

139 FERC ¶ 61,067  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Golden Spread Electric Cooperative, Inc.

Docket Nos. ER11-4304-000  
ER11-4304-001

ORDER CONDITIONALLY ACCEPTING TARIFF FILING AND GRANTING IN  
PART, AND DENYING IN PART, WAIVER REQUESTS

(Issued April 24, 2012)

1. In this order, the Commission, acting pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> conditionally accepts an open access transmission tariff (Golden Spread OATT) filed by Golden Spread Electric Cooperative, Inc. (Golden Spread) on August 12, 2011, as amended on February 24, 2012, subject to Golden Spread making a compliance filing. In addition, the Commission grants certain requested waivers, denies other requested waivers, and directs a compliance filing.

**I. Background**

2. Golden Spread is a non-profit electric generation and transmission cooperative that supplies wholesale electric power and energy to its 16 member nonprofit distribution cooperatives. Golden Spread's member systems serve over 270,000 retail consumers located in portions of Texas, Oklahoma, Kansas and Colorado.<sup>2</sup>

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> Golden Spread's 16 distribution cooperative members are: Bailey County Electric Cooperative Association; Concho Valley Electric Cooperative, Inc.; Coleman County Electric Cooperative, Inc.; Deaf Smith Electric Cooperative, Inc.; Greenbelt Electric Cooperative, Inc. (Greenbelt); Lamb County Electric Cooperative, Inc.; Lighthouse Electric Cooperative, Inc.; Lyntegar Electric Cooperative, Inc.; Big Country Electric Cooperative, Inc. (Big Country); North Plains Electric Cooperative, Inc.; Rita Blanca Electric Cooperative, Inc.; South Plains Electric Cooperative, Inc. (South Plains); Southwest Texas Electric Cooperative, Inc.; Swisher Electric Cooperative, Inc.; Taylor

(continued...)

3. Golden Spread states that it has operated under a waiver of Order Nos. 888<sup>3</sup> and 889<sup>4</sup> since 1996 “because it owns limited and discrete facilities that do not form an integrated grid.”<sup>5</sup> Additionally, in 2004, after Golden Spread acquired approximately 110 miles of existing radial facilities from its non-jurisdictional member, South Plains (South Plains Facilities), the Commission granted Golden Spread continued waiver of Order Nos. 888 and 889 requirements.<sup>6</sup> Golden Spread states that it uses the South Plains facilities to provide bundled wholesale service to South Plains under an existing wholesale power contract and provides service only to South Plains over the facilities.<sup>7</sup> South Plains operates and maintains the facilities.

4. In 2008, Golden Spread acquired approximately 54.5 miles of existing radial facilities from its non-jurisdictional member, Big Country (the Big Country Facilities) and constructed an approximately 18.4 mile radial line for dedicated use by its member, Greenbelt (Greenbelt Facilities). As is the case with the South Plains Facilities, Golden Spread states that it uses the Big Country Facilities only to provide service to Big Country and uses the Greenbelt Facilities only to provide service to Greenbelt.<sup>8</sup> Big

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Electric Cooperative, Inc.; and Tri-County Electric Cooperative, Inc.

<sup>3</sup> *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).

<sup>4</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh’g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh’g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>5</sup> Golden Spread August 21, 2011 Filing, Transmittal Letter at 3 (August Transmittal Letter). *Northern States Power Co.*, 76 FERC ¶ 62,295 (1996).

<sup>6</sup> *Golden Spread Elec. Coop., Inc.*, 106 FERC ¶ 61,151 (2004).

<sup>7</sup> August Transmittal Letter at 3-4.

<sup>8</sup> August Transmittal Letter at 4. The South Plain Facilities, Big Country Facilities, and Greenbelt Facilities are collectively referred to herein as the Golden Spread Facilities.

Country and Greenbelt each operate and maintain their own respective facilities. The Commission granted Golden Spread's request for a continued waiver of Order Nos. 888 and 889 requirements, based on the representation that the transmission facilities are limited and discrete and do not constitute an integrated transmission system.<sup>9</sup> The Commission also noted its reliance on Golden Spread's representation that the transmission lines are "only used to provide bundled wholesale service to the affected Golden Spread member and power flows in one direction."<sup>10</sup>

5. In 2010, Golden Spread filed a motion notifying the Commission of certain changed circumstances and requesting that its waivers be continued notwithstanding these changed circumstances. Specifically, Golden Spread stated that it acquired Golden Panhandle Wind Ranch, LLC (formerly Wilderado Wind Two, LLC), which is now a fully-owned subsidiary of Golden Spread. On April 21, 2011, based on Golden Spread's representation that, other than the change in ownership, there are no material changes in facts that affect the previously-granted waivers, the Commission granted Golden Spread's request for a continued waiver of Order Nos. 888 and 890.<sup>11</sup> In the April 21 Order, the Commission also directed that:

Consistent with our prior precedent, Golden Spread must file a *pro forma* OATT in compliance with Order No. 888, and any other applicable requirements, within 60 days of receipt of a request for a specific transmission service.<sup>[12]</sup>

## **II. Golden Spread Filing**

6. On August 12, 2011, as amended on February 24, 2012, Golden Spread submitted for filing a proposed OATT to become effective October 12, 2011. Golden Spread states that, on May 17, 2011, it received a complete, good faith request for generator interconnection service from a proposed wind project developer, a small generating facility with nameplate capacity of 20 MW.<sup>13</sup> Golden Spread states that no request for point-to-point transmission service accompanied the request for interconnection. Golden Spread maintains that generator interconnection service is a form of transmission service

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<sup>9</sup> *Golden Spread Elec. Coop., Inc.*, 127 FERC ¶ 61,248 (2009).

