

148 FERC ¶ 61,212  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;  
Philip D. Moeller, Tony Clark,  
and Norman C. Bay.

Avista Corporation	Docket Nos. ER13-93-001 ER13-94-001 ER13-94-002 ER13-94-003
Puget Sound Energy, Inc.	ER13-98-001 ER13-99-001 ER13-99-002
MATL LLP	ER13-836-001 ER13-836-002
Bonneville Power Administration	NJ13-1-001

ORDER ON REHEARING AND COMPLIANCE

(Issued September 18, 2014)

	<u>Paragraph Numbers</u>
I. Background .....	<u>3.</u>
II. Requests for Rehearing or Clarification – Docket Nos. ER13-93-001, ER13-94-001, ER13-98-001, ER13-99-001, ER13-836-001, and NJ13-1-001 .....	<u>10.</u>
III. Compliance Filings – Docket Nos. ER13-94-002, ER13-94-003, ER13-99-002, and ER13-836-002 .....	<u>11.</u>
IV. Discussion .....	<u>14.</u>
A. Procedural Matters .....	<u>14.</u>
B. Substantive Matters .....	<u>17.</u>
1. Overview of Regional Transmission Planning under the Revised Proposal .....	<u>18.</u>
a. Summary of Compliance Filings.....	<u>18.</u>
b. Commission Determination .....	<u>23.</u>

2. Regional Transmission Planning Requirements.....	<u>27.</u>
a. Transmission Planning Region.....	<u>28.</u>
i. First Compliance Order .....	<u>30.</u>
ii. Summary of Compliance Filings.....	<u>34.</u>
iii. Commission Determination.....	<u>38.</u>
b. Participation by Non-Public Utility Transmission Providers .....	<u>45.</u>
i. Summary of Compliance Filings.....	<u>45.</u>
ii. Protests/Comments .....	<u>46.</u>
iii. Commission Determination.....	<u>48.</u>
c. Order No. 890 and Other Regional Transmission Planning Process General Requirements.....	<u>53.</u>
i. Coordination under the Revised Proposal .....	<u>55.</u>
(a) Summary of Compliance Filings .....	<u>57.</u>
(b) Commission Determination .....	<u>60.</u>
ii. Openness under the Revised Proposal.....	<u>63.</u>
(a) Summary of Compliance Filings .....	<u>67.</u>
(b) Commission Determination .....	<u>70.</u>
iii. Transparency under the Revised Proposal .....	<u>71.</u>
(a) Summary of Compliance Filings .....	<u>74.</u>
(b) Commission Determination .....	<u>77.</u>
iv. Information Exchange under the Revised Proposal .....	<u>78.</u>
(a) Summary of Compliance Filings .....	<u>81.</u>
(b) Commission Determination .....	<u>84.</u>
v. Comparability under the Revised Proposal .....	<u>86.</u>
(a) Requests for Rehearing or Clarification .....	<u>89.</u>
(1) Summary of Requests for Rehearing or Clarification.....	<u>89.</u>
(2) Commission Determination .....	<u>91.</u>
(b) Compliance .....	<u>92.</u>
(1) Summary of Compliance Filings .....	<u>92.</u>
(2) Commission Determination .....	<u>93.</u>
d. Requirement to Plan on a Regional Basis to Identify More Efficient or Cost-Effective Transmission Solutions .....	<u>94.</u>
i. Affirmative Obligation to Plan .....	<u>97.</u>
(a) First Compliance Order .....	<u>97.</u>
(b) Summary of Compliance Filings.....	<u>100.</u>
(c) Commission Determination .....	<u>104.</u>
ii. Merchant Transmission Developers .....	<u>106.</u>
(a) First Compliance Order .....	<u>106.</u>
(b) Summary of Compliance Filing .....	<u>107.</u>
(c) Commission Determination .....	<u>108.</u>
e. Consideration of Transmission Needs Driven by Public Policy Requirements.....	<u>111.</u>
i. Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Regional Transmission Planning Process .....	<u>114.</u>

(a) First Compliance Order .....	<a href="#"><u>114.</u></a>
(b) Summary of Compliance Filing .....	<a href="#"><u>118.</u></a>
(c) Commission Determination .....	<a href="#"><u>121.</u></a>
ii. Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process.....	<a href="#"><u>124.</u></a>
(a) First Compliance Order .....	<a href="#"><u>124.</u></a>
(b) Summary of Compliance Filing .....	<a href="#"><u>126.</u></a>
(c) Commission Determination .....	<a href="#"><u>129.</u></a>
3. Nonincumbent Transmission Developer Reforms .....	<a href="#"><u>133.</u></a>
a. Qualification Criteria.....	<a href="#"><u>134.</u></a>
i. Fee Structure.....	<a href="#"><u>136.</u></a>
(a) First Compliance Order .....	<a href="#"><u>136.</u></a>
(b) Requests for Rehearing or Clarification .....	<a href="#"><u>137.</u></a>
(1) Summary of Requests for Rehearing or Clarification.....	<a href="#"><u>137.</u></a>
(2) Commission Determination .....	<a href="#"><u>139.</u></a>
(c) Compliance .....	<a href="#"><u>140.</u></a>
(1) Summary of Compliance Filings .....	<a href="#"><u>140.</u></a>
(2) Commission Determination .....	<a href="#"><u>141.</u></a>
ii. Transmission Developer Qualification.....	<a href="#"><u>142.</u></a>
(a) First Compliance Order .....	<a href="#"><u>142.</u></a>
(b) Requests for Rehearing or Clarification .....	<a href="#"><u>146.</u></a>
(1) Summary of Requests for Rehearing or Clarification.....	<a href="#"><u>146.</u></a>
(2) Commission Determination .....	<a href="#"><u>147.</u></a>
(c) Compliance .....	<a href="#"><u>148.</u></a>
(1) Summary of Compliance Filings .....	<a href="#"><u>148.</u></a>
(2) Commission Determination .....	<a href="#"><u>155.</u></a>
iii. Timing of Qualification Determination.....	<a href="#"><u>161.</u></a>
(a) First Compliance Order .....	<a href="#"><u>161.</u></a>
(b) Summary of Compliance Filings.....	<a href="#"><u>162.</u></a>
(c) Commission Determination .....	<a href="#"><u>163.</u></a>
b. Information Requirements .....	<a href="#"><u>164.</u></a>
i. First Compliance Order .....	<a href="#"><u>165.</u></a>
ii. Summary of Compliance Filings.....	<a href="#"><u>166.</u></a>
iii. Commission Determination.....	<a href="#"><u>168.</u></a>
c. Evaluation Process for Transmission Proposals Selection in the Regional Transmission Plan for Purposes of Cost Allocation .....	<a href="#"><u>173.</u></a>
i. First Compliance Order .....	<a href="#"><u>174.</u></a>
ii. Summary of Compliance Filings.....	<a href="#"><u>178.</u></a>
iii. Commission Determination .....	<a href="#"><u>183.</u></a>
d. Reevaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation.....	<a href="#"><u>188.</u></a>
i. First Compliance Order .....	<a href="#"><u>189.</u></a>
ii. Summary of Compliance Filings.....	<a href="#"><u>190.</u></a>

iii. Commission Determination .....	<a href="#"><u>193.</u></a>
e. Cost Allocation for Transmission Facilities Selected in the Regional Transmission Plan for Purposes of Cost Allocation .....	<a href="#"><u>195.</u></a>
i. First Compliance Order .....	<a href="#"><u>196.</u></a>
ii. Summary of Compliance Filings .....	<a href="#"><u>197.</u></a>
iii. Commission Determination.....	<a href="#"><u>200.</u></a>
4. Cost Allocation .....	<a href="#"><u>202.</u></a>
a. Binding Cost Allocation Under the ColumbiaGrid Process.....	<a href="#"><u>209.</u></a>
i. First Compliance Order .....	<a href="#"><u>209.</u></a>
ii. Requests for Rehearing or Clarification .....	<a href="#"><u>212.</u></a>
(a) Arguments that Binding Cost Allocation is Not Required by Order No. 1000 .....	<a href="#"><u>212.</u></a>
(1) Summary of Requests for Rehearing or Clarification.....	<a href="#"><u>212.</u></a>
(2) Commission Determination .....	<a href="#"><u>225.</u></a>
(b) Other Arguments Concerning Binding Cost Allocation .....	<a href="#"><u>238.</u></a>
(1) Summary of Requests for Rehearing or Clarification.....	<a href="#"><u>238.</u></a>
(2) Commission Determination .....	<a href="#"><u>247.</u></a>
iii. Compliance.....	<a href="#"><u>257.</u></a>
(a) Summary of Compliance Filings .....	<a href="#"><u>257.</u></a>
(b) Commission Determination .....	<a href="#"><u>259.</u></a>
b. Cost Allocation Principles.....	<a href="#"><u>261.</u></a>
i. First Compliance Order .....	<a href="#"><u>261.</u></a>
ii. Compliance.....	<a href="#"><u>271.</u></a>
(a) Summary of Compliance Filings .....	<a href="#"><u>271.</u></a>
(b) Protests/Comments .....	<a href="#"><u>278.</u></a>
(c) Answer .....	<a href="#"><u>282.</u></a>
(d) Commission Determination.....	<a href="#"><u>286.</u></a>
c. Opportunities to Negotiate a Voluntary Cost Allocation .....	<a href="#"><u>290.</u></a>
i. First Compliance Order .....	<a href="#"><u>290.</u></a>
ii. Compliance.....	<a href="#"><u>295.</u></a>
(a) Summary of Compliance Filings .....	<a href="#"><u>295.</u></a>
(b) Commission Determination .....	<a href="#"><u>296.</u></a>

1. On June 20, 2013, the Commission issued an order accepting, subject to modifications,<sup>1</sup> compliance filings that Avista Corporation (Avista), Puget Sound Energy, Inc. (Puget Sound), and MATL LLP (MATL) (together, ColumbiaGrid Public Utilities) made to comply with the local and regional transmission planning and cost allocation

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<sup>1</sup> *Avista Corp.*, 143 FERC ¶ 61,255 (2013) (First Compliance Order).

requirements of Order No. 1000.<sup>2</sup> The First Compliance Order also addressed a petition for declaratory order by Bonneville Power Administration (Bonneville Power) seeking a finding from the Commission that revisions to its transmission planning process under its Open Access Transmission Tariff (OATT)<sup>3</sup> substantially conform, or are superior to, the *pro forma* OATT as modified by Order No. 1000. The Commission granted the petition in part subject to further modifications to Bonneville Power's transmission planning process.

2. On July 19, 2013, LS Power filed a request for clarification of the First Compliance Order. On July 22, 2013, ColumbiaGrid Public Utilities, Bonneville Power, and Northwest Governmental Utilities filed requests for rehearing of the First Compliance Order. On December 17, 2013 and December 18, 2013, ColumbiaGrid Public Utilities each separately submitted, pursuant to section 206 of the Federal Power Act (FPA),<sup>4</sup> revisions to Attachment K of their respective OATTs<sup>5</sup> to comply with the First Compliance Order.<sup>6</sup> ColumbiaGrid Public Utilities also filed the new ColumbiaGrid Order 1000 Functional Agreement (Functional Agreement) for

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<sup>2</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. South Carolina Pub. Serv. Auth. v. FERC*, No. 12-1232, 2014 WL 3973116 (D.C. Cir. Aug. 15, 2014).

<sup>3</sup> Bonneville Power Administration, Tariffs, OATT, Attachment K, Part IV (ColumbiaGrid Transmission Planning Process) (1.0.0) (Bonneville Power, Tariffs, OATT, Attachment K).

<sup>4</sup> 16 U.S.C. § 824e (2012).

<sup>5</sup> Avista Corporation, FERC Electric Tariff Volume No. 8, OATT, Attachment K, Part IV (ColumbiaGrid Transmission Planning Process) (8.0.0); Puget Sound Energy, Inc., OATT, Attachment K, Part III (ColumbiaGrid Transmission Planning Process) (3.0.0); MATL LLP, FERC Electric Tariff Volume No. 0, OATT, Attachment K, Part III (ColumbiaGrid Transmission Planning Process) (3.0.0).

<sup>6</sup> In the First Compliance Order, the Commission noted that Bonneville Power is not a public utility under section 201 of the FPA, 16 U.S.C. § 824 (2012), and is not subject to Commission directives made pursuant to FPA section 206; however, in reviewing proposed revisions to Bonneville Power's OATT, the Commission indicated further revisions were needed in order for Bonneville Power's OATT to substantially conform to the *pro forma* OATT, as modified by Order No. 1000. First Compliance

(continued...)

informational purposes. For the reasons discussed below, we deny in part and grant in part the requests for rehearing and we accept in part and reject in part ColumbiaGrid Public Utilities' respective proposed OATT revisions, subject to further compliance filings by ColumbiaGrid Public Utilities within 60 days of the date of issuance of this order. We also require ColumbiaGrid Public Utilities to file a revised Functional Agreement as part of their further compliance filings, as discussed below.<sup>7</sup>

## **I. Background**

3. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, taken together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the

transmission planning requirements of Order No. 890<sup>8</sup> to require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its OATT to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning

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Order, 143 FERC ¶ 61,255 at P 2 n.4. However, Bonneville Power has not, at this time, submitted a compliance filing with further revisions. Accordingly, in this order, we will not discuss the Commission's directives for Bonneville Power included in the First Compliance Order, except to the extent they are relevant for arguments on rehearing.

<sup>7</sup> We note that the same or similar issues are addressed in the following orders that have issued or are being issued contemporaneously with this order: *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,198 (2014); *PacifiCorp*, 147 FERC ¶ 61,057 (2014); *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,128 (2014); *Midwest Indep. Transmission Sys. Operator, Inc.*, 147 FERC ¶ 61,127 (2014); *South Carolina Elec. & Gas Co.*, 147 FERC ¶ 61,126 (2014); *Maine Public Service Co.*, 147 FERC ¶ 61,129 (2014); *Duke Energy Carolinas, LLC and Duke Energy Progress*, 147 FERC ¶ 61,241 (2014); *New York Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,044 (2014); *Tampa Elec. Co.*, 148 FERC ¶ 61,172 (2014); *Public Serv. Co. of Colorado*, 148 FERC ¶ 61,213.

<sup>8</sup> *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, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

4. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.

