

127 FERC ¶ 61,219
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.	Docket No. OA08-75-000
Entergy Services, Inc.	Docket No. OA08-92-000
Entergy Services, Inc.	Docket No. OA07-32-006
Entergy Services, Inc.	Docket No. OA08-59-001

ORDER ACCEPTING COMPLIANCE FILING,
SUBJECT TO FURTHER COMPLIANCE FILING,
GRANTING LIMITED WAIVER REQUEST AND
GRANTING CLARIFICATION REQUEST

(Issued June 3, 2009)

1. In Docket No. OA08-75-000, under section 206 of the Federal Power Act (FPA),¹ Entergy Services, Inc. (Entergy) submitted proposed revisions to its Open Access Transmission Tariff (OATT) to comply with Order No. 890-A.² In this order, we will accept, to be effective March 17, 2008, Entergy's Order No. 890-A compliance filing, subject to a compliance filing to address certain corrections to Entergy's tariff sheets.
2. In Docket No. OA08-92-000, Entergy filed two motions for limited waiver of the Order No. 890-A "attestation requirement."³ In this order, we will grant Entergy's two motions.

¹ 16 U.S.C. § 824e (2006).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (January 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

³ Order No. 890 requires that all designated network resources requests be accompanied by an attestation stating that the request meets the requirements of

(continued...)

3. Finally, in Docket Nos. OA07-32-006 and OA08-59-001, Entergy filed a request for clarification that the effective date of section 2.2 of Entergy's OATT (implementing the new rollover policy) is October 18, 2008, which is 30 days after the date that the Commission accepted Entergy's transmission planning process.⁴ In this order, we grant Entergy's request, and direct Entergy to file revised tariff sheets with this effective date.

I. Background

4. In Order No. 890-A, the Commission granted limited rehearing and clarification of Order No. 890, largely affirming its reforms. Order No. 890-A continues Order No. 890's objectives of ensuring that electric transmission service is provided on a nondiscriminatory, just and reasonable basis, helping improve the foundation for a competitive electric power market, and providing for more effective regulation and transparency in the operation of the transmission grid.

5. The revisions in Order No. 890-A address, among other things, how transmission providers process service requests, under what circumstances long-term customers may renew (roll over) their transmission service, the ability of network customers to designate certain resources, and how point-to-point customers may reassign transmission capacity. As discussed in further detail below, the Commission also directed transmission providers to address certain issues related to the calculation of available transfer capability (ATC) and the calculation of incremental costs for purposes of imbalance charges.

section 29.2 and 30.2 of the *pro forma* OATT. Order No. 890-A requires that the attestation be provided in the customer comment section of the OASIS at the time of confirmation (or at the time of submittal if the request is pre-confirmed), and that the language of the *pro forma* OATT sections 29.2(vii) and 30.2 be included in the attestation. Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 919.

⁴ We note that Docket No. OA08-59-000 deals primarily with transmission planning, but that in Order No. 890-A the Commission stated that a transmission provider's rollover-right provisions would become effective upon the Commission's acceptance of the transmission provider's transmission planning process, otherwise known as Attachment K to the *pro forma* OATT. Entergy states that it filed its request for clarification in Docket No. OA08-59-000 because the Commission has not directly addressed the effective date of Entergy's rollover-right provisions.

II. Notices of Filings and Responsive Pleadings

6. Notice of Entergy's filing in Docket No. OA08-75-000 was published in the *Federal Register*, 73 Fed. Reg. 16,001 (2008), with interventions and protests due on or before April 7, 2008.

7. Arkansas Electric Cooperative Corporation, Southwest Power Pool (SPP), Union Power Partners, L.P., and NRG Companies filed motions to intervene. Mississippi Delta Energy Agency, the Clarksdale Public Utilities Commission, and the Public Service Commission of Yazoo City, Mississippi (collectively, MDEA) and the Louisiana Energy and Power Authority, the Lafayette Utilities System, and the Municipal Energy Agency of Mississippi (collectively, L-M Municipals) filed motions to intervene and protests. Entergy filed an answer to the L-M Municipals and MDEA protests.