<sup>10</sup> *Id.* P 13.

<sup>11</sup> *Black Hills Power Inc., et al.*, 135 FERC ¶ 61,058 (2011) (April 21 Order).

<sup>12</sup> *Id.* P 48.

<sup>13</sup> August Transmittal Letter at 5.

under the Golden Spread OATT and Commission precedent (i.e., it constitutes a specific transmission service) and it is submitting the proposed OATT to comply with the April 21 Order. Golden Spread states that it is processing the request in accordance with the *pro forma* Small Generator Interconnection Procedures (SGIP).<sup>14</sup>

7. Golden Spread states that the Golden Spread Facilities do not constitute an integrated “system.” As a result, Golden Spread argues that it cannot provide network integration service, does not experience operational events such as parallel flows, cannot offer ancillary services, and cannot satisfy certain other requirements of the *pro forma* OATT. Additionally, Golden Spread seeks to maintain its waivers of the requirement to establish and maintain an Open Access Same-time Information System (OASIS) and to comply with the Commission’s Standards of Conduct requirements. Golden Spread states that certain adjustments to the Golden Spread OATT must be made to recognize that, in light of its existing waivers, data may be available to customers through other means.<sup>15</sup>

8. Finally, Golden Spread proposes a formula rate based on the costs of each of the three sets of facilities. It proposes that these rates be adjusted annually based on its FERC Form No. 1 data, and to provide for the customer protections and interactive annual rate update process that the Commission has required in other formula rate cases.

9. On February 24, 2012, in response to informal discussion with staff, Golden Spread amended its filing.<sup>16</sup> Golden Spread submitted revisions to its formula rate template and protocols as well as an expanded explanation as to why Golden Spread believes that it qualifies for waiver of the requirement that Golden Spread include in its OATT an Order No. 890 compliant planning process.

### **III. Notice and Responsive Pleadings**

10. Notice of Golden Spread’s filings were published in the *Federal Register*, 76 Fed. Reg. 52,325 (2011) and 77 Fed. Reg. 13,113 (2012) with interventions and protests due on or before September 2, 2011 and March 16, 2012. Xcel Energy Services, Inc. filed a timely motion to intervene. To provide time to revise its filing, Golden Spread filed a series of motions to defer Commission action. The last such motion requested a deferral of action (granted by the Commission) until February 24, 2012, at which time it submitted its revised filing.

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 2.

<sup>16</sup> We note that the August 12, 2011 filing was uncontested.

#### IV. Discussion

##### A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

##### B. Substantive Matters

12. In Order No. 890, the Commission allowed transmission providers to propose non-rate terms and conditions that differ from those in Order No. 890, if those provisions are consistent with or superior to the *pro forma* OATT.<sup>17</sup> To the extent deviations from the *pro forma* OATT are necessary, we have required that applicant transmission owners must explain and support the deviations sufficiently,<sup>18</sup> and we evaluate proposed OATT deviations on a case-by-case basis.<sup>19</sup> The Commission will only find proposed deviations from the *pro forma* OATT to be just and reasonable if the filing party provides an adequate explanation of how the deviations in the proposed OATT are consistent with or superior to the *pro forma* OATT, or provides a full and convincing explanation of how the *pro forma* provisions are not applicable, given the filing party's business model.<sup>20</sup>

13. Multiple provisions of the Golden Spread OATT deviate from the *pro forma* OATT. Based on our review, the Commission finds that Golden Spread has not demonstrated that its proposed OATT is consistent with or superior to the *pro forma* OATT. Accordingly, we will conditionally accept Golden Spread's proposed OATT, effective October 12, 2011, and direct a compliance filing.

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<sup>17</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 135, *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).

<sup>18</sup> *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134, at P 47, *order on reh'g*, 128 FERC ¶ 61,074 (2009).

<sup>19</sup> *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at PP 55-60 (2006) (*MATL*).

<sup>20</sup> *Id.* P 60.

**1. Network Service****a. Golden Spread Filing**

14. Golden Spread states that it cannot provide network service on the Golden Spread Facilities because the lines are not integrated with one another, are radial, and are interconnected at only one point with the Southwestern Public Service Company, Inc. (SPS) transmission system.<sup>21</sup> Golden Spread therefore requests waiver of the *pro forma* provisions of the OATT that provide for network service.<sup>22</sup> Golden Spread also explains that it is not a balancing authority and therefore has not included Transmission Loading Relief (TLR) procedures in the Golden Spread OATT.<sup>23</sup> Golden Spread also proposes to exclude provisions governing parallel flows from the Golden Spread OATT, contending the provisions are inapplicable. Finally, Golden Spread proposes to exclude references to local furnishing bonds claiming that this provision also does not apply to the Golden Spread Facilities.<sup>24</sup>

**b. Commission Determination**

15. The Commission grants these requested waivers. We agree that Golden Spread does not own the generation or transmission resources necessary to provide network service under an OATT. We also agree that Golden Spread need not incorporate the North American Electric Reliability Corporation (NERC) TLR procedures because it is not a balancing authority. We also find that Golden Spread may exclude references to local furnishing bonds because this provision does not apply to service that Golden Spread will provide on the Golden Spread Facilities. In addition, we allow Golden

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<sup>21</sup> August Transmittal Letter at 6.