5. On October 11, 2012 and January 30, 2013,<sup>9</sup> ColumbiaGrid Public Utilities and Bonneville Power filed submitted revisions to Attachment K of their respective OATTs and separately filed revisions to the ColumbiaGrid Third Restated Planning and Expansion Functional Agreement (PEFA) to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000. Specifically, ColumbiaGrid Public Utilities proposed revisions to the ColumbiaGrid transmission planning process to incorporate, among other things, procedures for the consideration of transmission needs driven by public policy requirements, nonincumbent transmission developer reforms, and a regional cost allocation method for the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation. The proposed revisions and the Commission's findings with respect to those revisions are reflected in the First Compliance Order and are briefly summarized below.

6. Additionally, ColumbiaGrid Public Utilities stated that their regional transmission planning processes reflected in their OATTs rely, in substantial part, on their participation in the ColumbiaGrid transmission planning process, which is governed by the provisions of the PEFA. They explained that the PEFA is an existing functional agreement by which the PEFA Planning Parties<sup>10</sup> conduct multi-system, transmission planning through a coordinated, open and transparent process. In their first compliance

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<sup>9</sup> Avista, Puget Sound, and Bonneville Power submitted their compliance filings on October 11, 2012, while MATL submitted its compliance filing on January 30, 2013.

<sup>10</sup> The PEFA Planning Parties are entities that have signed the PEFA and include Avista, Puget Sound, MATL and the following non-public utility transmission providers: Bonneville Power, Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 1 of Douglas County, Washington; Public Utility District No. 2 of Grant County, Washington; Public Utility District No. 1 of Snohomish County, Washington; Seattle City Light Department, and City of Tacoma, Department of Public Utilities, Light Division.

filings, ColumbiaGrid Public Utilities requested that the Commission consider revisions to their respective OATTs in conjunction with the revisions to the PEFA.<sup>11</sup>

7. As part of their initial compliance filing, ColumbiaGrid Public Utilities proposed to: (1) condition the effective date of the revisions to their respective OATTs and revisions to the PEFA upon the Commission accepting the PEFA unconditionally, or with no change or condition that was inconsistent with the PEFA and not accepted in writing by each PEFA Planning Party;<sup>12</sup> and (2) revise section 2.1 of the PEFA to clarify that nothing in the agreement, nor any cost allocation thereunder required any PEFA Planning Party or any person to pay, or entitles recovery of, any cost of any transmission facility from any Planning Party. Likewise Bonneville Power separately proposed to revise its OATT to incorporate proposed section 2.1 of the PEFA and to revise section 8.1 of its OATT, Attachment K to preserve its right to decide whether to accept costs allocated pursuant to the ColumbiaGrid transmission planning process.<sup>13</sup>

8. In the First Compliance Order, the Commission accepted ColumbiaGrid Public Utilities' respective compliance filings, subject to further modifications. As discussed further below, the Commission, among other things, rejected the proposed conditional effective date and found that ColumbiaGrid Public Utilities had not reflected an enrollment process in their respective OATTs that defined how entities, including non-public utility transmission providers, made the choice to become part of the

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<sup>11</sup> Avista and Puget Sound filed proposed revisions to the PEFA as a rate schedule with the Commission pursuant to section 205 of the FPA, 16 U.S.C. § 824d (2006), in compliance with Order No. 1000. *See* Avista Corporation, Rate Schedule No. CG1, Planning and Expansion Functional Agreement, Third Amendment and Restatement (1.0.0) (Avista, PEFA); Puget Sound Energy, Inc., Rate Schedule No. CG1, Planning and Expansion Functional Agreement, Third Amendment and Restatement (1.0.0) (Puget Sound, PEFA). MATL submitted a certificate of concurrence for the revised PEFA in its filing. Bonneville Power submitted a copy of Avista's transmittal letter and the revised PEFA as an attachment to its petition.

<sup>12</sup> *See* First Compliance Order, 143 FERC ¶ 61,255 at PP 31-32. ColumbiaGrid Public Utilities explained that the conditional effective date was proposed to ensure that the respective OATT revisions did not become effective until such time as the revised PEFA, upon which the OATT revisions relied, also became effective. ColumbiaGrid Public Utilities noted that until the revised PEFA became effective pursuant to the stipulated conditions, the existing pre-Order No. 1000 PEFA would remain in effect. *Id.*

<sup>13</sup> *See id.* PP 242-243.



ColumbiaGrid transmission planning region, nor had they included a list of those who had made the choice to enroll.<sup>14</sup>

9. The Commission further determined that Order No. 1000 established a requirement that cost allocation determinations for transmission projects selected in the regional transmission plan for purposes of cost allocation be binding upon identified beneficiaries. Thus, ColumbiaGrid Public Utilities were directed to revise their proposal to remove the non-binding cost allocation provisions from the PEFA.<sup>15</sup> With respect to Bonneville Power's proposed revisions, the Commission also concluded that part III, section 8.1 and part IV, section 2 did not substantially conform with, and were not superior to, the *pro forma* OATT as revised by Order No. 1000 because as proposed, the provisions permitted Bonneville Power to decide whether to accept or reject costs allocated to it for new transmission facilities selected in ColumbiaGrid's regional transmission plan for purposes of cost allocation.<sup>16</sup>

## **II. Requests for Rehearing or Clarification – Docket Nos. ER13-93-001, ER13-94-001, ER13-98-001, ER13-99-001, ER13-836-001, and NJ13-1-001**

10. On July 19, 2013, LS Power filed a request for clarification of the First Compliance Order, and on July 22, 2013, ColumbiaGrid Public Utilities, Bonneville Power, and Northwest Governmental Utilities<sup>17</sup> filed requests for rehearing of the First Compliance Order. Bonneville Power requests clarification and/or rehearing of the Commission's determination in the First Compliance Order related to the comparability transmission planning principle. ColumbiaGrid Public Utilities and LS Power request clarification and/or rehearing of the Commission's determination in the First Compliance Order related to qualification criteria. Finally, Bonneville Power, ColumbiaGrid Public Utilities, and Northwest Governmental Utilities request clarification and/or rehearing of

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<sup>14</sup> Likewise, the Commission, noting that Order No. 1000 did not require Bonneville Power, or any other non-public utility transmission provider, to enroll or otherwise participate in a regional transmission planning process found that Bonneville Power's proposal did not substantially conform with, nor was it superior to, the *pro forma* OATT as modified by Order No. 1000. *Id.* PP 37, 39-40.

<sup>15</sup> *Id.* P 267.

<sup>16</sup> *Id.* P 272 (referencing Bonneville Power, Tariffs, OATT, Attachment K, Part III, § 8.1 & Part IV, § 2).

<sup>17</sup> Appendix A contains the description of the abbreviated names used in this order.

the Commission's determination in the First Compliance Order related to binding cost allocation under the ColumbiaGrid transmission planning process.

**III. Compliance Filings – Docket Nos. ER13-94-002, ER13-94-003, ER13-99-002, and ER13-836-002**

11. In response to the First Compliance Order, ColumbiaGrid Public Utilities propose further revisions to their regional transmission planning process, as well as their respective local transmission planning processes, to comply with the Commission's requirements in the First Compliance Order. In their compliance filings, ColumbiaGrid Public Utilities propose modifications to their respective OATTs to further address regional transmission planning requirements, consideration of transmission needs driven by public policy requirements, nonincumbent transmission developer reforms, and regional cost allocation.<sup>18</sup> ColumbiaGrid Public Utilities indicate that the Order No. 1000 compliance provisions are located in Attachment K of their respective OATTs.<sup>19</sup> ColumbiaGrid Public Utilities request an effective date for their respective compliance filings of February 17, 2014.

12. In addition, ColumbiaGrid Public Utilities state that the previously proposed revisions to the PEFA, and corresponding revisions to their respective OATTs submitted in the first compliance filings and conditionally accepted by the Commission subject to further modification, cannot become effective unless the Commission grants rehearing of the First Compliance Order and certain findings are reversed or revised. Thus, in the second compliance filing, ColumbiaGrid Public Utilities state that they have negotiated a new Functional Agreement under which ColumbiaGrid staff will conduct Order No. 1000 transmission planning on their behalf in order to facilitate compliance with the

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<sup>18</sup> We note that Avista submitted duplicate tariff records in the Commission's e-Tariff system, which were assigned Docket Nos. ER13-99-002 and ER13-99-003, respectively. We therefore reject as moot the tariff records filed in Docket No. ER13-99-002.

<sup>19</sup> In this order, we generally use Avista's OATT for specific references to the ColumbiaGrid transmission planning process, rather than referencing the same provision in each respective OATT. Additionally, citations to Avista's, Puget Sound's, and

MATL's OATTs will refer to version 8.0.0, version 3.0.0, and version 3.0.0, respectively, unless otherwise noted.

requirements of Order No. 1000 and the First Compliance Order.<sup>20</sup> ColumbiaGrid Public Utilities also submitted, for informational purposes, the new Functional Agreement.<sup>21</sup>

13. Notice of MATL's filing in Docket No. ER13-836-002 was published in the *Federal Register*, 78 Fed. Reg. 79,428 (2013), with interventions and protests due on or before January 7, 2014. The period for interventions and protests regarding this filing was subsequently extended to January 16, 2014.<sup>22</sup> Notice of Puget Sound's filing in Docket No. ER13-99-002 was published in the *Federal Register*, 78 Fed. Reg. 79,429 (2013), with interventions and protests due on or before January 16, 2014. Notice of Avista's filing in Docket No. ER13-94-003 was published in the *Federal Register*, 79 Fed. Reg. 127 (2014), with interventions and protests due on or before January 16, 2014. Timely motions to intervene were filed by: Bonneville Power; ColumbiaGrid; Imperial Irrigation District; Northwest Governmental Utilities; Sacramento Municipal Utility District; Transmission Agency of Northern California; and Tri-State Generation and Transmission Association. On July 15, 2013, Washington Utilities and Transportation Commission filed a notice to intervene. On January 17, 2014, Basin Electric Power Cooperative filed a motion to intervene out-of-time. Neighboring NJs, AWEA, Bonneville Power;<sup>23</sup> and Northwest Governmental Utilities<sup>24</sup> filed comments and/or protests. ColumbiaGrid Public Utilities filed an answer.

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<sup>20</sup> *E.g.* Avista, Transmittal Letter, Docket Nos. ER13-94-002 and ER13-94-003, at 4 (filed June 19, 2013) (Avista Transmittal Letter).

<sup>21</sup> *E.g., id.* at 1. ColumbiaGrid Public Utilities state that the Functional Agreement will become effective as of the date the respective OATT revisions become effective.

<sup>22</sup> On December 23, 2014, the Commission issued an Errata Notice Extending the Comment Date in this proceeding for filing comments, protests, and interventions up to and including January 16, 2014.

<sup>23</sup> As noted earlier, Bonneville Power did not submit a further compliance filing in response to the First Compliance Order. However, among other things, Bonneville Power submitted comments in support of ColumbiaGrid Public Utilities' proposed OATT revisions and requested that the Commission accept them without modification. Bonneville Power also included comments in support of its rehearing request. Bonneville Power, Comments, Docket Nos. ER13-94-003, ER13-99-002, ER13-836-002, at 3, 5 (filed Jan. 16, 2014) (Bonneville Power Comments).

<sup>24</sup> Northwest Governmental Utilities included comments in support of its rehearing request. Northwest Governmental Utilities, Comments, Docket Nos. ER13-94-003, ER13-99-002, ER13-836-002, at 4-5 (filed Jan. 16, 2014).

#### **IV. Discussion**

##### **A. Procedural Matters**

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept ColumbiaGrid Public Utilities' answer filed in this proceeding because it has provided information that assisted us in our decision-making process.

16. We note that the tariff records ColumbiaGrid Public Utilities submitted here in response to the First Compliance Order also include tariff provisions pending in tariff records that ColumbiaGrid Public Utilities separately filed on June 19, 2013 and November 7, 2013<sup>25</sup> to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000. The tariff records ColumbiaGrid Public Utilities submitted in their interregional compliance filings are pending before the Commission and will be addressed in a separate order. Therefore, any acceptance of the tariff records in the instant filings that include tariff provisions submitted to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000 is made subject to the outcome of the Commission order addressing ColumbiaGrid Public Utilities' interregional compliance filings in Docket Nos. ER13-1729-000, ER13-1730-000, and ER14-346-000.

##### **B. Substantive Matters**

17. We deny in part and grant in part requests for rehearing and clarification. We also find that ColumbiaGrid Public Utilities' respective compliance filings partially comply with the directives in the First Compliance Order. Accordingly, we accept ColumbiaGrid Public Utilities' compliance filings subject to further compliance filings, as discussed below. We direct ColumbiaGrid Public Utilities to submit the compliance filings within 60 days of the date of issuance of this order.

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<sup>25</sup> Avista and Puget Sound submitted their compliance filings on June 19, 2013, 2013, while MATL submitted its compliance filing on November 7, 2013.

1. **Overview of Regional Transmission Planning under the Revised Proposal**

a. **Summary of Compliance Filings**

18. ColumbiaGrid Public Utilities' revised OATTs state that the transmission planning process under the new Functional Agreement is based on, and intended to supplement, the transmission planning processes in their pre-Order No. 1000 PEFA, with the Functional Agreement providing additional terms and conditions necessary for ColumbiaGrid staff to facilitate Order No. 1000-compliant transmission planning processes.<sup>26</sup> Thus, the performance of system assessments and the preparation of the ColumbiaGrid biennial transmission plans under the Functional Agreement are intended to be accomplished in conjunction with the same tasks performed under the pre-Order No. 1000 PEFA, resulting in the issuance of one ColumbiaGrid biennial transmission plan.<sup>27</sup> Further, the revised proposal states that in the event of a conflict between any provision of the Functional Agreement and any provision of the pre-Order No. 1000 PEFA, the provisions of the Functional Agreement are to prevail with respect to the rights and obligations between and among the parties enrolled for purposes of the Functional Agreement.<sup>28</sup>

19. Under the revised process, ColumbiaGrid staff, in coordination with parties to the Functional Agreement and stakeholders, will conduct a system assessment to identify regional needs that are driven by reliability requirements, economic considerations or public policy requirements projected to occur during the planning horizon.<sup>29</sup> Using the

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<sup>26</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 1.2. ColumbiaGrid staff will conduct regional transmission planning pursuant to Order No. 1000 on behalf of ColumbiaGrid Public Utilities who have signed the Functional Agreement as Enrolled Parties in the ColumbiaGrid Order No. 1000 transmission planning region. ColumbiaGrid staff will also continue to conduct regional transmission planning on behalf of the PEFA Planning Parties under the pre-Order No. 1000 PEFA.

<sup>27</sup> *E.g.*, *id.* § 1.1.