8. Notice of Entergy's motion for limited waiver in Docket No. OA08-92-000 was published in the *Federal Register*, 73 Fed. Reg. 16,001 (2008), with interventions and protests due on or before April 7, 2008. Notice of its motion for an extension of its requested limited waiver in Docket No. OA08-92-000 was published in the *Federal Register*, 73 Fed. Reg. 33,069 (2008), with interventions and protests due on or before June 20, 2008. None were filed in either proceeding.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding in Docket No. OA08-75-000.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's answer because it has provided information that assisted us in our decision-making process.

B. Entergy's Order No. 890-A Compliance Filing in Docket No. OA08-75-000

11. We accept Entergy's compliance filing in Docket No. OA08-75-000, to be effective March 17, 2008, as discussed below.

1. Flowgate Modeling

12. In Order No. 890-A, the Commission clarified that each transmission provider must provide the step-by-step modeling study methodology and criteria for adding or eliminating flowgates in its Attachment C.⁵ The Commission directed any transmission provider that did not include this information in its earlier Attachment C filing to include it in its Order No. 890-A compliance filing. A transmission provider that has already satisfied this obligation may instead refer to a previous Commission order accepting these provisions in its Attachment C to its OATT.

a. Entergy's Filing

13. Entergy states that it uses an available flowgate capability calculation methodology. Therefore, pursuant to Order No. 890-A, Entergy states that it initiated a new posting process to: (1) identify changes that occur monthly in available transfer capability as a result of “a 10 percent change in total transfer capability;”⁶ and (2) describe the event that gave rise to the change. Entergy has determined that a 10 percent (or greater) change in total flowgate capability, as defined in Attachment C, should be used to trigger a posting, in lieu of a 10 percent or greater change in total transfer capability.⁷ Accordingly, Entergy makes Order No. 890's required posting when the change in total flowgate capability is greater than or equal to 10 percent.

⁵ See Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 149.

⁶ Entergy Services, Inc., March 17, 2008 Order No. 890-A Compliance Filing, Docket No. OA08-750-000, at 3-4. Entergy states that it does not calculate yearly available transfer capability or available flowgate capability values under its Attachment C.

⁷ We note that Attachment C is one of three manuals that comprise the Criteria Manuals. More specifically, Attachment C includes the business practices and modeling practices that the ICT will use in calculating AFC values. The two remaining manuals are the System Impact and Facilities Study Manual (Attachment D) and the Transmission Service Request Manual (Attachment E). The System Impact and Facilities Study Manual includes a more detailed description of the methodology used in the studies, including current business practices and modeling methodology and assumptions, data inputs and modeling criteria. Lastly, the Transmission Service Request Manual includes business practices for loss compensation, scheduling, emergency assistance, verifying and confirming Network Resources, delisting and displacement of Network Resources, designating a new Balancing Authority and creditworthiness. In short, the Criteria Manuals are the transmission service criteria to be used by the ICT in determining whether to grant or deny a request for transmission service under Entergy's OATT.

14. Entergy further explains that Attachment C details the methodology that Entergy uses when evaluating whether to add or remove a particular flowgate. The process of adding and removing flowgates is based on the loading and voltage levels of flowgates under normal and contingency conditions.⁸ Entergy notes that because the stakeholder process has not yet concluded,⁹ it has not revised in the instant filing the Criteria Manuals, including Attachment C, that it had submitted in its July 13, 2007 Order No. 890 compliance filing. Entergy states that it continues to work with stakeholders to resolve outstanding issues concerning the Criteria Manuals, and that it will submit those attachments for Commission review in a separate filing at the conclusion of the ongoing stakeholder process.

b. Comments

15. MDEA argues that Entergy fails to comply fully with Order No. 890-A's directive requiring explanations of changes in available transfer capability values. According to MDEA, "Entergy notes that it does not calculate yearly [available transfer capability] or [available flowgate capability] values. Entergy does not circle back in its filing, however, to satisfy in some other way the explanation-posting requirement as it applies to changes in *yearly* values."¹⁰ MDEA argues that transmission customers should not be deprived of an explanation for changes in yearly values simply because Entergy has elected not to calculate yearly available transfer capability or available flowgate capability values. MDEA argues that Entergy does not reconcile its adoption of total flowgate capability with the total transfer capability requirement of Order Nos. 890 and 890-A.