<sup>22</sup> See OATT Sections 1.3, 1.17, 1.18, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.29, 1.33, 1.44, 1.47, 1.49, 1.51, 1.53, 13.5, 13.6, 14.7, 15.4, Part III and Attachments F, G, H, I, and M, including the large generator interconnection procedures (LGIP) definitions referring to Network Resources and Network Resource Interconnection Service, sections 3.2, 3.2.2, 4.2 and Appendix I and the large generator interconnection agreement (LGIA) definitions referring to Network Resource and Network Resource Interconnection Service and section 4.1.

<sup>23</sup> See, e.g., *pro forma* OATT sections 13.6 and 14.7.

<sup>24</sup> *Id.* at section 5.1. Section 5.1 states that it only applies to Transmission Providers that have financed facilities for the local furnishing of electric energy with tax-exempt bonds, as described in Section 142(f) of the Internal Revenue Code (“local furnishing bonds”).

Spread to exclude provisions governing parallel flows because Golden Spread does not experience parallel flows.

## 2. Creditworthiness

### a. Golden Spread Filing

16. Golden Spread states that requiring the Golden Spread OATT to include detailed creditworthiness provisions in Attachment L, including both quantitative and qualitative creditworthiness criteria, would impose a cost for little discernable benefit.<sup>25</sup> Golden Spread notes that, in *NewCorp I*<sup>26</sup> the Commission permitted the applicant to retain the existing creditworthiness provisions contained in Section 11 of its OATT. In *NewCorp I*, the Commission found persuasive the fact that the applicant only had a single customer, an affiliate, and thus, more detailed provisions would produce “unwarranted burden on NewCorp without any additional benefit.”<sup>27</sup>

17. Golden Spread asserts that, in the instant proceeding, there are currently no customers, and assuming the sole small generator requesting interconnection service eventually requests firm point-to-point service from Golden Spread, the revenues billed for such service are projected to be less than \$15,000 a month.<sup>28</sup> Golden Spread submits that, until there is a material change in circumstances regarding its transmission system, a requirement to include more detailed quantitative and qualitative creditworthiness provisions will only increase the time and expense associated with maintaining its OATT and, like NewCorp, would produce no additional benefit. For this reason, Golden Spread proposes to incorporate creditworthiness language in Section 11 of its OATT similar to that in the NewCorp OATT, and respectfully requests waiver of Attachment L.<sup>29</sup>

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<sup>25</sup> August Transmittal Letter at 8.

<sup>26</sup> *NewCorp Resources Electric Cooperative, Inc.*, 122 FERC ¶ 61,201 (2008) (*NewCorp I*).

<sup>27</sup> *Id.* P 17.

<sup>28</sup> August Transmittal Letter at 8. Golden Spread notes that the proposed rate for service on the South Plains Facilities is \$0.71/kW-month, multiplied by 20 MW. *Id.* n.26 and Schedule A1.0.

<sup>29</sup> *Id.* at 8-9.

**b. Commission Determination**

18. In Order No. 890, the Commission explained that an Attachment L filing must specify both the qualitative and quantitative criteria that the transmission provider will use to determine the level of secured and unsecured credit required of customers. In addition, the Commission required transmission providers to address six specific elements regarding the transmission provider's credit requirements.<sup>30</sup>

19. Here, Golden Spread proposes to incorporate similar creditworthiness language in Section 11 of its OATT as exists in the NewCorp OATT, and requests waiver of Attachment L. However, as Golden Spread notes, the Commission's approval of NewCorp's waiver request relied on the fact that NewCorp had a single affiliated customer. The purpose of the creditworthiness revisions is to prevent undue discrimination and eliminate a potentially significant barrier to entry in the provision of service.<sup>31</sup> In *NewCorp I*, because no party other than NewCorp's one affiliated customer could qualify as an eligible customer and NewCorp had received no other transmission service requests, the Commission was satisfied that NewCorp could not unduly discriminate against potential customers.

20. In contrast, in the instant case Golden Spread's potential customer is not an affiliate, thus the potential for undue discrimination is present. Thus, Golden Spread's circumstances differ from those present in *NewCorp I* and that case provides no basis to allow Golden Spread to deviate from the creditworthiness provisions of the *pro forma* OATT. Accordingly, we do not find the proffered provisions justified. Thus, we deny Golden Spread's waiver request and require it to submit a compliance filing consistent with the creditworthiness provisions of Order No. 890 within 60 days of the date of issuance of this order.

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<sup>30</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1656-1661. *See also NorthWestern Corp.*, 128 FERC ¶ 61,202, at PP 8-9 (2009).

<sup>31</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1656. The Commission made a finding that the transmission provider's basic credit standards significantly affect transmission service and, therefore, must be included in the *pro forma* OATT. The Commission concluded that this will ensure that all customers have clear information as to the credit process and standards used by a transmission provider to grant or deny transmission service and, in turn, will serve to prevent undue discrimination and eliminate a potentially significant barrier to entry in the provision of service.