<sup>28</sup> *E.g.*, *id.*

<sup>29</sup> By contrast, under the pre-Order No. 1000 PEFA, ColumbiaGrid staff, in coordination with the PEFA Planning Parties and stakeholders, conducts system assessments to determine the ability of each party to serve its network load, native load obligations and long term firm obligations over the planning horizon. Avista, Rate Schedule No. CG1, Planning and Expansion Functional Agreement, Second Amendment, Appendix A, § 3.1.

system assessments, ColumbiaGrid staff, in coordination with parties to the Functional Agreement and stakeholders, will identify needs and develop need statements<sup>30</sup> for which potential solutions will be identified, evaluated and tasked to study teams.<sup>31</sup>

ColumbiaGrid staff forms study teams to address the identified needs. Study teams evaluate proposed solutions, including proposed transmission projects, non-transmission alternatives, and conceptual solutions, which are reflected in the need statement. If a study team determines that a party that is not participating in the study team would be materially affected by a proposed solution being developed, ColumbiaGrid staff will notify such party.<sup>32</sup> The general objective of the study team is the collaborative and timely development of a plan to address the identified need.<sup>33</sup> Under the proposal, ColumbiaGrid staff, in consultation with the study team, reviews each plan developed by the study team to assess whether needs, taken together, can be met by any more efficient or cost-effective solution.<sup>34</sup>

20. Under the transmission planning process, no later than 30 days after the issuance of a final study team report, a party enrolled in the ColumbiaGrid transmission planning region may submit a request for ColumbiaGrid staff to identify those projects that are eligible for selection as Order 1000 Projects. Upon receipt of such request, ColumbiaGrid staff, in consultation with stakeholders, will identify any proposed project that is a more efficient or cost effective solution to an identified need from among the

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<sup>30</sup> Factors used in selecting needs from among potential needs to be included in the system assessment include the level and support for addressing a potential need; feasibility of addressing the need; the extent to which addressing a potential need would also address other potential needs and the factual basis supporting the need. Needs statements are posted for public comment and are submitted to the ColumbiaGrid Board of Directors (ColumbiaGrid Board) for review. *E.g.*, Avista, OATT, Attachment K, Part IV, §§ 3.1 – 3.2

<sup>31</sup> *E.g.*, *id.* § 4. ColumbiaGrid staff's process of forming study teams and the process of evaluating proposed solutions to address identified needs is also utilized under the pre-Order No. 1000 PEFA.

<sup>32</sup> *E.g.*, *id.* § 4.2.1.

<sup>33</sup> The study team develops all required elements of a plan to address a need by applying solution evaluation factors including an assessment of whether there is a solution that is a more efficient or cost effective alternative. *E.g.*, *id.* § 4.3.

<sup>34</sup> *E.g.*, *id.* § 4.4.

proposed projects included in a final study team report. Those projects selected as more efficient or cost effective solutions are “eligible” for regional cost allocation.<sup>35</sup>

21. No later than 60 days after ColumbiaGrid staff has posted a description of any eligible project, any party enrolled in the ColumbiaGrid transmission planning region may request Order 1000 regional cost allocation for the eligible project.<sup>36</sup> Upon receipt of such request, the ColumbiaGrid Board,<sup>37</sup> in an open and public process, reviews eligible projects to confirm that the eligible project is a more efficient or cost effective

solution to meet a need.<sup>38</sup> An eligible project that the ColumbiaGrid Board confirms is a more efficient or cost effective project becomes an Order 1000 Project.<sup>39</sup>

22. Under the transmission planning process, after a project is designated as an Order 1000 Project, ColumbiaGrid staff will allow a six month negotiation period prior to applying the regional cost allocation methodology in order to provide Enrolled Parties in the ColumbiaGrid transmission planning region, an opportunity to reach agreement on project implementation, including responsibility for funding the project.<sup>40</sup> In the event that the negotiation period expires and no agreement is reached, ColumbiaGrid staff will apply the cost allocation methodology and reflect its findings in a draft preliminary cost

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<sup>35</sup> *E.g., id.* § 5.1.

<sup>36</sup> Any such request must be submitted in writing to ColumbiaGrid staff and any requests submitted after the foregoing deadline will not be considered. *E.g., id.* § 5.2.

<sup>37</sup> ColumbiaGrid is managed by an independent three-member elected Board who undertake activities and services pursuant to functional agreements approved by the members of the corporation. *See* ColumbiaGrid, Sixth Revised Bylaws, Article VI, §§ 6.1-6.2.

<sup>38</sup> The ColumbiaGrid Board will document and post the reasons for its conclusion in the event that it does not confirm that an eligible project is a more efficient or cost effective solution to meet a need.

<sup>39</sup> *E.g.,* Avista, OATT, Attachment K, Part IV, § 5.3.

<sup>40</sup> This negotiation period can be extended if requested by all Enrolled Parties and is agreed to by all affected persons and stakeholders. *E.g., id.* § 5.4.

allocation report.<sup>41</sup> The preliminary cost allocation report is submitted to the ColumbiaGrid Board for review, as part of the draft regional transmission plan. The ColumbiaGrid Board reviews each project<sup>42</sup> and reviews the draft regional transmission plan in an open, public process. The review and adoption of the regional transmission plan by the ColumbiaGrid Board is based on the technical merits and the consistency of each project with the terms and conditions of the Functional Agreement.<sup>43</sup>

**b. Commission Determination**

23. We find that ColumbiaGrid Public Utilities' respective compliance filings partially comply with the requirements of Order No. 1000, as discussed further below. As a preliminary matter, ColumbiaGrid Public Utilities submitted the Functional Agreement for informational purposes only. We find that because the Functional Agreement governs ColumbiaGrid Public Utilities' proposed Order No. 1000 process, the Functional Agreement should have been included as part of ColumbiaGrid Public Utilities' compliance filings for Commission review, and not as an informational filing.<sup>44</sup>

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<sup>41</sup> The preliminary cost allocation report includes the results of ColumbiaGrid's benefit to cost ratio and if any, the application of the methodology to such project. *E.g., id.* § 6.4.

<sup>42</sup> The ColumbiaGrid Board reviews and approves the preliminary determination that the project meets the underlying need, is consistent with the applicable solution evaluation factors, and verifies ColumbiaGrid staff's determination that the project should be designated as an Order 1000 Project. The ColumbiaGrid Board also reviews the documentation relating to any other alternative that was considered by a study team. Those elements not approved by the ColumbiaGrid Board will be remanded to ColumbiaGrid staff, who in cooperation with the study team, may revise its preliminary determinations and resubmit the project for consideration. The ColumbiaGrid Board may modify a ColumbiaGrid staff determination to the extent that such modification is supported by the record. *E.g., id.* § 11.4.

<sup>43</sup> *E.g., id.*

<sup>44</sup> Although ColumbiaGrid Public Utilities largely include the relevant language from the Functional Agreement in their OATTs, there are provisions from the Functional Agreement that are not in the respective OATTs and that do not comply with Order No. 1000 (i.e., the opt in/opt out provisions and the advisory cost allocation provisions as discussed further below). There also are several instances in ColumbiaGrid Public Utilities' OATTs that reference specific sections of the Functional Agreement, which raises the concern that tariff language could be inappropriately revised outside of the

(continued...)



Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, the Functional Agreement as part of their next compliance filing. The Functional Agreement, as filed, must be consistent with the directives of this order.

24. As we discuss below, Order No. 1000 did not foreclose the aspect of ColumbiaGrid Public Utilities' proposal regarding ColumbiaGrid staff both performing a system assessment that identifies the transmission needs of non-public utility transmission providers that sign the Functional Agreement but elect not to enroll (i.e., Governmental Non-Enrolled Parties) together with the transmission needs of Enrolled Parties and convening study teams to develop a plan to address the Governmental Non-Enrolled Party's identified transmission needs. In response to requests for clarification by Bonneville Power and Northwest Governmental Utilities,<sup>45</sup> we clarify in the Binding Cost Allocation section below that non-public utility transmission providers that are not enrolled in a transmission planning region, but that are allocated costs under the regional cost allocation method in ColumbiaGrid's proposed preliminary cost allocation report,<sup>46</sup> may determine whether, consistent with their view of their statutory authorities, they will accept the costs that they have been allocated of a new transmission facility selected in a regional transmission plan for purposes of cost allocation, before the preliminary cost

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Commission's purview, by changing language in the Functional Agreement. *See, e.g., id.* § 1.3 ("Each Draft Biennial Plan is to include the information with respect to any ITP(s), Order 1000 Proposed Project(s), Order 1000 Eligible Project(s), Order 1000 Project(s) *as described in sections 11.1 and 11.4 of Appendix A of the [Functional] Agreement*, as applicable.") (emphasis added).

<sup>45</sup> *See* Bonneville Power, Request for Rehearing, Docket Nos. NJ13-1-000, ER13-836-001, ER13-93-001, ER13-94-001, ER13-98-001, & ER13-99-001, at 11-12 (filed July 22, 2013) (Bonneville Power Request for Rehearing); Northwest Governmental Utilities, Request for Rehearing, Docket Nos. ER13-93-000, ER13-94-000, ER13-98-000, ER13-99-000, ER13-836-000, & NJ13-1-000, at 13-14 (filed July 22, 2013) (Northwest Governmental Utilities Request for Rehearing).

<sup>46</sup> Under ColumbiaGrid Public Utilities' proposal, ColumbiaGrid staff applies the regional cost allocation method to an Order 1000 Project and issues a preliminary cost allocation report, which includes the relevant project costs, benefits, and beneficiaries. If the preliminary cost allocation report is approved by the Board, it is included in the regional transmission plan. *E.g.,* Avista, OATT, Attachment K, Part IV, §§ 6, 6.4.

allocation report is approved by the ColumbiaGrid Board and included in the regional transmission plan.<sup>47</sup>

25. In ColumbiaGrid Public Utilities' first compliance filing, ColumbiaGrid Public Utilities and Bonneville Power proposed revisions to the pre-Order No. 1000 PEFA in an effort to incorporate the requirements of Order No. 1000 into ColumbiaGrid's existing Order No. 890-compliant transmission planning process. In contrast, in ColumbiaGrid Public Utilities' second compliance filing before us here, ColumbiaGrid Public Utilities have abandoned their revised PEFA and have instead relied on a new Functional Agreement to meet the requirements of Order No. 1000. ColumbiaGrid Public Utilities state that, "[a]s a result of the [First Compliance Order], the [PEFA] cannot become effective unless rehearing of the [First Compliance Order] is granted and certain aspects of the [First Compliance Order] are reversed or revised."<sup>48</sup> They also state that "[i]f the [First Compliance Order] is not reversed and/or revised, the [Functional Agreement] is the agreement that is intended to, among other things, facilitate Order 1000 Compliance (both regional and interregional) for those entities that are required or otherwise voluntarily choose to comply with the requirements of Order No. 1000."<sup>49</sup> While ColumbiaGrid Public Utilities do not specify the determinations in the First Compliance Order that they would like to be reversed and/or revised, the majority of arguments in ColumbiaGrid Public Utilities' request for rehearing are with respect to the Commission's determination that the regional cost allocation method for transmission projects selected in the regional transmission plan for purposes of cost allocation must be binding.<sup>50</sup> Thus, given the Commission's clarifications in this section and the sections of this order on Cost Allocation and Participation by Non-Public Utility Transmission Providers, regarding the participation by non-enrolled, non-public utility transmission providers, as well as their ability to determine whether they will, consistent with their view of their statutory authorities, accept the costs of a new transmission facility selected in a regional transmission plan for purposes of cost allocation, it is unclear whether ColumbiaGrid Public Utilities would revert to the original PEFA approach provided for in their first compliance filing.

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<sup>47</sup> *See infra* P 248.

<sup>48</sup> *E.g.*, Avista Transmittal Letter at 2 n.4.

<sup>49</sup> *Id.*

<sup>50</sup> ColumbiaGrid Public Utilities, Request for Rehearing, Docket Nos. ER13-93-000, ER13-94-000, ER13-98-000, ER13-99-000, ER13-836-000, & NJ13-1-000, at 10-11 (filed July 22, 2013) (ColumbiaGrid Public Utilities Request for Rehearing).

26. We find that ColumbiaGrid Public Utilities' current proposal relying on use of the Functional Agreement may create a lack of clarity in how transmission planning is conducted in the ColumbiaGrid region. Under the proposed approach, ColumbiaGrid staff will conduct regional transmission planning pursuant to the Functional Agreement for ColumbiaGrid Public Utilities (i.e., the enrolled transmission providers) by planning for regional transmission needs driven by reliability requirements, economic considerations, or public policy requirements projected to occur during the planning horizon.<sup>51</sup> Concurrently, ColumbiaGrid staff will also continue to conduct regional transmission planning for all PEFA Parties, including ColumbiaGrid Public Utilities, under the pre-Order No. 1000 PEFA, by determining the ability of each party to serve its network load, native load obligations, and long term firm obligations over the planning horizon.<sup>52</sup> While ColumbiaGrid Public Utilities propose that the Order No. 1000 transmission planning process will use the same transmission planning processes under the PEFA,<sup>53</sup> it is unclear how these parallel processes will operate in conjunction with each other. Further, we continue to believe that a coordinated, open, and transparent regional transmission planning process should include participation of all public utility and interested non-public utility transmission providers in the region. This is particularly true in ColumbiaGrid, in which the two enrolled public utility transmission providers have historically engaged in significant joint transmission planning with a neighboring non-public utility transmission provider, Bonneville Power whose transmission facilities comprise approximately 75 percent of the transmission facilities in ColumbiaGrid.<sup>54</sup> Thus, we encourage ColumbiaGrid Public Utilities to use a single regional transmission planning process to plan for the needs of its enrolled members and non-enrolled non-public utility transmission providers under a single revised PEFA that incorporates the Order No. 1000 regional transmission planning process currently proposed in the Functional Agreement.

## 2. Regional Transmission Planning Requirements

27. Order No. 1000 required each public utility transmission provider to participate in a regional transmission planning process that produces a regional transmission plan and

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<sup>51</sup> Functional Agreement, §§ 1.41, 2.1.

<sup>52</sup> Avista, Rate Schedule No. CG1, Planning and Expansion Functional Agreement, Second Amendment, Appendix A, § 3.1.

<sup>53</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 1.