16. In addition, MDEA notes that Entergy has requested that the Commission defer action on its Order No. 890 Compliance Filing,¹¹ pending the outcome of the stakeholder process. Accordingly, MDEA argues that Entergy cannot now rely on the version of

⁸ See section 2.2 of Attachment C for the criteria for adding and removing monitored flowgates.

⁹ The Commission initially conditionally accepted Entergy's Criteria Manuals in Docket No. ER05-1065-004. See *Entergy Services, Inc.*, 119 FERC ¶ 61,009, at P 24 (2007). In that order, the Commission noted that it had prodded Entergy to include a formal stakeholder consultation process as part of the Independent Coordinator's operations and thus conditioned acceptance of the Criteria Manuals on Entergy and the Independent Coordinator consulting with stakeholders on the Criteria Manuals.

¹⁰ MDEA Comment at 4 (emphasis original).

¹¹ Entergy Services, Inc., July 13, 2007 Compliance Filing, Docket No. OA07-32-000 (Order No. 890 Compliance Filing).

Attachment C in the Order No. 890 Compliance Filing as the basis for its current assertion of Order No. 890-A compliance.

17. L-M Municipals state that Entergy's filing creates confusion by referring to its Order No. 890 Compliance Filing. They argue that the Order No. 890 Compliance Filing version of the Criteria Manuals is not the operative version accepted by the Commission. Instead, L-M Municipals state that, in Docket No. ER05-1065-004, the Commission directed Entergy to file under section 205 any criteria used by Entergy to grant or deny transmission service,¹² and that Entergy made a compliance filing in Docket No. ER05-1065-008. L-M Municipals state that the Criteria Manuals in the Order No. 890 Compliance Filing not only reflect changes required by Order No. 890, but also include several changes that were not mandated by Order No. 890. L-M Municipals argue that the non-mandatory changes cannot be considered permissible as a matter of compliance and, thus, are ineffective. They ask the Commission to clarify that the Criteria Manuals filed in the May 18, 2007 Independent Coordinator of Transmission (Independent Coordinator) Compliance Filing in Docket No. ER05-1065-008, which include Attachment C, remain in force as the filed rate.

c. Answer

18. Entergy reiterates that its Criteria Manuals are subject to unique filing requirements under the Commission's orders approving the Independent Coordinator in Docket No. ER05-1065-000. Any revisions must be vetted through a stakeholder process and any changes submitted for Commission review. Entergy also states that MDEA should raise its concerns with Attachment C in the on-going stakeholder process concerning Entergy's Criteria Manuals, and it commits to reevaluate its available flowgate capability posting obligation after the stakeholder process is completed. Also, in response to MDEA, Entergy asks why, if Order No. 890, as amended by Order No. 890-A, required Entergy's Attachment C to explain how flowgates are added and removed and that information was included in Entergy's July 13, 2007 compliance filing, would such explanation not be effective and thus properly cited by Entergy.

d. Commission Determination

19. It is premature to make a finding on whether Entergy's Criteria Manuals comply with Order No. 890-A. On April 3, 2009, Entergy filed the Criteria Manuals in

¹² *Citing Entergy Services, Inc.*, 119 FERC ¶ 61,009, at P 29 & n.21 (2007). In this order, the Commission directed Entergy to submit revised Criteria Manuals resulting from the stakeholder process. The Commission also directed Entergy to specify the loading level for removing a flowgate from the Master List or explain why the figure previously accepted by the Commission was not required. *Id.* P 29.

Docket Nos. ER05-1065-011 and OA07-32-008. Parties will be able to comment on the Criteria Manuals in those proceedings. However, we address below Entergy's proposed provision to comport with the attestation requirements in Attachment E.

20. Further, L-M Municipals are incorrect in their assertion that the May 18, 2007 version of the Criteria Manuals remains in force as the filed rate. In Entergy's Order No. 890 compliance proceeding, the Commission accepted, effective July 13, 2007, Entergy's revised Criteria Manuals subject to Entergy making a compliance filing once it has completed the stakeholder process.¹³ Thus, it is these Criteria Manuals that have been in effect since July 13, 2007.

