

132 FERC ¶ 61,119
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket No. OA08-42-003

American Transmission Company, LLC

Docket No. OA08-42-004

ORDER ACCEPTING COMPLIANCE FILING AND DISMISSING REHEARING
REQUEST AS MOOT

(Issued August 11, 2010)

1. On April 23, 2010, American Transmission Company, LLC (American Transmission Company) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO)¹ submitted revisions to Attachment FF-ATCLLC² of the Midwest ISO Open Access Transmission and Energy Markets Tariff (TEMT or Third Revised Volume) and its Open Access Transmission, Energy and Operating Reserve Markets Tariff (ASM

¹ American Transmission Company is a transmission-owning member of Midwest ISO, and Midwest ISO provides for service over American Transmission Company facilities under the Midwest ISO Tariff. As administrator of the Midwest ISO Tariff, Midwest ISO joined American Transmission Company in this compliance filing to amend the Midwest ISO Tariff; however, in this order, we refer to the proposed revisions to Attachment FF-ATCLLC of the Midwest ISO Tariff as American Transmission Company's proposals.

² American Transmission Company incorporated its planning provisions into existing Attachment FF-ATCLLC of Midwest ISO's Tariff. However, the transmission planning process required by Order No. 890 is sometimes referred to generically as the "Attachment K process."

Tariff or Fourth Revised Volume),³ in Docket No. OA08-42-004, in compliance with the Commission's directives in the March 24 Planning Order.⁴

2. On April 23, 2010, in Docket No. OA08-42-003, American Transmission Company, LLC filed a request for rehearing of the Commission's March 24 Planning Order. American Transmission states that it is filing a request for rehearing and/or clarification of the March 24 Planning Order in the event the Commission finds that the compliance filing that American Transmission Company submitted in Docket No. OA08-42-004 does not meet the requirements of the March 24 Planning Order.

3. In this order, we will accept American Transmission Company's compliance filing in Docket No. OA08-42-004 to become effective December 7, 2007, for the Third Revised Volume tariff sheets, and January 6, 2009, for the Fourth Revised Volume tariff sheets, as requested. We will also dismiss as moot American Transmission Company's request for rehearing.

I. Background

4. In Order No. 890,⁵ the Commission reformed the *pro forma* open access transmission tariff (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).

³ With Commission acceptance of Midwest ISO's proposals for an Ancillary Services Market, effective January 6, 2009, the Midwest ISO TEMT became the ASM Tariff. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,321 (2008). Throughout this order, however, we generically refer to both the TEMT and ASM Tariff as the "Midwest ISO Tariff" or "Tariff."

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 130 FERC ¶ 61,232 (2010) (March 24 Planning Order).

⁵ *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).

5. The nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;⁶ (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. 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 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,⁷ must be specific and clear in order to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

6. On December 7, 2007, American Transmission Company made its filing in Docket No. OA08-42-000 in compliance with Order No. 890's planning requirements.⁸ In the American Transmission Company May 2008 Planning Order,⁹ the Commission accepted that compliance filing, as modified, to be effective December 7, 2007. On August 13, 2008, American Transmission Company made its filing in Docket No. OA08-42-001 in compliance with the American Transmission Company May 2008 Planning

⁶ 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.

⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

⁸ In Docket No. OA08-53-000, the Commission accepted Midwest ISO's proposal to integrate the majority of its transmission owners' local planning functions into Midwest ISO's Attachment FF regional planning process, in place of each transmission owner filing a separate planning process attachment. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164 at P 124, n.113 (Midwest ISO May 2008 Planning Order). However, American Transmission Company engages in local planning through a separate American Transmission Company-specific local planning process provided in Attachment FF-ATCLLC to the Midwest ISO Tariff.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,165 (2008) (American Transmission Company May 2008 Planning Order).

Order. In the May 2009 Planning Order,¹⁰ the Commission accepted that compliance filing, as modified. The Commission also directed American Transmission Company to file, in a compliance filing to be submitted within 60 days of the date of the order, revisions to Attachment FF-ATCLLC addressing the comparability transmission planning principle.