### **3. Ancillary Services**

#### **a. Golden Spread Filing**

21. Golden Spread also requests waiver of the requirement to provide ancillary services to customers that may request service over the Golden Spread Facilities. Golden Spread asserts that the Commission previously granted waiver of the requirement to provide ancillary services to owners of similar transmission facilities.<sup>32</sup> Golden Spread states that the Golden Spread Facilities are located within the Southwest Power Pool (SPP) footprint and the SPS balancing area authority (BAA) and that Golden Spread does not meet the criteria established by the NERC and SPP to be classified as a control area operator.<sup>33</sup>

22. Furthermore, Golden Spread argues that, because the Golden Spread Facilities are radial and interconnected solely with SPS transmission lines, it does not own interconnected generation resources necessary to provide ancillary services to third parties and, in fact, must purchase ancillary services in conjunction with its own loads. Golden Spread proposes to amend the definition of Ancillary Services contained in the OATT, and requests waiver of Section 3 and Schedules 1 through 6 and Schedule 9 of the *pro forma* OATT.<sup>34</sup>

#### **b. Commission Determination**

23. In Order No. 888, the Commission specified the ancillary services that were necessary to facilitate transmission service.<sup>35</sup> The Commission further stated that a transmission provider that is also a control area operator must provide the first two ancillary services: (1) scheduling, system control and load dispatch; and (2) reactive

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<sup>32</sup> See, e.g., *Sagebrush, a California Partnership*, 130 FERC ¶ 61,093, at P 29 (*Sagebrush I*), order on reh'g, 132 FERC ¶ 61,234 (2010); *Wyoming Colorado Intertie, LLC*, 127 FERC ¶ 61,125, at PP 19, 53-54 (2009); *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at P 58 (2006) (*MATL I*).

<sup>33</sup> August Transmittal Letter at 6.

<sup>34</sup> See also *Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075, at P 33 (2011) (*Peetz Logan*).

<sup>35</sup> Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,715. These services are (1) Scheduling, System Control and Dispatch, (2) Reactive Supply and Voltage Control from Generation Services, (3) Regulation and Frequency Response, (4) Energy Imbalance, (5) Operating Reserve-Spinning, and (6) Operating Reserve-Supplemental.

supply and voltage control. The Commission also required that the transmission customer must purchase these services from the transmission provider that is also a control area operator.<sup>36</sup> As to the remaining ancillary services, the transmission provider need only *offer* to provide these ancillary services to transmission customers. A transmission customer is required to acquire these services, but it may do so from the transmission provider, a third party, or through self-supply.<sup>37</sup>

24. The Commission added that “[i]f the transmission provider is a public utility providing basic transmission service but is not a control area operator, it may be unable to provide some or all of the ancillary services we require without substantial investment. In this case . . . [w]e will require the transmission provider to offer to act as the agent for the transmission customer to secure these services from the control area operator.”<sup>38</sup>

25. Consistent with Commission precedent, we find that Golden Spread’s deletion of Section 3 and Schedules 1 through 6 and Schedule 9 of the *pro forma* OATT is reasonable.<sup>39</sup> Golden Spread is not a control area operator, so we will not require Golden Spread to provide the first two ancillary services. We will not require Golden Spread to offer to provide the remaining services because Golden Spread is incapable of providing these services. In addition, we will not require Golden Spread to act as an agent in procuring ancillary services for its customers because Golden Spread’s OATT explains how transmission customers may obtain necessary ancillary services.<sup>40</sup> Because Golden Spread’s transmission facilities are directly connected to the SPP region, through SPS, potential customers may freely obtain the necessary ancillary services from SPP.

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 31,716.

<sup>38</sup> *Id.*

<sup>39</sup> *Terra-Gen Dixie Valley, LLC*, 134 FERC ¶ 61,027, at PP 47-49 (*Terra-Gen I*), *order on reh’g*, 135 FERC ¶ 61,134, at PP 31-34 (2011) (*Terra-Gen II*) (collectively, *Terra Gen*). *See also Peetz Logan Interconnect, LLC*, 136 FERC ¶ 61,075, at P 33 (2011).

<sup>40</sup> Golden Spread’s OATT at section 1.2 provides:

The Transmission Provider does not supply Ancillary Services due to the nature of its radial system, and the process to procure Ancillary Services that are necessitated by the use of integrated transmission networks of others is set out in those applicable Transmission Provider’s tariffs.

Therefore, we find that waiver of ancillary service schedules 1 through 6 and 9 is justified and consistent with our finding in earlier orders.

**4. Transmission Planning Process – Attachment K**

**a. Golden Spread Tariff Provisions**

26. Golden Spread requests waiver of the requirement that it file an Order No. 890 compliant planning process. Golden Spread argues that it merits waiver of Order No. 890's planning requirements because its facilities are radial facilities that extend beyond the integrated grid. Golden Spread further asserts that it is not a transmission owner in the SPP regional transmission planning process and that it is not a BAA. It maintains that SPS, the utility to which the Golden Spread Facilities are interconnected, is the applicable BAA.<sup>41</sup>

27. Golden Spread states that it participates as a *stakeholder* in a Commission approved local, regional and subregional planning process that complies with Order No. 890 and, in that process, SPS participates as a transmission owner that develops plans to advance the interests of the BAA. Golden Spread argues that requiring Golden Spread to develop and implement a transmission planning process as a transmission provider on the same basis as transmission providers with large integrated systems serving many transmission customers and Annual Transmission Revenue Requirements that are tens if not hundreds of millions of dollars will result in a cost that will grossly exceed any discernable benefits.<sup>42</sup>

28. Golden Spread argues that the Commission has noted such facts in granting NewCorp, another entity with limited facilities in the SPS BAA, a waiver of Order No. 890's transmission planning requirements.<sup>43</sup> Golden Spread states that, in *NewCorp I*, the Commission granted NewCorp a waiver of the *pro forma* OATT Attachment K planning requirements based on, among other things, a lack of integration, the fact that NewCorp was not a BAA and the fact that the BAA (SPS, the same entity that is the BAA for the area in which the Golden Spread Facilities are located) was participating in a planning process, thus advancing the planning objectives advanced by the Commission in Order No. 890. According to Golden Spread, the Commission also relied on the fact

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<sup>41</sup> August Transmittal Letter at 7.

