

130 FERC ¶ 61,264
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Entergy Services, Inc.

Docket No. OA08-59-007

ORDER ACCEPTING COMPLIANCE FILING, AS MODIFIED,
SUBJECT TO CONDITIONS

(Issued March 31, 2010)

1. On August 17, 2009, Entergy Services, Inc. (Entergy) submitted a revised Attachment K (Transmission Planning Process) to its Open Access Transmission Tariff (OATT), as required by the Commission in its June 18 Order.¹ In this order, we will accept Entergy's filing, as modified, subject to a further compliance filing.

I. Background

2. In Order No. 890,² 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. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their OATT (Attachment K).

¹ *Entergy Services, Inc.*, 127 FERC ¶ 61,272 (2009) (June 18 Order).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

3. The Commission in Order No. 890 directed each transmission provider to address in its Attachment K planning process the following nine planning principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;³ (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 of and to build on transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that, 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 emphasized that tariff rules, as supplemented with web-posted business practices when appropriate,⁴ must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

4. On December 7, 2007, Entergy submitted a new Attachment K to its OATT in compliance with Order No. 890's transmission planning requirements.⁵ On September 18, 2008, in the Entergy Planning Order,⁶ the Commission accepted the compliance filing, as modified, to be effective December 7, 2007. The Commission found that Entergy had complied with the Order No. 890 requirements related to information exchange, dispute resolution, and recovery of planning costs. However, the Commission directed Entergy to file, in a compliance filing due within 90 days of the date of the order, revisions to Entergy's Attachment K to address requirements related to the principles of coordination, openness, transparency, comparability, regional participation, economic planning studies, and cost allocation.

5. On December 17, 2008, Entergy submitted a revised Attachment K to its OATT, as required by the Commission in the Entergy Planning Order. On February 6, 2009,

³ In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

⁵ Entergy's Attachment K outlines the process that Entergy and its Independent Coordinator of Transmission (ICT) will use to develop Entergy's transmission plans. Southwest Power Pool, Inc. (SPP) acts as Entergy's ICT.

⁶ *Entergy Services, Inc.*, 124 FERC ¶ 61,268 (2008) (Entergy Planning Order).

Entergy submitted an additional compliance filing to address the Commission's requirements in the Entergy Planning Order related to regional participation. In the June 18 Order, the Commission accepted Entergy's compliance filings, as modified. The Commission found that Entergy had complied with the Order No. 890 requirements related to openness and cost allocation. However, the Commission directed Entergy to file, in a compliance filing due within 60 days of the date of the order, revisions to Entergy's Attachment K to address requirements related to the principles of coordination, transparency, comparability, regional participation, and economic planning studies. On August 17, 2009, Entergy submitted a new Attachment K to its OATT in compliance with Order No. 890's transmission planning requirements. This third compliance filing is the subject of the instant proceeding.

6. Entergy's transmission planning process consists of two plans. The first is the Base Plan, which is used for cost allocation on the Entergy system and is developed by the ICT. The second is the Construction Plan, which is a list of projects that will actually be built, and is developed by Entergy. Both plans receive input from the stakeholder working group⁷ and, as regional and inter-regional opportunities are identified, they will be included in the respective plans.

II. Notice of Filings and Responsive Pleadings

7. Notice of Entergy's filing in Docket No. OA08-59-007 was published in the *Federal Register*, 74 FR 42887 (2009), with interventions and protests due on or before September 8, 2009. Lafayette Utilities System, Louisiana Energy and Power Authority, Municipal Energy Agency of Mississippi, and Mississippi Delta Energy Agency and its members, the Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi and the Public Service Commission of Yazoo City, Mississippi, (collectively, L-M Municipals), which are already parties to this proceeding, filed a protest. Entergy and the Southeast Inter-Regional Participation Process Sponsors (SIRPP Sponsors)⁸ each filed answers to the protest.

⁷ The stakeholder working group is also known as Long-Term Transmission Issues Working Group.