7. On July 20, 2009, American Transmission Company submitted its compliance filing pursuant to the May 2009 Planning Order. In the March 24 Planning Order, the Commission accepted that compliance filing, as modified. The Commission also directed American Transmission Company to file, in a compliance filing to be submitted within 60 days of the date of the order, revisions to Attachment FF-ATCLLC addressing certain comparability concerns in the context of economic planning.

8. On April 23, 2010, in Docket No. OA08-42-004, American Transmission Company submitted its compliance filing pursuant to the March 24 Planning Order. Also on April 23, 2010, in Docket No. OA08-42-003, American Transmission Company sought rehearing of the March 24 Planning Order.

II. Compliance Filing (Docket No. OA08-42-004)

A. Notice of Filing and Responsive Pleadings

9. Notice of American Transmission Company's compliance filing was published in the *Federal Register*, 75 Fed. Reg. 23,751 (2010), with interventions and protests due on or before May 14, 2010. None was filed.

B. March 24 Planning Order

10. In the March 24 Planning Order, the Commission found that American Transmission Company's proposed language clarified that American Transmission Company will evaluate transmission facilities to be included in its Ten Year Assessment by comparing the reasonably estimated costs of construction alternatives to their ability to meet anticipated stakeholder needs. However, the Commission stated that American Transmission Company had not complied with the requirement to clarify how it will evaluate *all* competing solutions, whether transmission, generation or demand resources, against each other. Therefore, the Commission directed American Transmission Company to revise section VI.D.6, Network Assessment Study Results, of Attachment

¹⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,169 (2009) (May 2009 Planning Order). The Commission addressed the filings made in compliance with both the Midwest ISO May 2008 Planning Order and the American Transmission Company May 2008 Planning Order together in the May 2009 Planning Order.

FF-ATCLLC to clearly state how American Transmission Company will evaluate all competing solutions (not just transmission facilities) against each other.¹¹

11. The Commission also raised a concern about section VI.F.1, Economic Evaluations, which states that American Transmission Company will evaluate whether an alternative that a party proposes for study “can provide economic benefits to such [requesting] party without detriment to [American Transmission Company’s] interconnected parties.” The Commission found that this language appeared to inappropriately limit the economic evaluation American Transmission Company will perform to a comparison of a proposed project’s economic benefits for only the party that proposed the study to the benefits (or detriment) for all interconnected parties, instead of an overall economic evaluation of the proposed project. The Commission therefore directed American Transmission Company to revise section VI.F.1 to remove the limitation on which economic benefits American Transmission Company will evaluate.¹²

12. In addition, the Commission raised a concern about the language in section VI.F.1, which states that the economic evaluation will consider the cost of constructing the proposed transmission facilities to integrate any resource, whether transmission, generation or demand resources. The Commission stated that this language did not comply with the requirement in the May 2009 Planning Order that stakeholders must be able to request that American Transmission Company study any potential upgrades or other investments necessary to integrate any resource, whether in transmission, generation or demand resources, identified by the stakeholder. Accordingly, the Commission directed American Transmission Company to revise section VI.F.1 to state that the economic planning studies can include potential upgrades or other investments (not just transmission facilities) necessary to integrate any resource, whether transmission, generation or demand resources, identified by the stakeholder.¹³

13. Finally, the Commission found that the proposed language in section VI.F.2, Request for Economic Evaluations, partially complies with the Commission’s directives in the May 2009 Planning Order because it allows any stakeholder to request that American Transmission Company perform an economic planning study. However, the Commission found that this section did not state that the “Economic Project” for which a stakeholder may request a study includes potential upgrades or other investments

¹¹ March 24 Planning Order, 130 FERC ¶ 61,232 at P 40.

¹² *Id.* P 41.

¹³ *Id.*

necessary to integrate any resource, whether transmission, generation or demand resources.¹⁴

C. Compliance Filing

14. American Transmission Company states that it is proposing language changes to Attachment FF-ATCLLC that it believes comply with March 24 Planning Order and fully reflect the requirements of Order No. 890. American Transmission Company requests that the proposed revisions become effective December 7, 2007, for the Third Revised Volume tariff sheets, and January 6, 2009, for the Fourth Revised Volume tariff sheets.