<sup>42</sup> *Id.* at 8.

<sup>43</sup> *NewCorp I*, 122 FERC ¶ 61,201 at P 17.

that the expense and time commitment to develop the detailed planning procedures on NewCorp would be significant.<sup>44</sup>

**b. Commission Determination**

29. We deny Golden Spread's request for waiver of Order No. 890's planning requirements. One of the Commission's primary reforms in Order No. 890 addressed 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 the nine principles enumerated in Order No. 890 and to clearly describe that process in a new Attachment K to their OATT.<sup>45</sup> As detailed below, because the potential for undue discrimination in Golden Spread's planning process exists, the Commission denies Golden Spread's request for waiver of Order No. 890's requirement to include an Order No. 890 compliant transmission planning process in its OATT.

30. Golden Spread argues that the Commission should grant the waiver because: (1) the Golden Spread Facilities are radial and extend beyond the integrated grid; (2) Golden Spread is not a BAA; (3) Golden Spread is a stakeholder and not a transmission owner in SPP's and SPS's planning processes; (4) the costs of planning exceed benefits and (5) its facts are similar to those in *NewCorp I*.

31. With regard to the radial facilities argument, we note that the Commission rejected a similar argument in *Sagebrush*,<sup>46</sup> stating:

...while some criteria applicable to larger, interconnected transmission systems may not necessarily apply to Sagebrush, Sagebrush is nevertheless required to address how it will comply with the Commission's planning process requirements enacted through Order No. 890, as we have required of other single-line entities.<sup>[47]</sup>

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<sup>44</sup> August Transmittal Letter at 7.

<sup>45</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 437 and n.246.

<sup>46</sup> *Sagebrush, a California Partnership*, 130 FERC ¶ 61,093, at P 46 (2010) (*Sagebrush*).

<sup>47</sup> *Id.* (citing to *MATL LLP*, 126 FERC ¶ 61,192 (2009) (*MATL II*)).

Thus, the fact that Golden Spread's facilities are radial is not sufficient to grant the waiver.

32. With regard to the argument that Golden Spread is not a BAA, the same is true of Sagebrush, MATL<sup>48</sup> and Terra-Gen,<sup>49</sup> yet the Commission maintained its requirement that Order No. 890 planning process be filed for those facilities due to the potential for undue discrimination in transmission planning in those cases. We find that the potential for undue discrimination in transmission planning similarly exists with regard to the Golden Spread Facilities.

33. With regard to the argument that Golden Spread should not have to file an Order No. 890 compliant planning process because it is a stakeholder and not a transmission owner in a Regional Transmission Organization's process, the Commission encourages Golden Spread to continue participation in SPS's and SPP's planning processes. However, Golden Spread has not transferred operational control of its facilities to either SPS or SPP, so their planning processes cannot substitute for Golden Spread's planning process. We note that Golden Spread is not required to duplicate SPP and SPS's planning processes. Rather, Golden Spread is required to explain how it will plan for the transmission facilities under its operational control.<sup>50</sup> In addition, we note that the Commission required Sagebrush and Terra-Gen to file Order No. 890 compliant planning processes, even though both are in the California Independent System Operator footprint.<sup>51</sup>

34. With regard to the argument that the costs of planning exceed benefits, we note that Golden Spread is not required to file a planning process that is as extensive as a traditional transmission provider's but instead can file a planning process tailored to its unique circumstances. In *MATL I*, MATL proposed a planning process that reflected its unique circumstances and the Commission accepted MATL's proposal.<sup>52</sup> Likewise, we find that Golden Spread is not required to hold transmission planning meetings that no

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<sup>48</sup> *MATL I*, 116 FERC ¶ 61,071 at P 20.

<sup>49</sup> *Terra-Gen Dixie Valley, LLC*, 134 FERC ¶ 61,027, at PP 62-98 (2011) (*Terra-Gen I*), order on reh'g, 137 FERC ¶ 61,179 (2012) (*Terra-Gen II*).

<sup>50</sup> *NorthWestern Corp.*, 134 FERC ¶ 61,031, at PP 25-27 (2011) (*NorthWestern*).

<sup>51</sup> *Sagebrush*, 130 FERC ¶ 61,093 at P 46; *Terra-Gen I*, 134 FERC ¶ 61,027 at PP 88-89.

<sup>52</sup> *MATL I*, 116 FERC ¶ 61,071 at PP 14-15. See also *MATL, LLP*, Docket Nos. ER07-1174-004 and OA07-74-004 (Aug. 5, 2010) (delegated letter order) (accepting MATL's revised planning process tailored to its circumstances).

stakeholders plan to attend.<sup>53</sup> Thus, the Commission is not convinced that the requirement that Golden Spread include an Order No. 890 compliant planning process in its OATT is overly burdensome.

