquila states that any such proposed addition or modification would also be included in subsequent planning models through the SPP model development process.¹⁴

ii. Commission Determination

14. We find that the MPS and L&P Attachment Ls partially comply with the requirements of the coordination principle stated in Order No. 890. Aquila states that MPS and L&P will coordinate planning activities through SPP's planning processes, which the Commission has accepted subject to modification in a further compliance filing.¹⁵ However, the MPS and L&P Attachment Ls also state that MPS and L&P will conduct additional planning processes at the local level to identify transmission additions or modifications not identified in the SPP planning process. Aquila does not provide sufficient details on the local planning processes, including the planning cycle and the planning horizon MPS and L&P use for local planning. Further, the proposed Attachments Ls do not disclose how and when customers and interested stakeholders can review information regarding the local plan and provide input into the local plan during the early stages of the planning process. Accordingly, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing to revise the MPS and L&P Attachment Ls to clearly identify the details of how all stages of its local planning process will be coordinated with interested parties.

2. Openness

15. The openness principle requires that transmission planning meetings be open to all affected parties, including but not limited to all transmission and interconnection customers, state authorities, and other stakeholders. Although the Commission recognized in Order No. 890 that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a sub-regional group, the Commission emphasized that the overall development of the

¹³ The SPP Transmission Expansion Plan includes transmission upgrades relating to transmission service requests, generation interconnection service requests, and satisfaction of reliability criteria, as well as transmission upgrades that provide economic benefits.

¹⁴ MPS and L&P Attachment Ls, section 3.1.

¹⁵ See *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028, at P 16 (2008).

transmission plan and the planning process must remain open.¹⁶ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.¹⁷

a. WPC

i. Proposed Attachment K

16. WPC states that all stakeholders, including but not limited to customers, regulatory entities, and other interested parties, may attend planning meetings and/or submit comments regarding its local planning activities.¹⁸ The agenda for WPC's public transmission meetings will be sufficiently detailed to allow customers and other stakeholders to choose their meeting attendance most efficiently. Aquila states that commercially sensitive data will be kept confidential and that CEII and other confidential data can be obtained by signing appropriate confidentiality agreements.¹⁹

ii. Commission Determination

17. We find that WPC's Attachment K complies with the requirements of the openness principle stated in Order No. 890. WPC provides an opportunity for all affected parties to participate in transmission planning processes and, as required by Order No. 890, identifies the process for obtaining access to confidential information and CEII used in the transmission planning process.

b. MPS and L&P

i. Proposed Attachment L

18. Aquila states that MPS and L&P comply with the openness principle by participating in the various SPP planning working groups such as the Regional

¹⁶ The Commission stated in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

¹⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

¹⁸ WPC Attachment K, section 2.2.2.b.

¹⁹ *See id.* at section 2.4 (discussing the information exchange principle).

Transmission Group and MDWG.²⁰ Aquila states that the rules and procedures regarding openness issues, including access, participation and confidentiality, are set out in detail in Attachment O to the SPP OATT. Aquila adds that, with respect to local planning projects, all stakeholders will have the opportunity to review the results of planning studies posted on its OASIS. Aquila states that, because the projects will be submitted to SPP for inclusion in the SPP expansion planning process, they also will be subject to the SPP openness procedures.

ii. Commission Determination

19. We find that the MPS and L&P Attachment Ls partially comply with the requirements of the openness principle stated in Order No. 890. Aquila states that participation by MPS and L&P in SPP's planning activities will be open under SPP's Attachment O, which the Commission has accepted subject to modification in a further compliance filing.²¹ While participation in SPP satisfies the requirements of the openness principle with regard to regional planning, Aquila does not adequately demonstrate that its local planning activities are sufficiently open to stakeholders. Aquila states that the results of local planning studies will be made available to all stakeholders for review. As noted above, however, Aquila has not addressed how interested parties can participate in the local planning studies process prior to the OASIS posting. Aquila has also failed to identify the process for obtaining access to confidential information and CEII used in the local transmission planning process. Accordingly, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing to revise the MPS and L&P Attachment Ls to address the requirements of the openness principle as applied to their local planning activities.