15. American Transmission Company proposes language in section VI.D.6. (Network Assessment Study Results) to clarify that American Transmission Company will, when preparing its Ten Year Assessment, determine the Transmission Facilities that it proposes to construct by comparing the reasonably estimated costs of its proposed transmission facilities with other transmission, generation or demand response resources proposed by others provided that the estimated costs of such transmission, generation or demand response resources are provided by the proposing party. Specifically, American Transmission Company proposes to revise section VI.D.6 as follows:

6. Network Assessment Study Results. . . . In determining the Transmission Facilities to be included in the [Ten Year Assessment], ATCLLC shall include those Transmission Facilities that provide the most benefit to meet the needs of its Distribution Customers, Transmission Customers and all other parties whether interconnected to ATCLLC's Transmission Facilities or not, taking into account the effect of any demand response resource on overall network requirements. ATCLLC will determine the Transmission Facilities to be included in the [Ten Year Assessment] based upon a comparison of the reasonably estimated costs of construction of the Transmission Facilities and the reasonably estimated costs of any other transmission, generation or demand response resources proposed by others (provided the estimated costs are provided by the party proposing such other transmission, generation or demand response resource) ~~of the various alternatives compared to~~ based upon the ability of such alternatives to meet the anticipated needs of its Distribution Customers, Transmission Customers, and all other parties whether interconnected to ATCLLC's

¹⁴ *Id.* P 42.

Transmission Facilities or not. The Transmission Facilities construction projects shall be identified as provisional, proposed, and planned, as defined in the [Ten Year Assessment] and this Attachment FF-ATCLLC.^[15]

16. American Transmission Company states that it is prohibited by Wisconsin State Law from owning its own generation.¹⁶ American Transmission Company argues, therefore, that in order to study projects proposed by other parties, it must rely on information supplied by the parties proposing those projects.

17. American Transmission Company proposes revisions to section VI.F.1, to remove the limitation on which benefits American Transmission Company will evaluate and to clarify that American Transmission Company will make an assessment of other investments, including transmission, generation or demand response resources identified by any other party. Specifically, American Transmission Company proposes to revise section VI.F.1 as follows:

1. Economic Evaluations. ATCLLC, at the request of one or more parties, irrespective of whether they are a Distribution Customer, Transmission Customer or interconnected in any manner to ATCLLC's Transmission Facilities, or upon its own determination, may make an assessment of its Transmission Facilities to determine whether the construction, modification, addition or extension of ATCLLC's Transmission Facilities or other potential transmission, generation or demand resources identified by any other party can provide economic benefits ~~to such party without detriment to its interconnected parties~~ when compared to the cost of constructing the proposed Transmission Facilities or other transmission, generation or

¹⁵ See American Transmission Company Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3561.

¹⁶ American Transmission Company Transmittal at 4 (citing Wis. Stats. §196.485(3m)(a)(2)(c), stating that American Transmission may not “own electric generation facilities or sell, market or broker electric capacity or energy in a relevant wholesale or retail market as determined by the commission, except that, if authorized or required by the federal energy regulatory commission [sic], the transmission company may procure or resell ancillary services obtained from 3rd parties, engage in redispatch activities that are necessary to relieve transmission constraints or operate a control area.”).

demand resources (provided the estimated costs are provided by the party proposing such other transmission, generation or demand response resource).~~to integrate any resource, whether transmission, generation or demand resources.~~^[17]

18. American Transmission Company states that, to the extent that a non-transmission project is identified as providing economic benefits, it will be the decision of the party proposing the project or some other party as to whether to implement that project or not.