35. Finally, with regard to Golden Spread's argument that it is similar to NewCorp, we reject the contention that the *NewCorp I* precedent applies here. In granting waiver of Attachment K planning requirements in *NewCorp I*, the Commission relied on the following criteria:

(1) NewCorp serves only one customer and that its one customer, Cap Rock, is its affiliate; (2) there are no other existing or potential transmission customers that are directly interconnected with the NewCorp transmission system; (3) the NewCorp transmission system is primarily radial in nature and interconnects only with the SPS transmission system and the Cap Rock distribution system; (4) SPS, the Balancing Authority for the NewCorp transmission system, will comply with the planning requirements in Order No. 890; and (5) the expense and time commitment to develop the detailed planning procedures is likely to be significant for NewCorp.<sup>[54]</sup>

36. Golden Spread has failed to show that it meets criteria one and two above. With regard to criterion one, in contrast to the facts in *NewCorp I*, Golden Spread received a generation interconnection request from (and will provide service to) an unaffiliated customer. With regard to criterion two, unlike in *NewCorp I*, Golden Spread did not indicate that there is no potential for additional transmission service requests. In light of these distinguishing circumstances, the Commission concludes that the facts in *NewCorp I* are distinguishable from those before us here and we deny Golden Spread's request for waiver of the requirement that Golden Spread include in its OATT an Order No. 890 compliant planning process. We thus direct Golden Spread to file, within 60 days of the

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<sup>53</sup> The Commission stated in *NorthWestern* that NorthWestern could include in its OATT a registration process that would require a stakeholder to notify NorthWestern within a certain number of days of the annual transmission planning meeting whether it plans to attend. If no party registers to attend, then NorthWestern would not be obligated to hold the meeting. *NorthWestern*, 134 FERC ¶ 61,031 at n.36.

<sup>54</sup> *NewCorp I*, 122 FERC ¶ 61,201 at P 14. The Commission also stated that "if there is a change to the factual circumstances we relied upon in granting the requested waiver, NewCorp must inform the Commission."

date of issuance of this order, a revised OATT that details how Golden Spread will conduct planning for its transmission in a manner that satisfies Order No. 890's transmission planning requirements.

## 5. **OASIS and Standards of Conduct Waiver Request**

### a. **Golden Spread Filing**

37. Golden Spread states that, in the April 21 Order, the Commission granted its request for a continued waiver of the requirement to establish and maintain an OASIS and a continued waiver of the Standards of Conduct.<sup>55</sup> According to Golden Spread, because it expects these waivers to continue, Golden Spread has made clear in the definition of the term OASIS in the OATT that, to the extent the Commission continues Golden Spread's OASIS waiver, references to information posted or entered on OASIS shall be posted or entered, to the extent possible, on Golden Spread's corporate website. Golden Spread states that the Commission has accepted such modifications on a prior occasion.<sup>56</sup>

### b. **Commission Determination**

38. We grant Golden Spread's request for continued waiver of the requirement to establish and maintain an OASIS and for a continuing waiver of the Commission's Standards of Conduct requirements. In the April 21 Order, the Commission clarified that the waiver of the OASIS requirement remains effective until the Commission takes action in response to a complaint by an entity alleging that the entity could not obtain from Golden Spread information necessary to complete its transaction.<sup>57</sup> The Commission also stated that a waiver of the Standards of Conduct will remain in effect unless and until the Commission takes action on a complaint by an entity that Golden Spread has used its access to transmission information to unfairly benefit its own sales, or an affiliate's sales. In addition, the Commission required Golden Spread to notify the Commission if there is a material change in facts that affect OASIS and Standards of Conduct waivers, within 30 days of the date of such change.<sup>58</sup> The Commission has not received a complaint alleging a violation by Golden Spread of the Commission's OASIS or Standards of Conduct rules, nor has Golden Spread notified the Commission that there has been a

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<sup>55</sup> August Transmittal Letter at 7.

<sup>56</sup> *Terra-Gen I*, 134 FERC ¶ 61,027 at P 109.

<sup>57</sup> April 21 Order, 135 FERC ¶ 61,058 at P 48.

<sup>58</sup> *Id.*

material change that affects its OASIS or Standard of Conduct waivers.<sup>59</sup> Accordingly, we grant Golden Spread request for continued waiver of the Commission's OASIS and Standards of Conduct requirements.

**6. Attachment C – Methodology for Calculating ATC**

**a. Golden Spread Tariff Provisions**

39. Golden Spread also seeks waiver of the requirement that it include in its OATT detailed algorithms and explanation of its Available Transfer Capability (ATC) methodology, as required by Order No. 676-E<sup>60</sup> and Order No. 890. Instead, Golden Spread proposes an Attachment C ATC methodology that details how, if an application for transmission service is received, it will assess whether sufficient transfer capability is available in lieu of reliability requirements and other contractual commitments. Golden Spread states that the proposed methodology explains how power flow models of Golden Spread's system will be used to assess transfer capability in a non-discriminatory and transparent manner.<sup>61</sup>

40. Golden Spread asserts that the Commission has found the language Golden Spread proposes is consistent with or superior to the *pro forma* OATT for another small transmission provider in the same SPS BAA.<sup>62</sup> Similarly, it points to our order in *Electric Energy, Inc.*,<sup>63</sup> where the Commission granted waiver of the detailed requirements of Order No. 890. Golden Spread argues that requiring it to comply with and post detailed ATC calculations in the absence of an OASIS and in the absence of transmission customers simply adds burden and expense with no discernable benefit.