<sup>54</sup> Bonneville Power Request for Rehearing at 16.

that complies with the identified transmission planning principles of Order No. 890.<sup>55</sup> The regional transmission planning reforms required public utility transmission providers to consider and select, in consultation with stakeholders, transmission facilities that meet the region's reliability, economic, and Public Policy Requirements-related transmission needs more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning processes.<sup>56</sup>

**a. Transmission Planning Region**

28. Order No. 1000 required each public utility transmission provider to participate in a transmission planning region, which is a region in which public utility transmission providers, in consultation with stakeholders and affected states, agree to participate for purposes of regional transmission planning.<sup>57</sup> The scope of a transmission planning region should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions.<sup>58</sup> However, an individual public utility transmission provider cannot, by itself, satisfy Order No. 1000.<sup>59</sup>

29. In addition, Order No. 1000 required public utility transmission providers to explain how they will determine which transmission facilities are subject to the requirements of Order No. 1000.<sup>60</sup> Order No. 1000 also required public utility transmission providers in each transmission planning region to have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region<sup>61</sup> and, thus, become eligible to be allocated costs under the regional cost allocation method.<sup>62</sup> Order No. 1000 also required that each public utility transmission provider include in its OATT a list of

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<sup>55</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 6, 11, 146.

<sup>56</sup> *Id.* PP 11, 148.

<sup>57</sup> *Id.* P 160.

<sup>58</sup> *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* PP 65, 162.

<sup>61</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>62</sup> *Id.* PP 276-277.

all the public utility and non-public utility transmission providers enrolled as transmission providers in the transmission planning region.<sup>63</sup>

**i. First Compliance Order**

30. In the First Compliance Order, the Commission found that scope of the transmission planning region, the description of facilities that will be subject to the requirements of Order No. 1000, and the enrollment process specified in ColumbiaGrid Public Utilities' filings did not comply with the requirements of Order No. 1000. The Commission also rejected the proposed conditional effective date set forth in the revised PEFA.<sup>64</sup>

31. With respect to the scope of the transmission planning region, the Commission stated that the participation of Avista, Puget Sound, and Bonneville Power in the ColumbiaGrid regional transmission planning process reflected the integrated nature of the grid and resource issues that affect the particular region. The Commission also noted that these parties relied on participation in ColumbiaGrid to comply with Order No. 890 and that ColumbiaGrid Public Utilities and Bonneville Power, together with other non-public utilities in the region, conduct regional transmission planning under the existing PEFA.<sup>65</sup> However, with respect to MATL's compliance filing, the Commission stated that MATL proposed to participate in the ColumbiaGrid regional transmission planning process without providing any explanation as to how such participation met Order No. 1000's requirement that the transmission planning region be governed by the integrated nature of the grid and the particular reliability and resources issues that affect the region.<sup>66</sup> The Commission directed MATL to submit a further compliance filing explaining how its participation in the ColumbiaGrid regional transmission planning process satisfies that requirement. Thus, the Commission found, that subject to additional information provided by MATL, the ColumbiaGrid footprint could be of sufficient scope to satisfy the requirements set forth in Order No. 1000, based upon the

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<sup>63</sup> *Id.* P 275.

<sup>64</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 35.

<sup>65</sup> *Id.* P 36 (citing *U.S. Dep't of Energy - Bonneville Power Admin.*, 124 FERC ¶ 61,054 (2008)).

<sup>66</sup> *Id.* The Commission noted that MATL's transmission project, which was in the final phase of construction, interconnects NorthWestern Corporation's transmission system in Montana with the Alberta Interconnected Electrical System in Alberta, Canada. *Id.* P 36 n.50.

enrollment of ColumbiaGrid Public Utilities and Bonneville Power in the ColumbiaGrid regional transmission planning process, as modified by Order No. 1000.<sup>67</sup>

32. However, the Commission found that ColumbiaGrid Public Utilities' compliance filings did not indicate enrollment in the regional transmission planning process. Rather, the Commission stated that these parties had made clear that their continued participation in the ColumbiaGrid regional transmission planning process, as modified by Order No. 1000, was conditioned upon acceptance of the revised PEFA and revised tariffs without modification (or in the event that the Commission directed further modifications, upon such modifications being accepted in writing by all existing PEFA Planning Parties). The Commission determined that this conditional effective date made clear that these parties had not enrolled in the regional transmission planning process and that such enrollment was contingent upon the Commission's findings in the First Compliance Order. As a result, the Commission found that ColumbiaGrid Public Utilities had failed to satisfy the Order No. 1000 requirement that public utility transmission providers enroll and participate in a regional transmission planning process. Accordingly, the Commission rejected the conditional effective date reflected in the revised PEFA and directed ColumbiaGrid Public Utilities to enroll in a regional transmission planning process and revise the PEFA and their respective OATTs to establish an appropriate effective date in their respective compliance filings.<sup>68</sup>

33. In addition, the Commission found that ColumbiaGrid Public Utilities had not reflected an enrollment process in their respective OATTs that defined how entities, including non-public utility transmission providers, made the choice to become part of the ColumbiaGrid transmission planning region, nor had they included a list of those who had made the choice to enroll. Therefore, the Commission directed ColumbiaGrid Public Utilities to revise their respective OATTs to reflect a clear enrollment process and to include a list of all the public utility and non-public utility transmission providers that had enrolled as transmission providers in the ColumbiaGrid transmission planning process.<sup>69</sup>

## **ii. Summary of Compliance Filings**

34. ColumbiaGrid Public Utilities explain that their respective OATTs filed as part of their first Order No. 1000 compliance filings relied substantially on the provisions of the revised PEFA to facilitate compliance with the requirements of Order No. 1000.

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<sup>67</sup> *Id.* PP 36-37.

<sup>68</sup> *Id.* P 37.

<sup>69</sup> *Id.* P 38.

However, ColumbiaGrid Public Utilities state that, unless the Commission grants rehearing on certain aspects of the First Compliance Order, the revised PEFA cannot become effective under its terms.<sup>70</sup> Accordingly, ColumbiaGrid Public Utilities state that the parties to the currently effective pre-Order No. 1000 PEFA have negotiated the Functional Agreement to facilitate ColumbiaGrid Public Utilities' compliance with the requirements of Order No. 1000.<sup>71</sup> They state that the Functional Agreement will become effective as between ColumbiaGrid Public Utilities as of the date their respective OATTs become effective.<sup>72</sup> ColumbiaGrid Public Utilities request that their revised OATTs become effective on February 17, 2014.<sup>73</sup>

35. ColumbiaGrid Public Utilities state that the Functional Agreement and their respective OATTs provide for a clear enrollment process that may be used by both public utilities and non-public utilities. Specifically, any person that is not enrolled in another Order No. 1000 region may enroll in the ColumbiaGrid transmission planning region by signing the Functional Agreement.<sup>74</sup>

36. ColumbiaGrid Public Utilities have also listed in their respective OATTs the entities that have enrolled in the ColumbiaGrid transmission planning region (i.e., Avista, Puget Sound, and MATL).<sup>75</sup>

37. MATL notes that it is not currently physically interconnected with the other Enrolled Parties in the ColumbiaGrid planning region (i.e., Avista and Puget Sound). To address the Commission's concern regarding how MATL's membership within ColumbiaGrid aligns with the Order No. 1000 requirement that the transmission planning region be governed by the integrated nature of the grid and the particular reliability and

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<sup>70</sup> *E.g.*, Avista Transmittal Letter at n.4.

<sup>71</sup> *E.g.*, *id.* at 4. ColumbiaGrid Public Utilities note that they have submitted the Functional Agreement for informational purposes only and have revised their respective OATTs to incorporate certain provisions of the Functional Agreement to achieve compliance with Order No. 1000 and the First Compliance Order. *E.g.*, *id.* at 1.

<sup>72</sup> *E.g.*, *id.* at 4 (citing Functional Agreement, § 12.1).

<sup>73</sup> *E.g.*, *id.* at 32.

<sup>74</sup> *See, e.g.*, Avista, OATT, Attachment K, Part IV, § 16 & Appendix A (Order 1000 Enrolled Party); Functional Agreement, § 14.17.

<sup>75</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 16.

resources issues that affect the region, MATL states that it will withdraw from the ColumbiaGrid transmission planning region and instead enroll in the Northern Tier Transmission Group (NTTG) transmission planning region. MATL states that it is in the process of providing a written withdrawal notice to ColumbiaGrid staff and initiating its application to enroll in NTTG. However, pursuant to the terms of the pre-Order 1000 PEFA, to which MATL is a signatory, MATL's withdrawal from ColumbiaGrid is subject to a 30-month withdrawal period (currently anticipated to be June 2016), during which time MATL is obligated to continue participating in the ColumbiaGrid transmission planning process and to continue paying membership fees. Because it is still a PEFA Planning Party during the term of the 30-month withdrawal period, MATL states that it intends to rely on its continued participation in the ColumbiaGrid regional transmission planning process for compliance with Order No. 1000 during the withdrawal period. Thus, MATL has currently signed the Functional Agreement and is an Enrolled Party subject to potential cost allocation within the ColumbiaGrid transmission planning region. MATL commits to filing a revised OATT to further address changes to its regional transmission planning provisions to reflect its participation in NTTG's transmission planning region, 60 days prior to its transition to NTTG.<sup>76</sup>

### **iii. Commission Determination**

38. We find that the scope of the transmission planning region and ColumbiaGrid Public Utilities' proposed enrollment process comply with the directives in the First Compliance Order. We also accept ColumbiaGrid Public Utilities' proposal for their revised OATTs to become effective on February 17, 2014, subject to further compliance filings. However, as discussed below, we find that ColumbiaGrid Public Utilities' filings do not comply with the requirement to provide the description of facilities that will be subject to the requirements of Order No. 1000.

39. With respect to the scope of the transmission planning region, in the First Compliance Order, the Commission stated that the participation of Avista, Puget Sound, and Bonneville Power in the ColumbiaGrid regional transmission planning process reflected the integrated nature of the grid and resource issues that affect the particular region. However, to date, Bonneville Power has not elected to enroll in the ColumbiaGrid transmission planning region under the Functional Agreement. Although MATL has enrolled in the ColumbiaGrid transmission planning region, MATL explains that it is not currently physically interconnected with any of the ColumbiaGrid planning entities and that it is in the process of transitioning from ColumbiaGrid to NTTG. We

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<sup>76</sup> MATL, Transmittal Letter, Docket No. ER13-836-002, at 4 (filed November 7, 2013) (MATL Transmittal Letter).



accept MATL's explanation that its withdrawal from ColumbiaGrid will be subject to a 30 month withdrawal period, during which it will rely on its continued participation in the ColumbiaGrid regional transmission planning process for compliance with Order No. 1000. We also accept its commitment to file a revised OATT that reflects the applicable NTTG provisions, 60 days prior to its transition to the NTTG transmission planning region.

40. Given these circumstances, we address the scope of the transmission planning region requirements by examining the two remaining enrolled parties in the ColumbiaGrid transmission planning region, i.e., Avista and Puget Sound. In particular, we evaluate whether and how these public utility transmission providers comply with the scope requirement absent the enrollment of Bonneville Power in the region, including whether the region as constituted satisfies the Order No. 1000 requirements. With regard to the scope of the transmission planning region, the Commission looks to the integrated nature of the transmission grid and the particular reliability and resource issues affecting the individual transmission planning regions.<sup>77</sup>

41. In taking into account Order No. 1000's regional scope requirement noted above, we conclude that the scope of the ColumbiaGrid transmission planning region complies with that requirement. First, Avista and Puget Sound regularly have interchange between their respective Balancing Authority Areas using their transmission facilities from various Mid-Columbia projects.<sup>78</sup> Also, we find that the region reflects the integrated nature of the regional grid, as evidenced by Puget Sound and Avista's joint ownership of transmission facilities in Montana that transfer output from a nearby generating resource. In addition, Avista and Puget Sound each own separate 230 kV transmission lines that directly connect their Balancing Authority Areas to the same substation in central Washington.<sup>79</sup> Moreover, Puget Sound has an electrical interconnection with Avista's Balancing Authority Area that allows Puget Sound's purchased output of a generating plant located in Spokane, Washington to be transferred to Bonneville Power's Balancing Authority Area.

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<sup>77</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

<sup>78</sup> Avista, FERC Form No. 714 (Annual Electric Balancing Authority Area and Planning Area Report), Part II, Schedule 5 (Balancing Authority Area Scheduled and Actual Interchange), at 6 (2011).

<sup>79</sup> This substation is the Wanapum Substation owned by Public Utility District No. 2 of Grant County, Washington.

42. Further, since 2007, ColumbiaGrid has conducted transmission planning on behalf of Avista and Puget Sound under the ColumbiaGrid pre-Order No. 1000 PEFA, and these parties, together with other PEFA Planning Parties, relied on their participation in ColumbiaGrid to comply with Order No. 890.<sup>80</sup> Under ColumbiaGrid Public Utilities' current proposal, ColumbiaGrid will conduct "enhanced" transmission planning under Order No. 1000 on behalf of Avista and Puget Sound while continuing to conduct transmission planning under the pre-Order No. 1000 PEFA together with non-public utility transmission providers in the Pacific Northwest. We also note that, in Order No. 1000, the Commission stated that proactive cooperation among public utility transmission providers could better identify solutions that more efficiently or cost-effectively meet the region's needs versus those solutions identified by individual public utility transmission providers in their local transmission processes.<sup>81</sup> We find that Avista and Puget Sound proactively engage in transmission planning to identify solutions that more efficiently or cost-effectively meet the region's needs, and such planning is thus compliant with Order No. 1000. Thus, we conclude that the scope of the ColumbiaGrid transmission planning region complies with the requirements of Order No. 1000.

43. Further, we find that ColumbiaGrid Public Utilities have reflected an enrollment process in their respective OATTs that defines how entities, including non-public utility transmission providers, make the choice to become part of the ColumbiaGrid transmission planning region. They have also included a list of the public utility transmission providers<sup>82</sup> that have enrolled as transmission providers in the ColumbiaGrid transmission planning process. We also accept the proposed OATT revision that prohibits a transmission provider from enrolling in ColumbiaGrid if it is enrolled in a different transmission planning region. We expect that, under this provision, a transmission provider may withdraw from one transmission planning region to enroll in a different transmission planning region but may not be simultaneously enrolled in two transmission planning regions. We also note that, although the OATT prohibits an entity from enrolling in the ColumbiaGrid transmission planning region if that entity is enrolled in a different transmission planning region, separate affiliates of a single entity may enroll in different transmission planning regions.

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<sup>80</sup> The Commission stated that the existing regional processes should provide guidance in formulating transmission planning regions for purposes of complying with Order No. 1000. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

<sup>81</sup> *Id.* P 81.

<sup>82</sup> ColumbiaGrid Public Utilities indicate that no non-public utility transmission providers have currently enrolled as transmission providers in the ColumbiaGrid transmission planning process.