3. Transparency

20. The transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in Attachment K the methods it will use to disclose the criteria, assumptions and data that underlie its transmission system plans.²² The Commission specifically found that simple

²⁰ MPS and L&P Attachment Ls, section 3.2.

²¹ See *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028 at P 19.

²² In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. See Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers were also directed to provide information regarding the status of upgrades identified in the transmission plan.

21. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand response resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.²³

a. WPC's Filng

i. Proposed Attachment K

22. Aquila states that WPC provides transparency in its planning process by ensuring that sufficient data is available so that a customer or stakeholder can replicate the results of a study through readily available databases and standardized methodology commonly used in the industry.²⁴ Aquila provides a flowchart of the WPC planning process and states that the details of the planning process are as follows: (1) assessment of needs required to provide adequate transmission to access sufficient network resources in order to reliably and economically serve retail and network loads, support WPC's local transmission and sub transmission systems, provide interconnection of new generation resources, coordinate new interconnections with other transmission systems, and accommodate requests for long-term transmission access; (2) a calendar year transmission planning cycle for a ten-year planning horizon updated annually; (3) the data transmission customers must provide to WPC for transmission planning purposes and; (4) a description of the different types of planning studies (i.e., reliability and economic studies).²⁵

²³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

²⁴ WPC Attachment K, section 2.3.

²⁵ *See id.*

23. Aquila states that models used in WPC's transmission planning are developed by Western Electricity Coordinating Council (WECC) based, in part, on information submitted to WECC by Aquila.²⁶ Aquila states that WPC uses the WECC model and regional methodologies in its local planning activities so that all data and processes are available to stakeholders for replication of Aquila study results.²⁷ Aquila adds that WECC maintains a database for reporting the status of all planned projects throughout the Western Interconnection.²⁸

ii. Commission Determination

24. We find that WPC's Attachment K complies with the requirements of the transparency principle stated in Order No. 890. WPC's Attachment K indicates that it provides transparency in its planning process by ensuring that sufficient data is available so that a customer or stakeholder can replicate the results of a study through readily available databases. For example, the process flowchart WPC provides in its Attachment K identifies certain reports that are prepared and posted on WPC's OASIS and, as discussed above, WPC's Attachment K indicates that results of transmission planning meetings will be posted on its OASIS. Aquila also states that with regard to local planning WPC uses the WECC model and regional methodologies so that all data and processes are available to stakeholders for replication of Aquila study results.

b. MPS and L&P

i. Proposed Attachment L

25. Aquila states that MPS and L&P comply with the transparency principle through adherence to the SPP transmission study methodology, criterion and process and their direct and active participation in the SPP coordinated planning process.²⁹ Aquila also states that rules and procedures regarding transparency issues are set out in detail in Attachment O of the SPP OATT and that, with respect to local planning projects for MPS and L&P, Aquila applies the same criteria, methodology, and process as SPP. Additionally, Aquila states that MPS and L&P use the SPP load flow models for all in-house studies and that the in-house study results will be made available on Aquila's OASIS along with any required data including load flow models such that any stakeholder will be able to replicate the results.

²⁶ *Id.* at section 2.7.

²⁷ *Id.* at section 2.3.

²⁸ *Id.* at section 2.1.

²⁹ MPS and L&P Attachment Ls, section 3.3.

ii. Commission Determination

26. We find that the MPS and L&P Attachment Ls comply with the transparency principle stated in Order No. 890. Aquila states that MPS and L&P will adhere to the criteria, methodologies, and processes SPP uses, as detailed in Attachment O of the SPP OATT, both in their participation in the SPP planning process and in the local planning activities they perform.³⁰ Additionally, Aquila has committed to make available on its OASIS the SPP load flow models MPS and L&P use for all in-house studies and as well as the in-house study results.

4. Information Exchange

27. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.³¹ Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

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

³⁰ See *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028, at P 25.