2. Generator and Energy Imbalance Charges

21. Order No. 890-A also required each transmission provider to provide language in its OATT clearly specifying the method by which it calculates the incremental costs for purposes of imbalance charges, as well as the method it will use to obtain each component of the calculation.¹⁴ The Commission found that imbalance charges should be based on the actual cost to correct the imbalance and, therefore, modified the definition of imbalance charges to include the cost of the last 10 megawatts dispatched for any purpose, whether to serve native load, correct imbalances, or make off-system sales.¹⁵ If start-up costs are incurred during an hour different from the hour of excess imbalance, the start-up costs may also be included in the calculation of incremental costs, as long as they are associated with providing imbalance service.¹⁶

a. Entergy's Filing

22. Entergy states that its incremental costs, as well as decremental costs, for the provision of energy imbalance service (OATT section 3.4) represent Entergy's actual average hourly cost of the last 10 MW dispatched for any purpose. The costs include those associated with supplying Entergy's native load customers, correcting imbalances, or making off-system sales based on factors such as the replacement cost of fuel, unit heat rates, start-up costs, and incremental operation and maintenance costs.

23. With regard to its generator imbalance agreement (Attachment P), Entergy states that since the Commission found it to be consistent with or superior to the *pro forma*

¹³ *Entergy Services, Inc.* 124 FERC ¶ 61,148, at P 61 and Ordering Paragraph A (2008) (Order on Order No. 890 Compliance).

¹⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 310.

¹⁵ *Id.* P 309.

¹⁶ *Id.* P 312.

Schedule 9 in its July 13 Order on Variations from Order No. 890 in Docket No. OA07-17-000,¹⁷ Entergy has not made any additional revisions.

b. Protests and Comments

24. L-M Municipals and MDEA argue that Entergy has not shown that its generator imbalance agreement (Attachment P) is consistent with or superior to the Order No. 890-A *pro forma* Schedule 9. L-M Municipals state that Attachment P appears to be inferior to the *pro forma* Schedule 9. They argue that Order No. 890-A added the following language to Schedule 9 that Attachment P does not include:

Notwithstanding the foregoing, deviations from scheduled transactions in order to respond to directives by the Transmission Provider, a balancing authority, or a reliability coordinator shall not be subject to the deviation bands identified above and, instead, shall be settled financially, at the end of the month, at 100 percent of incremental and decremental cost. Such directives may include instructions to correct frequency decay, respond to a reserve sharing event, or change output to relieve congestion.^[18]

25. L-M Municipals argue that Entergy's Attachment P does not contain protections equivalent to this Order No. 890-A language. They assert that Entergy does not apply penalties during an "Emergency Event." Moreover, they state that Entergy defines an Emergency Event as "[a] disturbance on the Entergy transmission system that was not caused by an event at the Facility and results in the Output of that Facility being increased or decreased by 2% or more of the Schedules of the Facility." L-M Municipals argue that this definition is inferior to the Commission's language that includes "instructions to correct frequency decay, respond to a reserve sharing event, or change output to relieve congestion."

26. L-M Municipals also argue that in Order No. 890-A the Commission stated that while it did not intend to abrogate existing generator imbalance agreements, its imbalance-related reforms do, however, apply to provisions contained in a transmission provider's OATT, including previously-approved variations from the *pro forma* OATT. L-M Municipals state that, in other words, even though Entergy has a previously-approved variation from the *pro forma* OATT, it must still comply with Order No. 890-A. Moreover, L-M Municipals contend that while Entergy made a showing that Attachment P was consistent with or superior to the Order No. 890 *pro forma* OATT, it

¹⁷ *Entergy Services, Inc.*, 120 FERC ¶ 61,042, at P 54, 60, 66 (2007) (July 13 Order on Variations from Order No. 890).