44. Finally, we find that ColumbiaGrid Public Utilities do not comply with the requirement to explain in their compliance filings how they will determine which transmission facilities evaluated in their local and regional transmission planning processes will be subject to the requirements of Order No. 1000. The Commission stated that the requirements of Order No. 1000 were intended to apply to new transmission facilities only, meaning those transmission facilities that were subject to evaluation or reevaluation within a public utility transmission provider's local or regional transmission planning process after the effective date of the compliance filing adopting the relevant requirements of Order No. 1000.<sup>83</sup> While ColumbiaGrid Public Utilities propose an effective date of February 17, 2014 for their respective OATTs and the Functional Agreement, it is not clear when or during what point in the transmission planning cycle ColumbiaGrid Public Utilities intend for the Functional Agreement and related OATT provisions to apply to transmission facilities that are subject to reevaluation. Thus, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that explain how ColumbiaGrid Public Utilities will determine which transmission facilities evaluated in their local and regional transmission planning processes will be subject to the requirements of Order No. 1000.

**b. Participation by Non-Public Utility Transmission Providers**

**i. Summary of Compliance Filings**

45. ColumbiaGrid Public Utilities propose that, under the Functional Agreement, a non-public utility can sign the Functional Agreement without enrolling in the ColumbiaGrid transmission planning region if it is a PEFA Planning Party and if it specifically designates itself as a Governmental Non-Enrolled Party.<sup>84</sup> Further, ColumbiaGrid Public Utilities propose to permit Governmental Non-Enrolled Parties to provide a written request to ColumbiaGrid staff prior to the performance of a system assessment to have the system assessment report identify their needs for transmission facilities in their transmission system, including any transmission need that is driven by reliability requirements, addresses economic considerations, or is driven by public policy requirements. ColumbiaGrid staff would then identify needs for transmission facilities in the transmission planning region of such Governmental Non-Enrolled Party that should be addressed together with identified needs of Enrolled Parties to the Functional Agreement. ColumbiaGrid staff will then develop conceptual transmission solutions to address such identified needs, including consideration of whether a non-transmission

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<sup>83</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 65.

<sup>84</sup> Functional Agreement, §§ 1.19, 14.17.

solution might be viable to eliminate or delay a transmission-based solution.<sup>85</sup> Further, study teams would also be formed and used to evaluate solutions and develop all required elements of a plan to address the transmission needs of the transmission planning region including the transmission systems of such Governmental Non-Enrolled Parties.<sup>86</sup> Also, under the Functional Agreement, any Governmental Non-Enrolled Party may request an advisory cost allocation for any proposed transmission facilities that are included in the plan to address the identified needs.<sup>87</sup> Any advisory cost allocation prepared by ColumbiaGrid staff shall be advisory only and shall impose no payment obligation and will not be included in the plan.<sup>88</sup>

**ii. Protests/Comments**

46. AWEA asserts that allowing Bonneville Power and other regional governmental entities the opportunity to fully participate in the regional transmission planning but not have a binding cost allocation is not consistent with the principles enunciated in Order No. 1000 and the First Compliance Order cost allocation requirements.<sup>89</sup> AWEA protests that it is not just and reasonable to plan transmission that includes non-public utility needs, only to have the non-public utilities pull out near the end because they have not “enrolled.”<sup>90</sup> AWEA states that, as a result, either ColumbiaGrid Public Utilities’ customers would pay more in rates than they should or ColumbiaGrid Public Utilities and enrolled entities will need to redo the transmission plan to not include the non-public utility needs, which would cause delay and result in less efficient transmission being built for the region.<sup>91</sup> AWEA states that it is not just and reasonable for ColumbiaGrid Public Utilities’ customers alone to bear the cost in rates that are higher than would result if the non-public utilities’ customers also would bear some of the cost allocation for the specific transmission solution. AWEA adds that this would perpetuate the free-rider

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<sup>85</sup> *Id.* § 2.6.1.

<sup>86</sup> *Id.* § 2.6.2.

<sup>87</sup> *Id.* § 2.6.3.

<sup>88</sup> *Id.* at Appendix A, § 9.

<sup>89</sup> AWEA, Comments, Docket Nos. ER13-94-003, ER13-99-002, & ER13-836-002, at 3 (filed January 31, 2014) (AWEA Comments).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 3-4.

problem with non-public utilities' customers enjoying the benefit of the specific transmission solution but paying for none of the cost.<sup>92</sup>

47. Bonneville Power states that the Functional Agreement provides a framework that would advance regional transmission planning in the Pacific Northwest by facilitating Order No. 1000 compliance for the public utilities in the region and that would enable participation by Governmental Non-Enrolled Parties.<sup>93</sup> Bonneville Power explains that the pre-Order No. 1000 PEFA and the Functional Agreement provide non-public utilities with several alternatives to address their regional transmission planning needs, including the ability to: (1) participate in the Order No. 1000 transmission planning process solely as a stakeholder (without signing the Functional Agreement); (2) participate in the pre-Order No. 1000 planning process as a PEFA Planning Party; or (3) participate as an Enrolled Party or a Governmental Non-Enrolled Party under the Functional Agreement.<sup>94</sup> Bonneville Power notes that an advantage of participating in the Order No. 1000 ColumbiaGrid transmission planning region as a Governmental Non-Enrolled Party to the Functional Agreement is that such parties may request certain regional transmission planning services from ColumbiaGrid that are not provided under the pre-Order No. 1000 PEFA, including having their transmission needs included in a system assessment and receiving an advisory cost allocation based on the regional cost allocation methodology for a proposed transmission facility that is included in a plan to address the identified needs.<sup>95</sup> Bonneville Power asserts that consideration of such needs by ColumbiaGrid study teams and the availability of advisory cost allocations may facilitate agreement by public and non-public utilities on cost-effective and efficient plans of service and cost allocations.<sup>96</sup>

### iii. Commission Determination

48. We discuss two aspects of ColumbiaGrid Public Utilities' proposal. First, we consider the proposal to facilitate participation of non-public utility transmission providers in ColumbiaGrid's regional transmission planning process, whereby ColumbiaGrid staff will conduct regional transmission planning on behalf of Governmental Non-Enrolled Parties who, as non-enrollees, are not subject to the regional

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<sup>92</sup> *Id.* at 3.

<sup>93</sup> Bonneville Power Comments at 3.

<sup>94</sup> *Id.* at 4.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 4-5.

cost allocation method. Second, we consider the proposal to allow such parties to opt into and out of regional transmission planning under Order No. 1000.

49. Order No. 1000 requires that public utility transmission providers enroll in a regional transmission planning process that complies with the requirements established in Order No. 1000.<sup>97</sup> Although non-public utility transmission providers were not similarly required to enroll in an Order No. 1000-compliant regional transmission planning process, the Commission recognized that non-public utility transmission providers may nonetheless elect to participate in a regional transmission planning process under Order No. 1000. Accordingly, the Commission addressed means by which a non-public utility transmission provider might choose to participate, including enrolling in a region<sup>98</sup> or participating as a stakeholder.<sup>99</sup> Order No. 1000-A affirmed that, if a non-public utility transmission provider makes the choice to enroll in a region, then that transmission provider would be subject to the regional and interregional cost allocation methods for that region.<sup>100</sup> Order No. 1000-A also affirmed that:

the regional transmission planning process is not required to plan for the transmission needs of such a non-public utility transmission provider that has not made the choice to join a transmission planning region. If the non-public utility transmission provider is a customer of a public utility transmission provider in the region, that public utility transmission provider must plan for that customer's needs as it would for the needs of any customer. That non-public

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<sup>97</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 151.

<sup>98</sup> To provide clarity regarding how a transmission provider may enroll in a transmission planning region, and to ensure that the scope of the region is clear, Order No. 1000 also required that “public utility transmission providers in each transmission planning region have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region,” and that “each public utility transmission provider (or regional transmission planning entity acting for all of the public utility transmission providers in its transmission planning region) must include in its OATT a list of all the public utility and non-public utility transmission providers that have enrolled as transmission providers in its transmission planning region.” Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

utility transmission provider's ability to participate as a stakeholder in the regional transmission planning process should be the same as for any other similarly situated stakeholder customer.<sup>101</sup>

50. To facilitate participation of non-public utility transmission providers in the ColumbiaGrid regional transmission planning process, ColumbiaGrid Public Utilities propose to allow non-public utility transmission providers to participate in the transmission planning region pursuant to the terms of the Functional Agreement as either: (1) non-public utility transmission providers "that sign the [Functional Agreement] and expressly elect to Enroll will also be Enrolled in the Order 1000 ColumbiaGrid Planning Region"<sup>102</sup> and, accordingly, will comply with the Order No. 1000 transmission planning and cost allocation processes in the Functional Agreement; or (2) non-public utility transmission providers "that sign the [Functional Agreement] but do not expressly elect to Enroll will not be Enrolled in the Order 1000 ColumbiaGrid Planning Region"<sup>103</sup> (i.e., Governmental Non-Enrolled Parties). Governmental Non-Enrolled Parties may request that ColumbiaGrid staff both perform a system assessment that identifies the transmission needs of such Governmental Non-Enrolled Parties, together with the transmission needs of Enrolled Parties (including any transmission need that is driven by reliability requirements, addresses economic considerations, or is driven by public policy requirements) and convene study teams to develop a plan to address the requesting Governmental Non-Enrolled Party's identified transmission needs.<sup>104</sup>

51. We find that ColumbiaGrid Public Utilities' revised proposal partially complies with Order No. 1000. As discussed above, while Order No. 1000-A expressly contemplated that a non-public utility transmission provider may enroll in a region or, if it elects not to enroll, may participate as a stakeholder and/or be planned for as a customer,<sup>105</sup> we find that Order No. 1000 does not preclude the enrolled public utility

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<sup>101</sup> *Id.* P 276; *see also id.* P 278.

<sup>102</sup> *E.g.*, Avista Transmittal Letter at 4; Functional Agreement, § 14.17.

<sup>103</sup> *Id.*

<sup>104</sup> Functional Agreement, §§ 2.6.1, 2.6.2.

<sup>105</sup> If a non-public utility transmission provider is a customer of a public utility transmission provider in the region, that public utility transmission provider must plan for that customer's needs as it would for the needs of any customer. Order No. 1000-A, 139 FERC ¶ 61,132 at P 276.

transmission providers in a transmission planning region from conducting transmission planning for non-enrolled non-public utility transmission providers if the enrolled public utility transmission providers elect to do so. We therefore find that, contrary to protestors' assertions, Order No. 1000 did not foreclose the aspect of ColumbiaGrid Public Utilities' proposal allowing the regional transmission planning process to identify the transmission needs of non-public utility transmission providers that elect not to enroll together with the transmission needs of enrolled transmission providers. Furthermore, given the unique circumstances in ColumbiaGrid, in which the two enrolled public utility transmission providers have historically engaged in significant joint transmission planning with a neighboring non-public utility transmission provider, Bonneville Power whose transmission facilities comprise approximately 75 percent of the transmission system in ColumbiaGrid,<sup>106</sup> we find that accepting ColumbiaGrid Public Utilities' proposal is appropriate to foster continued, proactive cooperation between and among public utility transmission providers in the ColumbiaGrid region and neighboring non-public utility transmission providers. We also find that ColumbiaGrid Public Utilities' proposal will increase transparency, support the building of a record with respect to transmission planning, and allow regional transmission planning to be conducted inclusive of non-public utility transmission providers, so as to expand opportunities for identifying and proposing more efficient or cost-effective regional transmission projects. We conclude that Order No. 1000 permits the aspect of ColumbiaGrid Public Utilities' proposal allowing the regional transmission planning process to identify the transmission needs of Governmental Non-Enrolled Parties together with the transmission needs of Enrolled Parties and convene study teams to address such needs; accordingly, we accept it.<sup>107</sup>

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<sup>106</sup> Bonneville Power Request for Rehearing at 16.

<sup>107</sup> In Order No. 1000-A, the Commission held that:

to maintain a reciprocity tariff under the voluntary "safe harbor" provision, a non-public utility transmission provider must ensure that the provisions of that tariff substantially conform, or are superior, to the *pro forma* OATT as it has been revised by Order No. 1000. As such, if a non-public utility transmission provider wishes to maintain its safe harbor tariff, it will need to ensure that it addresses Order No. 1000's transmission planning and cost allocation reforms, so that it continues to substantially conform, or be superior, to the *pro forma* OATT. Order No. 1000-A, 139 FERC ¶ 61,132 at P 772 (citing Order No. 1000, FERC Stats. & Regs.

(continued...)



52. However, we find that ColumbiaGrid Public Utilities' proposed provisions in the Functional Agreement that permit a Governmental Non-Enrolled Party to opt into (or out of) ColumbiaGrid transmission planning pursuant to Order No. 1000 by submitting a written request each transmission planning cycle do not comply with Order No. 1000. We find that allowing Governmental Non-Enrolled Parties to opt in and opt out of regional transmission planning under Order No. 1000 on a biennial basis, coupled with continued transmission planning under the auspices of the pre-Order No. 1000 PEFA, will result in uncertainty with respect to how and for whom ColumbiaGrid staff will conduct overlapping processes. As described above, ColumbiaGrid Public Utilities state that they will conduct transmission planning for the PEFA Planning Parties under the pre-Order No. 1000 PEFA, while also conducting transmission planning for Enrolled Parties under the Functional Agreement. Thus, for ColumbiaGrid Public Utilities, it is unclear how the overlapping processes of the PEFA and Functional Agreement will result in selection of transmission facilities that are more efficient or cost-effective.<sup>108</sup> Moreover, we find that the lack of certainty about the parties for which ColumbiaGrid staff will plan from transmission planning cycle to transmission planning cycle could impede effective transmission planning in the region, disrupting the enrolled transmission providers' Order No. 1000 regional transmission planning process. As we note above, ColumbiaGrid Public Utilities have reflected these opt in-opt out provisions only in the Functional Agreement, and not their respective OATTs. We direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, a further compliance filing that includes the Functional Agreement but that does not include the proposed opt in and opt out provisions.

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¶ 31,323 at P 815 and Appendix C: *Pro Forma* Open Access Transmission Tariff). Therefore, if a non-public transmission provider does not enroll in a transmission planning region and, accordingly, does not comply with the requirements of Order No. 1000, it may not be able to demonstrate that its OATT continues to substantially conform, or be superior, to the *pro forma* OATT, as it has been revised by Order No. 1000, and may not maintain its safe harbor tariff.