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<sup>59</sup> See August Transmittal Letter at 5, 7, which does not identify any material changes in circumstances that would affect Golden Spread's OASIS or Standard of Conduct waivers.

<sup>60</sup> *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009). The Version 002.1 standards incorporated by reference into the Commission's regulations in Order No. 676-E include, among other things, Standard 001-15 (ATC Narrative Change), which is designed to meet the ATC narrative posting requirement in Order No. 890.

<sup>61</sup> August Transmittal Letter at 9.

<sup>62</sup> *NewCorp Resources Electric Cooperative, Inc.*, 125 FERC ¶ 61,219, at P 5 (2008) (*NewCorp II*).

<sup>63</sup> *Electric Energy, Inc.*, 125 FERC ¶ 61,365 (2008) (*Electric Energy*).

According to Golden Spread, waiver with respect to Golden Spread's proposed OATT, at least until such time as there are more customers requesting service over the OATT, is just and reasonable.<sup>64</sup>

**b. Commission Determination**

41. We deny waiver of the requirement that Golden Spread include in its OATT detailed algorithms and explanation of its ATC methodology. Golden Spread cites *NewCorp II* in support of its request for waiver.<sup>65</sup> In that proceeding, NewCorp requested waiver of the requirement to develop and include as Attachment C to its OATT revised provisions for the detailed calculation of ATC. NewCorp also noted that the Order No. 890 ATC calculation requirements were designed to reduce the potential for undue discrimination in the provision of transmission service.<sup>66</sup> NewCorp argued that, because NewCorp served only one transmission customer (its owner, Cap Rock) and because no new transmission customers are expected, the waiver was warranted.<sup>67</sup>

42. In granting NewCorp's waiver request, the Commission emphasized that "no party other than its one customer, Cap Rock, could qualify as an eligible customer and NewCorp has not received any other transmission service requests" and that Cap Rock was a NewCorp affiliate.<sup>68</sup> The Commission also noted that it "base[d] this order on the specific facts and circumstances presented in this case."<sup>69</sup> Similarly, in accepting a modified version of Attachment C in *Electric Energy*, the Commission noted that Electric

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<sup>64</sup> August Transmittal Letter at 9.

<sup>65</sup> *Id.* at n.22.

<sup>66</sup> See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 207, where the Commission required each transmission provider to include in Attachment C to its OATT detailed descriptions for calculating both firm and non-firm ATC, consistent with the requirements of the Final Rule. The Commission stated that the purpose of increasing the consistency and transparency of ATC calculations is to reduce the potential for undue discrimination in the provision of transmission service, by specifically reducing the opportunity for transmission providers to exercise excessive discretion.

<sup>67</sup> *NewCorp I*, 122 FERC ¶ 61,201 at P 12.

<sup>68</sup> *Id.* P 14.

<sup>69</sup> *Id.* P 20.

Energy, Inc. had not received any transmission requests by non-affiliated entities, nor did it expect any in the future.<sup>70</sup>

43. The circumstances in the instant proceeding differ from those present in *NewCorp* and in *Electric Energy*. Here, non-affiliated parties can qualify to be eligible customers on Golden Spread's system. Further, while Golden Spread currently does not have any transmission customers, it currently is processing a generator interconnection request and states that it expects a request for point-to-point service from this project.<sup>71</sup> Moreover, Golden Spread may receive additional requests in the future. Thus, in the instant proceeding, because there is potential for undue discrimination in the provision of transmission service, the Commission denies waiver.

44. In Order No. 890, the Commission required a transmission provider to clearly identify which methodology it employs for calculating available capacity (e.g., contract path, network ATC, or network Available Flowgate Capacity (AFC)). The transmission provider must also describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for scheduling, operating, and planning horizons.<sup>72</sup> The mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.<sup>73</sup> Further, the transmission provider must include a process flow diagram that illustrates the various steps by which the ATC/AFC is calculated and a detailed explanation of how each of the ATC components is calculated for both the operating and planning horizons.

45. While Golden Spread has proposed an Attachment C as noted above, we find that it fails to comply with the requirements set out in Order No. 890 for calculating ATC. First, Golden Spread does not clearly identify which methodology it employs for calculating available capacity (e.g., contract path, network ATC, or network AFC). Second, Golden Spread's Attachment C does not describe in detail the specific mathematical algorithms used to calculate firm and non-firm ATC (and AFC, if applicable) for scheduling, operating, and planning horizons. Third, Golden Spread has not provided a process flow diagram illustrating the steps of its ATC calculation process. Finally, Golden Spread's Attachment C fails to include a link to Golden Spread's website where the data and the mathematical algorithms can be found. Thus, we deny Golden

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<sup>70</sup> *Electric Energy*, 125 FERC ¶ 61,365 at P 17.

<sup>71</sup> August Transmittal Letter at 1-2.

<sup>72</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 323 and *pro forma* OATT, Attachment C.

<sup>73</sup> *Id.* PP 325, 328.

Spread's request for waiver and direct Golden Spread to include an Attachment C in its compliance filing consistent with Order No. 890 within 60 days of the issuance of this order.

**7. Transmission Power Losses**

**a. Golden Spread Filing**

46. Golden Spread proposes to modify Section 15.7--Transmission Power Losses to state that, because Golden Spread currently has no customers, it will determine and file a real power loss factor with the Commission at a later date that appropriately reflects system conditions.