⁸ The SIRPP Sponsors include Carolina Power & Light Company (Carolina Power & Light); Duke Energy Carolinas, LLC (Duke Energy Carolinas); E.ON U.S. LLC, as agent for and on behalf of Louisville Gas and Electric Company and Kentucky Utilities Company (E.ON U.S.); Georgia Transmission Corporation; South Carolina Electric & Gas Company (SCE&G); and Southern Company Services, Inc., on behalf of itself and Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies).

III. Discussion

A. Procedural Matters

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's and SIRPP Sponsors' answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

9. Although the Commission will accept Entergy's compliance filing, subject to a further compliance filing to address certain discrete issues, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission in September 2009 convened three regional technical conferences to determine if further refinements to transmission planning processes are necessary. The Commission has also received comments in response to the October 8, 2009 notice that it issued in Docket No. AD09-8-000, which sought additional input on questions relating to enhancing regional transmission planning processes and allocating the cost of transmission.

1. Coordination

10. In the June 18 Order, the Commission found that Entergy complied with the requirements of the Entergy Planning Order with respect to Order No. 890's coordination principle, with one modification. The Commission found that Entergy should not have deleted section 9.1.2.2, which provided that the ICT would hold a meeting with stakeholders to address comments made in accordance with section 9.1, and directed Entergy to restore the provision.

11. Entergy has restored the provision in section 9.1.1.5, which provides, "The ICT shall hold a stakeholder meeting to address the comments submitted by stakeholders in accordance with this Section 9.1." Accordingly, we find that, as revised, Entergy's Attachment K satisfies Order No. 890's coordination principle.

2. Transparency

12. In the June 18 Order, the Commission found that Entergy had partially complied with the transparency requirement in the Entergy Planning Order. The Commission stated that Entergy's proposal that information posted on Entergy's Open Access

Same-Time Information System (OASIS) will be provided in sufficient detail to “facilitate interested parties ability to replicate” the transmission plan was unnecessarily vague. The Commission directed Entergy to revise the language in sections 3.2.2, 10.1.1, 10.3.1, 10.4.1, 10.5.1, and 10.6 of Attachment K to state that information posted on Entergy’s OASIS will be provided in sufficient detail to “enable interested parties to replicate” transmission plans.

13. Entergy made the revisions as directed to the relevant sections of its Attachment K. Accordingly, we find that, as revised, Entergy’s Attachment K satisfies Order No. 890’s transparency principle.

3. Comparability

14. In the June 18 Order, the Commission found that Entergy generally complied with the directives in the Entergy Planning Order related to the comparability principle as outlined in Order No. 890-A. However, the Commission directed Entergy to amend section 9.1.6 to read, “[s]ponsors of transmission solutions, generation solutions, and solutions utilizing demand resources will be provided equal opportunities to participate throughout the transmission planning process that are equivalent to the opportunities provided to other stakeholders and interested parties.”⁹ In addition, the Commission accepted Entergy’s proposal to delete sections 13.2.7.3.1 through 13.2.7.3.4, which the Commission found unnecessarily limited an entity’s ability to participate in the SIRPP.¹⁰

15. Entergy made the revisions as directed in section 9.1.6 and deleted sections 13.2.7.3.1 through 13.2.7.3.4. Accordingly, we find that, as revised, Entergy’s Attachment K satisfies Order No. 890’s comparability principle.

⁹ June 18 Order, 127 FERC ¶ 61,272 at P 53.

¹⁰ For inter-regional planning, Entergy participated in development of the SIRPP, with Alabama Electric Cooperative, Duke Energy Carolinas, Dalton Utilities, E. ON U.S., Georgia Transmission Corporation, Municipal Electric Authority of Georgia, Carolina Power & Light, the South Carolina Public Service Authority (Santee Cooper), South Carolina Electric & Gas Company, South Mississippi Electric Power Association, Southern Companies, and Tennessee Valley Authority. The SIRPP establishes a means for conducting customer-requested economic studies across multiple interconnected systems. Entergy's Attachment K includes the processes agreed to for the SIRPP.