<sup>108</sup> The uncertainty created by the overlapping processes of the PEFA and Functional Agreement would be avoided by use of a single regional transmission planning process to plan for the transmission needs of its enrolled members and non-enrolled non-public utility transmission providers under a single revised PEFA, use of which we encourage above.

c. **Order No. 890 and Other Regional Transmission Planning Process General Requirements**

53. Order No. 1000 required that the regional transmission planning process result in a regional transmission plan<sup>109</sup> and satisfy the Order No. 890 transmission planning principles of (1) coordination, (2) openness, (3) transparency, (4) information exchange, (5) comparability, (6) dispute resolution, and (7) economic planning.<sup>110</sup>

54. In the First Compliance Order, the Commission found that the ColumbiaGrid regional transmission planning process described in ColumbiaGrid Public Utilities' compliance filings complied with the dispute resolution and economic planning principles.<sup>111</sup> The Commission directed ColumbiaGrid Public Utilities to revise their OATTs to satisfy the principles of coordination, openness, transparency, information exchange, and comparability. We note however, because ColumbiaGrid Public Utilities intend for the Functional Agreement to facilitate their compliance with Order No. 1000, rather than the PEFA, their proposed revisions to their OATTs correspond directly to the new agreement.<sup>112</sup> We note that their revised proposal adopts those processes previously reflected in the PEFA, which the Commission relied upon in the First Compliance Order in addressing the Order No. 890 principles. Thus, we will describe their proposed revisions to their OATTs which reflect the Functional Agreement and, to the extent necessary, reevaluate their proposal to determine whether the revised regional transmission planning process complies with the Order No. 890 principles. As explained below, ColumbiaGrid Public Utilities, in submitting revisions to their respective OATTs

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<sup>109</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

<sup>110</sup> *Id.* PP 146, 151. These transmission planning principles are explained more fully in Order No. 890.

<sup>111</sup> First Compliance Order, 143 FERC ¶ 61,255 at PP 85, 91. We note that the OATT provisions relied upon by the Commission in the First Compliance Order remain unchanged in the second compliance filing, with respect to dispute resolution and economic planning studies and therefore, we need not reevaluate these principles.

<sup>112</sup> We note that ColumbiaGrid Public Utilities propose to remove all provisions of PEFA that were previously reflected in their OATTs and instead reflect only those provisions of the Functional Agreement, whereby ColumbiaGrid staff will conduct Order No. 1000 transmission planning on behalf of public utility transmission providers and others who enroll in the ColumbiaGrid transmission planning region by signing the Functional Agreement.

to reflect the provisions of the Functional Agreement, also respond to Commission directives in the First Compliance Order.

**i. Coordination under the Revised Proposal**

55. The coordination principle requires public utility transmission providers to provide customers and other stakeholders with the opportunity to participate fully in the planning process. The purpose of this requirement is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between public utility transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development.<sup>113</sup>

56. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities compliance filings generally complied with the coordination principle, subject to certain clarifications, because they provided any interested person an opportunity to participate and provide input in the ColumbiaGrid regional transmission planning process. However, the Commission found that the proposal that participation in a study team for a requested service project<sup>114</sup> could be limited due to tariffs or applicable law was an exception to the opportunity for an interested person to fully participate in the ColumbiaGrid regional transmission planning process.<sup>115</sup> The Commission stated that this limitation required further explanation in order to be consistent with the coordination principle and directed ColumbiaGrid Public Utilities to file further compliance filings

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<sup>113</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 451-454.

<sup>114</sup> A requested service project means any modification of the regional interconnected systems that is for the purpose of providing service pursuant to a transmission or interconnection request made to a [transmission owner or operator planning party] which involves more than one transmission system. *See* Avista, Rate Schedule No. CG1, Planning and Expansion Functional Agreement, Second Amendment, Appendix A, § 1.50.

<sup>115</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 51 (citing Avista, OATT, Attachment K, Part IV, § 4.3 (1.0.0)). The cited proposed tariff provision read in part that, “[a]ny [PEFA] Planning Party, Affected Person, Relevant State and Provincial Agency or other Interested Person may participate in a Study Team, with the exception that participation in a Requested Service Project Study Team may be limited due to tariffs or applicable law.”

clarifying in their respective OATTs potential limitations on participation in a requested service project study team due to tariffs or applicable law.<sup>116</sup>

(a) **Summary of Compliance Filings**

57. ColumbiaGrid Public Utilities' revised OATTs state that ColumbiaGrid staff will develop, review and adopt a regional transmission plan using a two year cycle, based upon a ten year planning horizon. Under the revised ColumbiaGrid transmission planning processes, during January of each year, but no later than March, ColumbiaGrid staff will conduct a meeting to discuss and identify potential needs to be included in upcoming system assessments. The revised OATTs state that all stakeholders are invited to attend and notice of such meeting is posted on the ColumbiaGrid website. Prior to such meeting stakeholders may submit written suggestions to ColumbiaGrid staff of items to be considered for inclusion as potential needs.<sup>117</sup> In conducting system assessments, the revised OATTs state that ColumbiaGrid staff coordinates with all parties to the Functional Agreement and all stakeholders in performing and preparing system assessments.<sup>118</sup> In addition, ColumbiaGrid staff conducts a public meeting with general notice to parties to the Functional Agreement, affected persons, relevant state and provincial agency or any interested person and specific notice to those that ColumbiaGrid staff anticipates may be materially affected for the purpose of reviewing need statements and soliciting participation in a study team.<sup>119</sup> Any stakeholder may participate in a study team formed to address an identified need.<sup>120</sup> The revised OATTs also state that ColumbiaGrid staff will consult with stakeholders to review the final study team report for those requesting regional cost allocation.

58. In response to the First Compliance Order, ColumbiaGrid Public Utilities explain that the Commission generally prohibits transmission providers from disclosing certain confidential information and requires transmission providers to enter into agreements with entities making such requests that limit the disclosure of confidential information. ColumbiaGrid Public Utilities state that the limitation on participation in a requested service project study team is intended to ensure that transmission providers are not

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<sup>116</sup> *Id.*

<sup>117</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 3.1.

<sup>118</sup> *E.g.*, *id.* § 3.2.

<sup>119</sup> *E.g.*, *id.* § 4.1.

<sup>120</sup> *E.g.*, *id.* § 4.2.

required to disclose confidential information in violation of either tariff requirements or a contractual obligation not to disclose such information. In addition, ColumbiaGrid Public Utilities state that this limitation is intended to ensure that transmission providers are not required by the PEFA or OATT to disclose information that they are otherwise prohibited by law or legal requirement from disclosing.<sup>121</sup>

59. In order to address the Commission's directive to clarify the limitation on participation in the study teams, ColumbiaGrid Public Utilities propose to revise their respective OATTs to address participation in study teams as follows:

Any Order 1000 Planning Party,<sup>[122]</sup> Order 1000 Affected Person,<sup>[123]</sup> Relevant State and Provincial Agency<sup>[124]</sup> or other Interested Person<sup>[125]</sup> may participate in a Study Team,<sup>[126]</sup> ~~with the exception that participation in a Requested~~

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<sup>121</sup> *E.g.*, Avista Transmittal Letter at 5-6. For example, under the Standard Large Generator Interconnection Procedures and Standard Large Generator Interconnection Agreement, which are part of Avista's OATT, the transmission provider is generally prohibited from releasing or disclosing certain information to any third party. *E.g.*, Large Generator Interconnection Procedures, § 13.1.2; Large Generator Interconnection Agreement, § 22.1.3; *see also* Avista, OATT, Part II, §§ 17.2, 18.2 (requiring Avista to treat certain information as confidential and in a manner consistent with the Commission's standards of conduct).

<sup>122</sup> Order 1000 Party is proposed to mean each signatory, other than ColumbiaGrid, to the Functional Agreement. *E.g.*, Avista, OATT, Attachment K, Appendix A.

<sup>123</sup> Order 1000 Affected Persons are proposed to mean those Order 1000 Parties and other persons that would bear material adverse impacts or are otherwise materially affected by an Order 1000 Project. *E.g.*, *id.*

<sup>124</sup> Relevant State and Provincial Agency is proposed to mean any state or provincial agency with authority over energy regulation, transmission, or planning that has expressed an interest in the ColumbiaGrid transmission planning processes and has requested to be included on an Interested Persons List. *E.g.*, *id.*

<sup>125</sup> Interested Person is proposed to mean any person who has expressed an interest in the business of ColumbiaGrid and has requested notice of its public meetings. *E.g.*, *id.*

<sup>126</sup> Study Team, with respect to proposed project being developed, is proposed to mean a team that is comprised of ColumbiaGrid and any Order 1000 Parties, identified

(continued...)

Service Project Study Team may be limited due to tariffs or applicable law except as such participation may be subject to restrictions in tariffs (*see, e.g., pro forma open access transmission tariff, sections 17.2 and 18.2*) or applicable law. Order 1000 Party(ies) that are potentially materially affected by an Order 1000 Need(s)<sup>[127]</sup> are to participate in the Study Team relating to such Order 1000 Need(s).<sup>[128]</sup>

(b) **Commission Determination**

60. We find ColumbiaGrid Public Utilities' revised proposal satisfies the coordination principle by providing opportunities for stakeholders to provide input in identifying needs and evaluating solutions to those needs early in the transmission planning process and communicating meetings and opportunities for input to stakeholders. Under the revised OATTs, ColumbiaGrid staff will provide customers and other stakeholders with the opportunity to participate fully in the transmission planning process by soliciting comments on potential needs in advance of conducting an open meeting to discuss potential needs and prior to conducting system assessments. ColumbiaGrid staff will also conduct an open meeting prior to convening a study team to address an identified need. Stakeholders may also participate in study teams to provide input and consider alternatives to address identified needs.

61. Additionally, we also find that ColumbiaGrid Public Utilities have complied with the Commission's directive in the First Compliance Order to clarify the proposed limitation for participation in a study team set forth in their tariff proposals.<sup>129</sup> Specifically, ColumbiaGrid Public Utilities explain that their proposal is designed to

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Order 1000 Affected Persons, or any Interested Persons that choose to participate, provided that participation may be subject to restrictions in tariffs or applicable law to protect Confidential Information or CEII. *E.g., id.*

<sup>127</sup> Order 1000 Need is proposed to mean any need for transmission facilities, as identified in a system assessment report, in the Order 1000 ColumbiaGrid transmission planning region, including any such need that is driven by reliability requirements, addresses economic considerations, or is driven by Public Policy Requirements. *E.g., id.*

<sup>128</sup> *E.g., Avista, OATT, Attachment K, Part IV, § 4.2.2.*

<sup>129</sup> We note that in the First Compliance Order, the Commission sought clarification with respect to a limitation for participation in a study team for a requested service project.

avoid violating the prohibitions against disclosure of certain confidential information established by the Commission.<sup>130</sup> We find that, in general, this limitation is a reasonable means for securing necessary non-disclosure agreements to ensure that transmission owners do not violate the Commission's standards of conduct rules. As revised, participation in a study team may be subject to restriction i.e., a non-disclosure agreement. Furthermore, as discussed below, ColumbiaGrid Public Utilities' OATTs set forth procedures for treatment of confidential information or critical energy infrastructure information that may be obtained. We therefore conclude that ColumbiaGrid Public Utilities have clarified that participation in a study team is not prohibited; rather it may be subject to securing the non-disclosure agreement or may be subject to rules governing disclosure of information between a public utility's transmission and marketing functions.

62. We also accept the provision above that requires those parties to the Functional Agreement, who may be materially affected by an identified need,<sup>131</sup> to participate in a study team because the requirement ensures input in the study team by those who may be potentially affected. Therefore, we find the proposed tariff revisions provide clarification in response to the First Compliance Order and comply with the coordination principle.

**ii. Openness under the Revised Proposal**

63. The openness principle requires that transmission planning meetings be open to all affected parties including, but not limited to, all transmission and interconnection customers, state authorities, and other stakeholders. Although the Commission recognized in Order No. 890 that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a sub-regional group, the Commission emphasized that the overall development of the transmission plan and the planning process must remain open. Public utility transmission providers, in consultation with affected parties, must also develop mechanisms to manage

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<sup>130</sup> The new tariff provision specifically references Avista OATT, Part II, sections 17.2 and 18.2 as examples of these prohibitions. We note that these sections require the transmission provider to treat certain information as confidential and in a manner consistent with the Commission's standards of conduct. *See, e.g.*, Avista, OATT, Attachment K, Part II, §§ 17.2, 18.2.

<sup>131</sup> We note that ColumbiaGrid staff provides specific notice to those that ColumbiaGrid staff anticipates may be materially affected by an identified need for purposes of soliciting participation in a study team. *See* Avista, OATT, Attachment K, Part IV, § 4.1.

confidentiality and critical energy infrastructure information (CEII) concerns, such as confidentiality agreements and password protected access to information.<sup>132</sup>

64. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings partially complied with the openness principle. The Commission noted that the ColumbiaGrid regional transmission planning process is open to all interested persons and ColumbiaGrid staff notifies and allows all interested persons multiple opportunities to participate in the regional transmission planning process. Thus, the Commission found that the overall development of the ColumbiaGrid transmission plan and the planning process met the requirements of Order No. 890, as revised by Order No. 1000, for compliance with the openness principle.<sup>133</sup>

65. However, the Commission found deficient the proposed tariff revisions for compliance with the openness principle relating to confidentiality and CEII. The Commission stated that while ColumbiaGrid Public Utilities had created detailed procedures within the PEFA for the protection of confidential information and arbitration procedures for the resolution of any disputes, they had failed to specify mechanisms for designating, managing, and obtaining confidential information that is not CEII and similar but separate procedures for the management of CEII.<sup>134</sup> Thus, the Commission directed ColumbiaGrid Public Utilities to incorporate into their OATTs procedures to designate, manage, and explain how stakeholders may obtain access to: (1) confidential information utilized in the planning process that is not CEII; and (2) CEII under the ColumbiaGrid transmission planning process.<sup>135</sup>

66. The Commission also noted that, under the PEFA, if the disclosing party did not consent, ColumbiaGrid staff would not release CEII. The Commission found that this provision could create a barrier to stakeholders' participation in the transmission planning process by not allowing stakeholders the information necessary to replicate the results of transmission planning studies. The Commission stated that information necessary for any stakeholder to participate in the transmission planning process and to replicate the results of planning studies, subject to confidentiality and CEII concerns, must be disclosed. Therefore, the Commission required ColumbiaGrid Public Utilities to revise their OATTs to allow stakeholders access to confidential information and CEII as long as a process

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<sup>132</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

<sup>133</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 58.