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

To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.³²

29. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange relates to planning, not other studies performed in response to interconnection or transmission service requests.³³

a. WPC's Filing

i. Proposed Attachment K

30. Under section 2.4 of its proposed Attachment K, WPC states that it requests load and resource data, for a ten-year horizon, annually from all its network customers pursuant to its OATT.³⁴ Section 2.3.3 of WPC's proposed Attachment K requires all other transmission customers to provide their ten year needs including: (1) planned generator additions and upgrades, (2) existing and planned demand resources and their impacts on demand and peak demands, and (3) point-to-point transmission customers' projections of service needs over the ten-year horizon.³⁵ Aquila states that it uses this information to, among other things, assess network load and resource projections, transmission needs, operation dates and retirements for generation resources in Aquila's system, and regional models used to conduct planning studies.³⁶

ii. Commission Determination

31. We find that WPC's Attachment K partially complies with the information exchange principle stated in Order No. 890. As required under Order No. 890, WPC's

³² *Id.* P 206.

³³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

³⁴ Section 2.3 of WPC's Attachment K (Transparency) also addresses this network customer requirement and requires network customers to also identify demand response reductions. *See* WPC Attachment K, section 2.3.3.c.iv.

³⁵ *Id.*

³⁶ WPC Attachment K, section 2.3.3.a.

Attachment K describes the data it will seek from its customers for transmission planning purposes. However, WPC does not give clear guidance as to when or how customers are required to provide such information for use in its annual transmission planning process. Accordingly, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing to revise the WPC Attachment K to address when and how stakeholders are to submit planning-related information to WPC.

b. MPS and L&P

i. Proposed Attachment L

32. Aquila states that MPS and L&P comply with the information exchange principle through their direct and active participation in the SPP coordinated planning process. Aquila states that it submits all load data, generation data, and system data to SPP as part of its participation in the SPP model development process on an annual basis. Aquila adds that the rules and procedures regarding information exchange issues, including data and information submission procedures, are all set out in detail in Attachment O to the SPP OATT.³⁷

ii. Commission Determination

33. We find that the MPS and L&P Attachment Ls partially comply with the information exchange principle stated in Order No. 890. Aquila states that it submits all load, generation, and system data to SPP as part of its participation in the SPP model development process on an annual basis. However, Aquila has not described the data MPS and L&P will seek from their customers for the purposes of their local planning studies, nor when or how customers are to provide such information. Accordingly, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing to revise the MPS and L&P Attachment Ls to address the exchange of planning-related information use in their local planning studies.

5. Comparability

34. The comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In Order No. 890, the Commission expressed concern that transmission providers historically have planned their transmission systems to address their own interests without regard to, or ahead of,

³⁷ MPS and L&P Attachment Ls, section 3.4.

the interests of their customers. Through the comparability principle, the Commission required that the interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.³⁸

a. WPC's Filing

i. Proposed Attachment K

35. WPC states that all customers and other stakeholders on the Aquila transmission system are treated in a comparable manner to WPC's native load customers, as demonstrated in its description in its Attachment K of the other eight principles.³⁹

ii. Commission Determination

36. We find that WPC's Attachment K complies with the requirements of the comparability principle as stated in Order No. 890. For instance, WPC's proposed Attachment K allows all customers and stakeholders to participate in the planning process and describes the types of data that each class of customer must provide without preference to particular classes of customers.⁴⁰ We note, however, that Order No. 890-A was issued on December 27, 2007, subsequent to WPC submitting its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, about how the transmission provider can achieve compliance with comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process "how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning."⁴¹ Here, Aquila has submitted tariff language for WPC providing that, as a general matter, demand resources will be treated comparably. However, since Order No. 890-A was issued subsequent to the filing before us, WPC did not have an opportunity to

³⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

³⁹ WPC Attachment K, section 2.5.

⁴⁰ *Id.* at sections 2.2. and 2.3.3.c.

⁴¹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216; *see also*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479, 487, 494 and 549.

demonstrate that it complies with this requirement of Order No. 890-A. Therefore, WPC is directed to file within 90 days of issuance of this order, a compliance filing addressing the necessary demonstration required by Order No. 890-A.⁴²

b. MPS and L&P

i. Proposed Attachment L

37. Aquila states that MPS and L&P comply with the comparability principle through participation in the SPP Expansion Planning and Aggregate Study Processes which Aquila states ensures comparability between all customers on the Aquila transmission system. Aquila states that rules and procedures regarding comparability issues are set out in detail in Attachment O to the SPP OATT.⁴³

ii. Commission Determination

38. We find that MPS's and L&P's Attachment Ls partially comply with the requirements of the comparability principle of Order No. 890. While Aquila states that MPS and L&P satisfy the comparability principle through their participation in the SPP planning process, the proposed Attachment Ls do not describe how the interests of MPS and L&P and their similarly-situated customers will be treated on a comparable basis during the development of local planning studies. Therefore, Aquila is directed to file, within 90 days of issuance of this order, a compliance filing addressing how similarly-situated customers will be treated comparably during local planning activities.