4. Regional Participation

a. June 18 Order

16. In the June 18 Order, the Commission found that, with certain modifications, Entergy complied with the regional participation principle as detailed in Order No. 890.

17. In the June 18 Order, the Commission interpreted Entergy's Attachment K as including reliability studies in the Regional Studies that Entergy performs with SPP.¹¹ However, to allay intervenor concerns over how reliability studies would be treated in the Regional Study process, the Commission directed Entergy to explicitly include reliability studies in its definition of Regional Study.¹²

18. In addition, the Commission directed Entergy to remove any limitations as to which parties may request a Regional Study under section 13.1.5.3, so that any interested party may request a Regional Study.¹³ The Commission also accepted Entergy's proposal to revise its language in section 13.1.3.1.2 to state, "Data will include (a) all relevant modeling information, including ten (10) year load forecasts and (b) all critical assumptions that are used in the development of the applicable party's models."¹⁴ Further, the Commission directed Entergy to revise section 13.1.3.1.6 to provide that N-2 contingencies will be shared in the same way as N-1 contingencies.¹⁵

19. The Commission also directed Entergy to add language to its Attachment K to reflect that Entergy will work with the stakeholder group to revise the Construction Plan if it is found to not be simultaneously feasible with the Approved Expansion Plan of the other Regional Planning Parties.¹⁶

¹¹ Entergy coordinates regional planning with SPP pursuant to the Agreement between Southwest Power Pool, Inc., and Entergy Services, Inc. to Implement Principles Governing Regional Planning in Accordance with the Regional Planning Requirements of the Federal Energy Regulatory Commission (SPP-Entergy Agreement), the terms of which Entergy incorporated in section 13.1 of its Attachment K. *See* June 18 Order, 127 FERC ¶ 61,272 at P 64.

¹² June 18 Order, 127 FERC ¶ 61,272 at P 76.

¹³ *Id.* P 89.

¹⁴ *Id.* P 96.

¹⁵ *Id.* P 99.

¹⁶ *Id.* P 104. As discussed further below, the Commission also required Entergy to define "Regional Planning Parties."

20. Finally, the Commission directed Entergy to make some additional miscellaneous edits, to clarify “Approved Expansion Plan,” “Regional Stakeholder Meeting,” and “Regional Planning Party;” add Facilities Studies to the list contained in section 13.1.3.1.4, which only included system impact and generator interconnection studies; require that any files posted for its local planning should be posted for its regional planning as well; and clarify the meaning of “relevant interfaces” in section 13.1.3.1.8.¹⁷

b. Entergy’s Compliance Filing

21. In its compliance filing, Entergy amends section 13.1.3.1.2, as permitted, to state, “Data will include: (a) all relevant modeling information, including ten (10) year load forecasts; and (b) all critical assumptions that are used in the development of the applicable party’s models.” Entergy also incorporates the new defined term “Approved Expansion Plan,” discussed below, throughout section 13.

22. Regarding the Commission’s concern that Entergy should clarify the process that Entergy will use to revise the Construction Plan if it is not simultaneously feasible with the Approved Expansion Plan of other Regional Planning Parties, Entergy modified section 13.1.4.3 to provide that “[e]ach Regional Planning Party will work with its applicable stakeholder working group or groups to attempt to identify solutions that will ensure that the Regional Planning Parties’ plans are simultaneously feasible.”

23. Entergy also proposes definitions for specific terms as directed by the Commission. Section 2.1 defines an Approved Expansion Plan as: “(a) in the case of Entergy, the Construction Plan; and (b) in the case of another Regional Planning Party, the plan that includes the transmission projects that party has committed to construct.” Section 2.15 defines the Regional Planning Parties as Entergy, SPP, and any other transmission owners that participate in the Regional Planning Process¹⁸ pursuant to coordination agreements with Entergy, consistent with the definition in the SPP-Entergy Agreement. Section 2.17 defines a Regional Stakeholder Meeting as “a joint meeting between the [Long-Term Transmission Issues Working Group] and the [Transmission Working Group].” Entergy also amends a number of sections to refer to the defined terms.