¹⁸ L-M Municipals Protest at 8, citing Schedule 9 Original Sheets 145-146.

would defy reason to claim that, in Docket No. OA07-17-000, Entergy showed, and that the Commission's July 13, 2007 order accepting Attachment P found that Attachment P was consistent with or superior to the Order No. 890-A provisions when the Order No. 890-A provisions were not issued until more than five months after the order accepting Attachment P. L-M Municipals thusly contend that Order No. 890-A does apply to Attachment P and there has yet to be a showing that Attachment P is consistent with or superior to the Order 890-A *pro forma* Schedule 9.

c. Answer

27. Entergy responds that it was not required to re-justify its generator imbalance agreement that has already been approved. It states that it submitted a compliance filing with its generator imbalance agreement in Docket OA07-17-000, and explained then why its generator imbalance agreement should remain in effect. According to Entergy, in the July 13 Order on Variations from Order No. 890 in Docket No. OA07-17-000, the Commission granted Entergy's request, thereby establishing that Entergy's generator imbalance agreement was consistent with and/or superior to the *pro forma* Schedule 9.¹⁹ Entergy states that neither the Commission's order nor Order No. 890-A impose additional compliance filing obligations for the generator imbalance agreement. It argues that it has followed the Commission's instructions on seeking approval for the variations contained in the generator imbalance agreement and that neither L-M Municipals nor MDEA has any basis to argue that Entergy had an obligation to re-justify its generator imbalance agreement in the Order No. 890-A compliance filing.

d. Commission Determination

28. In Order No. 890, the Commission allowed transmission providers with previously-approved variations to the *pro forma* OATT, including generator imbalance provisions, an opportunity to show that their existing deviations continued to be consistent with or superior to the *pro forma* OATT.²⁰ Entergy filed a variation to the *pro forma* generator imbalance provisions, and the Commission accepted Entergy's generator imbalance provisions in the generator imbalance agreement as consistent with or superior to the *pro forma* OATT in the July 13 Order on Variations from Order No. 890.²¹ In Order No. 890-A, the Commission continued to allow as consistent with or superior to the *pro forma* OATT deviations previously approved as consistent with or

¹⁹ Entergy Answer at 5, citing July 13 Order on Variations from Order No. 890, 120 FERC ¶ 61,042 at P 54, 60, 66.

²⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 135-38.

²¹ July 13 Order on Variations from Order No. 890, 120 FERC ¶ 61,042 at P 54.

superior to the *pro forma* OATT. Accordingly, we find that Entergy's generator imbalance provisions accepted in the Order on Variations from Order No. 890 also comply with Order No. 890-A.

29. With respect to energy imbalances, Entergy previously adopted the *pro forma* Schedule 4 following the Commission's July 13 Order on Variations from Order No. 890. To comply with Order No. 890-A, Entergy has in the instant filing revised its Schedule 4 to specify the calculation of incremental costs, including how each component is calculated. We find that Entergy's energy imbalance provisions comply with the *pro forma* Schedule 4 because they are based on the actual cost to correct the imbalance, as required by Order No. 890-A.

3. Additional Tariff Sheet Issues

30. L-M Municipals argue that there are two typographical errors included in the Order No. 890-A Compliance Filing. First, they state that the Substitute Original Sheet No. 26, in the phrase "agreements with give years or more left in their," "give" should be "five." They note that this error is in section 2.2 and will be eliminated once Entergy replaces its premature substitution of the Order 890-A language with the prior language. Second, they state that at Substitute Original Sheet No. 127, in the phrase "transmission element of flowgate," "of" should be "or."

31. In addition, L-M Municipals state that Entergy deleted from Substitute Original Sheet No. 27, OATT section 3, in connection with the provisions on ancillary services, the words "to offer" from the phrase "The Transmission Provider is required to offer to provide" L-M Municipals argue that the deletion of "to offer" creates ambiguity in that "required to provide" suggests that a transmission customer must take ancillary services from the transmission provider while "required to offer to provide" suggests that the offer can be refused. L-M Municipals argue that Section 3 appears internally inconsistent as the next sentence of the paragraph expressly provides the transmission customer the right to self-supply, or obtain from a third party, Regulation and Frequency Response, Energy Imbalance, Operating Reserve - Spinning, and Operating Reserve - Supplemental.