<sup>134</sup> *Id.* P 59 (citing Avista, PEFA, §§ 16.1-16.3 (1.0.0)).

<sup>135</sup> *Id.* PP 59, 61.



was designated in ColumbiaGrid Public Utilities' OATTs to protect such information, such as the use of non-disclosure agreements.<sup>136</sup>

(a) **Summary of Compliance Filings**

67. ColumbiaGrid Public Utilities propose revisions to their respective OATTs to incorporate provisions addressing the submission of, access to and use of certain information.<sup>137</sup> Specifically, ColumbiaGrid Public Utilities propose revisions to include procedures for parties seeking designation of information provided to ColumbiaGrid for use in the ColumbiaGrid transmission planning process as confidential information<sup>138</sup> or CEII.<sup>139</sup> Under the revised OATTs, a party to the Functional Agreement seeking designation of confidential information must act in good faith when asserting the confidentiality of material.<sup>140</sup> Each party must use reasonable efforts to maintain the confidentiality of information provided and any information marked as CEII.<sup>141</sup>

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<sup>136</sup> *Id.* PP 60-61.

<sup>137</sup> *E.g.* Avista, OATT, Attachment K, Part IV, § 15. This section addresses submission of load and resource information, access to study reports and replication data, use of replication data received from ColumbiaGrid staff, confidential information, CEII, and requests for planning studies (including disclosure of WECC proprietary data confidential information or CEII). These provisions were originally reflected in the PEFA.

<sup>138</sup> *E.g., id.* § 15.4. Confidential information includes all information marked as “Confidential Information” at the time of its furnishing, except information: (i) in the public domain or generally available or known to the public; (ii) disclosed to a recipient by a third person who had a legal right to do so; (iii) independently developed by the receiving party or known to such party prior to its disclosure under the Functional Agreement; (iv) normally disclosed by entities in the Western Interconnection without limitation; (v) disclosed in aggregate form; or (vi) required to be disclosed without a protective order or confidentiality agreement by subpoena, law, or other directive of a court, administrative agency, or arbitration panel. *See, e.g.,* Avista, OATT, Attachment K, Appendix A.

<sup>139</sup> *E.g.,* Avista, OATT, Attachment K, Part IV, § 15.5. *See also* Functional Agreement, § 11.6.

<sup>140</sup> The revised OATTs indicate that in the event that a dispute arising related to the designation of confidential information, representatives must meet and confer to resolve the dispute. Disputes may be resolved by arbitration and may be conducted

(continued...)

68. The revised OATTs also state that in the event a person requests the confidential information or CEII of a party to the Functional Agreement, ColumbiaGrid will seek that party's consent to disclose such information. If the party consents to such disclosure, ColumbiaGrid will provide such information to the requester, subject to reasonable conditions, if any, requested by the consenting party.<sup>142</sup> If the party does not consent to ColumbiaGrid's disclosure of its confidential information or CEII, ColumbiaGrid will direct such requester to make its request directly to that party who must process any requests it receives in accordance with its procedure for processing such requests for confidential information or CEII.<sup>143</sup>

69. ColumbiaGrid Public Utilities state that the procedures set forth above for designating, managing, and providing access to confidential information and CEII are intended to ensure that stakeholders have access to such information so that they are able to replicate the results of planning studies. At the same time, ColumbiaGrid Public Utilities state that the procedures are intended to ensure that the party to the Functional Agreement is able to comply with the Commission's CEII requirements and other legal requirements (including legal restrictions against disclosing Western Electricity Coordinating Council (WECC) proprietary data) and also are intended to ensure that the

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before a single, neutral arbitrator appointed by the disputing parties. If parties cannot agree to a single arbitrator, each may choose one arbitrator who is to sit on a three-member arbitration panel. The two arbitrators will select a third to chair the panel. Arbitrators must be knowledgeable in electric matters, and are not to have had any current or past substantial business or financial relationships with any party to the arbitration. Arbitration will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. *E.g.*, Avista, OATT, Attachment K, Part IV, § 15.4.

<sup>141</sup> *E.g.*, *id.* §§ 15.4, 15.5.

<sup>142</sup> Reasonable conditions would include that the person requesting the Confidential Information would enter into a confidentiality agreement and/or a non-disclosure agreement with ColumbiaGrid staff. *E.g.*, *id.* § 15.6.vi.

<sup>143</sup> *E.g.*, *id.* Under the proposal, to the extent that a person requests WECC proprietary data, ColumbiaGrid staff, or the party to the Functional Agreement, as applicable, is not required to provide such data if the requester does not hold membership in or has not executed a non-disclosure agreement with WECC. *E.g.*, *id.* § 15.6.iii-v; Functional Agreement, § 11.6.v.

transmission planning process cannot be used to circumvent legitimate confidentiality and CEII restrictions.<sup>144</sup>

**(b) Commission Determination**

70. We find that ColumbiaGrid Public Utilities' regional transmission planning process, as revised, complies with the openness principle. The process is open to all stakeholders, and ColumbiaGrid provides notice to affected stakeholders and multiple opportunities to participate in the regional transmission planning process. ColumbiaGrid Public Utilities have revised their respective OATTs to incorporate provisions addressing treatment of confidential information and CEII. We find those proposed revisions comply with the requirement for public utility transmission providers to develop mechanisms to manage confidentiality and CEII under their regional transmission planning process. ColumbiaGrid Public Utilities' proposed revisions clarify the rules governing access to and disclosure of planning data in the regional transmission planning process as required by the First Compliance Order.

**iii. Transparency under the Revised Proposal**

71. The transparency principle requires public utility transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each public utility transmission provider must describe in its planning process the method(s) it will use to disclose the criteria, assumptions and data that underlie its transmission system plans. The transparency principle requires that sufficient information be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion.<sup>145</sup>

72. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings partially complied with the transparency principle. The Commission noted that, in preparing the draft regional transmission plan, the ColumbiaGrid Board makes available the draft transmission plan, study reports and electronic data files, subject to appropriate protection of confidential information and CEII, to *all* PEFA Planning Parties and interested persons; provides the public an opportunity to supply information and provide written or oral comments to the

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<sup>144</sup> *E.g.*, Avista Transmittal Letter at 8.

<sup>145</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471.

ColumbiaGrid Board during the review process; and reviews the draft transmission plan in an open and public process.<sup>146</sup>

73. However, the Commission found that ColumbiaGrid Public Utilities' OATTs did not detail how they would comply with the transparency principle. The Commission directed ColumbiaGrid Public Utilities to revise their OATTs to: (1) clearly explain the process that ColumbiaGrid will use to disclose the criteria, assumptions and data that underlie the regional transmission system plan, and (2) provide clear provisions that demonstrate how ColumbiaGrid will provide sufficient information to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies, including more detail of the availability of electronic data files.<sup>147</sup>

**(a) Summary of Compliance Filings**

74. ColumbiaGrid Public Utilities' revised OATTs incorporate provisions addressing the process by which each public utility transmission provider will disclose the criteria, assumptions and data that underlie its transmission system plans.

75. Under ColumbiaGrid Public Utilities' revised proposal, ColumbiaGrid staff will post on its website the list of planning studies it has performed pursuant to the Functional Agreement that underlie the analyses of the ColumbiaGrid transmission planning region and will maintain the list for a period of not less than five years. In addition, ColumbiaGrid staff will make available the final study report to any interested person, upon request<sup>148</sup> during the five year period following completion of such study. In addition, under the proposal, ColumbiaGrid staff will make available the replication data, including the basic criteria, assumptions, and data necessary to replicate the results of

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<sup>146</sup> First Compliance Order, 143 FERC ¶ 61,255 at PP 65-66 (citing Avista, OATT, Attachment K, Part IV, § 11.2 (1.0.0); Avista, PEFA, Appendix A, § 11.2 (1.0.0)).

<sup>147</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 67. The Commission also required ColumbiaGrid Public Utilities to consider as they develop further OATT revisions in response to the First Compliance Order whether additional revisions to their respective OATTs would be necessary to satisfy the transparency principle and if so, to propose such changes on compliance.

<sup>148</sup> ColumbiaGrid staff will provide replication data to any person who agrees in writing to use such data solely for the purpose of evaluating the results of ColumbiaGrid staff's planning studies performed pursuant to the Functional Agreement. *E.g.*, Avista, OATT, Attachment K, Part IV, § 15.3. *See also* Functional Agreement, § 11.

ColumbiaGrid staff's planning studies performed pursuant to the Functional Agreement with respect to potential needs, identified needs, proposed projects, eligible projects, Order 1000 Projects, or interregional projects,<sup>149</sup> for any planning study<sup>150</sup> upon receipt of a written request. Specifically, Further, the revised OATTs indicate that the provision of such replication data by ColumbiaGrid staff would be subject to any confidentiality and CEII restrictions, as discussed above.<sup>151</sup>

76. The revised OATTs include procedures for requesting planning study information and other replication data. A person requesting such information must submit a written request to ColumbiaGrid staff, who is to promptly make a determination of whether any requested information includes WECC propriety data, confidential information or CEII. Under the proposal after making the determination with respect to whether the requested information contains propriety data, ColumbiaGrid staff must provide its determination to the person requesting the information and if the request includes WECC propriety data, confidential information or CEII. If proprietary data is at issue, then the person must certify to ColumbiaGrid staff that it holds membership in WECC, or it has executed a non-disclosure agreement with WECC in order for ColumbiaGrid staff to disclose the proprietary data. In the event that such certification, ColumbiaGrid staff will provide such person that portion of the requested information that is not WECC proprietary data and is to direct such person to WECC so that person can work to satisfy the conditions necessary for ColumbiaGrid staff to disclose the data, or so that such person may seek the data directly from WECC.<sup>152</sup>

**(b) Commission Determination**

77. We find that ColumbiaGrid Public Utilities' filings comply with the transparency principle. We find that the revised OATTs describe the process in which the criteria, assumptions, and data that underlie the ColumbiaGrid transmission planning process are disclosed. Specifically, ColumbiaGrid staff will post on its website a list of the planning studies performed under its transmission planning process and will make available any final study reports upon request, subject to confidentiality and CEII provisions (discussed

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<sup>149</sup> *E.g.*, Avista, OATT, Attachment K, Appendix A (Order 1000 Replication Data); Functional Agreement, § 1.54.

<sup>150</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, §§ 15.2, 15.3, 15.6. *See also* Functional Agreement, §§ 11.2, 11.3, 11.6.

<sup>151</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 15.2. *See also* Functional Agreement, § 11.2.

<sup>152</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, §§ 15.6 (i)-(v).

above). Moreover, ColumbiaGrid staff will maintain information for a period of not less than five years. Finally, ColumbiaGrid staff will make available the replication data for any planning study upon receipt of a written request for such data during a period of not less than five years following completion of such final report and have included in their revised OATTs procedures for obtaining such data. We find these provisions comply with the transparency principle and the compliance directives in the First Compliance Order.

**iv. Information Exchange under the Revised Proposal**

78. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by public utility transmission providers in planning for their native load. Point-to-point customers are required to submit their projections for need of service over the planning horizon and at what receipt and delivery points. To the extent applicable, transmission customers should also provide information on existing and planned demand resources and their impact on demand and peak demand. In addition, stakeholders should provide proposed demand response resources if they wish to have them considered in the regional transmission planning process.<sup>153</sup> Public utility transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer and stakeholder information.<sup>154</sup>

79. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings did not comply with the information exchange principle. The Commission stated that ColumbiaGrid Public Utilities failed to revise their OATTs to meaningfully address the information exchange principle as it relates to the ColumbiaGrid regional transmission planning process, noting, for instance, that their OATTs did not detail information such as customer load forecasts, projected service information, and existing and planned demand response resources provided by customers and stakeholders that are used to develop the regional transmission plan. The Commission stated that the revised OATTs also lacked specific guidelines for the format of information submission or a schedule for the submittal of such customer or stakeholder information.<sup>155</sup>

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<sup>153</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at 487.

<sup>154</sup> *Id.* PP 486-487.

<sup>155</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 71.

80. The Commission stated that ColumbiaGrid Public Utilities may have intended for the local and regional transmission planning processes to share the same information submission requirements, guidelines, and schedule. However, the Commission found that, to the extent that ColumbiaGrid Public Utilities were relying on information exchange that is a part of their Order No. 890-compliant transmission planning processes, they had not explained why it would be an appropriate means of compliance with Order No. 1000 or made such clarifications in their OATTs.<sup>156</sup> Accordingly, the Commission directed ColumbiaGrid Public Utilities to file further compliance filings: (1) detailing the information required by the information exchange principle for Order No. 1000 compliance, such as customer load forecasts, projected service information, and existing and planned demand response resources provided by customers and stakeholders used to develop the regional transmission plan; and (2) specifying guidelines for the format of information submission and a schedule for the submittal of such customer or stakeholder information.<sup>157</sup>

**(a) Summary of Compliance Filings**

81. ColumbiaGrid Public Utilities revised their respective OATTs to require each transmission provider that has enrolled in ColumbiaGrid, by January 31<sup>st</sup> of each year, to provide ColumbiaGrid staff with: (i) any then-current local transmission plan; (ii) data regarding projected loads and resources, including projections of network customer loads and resources and projected point-to-point transmission service information; and (iii) data regarding existing and planned demand response resources that are anticipated to affect such the transmission provider's projected loads and resources.<sup>158</sup>

82. According to the revised OATTs an Enrolled Party will typically submit information regarding projected transmission needs, loads and resources as part of the WECC submittals that the enrolled transmission provider must submit pursuant to section 4.6 of the Functional Agreement.<sup>159</sup> However, the revised OATTs also require Enrolled Parties to provide any updates to information regarding projected transmission

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<sup>156</sup> *Id.* P 72.

<sup>157</sup> *Id.* P 73.

<sup>158</sup> *E.g.*, Avista Transmittal Letter at 9 (citing Avista, OATT, Attachment K, Part IV, § 15.1; Functional Agreement, § 11.1).