24. Regarding the Regional Planning Process, Entergy made several additional changes. Entergy amends section 2.18 to include reliability studies in the definition of Regional Study and revises section 13.1.5.3 so that any interested party may request a Regional Study. In addition, Entergy amends section 13.1.3.1.6 to provide that lists of all

¹⁷ *Id.* P 119-120.

¹⁸ Regional Planning Process is defined by section 2.16 as “the planning process conducted in accordance with Section 13.1 of this Attachment K.”

N-1 and N-2 contingency events analyzed in load flow and stability analyses will be included among the data shared by the Regional Planning Parties. Also, Entergy revises section 13.1.3.1.4 to refer to the specific studies being addressed, including Facilities Studies. Entergy revises section 13.1.3.1.7 so that any files posted for its local planning will also be posted for its regional planning; the section now states, “[t]he Regional Planning Parties shall post the same information for regional planning purposes including modeling response (IDEV) files, posted with regard to the development of their Approved Expansion Plans.” Finally, Entergy clarifies the term “relevant interfaces” in section 13.1.3.1.8, which it now states means “[i]nformation regarding long-term firm transmission services on all modeled interfaces that are necessary to reflect system limits or conditions.”

c. Protest

25. The L-M Municipals protest portions of Entergy’s compliance filing related to regional participation. Specifically, L-M Municipals disagree with Entergy’s revised definition of “Approved Expansion Plan” because it would not include plans by SPP. L-M Municipals propose a revised definition of “Approved Expansion Plan” that includes, “in the case of another Regional Planning Party, the plan that includes the transmission projects that party has committed either to construct or to cause to be constructed.”

26. The L-M Municipals also propose a change to the definition of “Regional Stakeholder Meeting,” which they say would need to be amended each time an entity other than Entergy and SPP becomes a Regional Planning Party. The L-M Municipals note that other entities can become Regional Planning Parties by execution of a coordination agreement with Entergy, and that including them in the Regional Stakeholder Meeting would require a tariff change. The L-M Municipals recommend amending the language of section 2.17 as follows: “Regional Stakeholder Meeting is a joint meeting between or among any two or more of the following: the [Long Term Transmission Issues Working Group], the [Transmission Working Group], and the stakeholder committee having responsibility for transmission expansion issues of any other entity that becomes a Regional Planning Party.”

27. Finally, the L-M Municipals note that Entergy did not amend section 13.1.1.1 to add itself to the list of parties that would coordinate in the sharing of plans, as it said it would do in an earlier filing.¹⁹ In addition, the L-M Municipals express concern that Entergy replaced the phrase “system plans” with “Approved Expansion Plan” in section 13.1.1.1, which would make it more difficult to discuss plans and remedy problems of

¹⁹ L-M Municipals Protest at 10 (*citing* June 18 Order, 127 FERC ¶ 61,272 at P 117).

infeasibility and inconsistent assumptions before the plans are finalized. The L-M Municipals recommend that, in section 13.1.1.1, Entergy be required to remove the term “Approved Expansion Plan” and instead insert a reference to each party’s preliminary or non-final transmission expansion plan.

d. Responses

28. Entergy responds that it agrees that the proposed revised definitions of “Approved Expansion Plan” and “Regional Stakeholder Meeting” by the L-M Municipals clarify the Attachment K, and agrees to amend Attachment K accordingly.

29. Regarding section 13.1.1.1, Entergy responds that its revision to the definition to “Regional Planning Parties,” should satisfy the concern by the L-M Municipals that Entergy is not listed in section 13.1.1.1 as a party that will coordinate in the sharing of plans, and that this change is consistent with the SPP-Entergy Agreement. Further, Entergy contends that nothing in section 13.1.1.1 will prevent parties from sharing drafts to address simultaneous feasibility, and that its change to “Approved Expansion Plan” is in compliance with the June 18 Order.

e. Commission Determination

30. We find that Entergy partially complies with the regional participation requirements outlined in the June 18 Order. Except as noted below, we find that the revisions proposed by Entergy comply with the June 18 Order.