32. In its answer, Entergy acknowledges that L-M Municipals identified several typographical errors on Substitute Original Sheet Nos. 26 and 127. Entergy commits to correct each of these errors in any compliance filing the Commission may order in this proceeding. Entergy does not address its deletion of the words "to offer" from Substitute Original Sheet No. 27.

33. We accept Entergy's commitment to correct errors on Substitute Original Sheet Nos. 26 and 127, as identified by L-M Municipals. With regard to Substitute Original Sheet No. 27, we find that the deletion is not required under Order No. 890-A. Accordingly, we direct Entergy to file revised tariff sheets, within 30 days of the date of

this order, correcting its errors and returning the phrase, “to offer,” where it was deleted from the tariff.

C. Attestation Requirement

34. Order No. 890-A provides that a network customer designating network resources should submit an attestation using the language set forth in sections 29.2(viii) and 30.2 of the *pro forma* OATT, as amended in Order No. 890, not the language of the preamble.²² The Commission further stated that a network customer is not permitted to merely reference the applicable section of the *pro forma* OATT when completing the attestation requirement.²³ If the Open Access Same-time Information System (OASIS) customer comment section does not allow enough space for a network customer to provide its attestation, the Commission directed transmission providers to modify, in coordination with North American Energy Standards Board (NAESB), OASIS functionality to accommodate the full attestation.²⁴ In the interim, the Commission directed transmission providers to inform customers of alternate means, such as by telefax or e-mail, for a network customer to provide the attestation.²⁵

1. Entergy’s and Independent Coordinator’s Filings

35. In Docket No. OA08-92-000, Entergy filed a motion for limited waiver until June 1, 2008 of the Order No. 890-A attestation compliance requirement. It states that its current OASIS cannot fit the number of characters required for the exact-language standard under Order No. 890-A. Accordingly, Entergy states that the purpose of its motion is to notify the Commission of its ongoing Order No. 890 compliance efforts and to request, to the extent necessary, a limited waiver of those requirements to permit implementation of interim procedures.²⁶

²² Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 919.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Entergy Services, Inc., March 17, 2008 Motion, Docket No. OA08-92-000, at 3-4. Entergy stated that in the interim period before a new OASIS template could be implemented, the Independent Coordinator required that network customers submit the full attestation via e-mail and submit a statement in the customer comment field on OASIS confirming that the required exact attestation language was sent via e-mail.

36. On May 30, 2008, Entergy filed a second motion in Docket No. OA08-92-000 seeking an extension of the previously-submitted limited waiver from customer-attestation requirements for designated network resources. To allow for additional testing and Independent Coordinator review, Entergy requests that the limited waiver be extended from June 1, 2008 until June 13, 2008.

37. In Docket No. OA08-75-000, Entergy filed proposed revisions to Attachment E (Transmission Service Request Criteria) to reflect the implementation of the interim business practice, described above, by removing a “Form for Designation of Network Resources” that was originally included in the Attachment E submitted with Entergy’s Order No. 890 Compliance Filing. Entergy explains that the form included attestation language that would be superseded by Entergy’s and the Independent Coordinator’s proposed interim business practice. Entergy states that Attachment E has also been revised to indicate that the process described in the motion for limited waiver in Docket No. OA08-92-000 will be posted as a business practice on Entergy’s OASIS.

38. On September 30, 2008, Independent Coordinator filed in Docket No. ER05-1065-000, its third quarterly performance report for 2008. As part of the report, Independent Coordinator reviewed the implementation of Order No. 890 and 890-A requirements, and stated that, effective July 13, 2008, the Entergy OASIS was updated to include a designated network resources attestation template to comply with the attestation requirements per Order No. 890-A.

2. Discussion

39. We will grant Entergy’s motion for limited waiver of the attestation requirement and its motion for extension of the limited waiver in Docket No. OA08-92-000. In light of Independent Coordinator’s third quarterly performance report for 2008, which states that Entergy’s OASIS can accommodate Order No. 890-A’s attestation requirement as of July 13, 2008, we will also grant Entergy waiver of the attestation requirement up to July 13, 2008. However, we find that Entergy’s proposed amendments to Attachment E that provide for interim business practices to accommodate the attestation requirement are unnecessary.