39. In addition, as discussed above with regard to WPC we note that Order No. 890-A was issued on December 27, 2007, subsequent to MPS and L&P submitting their Order No. 890 Attachment L compliance filing. Aquila has submitted tariff language for MPS and L&P providing that, as a general matter as a result of their participation in SPP, demand resources will be treated comparably. However, since Order No. 890-A was issued subsequent to the filing before us, MPS and L&P did not have an opportunity to demonstrate that they comply with this requirement of Order No. 890-A. Therefore, as with WPC, MPS and L&P are directed to file within 90 days of issuance of this order, a compliance filing addressing the necessary demonstration required by Order No. 890-A.

⁴² For example, tariff language should provide for participation throughout the transmission planning process by sponsors of transmission solutions, generation solutions, and solutions utilizing demand resources.

⁴³ MPS and L&P Attachment Ls, section 3.5.

6. Dispute Resolution

40. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service (DRS) to help develop a three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.⁴⁴

a. Affiliates' Proposed Attachments

41. The Affiliates state that their dispute resolution process is described in section 12 of their respective OATTs.⁴⁵ Section 12 provides, in pertinent part:

Any dispute between a Transmission Customer and the Transmission Provider involving transmission service under the Tariff (excluding applications for rate changes or other changes to the Tariff, or to any Service Agreement entered into under the Tariff, which shall be presented directly to the Commission for resolution) shall be referred to a designated senior representative of the Transmission Provider and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days [or such other period as the Parties may agree upon] by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.⁴⁶

⁴⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

⁴⁵ The dispute resolution processes specified in section 12 of the Affiliates respective OATTs are identical. *See* Aquila Inc. FERC Electric Tariff, Fifth Revised Volume 25, Original Sheet Nos. 36-38 (WPC); Aquila Inc. FERC Electric Tariff, Fifth Revised Volume 24, Original Sheet Nos. 38-41 (MPS); Aquila Inc. FERC Electric Tariff, Second Revised Volume 30, Original Sheet Nos. 25-27 (L&P).

⁴⁶ *Id.*

42. Additionally, section 12 describes the arbitration procedures and provides that “[n]othing in this section shall restrict the rights of any party to file a Complaint with the Commission under relevant provisions of the Federal Power Act.”⁴⁷

b. Commission Determination

43. We have reviewed the Affiliates’ filing and find that the Affiliates do not provide for adequate dispute resolution processes to manage both procedural and substantive disputes that arise from the transmission planning process. It is unclear whether “Any dispute between a Transmission Customer and the Transmission Provider involving transmission service under the Tariff” would include any dispute arising under the transmission planning process, for example between the transmission provider and a non-customer stakeholder. While Order No. 890 provided that transmission providers could rely on existing dispute resolution procedures, transmission providers must address how these procedures will address matters related to transmission planning. Therefore, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises the WPC Attachment K and the MPS and L&P Attachment Ls to specifically address how their procedures will address matters related to transmission planning.⁴⁸

7. Regional Participation

44. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. In Order No. 890, the Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of

⁴⁷ *Id.*

⁴⁸ We note that the Affiliates omitted the second step, mediation, of a three-step dispute resolution process consisting of negotiation, mediation, and arbitration. While we are not directing WPC to include mediation, we strongly encourage it to consider including a mediation step in its dispute resolution process. We have found that a high percentage of disputes sent to the Commission’s DRS, another mediator or an Administrative Law Judge serving as a Settlement Judge, settle without adjudication. If the Affiliates desire to include the mediation step, they should do so by revising their filing or including the mediation step the next time they file a revision to their transmission planning attachment.

particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and sub-regions. The Commission also made clear that reliance on existing North American Electric Reliability Corporation (NERC) planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes is not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.⁴⁹

45. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.⁵⁰ In Order No. 890-A, the Commission also emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.⁵¹

a. WPC's Filing

i. Proposed Attachment K

46. Aquila states that WPC is a member of CCPG, which is comprised of a number of transmission providers in Colorado, southern Wyoming and part of Nebraska. Aquila states that CCPG is comprised of transmission providers, transmission users, transmission operators, state regulatory entities and environmental entities. CCPG membership is voluntary and open to all interested stakeholders. CCPG schedules quarterly meetings that are open to all interested stakeholders.⁵² Aquila also states that CCPG is part of WestConnect, a larger planning group covering the states of Colorado, New Mexico, Arizona and Nevada and parts of South Dakota, Wyoming, California and Nebraska.

47. WPC is also a member of WECC and WECC's Planning Coordination Committee. Aquila states that WECC develops the Western Interconnection-wide databases for transmission planning analysis, maintains a database for reporting the status of planned

⁴⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

⁵⁰ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

⁵¹ *Id.*

⁵² WPC Attachment K, section 2.1.4.

projects, coordinates planned projects, and rates paths to ensure that a new project will have no adverse effect on existing projects.⁵³ WPC's Attachment K directs readers to the WECC website for more details on WECC's transmission planning activities.

ii. Commission Determination

48. We find that WPC's Attachment K partially complies with the regional participation principle provided in Order No. 890. Eligible customers and stakeholders may participate directly in the CCPG sub-regional planning process. With regard to regional planning, WPC states that it will coordinate with WECC regarding regional planning activities both directly and through its participation in CCPG.

49. The Commission supports WPC's efforts to coordinate its planning activities through its membership in CCPG and CCPG's participation in WestConnect. As we recognized in Order No. 890, in the West there are various sub-regional processes in addition to the WECC's Transmission Expansion Policy and Planning Committee (TEPPC) regional economic planning process⁵⁴ and the CCPG process appears to have the potential to help transmission providers meet their obligations under Order No. 890. However, we find that while WPC has provided a general overview of the CCPG, WestConnect, and WECC processes, it has not provided in its Attachment K sufficient detail to allow customers and other interested stakeholders to fully understand how the data and inputs they provide on the local transmission plan will be integrated into the sub-regional plan being developed by CCPG and incorporated into WECC databases and models. For example, WPC fails to provide timelines and milestones between when WPC submits its local plan to CCPG and the time that a final sub-regional plan will be developed. Further, except for referencing the quarterly meetings that CCPG schedules, the timing of any specific opportunities customers and stakeholders will have to provide input into the elements of the sub-regional and regional plans have not been identified. Additionally, we find it insufficient for WPC to reference in its Attachment K the WECC homepage as a means for customers and interested stakeholders to obtain the details of the CCPG planning process. Any link offered in the Attachment K or on a transmission provider's OASIS to provide customers and interested stakeholders access to a specific element of the CCPG or WECC planning process should be a direct URL to the relevant planning document.

⁵³ *Id.* at section 2.1.1.

⁵⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527.

50. For the reasons discussed above, we find that WPC's Attachment K is in partial compliance with the regional participation principle. Accordingly, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing as discussed above.

b. MPS and L&P

i. Proposed Attachment L

51. Aquila states that MPS and L&P comply with the regional participation principle through participation in SPP, which includes all neighboring transmission providers.⁵⁵ Aquila also states that SPP coordinates planning with neighboring regions and that the rules and procedures regarding regional participation issues are set out in detail in Attachment O to the SPP OATT.

ii. Commission Determination

52. We find that MPS and L&P's membership and active participation in SPP complies with the regional participation principle stated in Order No. 890. Aquila states that neighboring transmission providers participate in SPP and SPP coordinates planning with neighboring regions. The rules and procedures regarding SPP's regional planning process are set out in Attachment O of the SPP OATT, which the Commission has accepted subject to modification in a further compliance filing.⁵⁶ Accordingly, the Commission finds that through the SPP regional planning process MPS and L&P can coordinate with interconnected systems to share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data, and identify system enhancements that could relieve congestion or integrate new resources, as required by Order No. 890.