31. The L-M Municipals raise several issues, some of which Entergy has stated that it will remedy in a subsequent compliance filing. We accept Entergy’s agreement to L-M Municipals’ proposal to revise the definition of “Approved Expansion Plan” to include “in the case of another Regional Planning Party, the plan that includes the transmission projects that party has committed either to construct or to cause to be constructed.” We further accept Entergy’s agreement to L-M Municipals’ proposal to amend the language of section 2.17 as follows: “Regional Stakeholder Meeting is a joint meeting between or among any two or more of the following: the [Long Term Transmission Issues Working Group], ~~and~~ the [Transmission Working Group], and the stakeholder committee having responsibility for transmission expansion issues of any other entity that becomes a Regional Planning Party.” We will direct Entergy in a compliance filing to be filed within 60 days of the date of this order to amend its Attachment K accordingly.

32. However, we are not persuaded by the L-M Municipals’ request for additional specificity regarding references to transmission expansion plans. We find that Entergy’s proposal to use “Approved Expansion Plan” in section 13.1.1.1 is appropriate and in compliance with the June 18 Order. We find that there is no ambiguity regarding the

referenced transmission expansion plan, and we fail to find that the reference will affect the level of participation in the development of the relevant transmission expansion plan.

33. With respect to the other issues with section 13.1.1.1 raised by L-M Municipals, we find that Entergy has not fully complied with June 18 Order. L-M Municipals are concerned that Entergy did not list themselves as a member of the “Regional Planning Parties” in section 13.1.1.1. While Entergy does list itself in section 2.5, we note that Entergy made a commitment to add itself to the list of parties in section 13.1.1.1 that participate in regional planning, and we accepted this commitment in the June 18 Order.²⁰ Therefore, we will direct Entergy to follow through with this commitment, and add itself to the list of parties in section 13.1.1.1, in a compliance filing to be filed within 60 days of the date of this order.

5. Economic Planning Studies

a. June 18 Order

34. In the June 18 Order, the Commission found that Entergy had partially complied with the requirements of the Entergy Planning Order concerning economic planning studies and directed Entergy to make certain revisions. Specifically, the Commission directed Entergy to revise section 14.5.2 to include the process the ICT will use for batching requests for economic studies.²¹ Further, the Commission directed Entergy to clarify section 14.5.3.2 so that the criteria used by the ICT to perform Entergy’s economic studies will be the same as the criteria used to perform customer-requested studies.²² The Commission also found the term “Eligible Customer” in section 14.5 to be unduly restrictive and directed Entergy to revise it to allow existing and potential customers to request economic planning studies.²³

35. The Commission accepted Entergy’s proposed revisions to section 13.2.3.4 to provide that the SIRPP Stakeholder Group should consider clustering similar Inter-Regional Study requests for economic studies and to provide that transmission owners may cluster similar study requests after consultation with the SIRPP Stakeholder Group.²⁴

²⁰ June 18 Order, 127 FERC ¶ 61,272 at P 117.

²¹ *Id.* P 140.

²² *Id.* P 141.

²³ *Id.* P 142.

²⁴ *Id.* P 145.