19. American Transmission Company also explains that, as a transmission-only company, its Ten Year Assessment includes only transmission projects that have been identified through American Transmission Company's open and transparent planning process, in order to meet the needs of American Transmission Company's interconnected customers and other stakeholders. American Transmission Company notes that its sole statutory purpose is to plan, construct, operate, maintain and expand transmission facilities that it owns to provide for a reliable transmission system. Therefore, according to American Transmission Company, it cannot include generation or demand response resources in its Ten Year Assessment because American Transmission Company is statutorily prohibited from owning generation or participating in the market. Nevertheless, American Transmission Company's Ten Year Assessment represents the transmission facilities required to meet the needs of its interconnected customers after taking into account the generation and demand response resources provided by others. As a result, American Transmission Company's Ten Year Assessment is a full reflection of "comparability" because the transmission facilities that American Transmission Company proposes to construct in its Ten Year Assessment are those that result after generation and load requirements are taken into account not as an alternative to or in lieu of the generation or demand response resources.

D. Discussion

20. We find that American Transmission Company's proposed revisions to Attachment FF-ATCLLC comply with the requirements of the March 24 Planning Order. Section VI.D.6. now makes clear that American Transmission Company will take into account other investments, including transmission, generation or demand resources identified by any other party when preparing its Ten Year Assessment. Specifically, American Transmission Company proposes language in section VI.D.6. to clarify that American Transmission Company will, when preparing its Ten Year Assessment, determine the Transmission Facilities that it proposes to construct by comparing the reasonably estimated costs of its proposed transmission facilities with other transmission,

¹⁷ See American Transmission Company Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, First Revised Sheet No. 3577.

generation or demand response resources proposed by others provided that the estimated costs of such transmission, generation or demand response resources are provided by the proposing party. As American Transmission Company explains, the transmission facilities in American Transmission Company's Ten Year Assessment are those that result after generation and load requirements are taken into account and not as an alternative to or in lieu of the generation or demand response resources. We also find it appropriate for American Transmission Company to require stakeholders proposing alternatives to provide estimated cost information sufficient for American Transmission Company to evaluate those alternatives.

21. American Transmission Company has also revised section VI.F.1 to remove the limitation on which economic benefits American Transmission Company will consider. This section also now states that any stakeholder can request an economic planning study to determine if any potential transmission, generation, or demand resource identified can provide economic benefits when compared to the cost of constructing any proposed transmission, generation, or demand resources. We agree with American Transmission Company that because it is a transmission-only company, it would be the decision of the party proposing an economic evaluation of a non-transmission project, or some other party, as to whether or not to implement that non-transmission project. In addition, although American Transmission Company did not specifically define the term "Economic Project" in section VI.F.2, Request for Economic Evaluations, the new language in section VI.F.1 makes clear that a stakeholder can request an economic planning study for any potential transmission, generation, or demand resource.

22. We also note that because American Transmission Company is a member of Midwest ISO, the transmission planning that American Transmission Company performs at the local level is a supplement to, and not a replacement for, the Midwest ISO transmission planning process. American Transmission Company's local transmission plans (or plans of other transmission owners that have a separate local transmission planning process) will be vetted through the Midwest ISO transmission planning process before they are included in the Midwest ISO Transmission Expansion Plan.

III. Rehearing Request (Docket No. OA08-42-003)

23. American Transmission Company states that it is filing a request for rehearing and/or clarification of the March 24 Planning Order in the event the Commission finds that the compliance filing that American Transmission Company submitted in Docket No. OA08-42-004 does not meet the requirements of the March 24 Planning Order. In general, American Transmission Company is concerned that further changes the Commission may require to comply with the March 24 Planning Order could present

significant difficulties for American Transmission Company as a transmission-only company.¹⁸

24. As explained above, we find that the revisions to Attachment FF-ATCLLC that American Transmission Company proposed in its compliance filing fulfill the requirements of the March 24 Planning Order. Therefore, we will dismiss as moot American Transmission Company's request for rehearing of the March 24 Planning Order.

The Commission orders:

(A) American Transmission Company's compliance filing in Docket No. OA08-42-004 is hereby accepted, to be effective December 7, 2007, for the Third Revised Volume tariff sheets, and January 6, 2009, for the Fourth Revised Volume tariff sheets, as requested, as discussed in the body of this order.

(B) American Transmission Company's request for rehearing is hereby dismissed as moot.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁸ American Transmission Company Request for Rehearing at 6.