8. Economic Planning Studies

53. The economic planning studies principle requires transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for OATT customers as well. The Commission emphasized that the scope of economic studies should not just be

⁵⁵ MPS and L&P Attachment Ls, section 3.7.

⁵⁶ See *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028 at P 49.

limited to individual requests for transmission service. Customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

54. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.⁵⁷

55. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.⁵⁸ In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's Attachment K.⁵⁹

a. WPC's Filing

i. Proposed Attachment K

56. Aquila states that it provides economic data to CCPG and other planning groups in the region to include in their transmission planning studies. Aquila also states that for WPC's local transmission issues its planning engineers consider economic impacts of alternatives and use engineering economics to determine the least cost alternative when considering capital costs as well as annual expenses. Aquila states that its planning engineers also evaluate costs to relieve congestion on the WPC transmission system as required. Aquila adds that the WECC's TEPPC has an annual study cycle during which it will update databases, develop and approve a study plan that includes studying transmission customer high priority economic study requests (as determined by the TEPPC stakeholder process).⁶⁰ TEPPC then will perform the studies and document the

⁵⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-551.

⁵⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

⁵⁹ *Id.* P 237.

⁶⁰ WPC Attachment K, at section 2.7.

results in the report.⁶¹ Aquila states that once models and reports have been finalized, WECC makes them available to all members, customers, and stakeholders. Aquila states that the WECC TEPPC planning process is posting on the WECC website.

ii. Commission Determination

57. We find that WPC's Attachment K partially complies with the economic planning studies principle stated in Order No. 890. While Aquila states that the WECC's TEPPC will approve a study plan that includes studying transmission customer high priority economic study requests, as determined by the TEPPC stakeholder process, WPC has not described that process or explained how stakeholders can actively participate in the process, including the prioritization and/or clustering of study requests. Therefore, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises the WPC Attachment K to describe the study process and how stakeholders can actively participate in the process.

b. MPS and L&P

i. Proposed Attachment L

58. Aquila states that MPS and L&P comply with the economic planning study principle through participation in the SPP planning process. Aquila states that it provides SPP with economic data for the Aquila transmission system for use in the economic evaluations SPP carries out as part of its transmission planning process.⁶² Aquila adds that for in-house studies that are for local transmission issues such as load growth or the addition of a specific large load, Aquila planning engineers always consider economic impacts of the various alternatives and use engineering economics to determine the least-cost alternative when considering capital costs as well as annual expenses such as operation and maintenance, KW losses and KVAR losses for each alternative.

ii. Commission Determination

59. We find that the MPS and L&P's Attachment Ls partially comply with the economic planning studies principle stated in Order No. 890. Aquila states that for in-house studies for local transmission Aquila's planning engineers always consider economic impacts of various alternatives. However, Aquila has not explained whether the SPP economic planning process could be used to submit requests for economic studies for the local facilities subject to local planning activities. If not, Aquila must identify a process for submitting such requests, as well as a process to prioritize and/or

⁶¹ *Id.* at section 2.1.1.3.b

⁶² MPS and L&P Attachment Ls, section 3.8.

cluster study requests. Therefore, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises the MPS and L&P Attachment Ls as necessary to address the requirements of the economic planning principles as applied to their local planning activities.

9. Cost Allocation

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

61. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.⁶³ In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁶⁴

a. WPC's Filing

i. Proposed Attachment K

62. Aquila states that procedures have been adopted by WestConnect and WECC regarding cost allocation of new projects. Under WestConnect Objectives and

⁶³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-561.