36. The Commission found that section 13.2.8.3.2.2, regarding disclosure of certain resource-specific data related to the SIRPP, unreasonably restricted access to data that stakeholders may need for participation in or evaluation of studies produced by the SIRPP. The Commission, therefore, directed Entergy to revise section 13.2.8.3.2.2 to require that resource-specific data in the planning process be disclosed by Participating Transmission Owners, under applicable confidentiality provisions, if the information is needed to participate in the transmission planning process and/or to replicate transmission planning studies.²⁵ In addition, the Commission directed Entergy to revise section 13.2.8.3.1 so that confidential information provided by non-public utility transmission providers is subject to the same information disclosure and confidentiality protections as public utility transmission providers and other stakeholders in SIRPP.²⁶

37. Further, the Commission found that requiring stakeholders to show that they have been authorized by the Commission to receive the Critical Energy Infrastructure Information(CEII)-protected version of Form 715 as a condition to receiving any CEII information from a Participating Transmission Owner is unjust, unreasonable, unduly discriminatory, or preferential in the context of the transmission planning process.²⁷ Accordingly, the Commission directed Entergy to modify the relevant OATT provisions to remove any Form 715 requirement.

b. Entergy's Compliance Filing

38. Regarding the Commission's directive on the process the ICT will use to batch requests for economic studies, Entergy states that it now includes that process in section 14.5.2 in Attachment K. Entergy states that this section substantively tracks the process for batching Facilities Studies under section 7 of Attachment D to Entergy's OATT.

39. Regarding the use of its screening criteria, Entergy deletes section 14.5.3.2 and adds a new section 14.5.6.3 that provides, "[t]he screening criteria used to perform customer-requested economic studies shall be the same screening criteria used in accordance with Section 14.3." Section 14.3 describes the process and criteria that the ICT will use to identify economic upgrades on Entergy's transmission system.

40. Entergy also amends the parties eligible to request economic studies to include "potential customers," in section 14.5. Further, Entergy changes the clustering of Inter-Regional Studies, as the Commission permitted in the June 18 Order.

²⁵ *Id.* P 147.

²⁶ *Id.* P 148.

²⁷ *Id.* P 149-54.

41. In addition, Entergy revises section 13.2.8.3 so that the same provision related to confidential information in the SIRPP applies to both public utility and non-public utility information. Entergy also deletes the SIRPP provisions related to resource-specific data in section 13.2.8.3.2, so that stakeholders will have access to resource-specific information if it is provided in the SIRPP and is needed to participate in the SIRPP or to replicate Inter-Regional Studies.

42. Entergy states that it is eliminating requirements related to Form 715. Instead, Entergy proposes a new section 13.1.5.9.6.3 to provide that a Regional Participant may be certified to obtain CEII data used in the Regional Planning Process by following the confidentiality procedures posted on Entergy's website. Similarly, Entergy proposes to revise section 13.2.8.2.1 to provide that SIRPP stakeholder group members may access confidentiality procedures posted on the SIRPP website. Entergy notes that it relied heavily on Form 715 in crafting its CEII data disclosure processes and that it must develop new procedures to vet entities to ensure they are eligible to receive such critical information. Because the procedures are new, Entergy assumes that they will evolve as Entergy becomes more familiar with the issues, and so proposes to post them on its OASIS rather than detailing the procedures in its OATT.

c. Protest

43. The L-M Municipals contend that Entergy's proposed process in response to the Commission's rejection of the Form 715 requirement is too vague and unspecified to allow the Commission to evaluate whether the new approach for accessing CEII information is just, reasonable, and not unduly discriminatory. Instead, they request that the Commission direct Entergy to file modified tariff provisions that incorporate within Attachment K appropriate CEII access procedures that enhance transparency and otherwise comport with Commission requirements. In addition, the L-M Municipals request that Entergy be directed to eliminate provisions that give Entergy broad discretion in processing requests for access to CEII data, particularly in section 13.1.5.9.6.4, and that similarly give broad discretion to the Inter-Regional Participating Transmission Owners in section 13.2.8.2.2.

44. The L-M Municipals argue that section 13.1.5.9.7.2 should be changed to eliminate the prohibition against disclosure of resource-specific data in that section. In support, they point to the change in section 13.2.8.3.2.2, which Entergy amended to require that resource-specific data in the planning process be disclosed by Participating Transmission Owners.