D. Rollover Rights under OATT section 2.2 in Docket Nos. OA07-32-006, OA08-59-001, and OA08-75-000

40. In Order No. 890, the Commission adopted a five-year minimum contract term in order for a customer to be eligible for a rollover right and adopted a one-year notice period. The Commission determined that this rollover reform should be made effective at the time of acceptance by the Commission of a transmission provider’s coordinated and regional planning process. The Commission explained that rollover reform and transmission planning are closely related, because transmission service eligible for a

rollover right must be set aside for rollover customers and included in transmission planning.²⁷

41. Order No. 890-A revised section 2.2 of the *pro forma* OATT to provide that the current one-year contract commitment requirement will continue to apply to all transmission service requests that were in a transmission provider's transmission queue as of the effective date of the reforms adopted in Order No. 890 (i.e., July 13, 2007).²⁸ The Commission also stated that it is only after a transmission provider's Attachment K planning process is accepted by the Commission that the transmission provider should file the rollover reform language, and the effective date of that language should be commensurate with the date of the filing.²⁹

1. Entergy's Filing and Request for Clarification

42. In Docket No. OA08-75-000, Entergy filed changes to OATT section 2.2 (Reservation Priority For Existing Firm Service Customers), as directed by Order No. 890-A, and requested a July 13, 2007 effective date for its entire Order No. 890-A compliance filing. In Docket Nos. OA07-32-006 and OA08-59-001, Entergy filed a request for clarification of the Order on Order No. 890 Compliance³⁰ and Order on OATT Attachment K,³¹ arguing that the effective date of OATT section 2.2 should be October 18, 2008, which is 30 days after the date that the Commission accepted Entergy's transmission planning process in Attachment K to its OATT. It states that such clarification will provide prior notice to transmission customers of when the rollover provisions of OATT section 2.2 are effective and eliminate any confusion about how to treat transmission requests either previously granted or pending in the request queue.

2. Comments and Answer

43. In Docket No. OA08-75-000, both MDEA and L-M Municipals argue that Entergy should not have included revised OATT section 2.2 in the Order 890-A compliance filing because Attachment K (Docket No. OA08-59-000) had not yet been accepted by the Commission. Entergy responds that, if ordered by the Commission in either the Order

²⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1231, 1265.

²⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at 692.

²⁹ *Id.* P 684.

³⁰ Order on Order No. 890 Compliance, 124 FERC ¶ 61,148.

³¹ *Entergy Services, Inc.*, 124 FERC ¶ 61,268 (2008) (Order on OATT Attachment K).

No. 890 or 890-A compliance-filing proceedings, Entergy would reinsert the old section 2.2 included in Entergy's Order No. 888³² OATT, to be revised upon the Commission's acceptance of Entergy's proposed Attachment K.³³

3. Commission Determination

44. The Commission accepted Entergy's amended OATT section 2.2 in OA07-32-000 on August 6, 2008 when it accepted Entergy's compliance filing, as modified, as in compliance with Order No. 890.³⁴ The Commission then accepted Entergy's Attachment K to its OATT on September 18, 2008.³⁵ Accordingly, as to Entergy's section 2.2, we grant the October 18, 2008 effective date, as requested by Entergy, and direct Entergy to file the corresponding tariff sheets that reflect the revised effective date, within 30 days of the date of this order.

The Commission orders:

(A) Entergy's compliance filing in Docket No. OA08-75-000 is hereby accepted, effective March 17, 2008, as discussed in the body of this order.

(B) Entergy's request for clarification in Docket Nos. OA07-32-006 and OA08-59-001 on the effective date of OATT section 2.2 is hereby granted.

(C) Entergy is hereby directed, with respect to section 2.2 of its OATT and certain corrections to its tariff sheets, to submit a further compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

³² *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

³³ Entergy Answer at 12-13.

³⁴ Order on Order No. 890 Compliance, 124 FERC ¶ 61,148.

³⁵ Order on OATT Attachment K, 124 FERC ¶ 61,268.

(D) Entergy's motion for limited waiver and motion for extension of limited waiver in Docket No. OA08-92-000 are hereby granted and waiver is granted through July 13, 2008.

(E) Entergy's proposed revisions to Attachment E are hereby rejected.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.