⁶⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

Procedures for Regional Transmission Planning, new projects developed pursuant to the WestConnect sub-regional transmission planning process will, to the maximum extent practical, use open season solicitation, multiparty transmission ownership, and the potential co-existence of both physical and financial transmission rights. Under the WECC Policies and Procedures for Region Planning and Project Review, Project rating Review, and Progress Reports, WECC members and others can report planned projects and inform others of the opportunity to participate in a project.

ii. Commission Determination

63. We find that WPC's Attachment K partially complies with the cost allocation requirements principle stated in Order No. 890. Although the WestConnect and WECC documents cited by Aquila outline general principles regarding cost allocation for new projects. Aquila does not clearly provide a methodology for allocating the costs of new projects. Order No. 890 requires a specific cost allocation methodology that is reflected up front in the Attachment K, rather than considered on a case-by-case basis. While we recognize that development of WPC's Attachment K planning process is new, Order No. 890-A nevertheless made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.⁶⁵ Therefore, we direct Aquila, both individually and, if necessary, with CCPG or WestConnect, to work to further refine a specific methodology for cost allocation to provide more certainty for transmission providers and market participants to support new transmission infrastructure investment. We direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises the WPC Attachment K to include a cost allocation method as required in Order No. 890.

b. MPS and L&P

i. Proposed Attachment L

64. Aquila states that MPS and L&P comply with the cost allocation for new projects principle through participation in SPP, which has a process presently in place for addressing cost allocation for transmission projects.⁶⁶ Aquila states that the rules and procedures regarding cost allocation for new project issues, including cost allocation methodology and the roles and responsibilities of the SPP and stakeholders, are all set out in detail in Attachment O to the SPP OATT.

⁶⁵ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

⁶⁶ MPS and L&P Attachment Ls, section 3.9.

65. Aquila adds that MPS and L&P's local planning projects that are justified for construction through local planning studies and authorized by Aquila's internal budget process are submitted to SPP for inclusion in the SPP Transmission Expansion Plan. Aquila states that those projects are subject to the same cost allocation process as projects in the SPP Transmission Expansion Plan that are generated by the SPP regional transmission planning process.

ii. Commission Determination

66. We find that the MPS and L&P Attachment Ls comply with the cost allocation requirements principle stated in Order No. 890. The proposed Attachment Ls specify that the cost of new transmission projects, including local planning projects, will be allocated pursuant to the cost allocation principles in SPP's Attachment O.⁶⁷

10. Recovery of Planning Costs

67. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.⁶⁸

a. WPC's Filing

i. Proposed Attachment K

68. WPC states that when it conducts a planning study based on a customer request, the customer is provided with an estimate of the cost and when the study is complete, WPC will bill the customer for the actual cost of performing the planning study.⁶⁹ WPC states that a description of this procedure will be found in the Aquila OATT for WPC.

⁶⁷ See *Southwest Power Pool, Inc.*, 124 FERC ¶ 61,028 at P 62 (finding that SPP's adoption in its Attachment O of SPP's previously accepted Attachment J cost allocation methodology to allocate costs of new facilities meets the requirements of Order No. 890).

⁶⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

⁶⁹ WPC Attachment K, section 3.0.

ii. Commission Determination

69. We find that WPC's Attachment K does not adequately address the recovery of planning costs because Aquila fails to explain how costs for planning activities pursuant to WPC's Attachment K planning process will be recovered. Therefore, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises WPC's Attachment K to explain how it intends to recover Attachment K transmission planning activity costs.

b. MPS and L&P

i. Proposed Attachment L

70. Aquila states that SPP recovers the cost of transmission planning through appropriate schedules in the SPP OATT. Aquila adds that when Aquila does a planning study resulting from a customer request, the customer is provided with an estimate of the cost. When the study is complete the customer is billed for the actual cost of doing the study. Aquila states that a description of this procedure can be found in the Aquila OATT.⁷⁰

ii. Commission Determination

71. We find that the MPS and L&P Attachment Ls do not adequately address the recovery of planning costs because Aquila fails to explain how costs for local planning activities pursuant to MPS and L&P's Attachment L planning process will be recovered. Therefore, we direct Aquila to file, within 90 days of issuance of this order, a further compliance filing that revises MPS and L&P's Attachment L to explain how they intend to recover local transmission planning activity costs.

72. The Affiliates' compliance filing is accepted, as modified, effective December 7, 2007. Aquila is directed to file, within 90 days of the date of this order, a further compliance filing as required above.

The Commission orders:

(A) The WPC Attachment K transmission planning process and the MPS and L&P Attachment Ls transmission planning processes are hereby accepted effective December 7, 2007, subject to further compliance filings, as directed in the body of this order.

⁷⁰ MPS and L&P Attachment Ls, section 4.0.

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

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.