45. The L-M Municipals also request that Entergy clarify that the screening criteria for identifying potential economic upgrades are separate from the metrics used by the ICT for the cost-benefit calculations described in section 14.3.1 and 14.3.2. The L-M Municipals interpret the June 18 Order to direct Entergy to create uniformity in criteria,

regardless of whether an upgrade is proposed by Entergy or by one of the transmission customers, not to conflate the screening criteria with the cost-benefit metrics. The L-M Municipals request that Entergy be directed to modify the relevant portions of Attachment K to make clear that: (1) in the initial screen of potential transmission projects, the same criteria will be applied to Entergy-proposed projects and customer-proposed projects for the purpose of identifying projects meriting more detailed study; and (2) the more detailed analysis of projects that survive the screening review will use the same evaluative metrics for both Entergy-proposed projects and customer-proposed projects.

d. Responses

46. Entergy responds that the Commission has not required transmission providers to include the procedures for obtaining CEII in their OATTs and, because the process for providing access to CEII will likely evolve over time, it would not be efficient to detail the rules and standards for access to CEII data in Entergy's OATT. Entergy contends that it should retain the discretion to reject a request for CEII in order to balance the conflicting responsibilities of maintaining CEII security and complying with mandatory CEII disclosure requirements.

47. The SIRPP Sponsors also respond to the L-M Municipals arguments regarding the posting of procedures to access CEII information. The SIRPP Sponsors contend that the Commission has permitted others to use this method, and point out that stakeholders may pursue the SIRPP dispute resolution procedures if they feel aggrieved by any CEII access decision. In addition, the SIRPP Sponsors state that the procedures are designed to provide legitimate stakeholders with timely access to information and identify illegitimate stakeholders who could compromise the safety of the bulk power system. The SIRPP Sponsors argue that the Attachment K process has required them to develop a whole new process to identify interested parties but prevent harm to the power grid, and that, by its nature, such a process will evolve. Further, the SIRPP Sponsors argue that they should have discretion to withhold CEII because the potential downside of misuse of the data outweighs the benefits of hastening access for a legitimate stakeholder.

48. Entergy argues that the L-M Municipals' proposal to modify section 13.1.5.9.7.2 exceeds the scope of an appropriate compliance filing because L-M Municipals, and the Commission, could have addressed the issue in an earlier stage of this proceeding. Entergy contends that the attempt to attack section 13.1.5.9.7.2 for the first time at this late stage should be rejected.

49. Regarding its screening criteria, Entergy contends that the L-M Municipals misunderstand the June 18 Order. Entergy asserts that the Commission directed it to use the screening criteria to perform customer-requested economic studies as Entergy uses in performing its own analyses. Entergy argues that its Attachment K is sufficiently clear in

distinguishing between the screening criteria and metrics used to evaluate economic studies.

e. **Commission Determination**

50. We find that Entergy's revised Attachment K partially complies with the June 18 Order and the economic planning studies principle of Order No. 890. As required by the June 18 Order, Entergy has revised section 14.5, replacing the term "Eligible Customer" with "potential customer." Entergy has also appropriately revised section 14.5.2, adding new sections 14.5.2.1 and 14.5.2.2, to describe the process that the ICT will use for clustering requests for economic studies. Finally, Entergy appropriately revised section 13.2.3.4 to state that the SIRPP Stakeholder Group should consider clustering Inter-Regional Study requests and that transmission owners may cluster similar study requests after consulting with the SIRPP Stakeholder Group.

51. However, we find that Entergy has only partially complied with our requirement to clarify section 14.5.3.2 so that the criteria used by the ICT to perform Entergy's economic studies will be the same as the criteria used to perform customer-requested studies. Entergy has added section 14.5.6.3, stating that the screening criteria used to perform customer-requested economic studies will be the same screening criteria used in accordance with section 14.3. Section 14.3 provides that the ICT will identify potential economic upgrades on the Entergy system based on such screening criteria as frequent transmission loading relief events, frequently constrained flowgates, or flowgates with high-congestion costs.