**b. Commission Determination**

47. We reject Golden Spread's proposal to file a real power loss factor with the Commission at a later date that appropriately reflects system conditions. Golden Spread does not explain why it would be more "appropriate" for it to calculate its real power loss factor at a later date. Accordingly, we find that Golden Spread has not demonstrated that its proposed modifications are consistent with or superior to the *pro forma* OATT. Further, a prospective transmission customer will not be able to fully evaluate its transmission needs if it does not know the real power loss factor Golden Spread will apply to service over the Golden Spread Facilities. Thus, we direct Golden Spread to submit a compliance filing within 60 days of the date of issuance of this order that provides a real power loss factor, with supporting documentation.

**8. Formula Rate**

**a. Golden Spread Filing**

48. Golden Spread developed a formula rate to annually determine charges for point-to-point transmission service, as reflected in Schedules 7 and 8 and Attachment R of its OATT. Attachment R is comprised of two components. First, Golden Spread developed detailed Formula Rate Implementation Procedures that describe the annual process of developing charges produced by the formula rate. Consistent with the Commission's requirements of other transmission providers that seek formula rate approval before the Commission, Golden Spread has included: (1) provisions setting out a defined schedule for redetermining charges based on the most recent FERC Form 1 data as inputs to formula; (2) a customer meeting to discuss the charges; (3) an informational filing to the Commission; (4) rights of customers to seek information concerning the charges, and if necessary, challenge such charges; and (5) other terms to ensure transparency of the formula rate process that will occur each year. Second, Golden Spread developed a formula rate template that sets out how the charges will be determined each year.

49. Golden Spread proposes separate rates for the Big Country Facilities, the Greenbelt Facilities, and the South Plains Facilities. Golden Spread states that the cost of service prepared by Golden Spread demonstrates that the facilities dedicated to each of the three member systems reflect a substantial difference in costs and it has identified these facilities as “Special Facilities” in its contracts with Big Country, Greenbelt, and South Plains. Golden Spread argues that a single rate based on the blended costs of all zones would be problematic for several reasons. For example, the wind project developer that triggered this filing by submission of a good faith request for generator interconnection service proposes to connect to the South Plains Facilities. Golden Spread states that at some point it expects that there could be a request for point-to-point transmission service from this project. Golden Spread asserts that a blended rate would result in significantly higher point-to-point transmission charges for a customer than if the rate is based only on the costs of the South Plains Facilities.

50. Golden Spread also states that a blended rate would raise issues of fairness in connection with the treatment of Golden Spread’s members under the Special Facilities Agreement, where the costs of the Special Facilities are borne by the member benefiting from them. Finally, use of separate rates for each of the Big Country, Greenbelt and South Plains Facilities assures that in the event any of the facilities are transferred back to the distribution member, the transmission costs will remain essentially the same. Given these considerations, Golden Spread considers it just and reasonable to develop a rate that reflects the cost of the service provided over the specific facilities. Under its proposal, a transmission customer taking service over Big Country Facilities will be charged a rate based on the cost of those facilities. Similarly, a user of the Greenbelt Facilities will be charged a rate based on Greenbelt Special Facilities costs, and likewise for the South Plains Facilities.

51. In the aggregate, Golden Spread’s asserts that the total revenue requirement for all three zones is less than \$1.9 million, and initial projections of revenues associated with the sole potential transmission customer that may seek to take service over the facilities in the South Plains Facilities “zone,” assuming such customer in fact requests service in the full amount of its 20 MW proposed generator, would yield revenues of less than \$15,000 per month (or 10 percent of Golden Spread’s entire annual transmission revenue requirement). A “blended” revenue requirement of all owned facilities would produce increased revenues for Golden Spread. But, as Golden Spread acknowledges, such a result is not equitable.

52. Mr. Stover’s affidavit and supporting exhibits provide the initial determination of charges produced by the formula, based on Golden Spread’s 2010 FERC Form 1 data, which would be applicable for the period October 12, 2011 through June 30, 2012 (at which time such charges would be recalculated based on the 2011 FERC Form 1 data. Mr. Stover’s testimony and the supporting data contained in the populated version of the formula rate template detail how the transmission plant investment was isolated and identified for each set of facilities, including specific accounts all necessary allocation

factors, and the debt service coverage ratio that was used in determining just and reasonable charges for each “zone” of service. Golden Spread submits that its formula rate and the initial charges produced thereunder are just and reasonable, and not unduly discriminatory or preferential. To the extent any waivers of the Commission’s Regulations are required in conjunction with the cost support provided by Golden Spread in conjunction with its initial rates, Golden Spread respectfully requests such waivers.

**b. Commission Determination**

53. Our review indicates that Golden Spread’s proposed formula rate template and formula rate protocols are just and reasonable and have not been shown to be unjust and unreasonable or unduly discriminatory or preferential. Accordingly, we will accept them for filing, to be effective October 12, 2011.

The Commission orders:

(A) The Golden Spread OATT is hereby conditionally accepted for filing, to be effective October 12, 2011, as discussed in the body of this order.

(B) Golden Spread is hereby directed to file, within 60 days of the date of issuance of this order, a compliance filing containing revisions to its proposed OATT, as discussed in the body of this order.

(C) Golden Spread’s requests for waiver of the Commission’s OASIS and Standards of Conduct requirements is hereby granted, as discussed in the body of this order. Golden Spread’s other requested waivers are granted in part and denied in part, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.