52. In the June 18 Order, the Commission required Entergy to "clarify that the criteria the ICT uses to *perform* Energy's economic studies will be the same as the criteria used to perform customer-requested studies."²⁸ We believe that proposed section 14.5.6.3 provides this uniformity up to a point, by specifying that customer-requested and Entergy's economic studies²⁹ will be performed on the basis of the same criteria, set forth in section 14.3. We note, however, that we must also look to sections 14.3.1 and 14.3.2 because, while section 14.3 specifies how studies will be selected, sections 14.3.1 and 14.3.2 describe how those studies are to be performed. Section 14.3.1 states that the ICT, in conjunction with Entergy, will perform a preliminary analysis of the cost of upgrading each facility identified pursuant to section 14.3. Section 14.3.2 states that the ICT will then provide information about the potential benefits of the upgrades. This is insufficient.

²⁸ June 18 Order, 127 FERC ¶ 61,272 at P 141 (emphasis in original).

²⁹ Entergy's economic studies are initiated by the ICT. *See* Entergy's Attachment K, section 14.

53. Thus, we will require Entergy, in the compliance filing to be submitted 60 days from the date of this order, to revise section 14.5.6.3 to clearly state that the criteria used to perform customer-requested economic studies shall also include the criteria specified in sections 14.3.1 and 14.3.2. This revision should also provide the clarification sought by L-M Municipals.

54. We will reject L-M Municipals' request for revisions to section 13.1.5.9.7.2 as beyond the scope of this compliance filing. The Commission has stated repeatedly that compliance filings are to address only the specific matters ordered by the Commission. The revision sought by L-M Municipals was not required by the June 18 Order and thus will not be ordered by the Commission at this point in this proceeding.

55. We will also reject L-M Municipals' request for revisions to sections 13.1.5.9.6.4 and 13.2.8.2.2. L-M Municipals argue that these sections grant Entergy and the Inter-Regional Participating Transmission Owners broad discretion and thus the potential for abuse and controversy in processing requests for access to CEII data in both the Regional Planning and Inter-Regional Planning Processes. We do not find these provisions troubling because although the discretion enjoyed by Entergy and other transmission owners may be broad, it is not unlimited. Entergy and the ICT, and the Inter-Regional Participating Transmission Owners will develop procedures to review requests for access to CEII data. L-M Municipals may raise their concerns through the stakeholder process as the new procedures are developed. We also note that any party that is denied access can raise objections through the dispute resolution process.

56. We further find that Entergy's revisions to section 13.2.8 concerning access to data comply with the June 18 Order. As required by the June 18 Order, Entergy has removed the Form 715 requirements and the prohibitions on disclosure of resource-specific data and confidential information supplied by a non-public utility. Entergy states that the same provisions related to confidential information in the SIRPP process will apply to public utility and non-public utility information and that stakeholders will have access to resource-specific information if it is provided in the SIRPP and is needed for stakeholders to participate in the SIRPP or to replicate Inter-Regional Studies.³⁰

57. We also will accept Entergy's revision of sections 13.1.5.9.6.3 and 13.2.8.2.1, providing that stakeholders may be certified to obtain CEII data by following confidentiality procedures posted on the Entergy and SIRPP websites, respectively. We are persuaded by Entergy's and SIRPP Sponsors' explanations that our deletion of the Form 715 requirements for access to such data necessitates the development of new processes for access to CEII, and that flexibility will be needed as those processes are developed. We are not persuaded that a section 205 filing incorporating the

³⁰ Transmittal Letter at 6-7.

confidentiality provisions into the tariff is necessary at this time, while the procedures are being developed. To require such a filing now, as L-M Municipals suggest, would be premature and perhaps unnecessarily complicate the development process.

The Commission orders:

(A) Entergy is hereby directed to submit a compliance filing, within 60 days of the date of this order, as discussed in the body of this order.

(B) Entergy's compliance filing is hereby accepted, as modified in accordance with Ordering Paragraph (A), as discussed in the body of this order.

By the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.