<sup>159</sup> *E.g.*, *id.* at 9-10; Avista, OATT, Attachment K, Part IV, § 15.1; Functional Agreement, § 11.1. Section 4.6 of the Functional Agreement requires ColumbiaGrid staff to develop data submittals on behalf of parties to the Functional Agreement for WECC base case development purposes.

needs, loads and resources upon request by ColumbiaGrid staff. If an Enrolled Party submits a projection as part of the information (including any update), it is required to use reasonable efforts to provide a good faith projection thereof.<sup>160</sup>

83. ColumbiaGrid Public Utilities propose that a transmission customer of an Enrolled Party must submit to the Enrolled Party, in accordance with and on the schedule set forth in its respective OATT, transmission planning information regarding projected transmission needs, loads and resources of such transmission customer. Under the proposal, stakeholders may also submit to ColumbiaGrid staff, data regarding ten year projected loads and resources, including existing and planned demand response resources, on the transmission system of any Enrolled Party. Stakeholders must submit this information to ColumbiaGrid staff: (a) by January 31 of any year to facilitate the availability of information for use in ColumbiaGrid planning in such year, and (b) in the format for WECC submittals pursuant to section 4.6 of the Functional Agreement.<sup>161</sup>

**(b) Commission Determination**

84. With respect to the information exchange principle, we find that ColumbiaGrid Public Utilities' proposed revisions to their respective OATTs comply with the directives in the First Compliance Order. We find that ColumbiaGrid Public Utilities' revised OATTs require each transmission provider to provide ColumbiaGrid staff the relevant information required, such as customer load forecasts, projected service information, and existing and planned demand response resources provided by stakeholders and customers, which satisfies the First Compliance Order's directive.

85. We also find ColumbiaGrid Public Utilities' respective OATTs include sufficient detail with respect to the timing for submission of information to ColumbiaGrid staff<sup>162</sup>

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<sup>160</sup> *E.g.*, Avista Transmittal Letter at 9-10; Avista, OATT, Attachment K, Part IV, § 15.1; Functional Agreement, § 11.1. Section 11.1 of the Functional Agreement provides for the identical requirements as proposed in Avista's OATT, Part IV, section 15.1, with the exception that section 11.1 of the Functional Agreement also contains a similar requirement for Governmental Non-Enrolled Parties.

<sup>161</sup> *E.g.*, Avista Transmittal Letter at 10; Avista, OATT, Attachment K, Part IV, § 15.1.

<sup>162</sup> Information provided by transmission customers of Avista and Puget Sound are submitted in accordance to deadlines established in their respective local transmission planning processes. *See* Avista, OATT, Attachment K, Part I, § 2.2.4; Puget Sound, OATT, Attachment K, Part I, § 6.2.



(by January 31 with updates to data projections, upon request) and specify that data should be submitted in the format for WECC submittals.

v. **Comparability under the Revised Proposal**

86. The comparability principle requires public utility transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning.<sup>163</sup> In addition, public utility transmission providers must identify, as part of their transmission planning processes, how they will treat resources on a comparable basis, and therefore, how they will determine comparability for purposes of transmission planning.<sup>164</sup> Furthermore, public utility transmission providers are required to identify how they will evaluate and select from competing solutions and resources such that all types of resources are considered on a comparable basis.<sup>165</sup>

87. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings partially complied with the comparability principle. The Commission noted that ColumbiaGrid Public Utilities had revised their OATTs to

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<sup>163</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494.

<sup>164</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>165</sup> See, e.g., *NorthWestern Corp.*, 128 FERC ¶ 61,040, at P 38 (2009) (*Northwestern*); *El Paso Elec. Co.*, 128 FERC ¶ 61,063, at P 15 (2009) (*El Paso*); *N. Y. Indep. Sys. Operator, Inc.*, 129 FERC ¶ 61,044, at P 35 (2009) (*NYISO*) (all requiring the transmission provider's OATT to permit sponsors of transmission, generation, and demand resources to propose alternative solutions to identified needs and identify how the transmission provider will evaluate competing solutions when determining what facilities will be included in its transmission plan). In each of these cases, the Commission stated that tariff language could, for example, state that solutions will be evaluated against each other based on a comparison of their relative economics and effectiveness of performance. Although the particular standard a public utility transmission provider uses to perform this evaluation can vary, the Commission explained that it should be clear from the tariff language how one type of investment would be considered against another and how the public utility transmission provider would choose one resource over another or a competing proposal. *Northwestern*, 128 FERC ¶ 61,040 at P 38 n.31; *El Paso*, 128 FERC ¶ 61,063 at P 15 n.25; *NYISO*, 129 FERC ¶ 61,044 at P 35 n.26.

provide that: (1) any study team participant could propose a non-transmission alternative to address the needs the study team was formed to address; and (2) the study team would evaluate non-transmission alternatives using the same criteria the study team uses to evaluate transmission alternatives.<sup>166</sup>

88. The Commission noted ColumbiaGrid Public Utilities' proposal that, in addition to the common evaluation factors, a study team would determine whether a non-transmission alternative "has a reasonable degree of development" before the alternative could be noted in the transmission plan.<sup>167</sup> The Commission stated that ColumbiaGrid Public Utilities did not explain how the study team would determine whether a proposed non-transmission alternative has a reasonable degree of development and also did not explain how applying this additional factor only to non-transmission alternatives would comply with the requirement to evaluate and select from competing solutions and resources such that all types of resources are considered on a comparable basis. Finally, the Commission found that ColumbiaGrid Public Utilities failed to require ColumbiaGrid staff, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning.<sup>168</sup> Accordingly, the Commission directed ColumbiaGrid Public Utilities to revise their OATTs to address compliance with the comparability principle.<sup>169</sup>

(a) **Requests for Rehearing or Clarification**

(1) **Summary of Requests for Rehearing or Clarification**

89. Bonneville Power seeks clarification with regard to the Commission's finding that ColumbiaGrid Public Utilities and Bonneville Power failed to revise their OATTs "to require that ColumbiaGrid, after considering the data and comments supplied by customers, develop a transmission system plan that meets the specific service requests of

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<sup>166</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 80 (citing Avista, OATT, Attachment K, Part IV, §§ 2.3, 2.4, 4, 4.1.ii (1.0.0)).

<sup>167</sup> *Id.* P 80 (citing Avista, OATT, Attachment K, Part IV, § 2.4 (1.0.0)).

<sup>168</sup> *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494).

<sup>169</sup> *Id.* P 81. Likewise, the Commission indicated that Bonneville Power should also submit further revisions to address compliance with the comparability principle.

their transmission customers and otherwise treats similarly-situated customers (e.g. network and retail native load) comparably in transmission system planning.”<sup>170</sup> Specifically Bonneville Power requests that the Commission clarify that the intent of the requirement was only to have ColumbiaGrid treat transmission providers and other transmission customers comparably in regional transmission planning.<sup>171</sup> Bonneville Power asserts that imposing an obligation to meet specific transmission service requests and native and network load requirements of individual transmission providers in the ColumbiaGrid regional transmission planning process is redundant, inefficient, and burdensome because transmission providers in ColumbiaGrid must plan to meet specific transmission service requests and must treat customers comparably under their respective OATTs and in accordance with planning standards and applicable statutes. Bonneville Power agrees, however, that it is appropriate for ColumbiaGrid’s transmission planning process to treat all transmission customers whose needs are included in the regional transmission planning process comparably and to treat all resources and transmission and non-transmission solutions on comparable basis.<sup>172</sup>

90. If the Commission does not grant clarification, Bonneville Power requests rehearing, asserting that a requirement for ColumbiaGrid staff to develop a transmission plan that meets the service requests and load service obligations of individual transmission providers is: (1) an amendment of Order No. 1000 without proper notice and comment procedures, and such requirement is inconsistent with Order No. 1000’s stated objectives to address regional needs, not the needs of individual transmission providers; (2) not supported by a factual basis or reasoned analysis showing that this added burden is needed; and (3) beyond the Commission’s jurisdiction because the Commission may not order transmission providers in ColumbiaGrid to transfer obligations to plan for transmission service requests and service needs of native and network load to ColumbiaGrid.<sup>173</sup>

## (2) Commission Determination

91. We grant Bonneville Power’s request for clarification. We agree that ColumbiaGrid, in its role conducting regional transmission planning pursuant to Order No. 1000, does not have an obligation to meet specific transmission service requests and

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<sup>170</sup> Bonneville Power Request for Rehearing at 26 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 80).

<sup>171</sup> *Id.* at 27.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at 28-34.

native and network load requirements. Rather, in conducting the regional transmission planning process, ColumbiaGrid staff must treat similarly-situated customers (e.g. network and retail native load) comparably in the transmission system planning process.

(b) **Compliance**

(1) **Summary of Compliance Filings**

92. In response to the First Compliance Order, ColumbiaGrid Public Utilities propose to revise their respective OATTs to state that the same factors used in the regional transmission planning processes to evaluate transmission solutions will be used to evaluate non-transmission alternatives.<sup>174</sup> ColumbiaGrid Public Utilities also state that they have removed from their OATTs the requirement that the study team determine that a non-transmission alternative has a reasonable degree of development before it can be noted in the plan.<sup>175</sup>

(2) **Commission Determination**

93. We find that the proposed revisions to the regional transmission planning process comply with the directives in the First Compliance Order addressing comparability by clarifying that the same factors that will be used to evaluate transmission solutions will also be used to evaluate non-transmission solutions, and removing the requirement that study teams determine whether a non-transmission alternative “has a reasonable degree of development” before the alternative could be noted in the transmission plan. In addition, our review indicates that ColumbiaGrid Public Utilities have revised their respective OATTs to state that after considering data and comments supplied by parties to the Functional Agreement, their customers, and other interested persons and stakeholders, ColumbiaGrid staff will develop a plan that addresses Order No. 1000 needs, and otherwise treats similarly-situated customers (network and retail native load) comparably in the transmission planning process.

d. **Requirement to Plan on a Regional Basis to Identify More Efficient or Cost-Effective Transmission Solutions**

94. Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently

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<sup>174</sup> *E.g.*, Avista Transmittal Letter at 10-11 (citing Avista, OATT, Attachment K, Part IV, § 2.3; Functional Agreement, Appendix A, § 2.3).

<sup>175</sup> *E.g.*, *id.*

or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>176</sup> Public utility transmission providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the transmission planning region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.<sup>177</sup> In addition, whether or not public utility transmission providers within a transmission planning region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is a more efficient or cost-effective solution to their needs.<sup>178</sup>

95. Public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer<sup>179</sup> must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.<sup>180</sup>

96. Finally, the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's transmission needs.<sup>181</sup> Order No. 1000 does not require that the resulting regional transmission plan be filed with the Commission.

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<sup>176</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

<sup>177</sup> *Id.* P 149.

<sup>178</sup> *Id.* P 331.

<sup>179</sup> Order No. 1000 defines merchant transmission projects as projects “for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates.” *Id.* P 119.

<sup>180</sup> *Id.* P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

<sup>181</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

**i. Affirmative Obligation to Plan**  
**(a) First Compliance Order**

97. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' filings partially complied with the requirement of Order No. 1000 that public utility transmission providers participate in a transmission planning region that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs. The Commission stated that while ColumbiaGrid Public Utilities' OATTs described the process under which ColumbiaGrid staff would identify the set of potential solutions that may meet the region's needs during the system assessment and drafting of needs statements prior to forming a study team,<sup>182</sup> it was unclear whether ColumbiaGrid staff or the study team would conduct an analysis to identify regional projects or proposals that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions proposed by study team participants.<sup>183</sup>

98. The Commission stated that Order No. 1000 addressed the deficiencies in the existing requirements of Order No. 890 by, among other requirements, placing an affirmative obligation on public utility transmission providers to participate in a regional transmission planning process that produces a regional transmission plan.<sup>184</sup> The Commission found that it was not clear from the description of the study team process how ColumbiaGrid staff or the study team would conduct an analysis to determine whether regional transmission needs, when taken together, could be met more efficiently

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<sup>182</sup> More specifically, the Commission noted that ColumbiaGrid staff would conduct an annual system assessment of the regional interconnected grid to identify potential needs. The Commission stated that ColumbiaGrid would issue a draft system assessment report and draft need statement, which would identify needs to be further evaluated and one or more conceptual solutions to meet the need, along with an indication of whether a non-transmission solution may be viable. At that point, the Commission noted that, ColumbiaGrid staff would task study teams to study and evaluate potential solutions to the need identified in each need statement, and the study team would apply evaluation factors to determine what project to include in the study team's initial report. First Compliance Order, 143 FERC ¶ 61,255 at PP 103-104. *See e.g.* Avista, OATT, Attachment K, Part IV, §§ 3.2, 4.4.

<sup>183</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 100.

<sup>184</sup> *Id.* P 102 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148).

or cost-effectively by a regional solution that is not sponsored by a study team participant (i.e., an unsponsored project).<sup>185</sup>

99. Accordingly, the Commission directed ColumbiaGrid Public Utilities to revise their OATTs to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements. ColumbiaGrid Public Utilities were directed to submit further compliance filings revising their respective OATTs to: (1) be consistent with the Order No. 1000 standard of “more efficient or cost-effective;” (2) clarify how, in the study team process, unsponsored transmission projects are considered to ensure ColumbiaGrid staff or the study team identifies the more efficient or cost-effective solution in the regional transmission planning process; and (3) set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.<sup>186</sup>

**(b) Summary of Compliance Filings**

100. On compliance, ColumbiaGrid Public Utilities have revised their OATTs to state that the study team will assess whether there is a solution that is a more efficient or cost-effective alternative to address Order No. 1000 Need(s).<sup>187</sup>

101. ColumbiaGrid Public Utilities propose OATT revisions to clarify that a proposed solution to an identified need does not need to be sponsored to be considered by the study team. The study team will evaluate proposed solutions to a need for which an Enrolled Party may be a proponent, in which case such Enrolled Party will submit certain information so that the proposed solution may be evaluated.<sup>188</sup> ColumbiaGrid Public Utilities also propose to add the following new OATT provision that they state would allow the study team to consider proposed solutions for which there is no proponent:

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<sup>185</sup> *Id.* P 104.

<sup>186</sup> The Commission noted that any additional procedures proposed to implement the affirmative obligation would need to comply with the Order No. 890 principles. *Id.* P 107 n.164.

<sup>187</sup> *E.g.*, Avista Transmittal Letter at 11 (citing Avista, OATT, Attachment K, Part IV, § 4.3; Functional Agreement, Appendix A, § 4.3).

<sup>188</sup> *E.g.*, *id.* (citing Avista, OATT, Attachment K, Part IV, § 2.6; Functional Agreement, Appendix A, § 2.6).

Staff, in consultation with the Study Team and Interested Persons, is to review each plan of service that is included in a final Study Team report and assess whether Order 1000 Needs, when taken together, can be met by any more efficient or cost-effective transmission solution. If any such transmission solution is identified ...Staff is to develop information regarding such transmission solution... However, such data is not to include any assumption regarding the identity of the sponsor, developer, owner, or operator of any facilities of such transmission solution. A plan of service for any ... Proposed Staff Solution is to be developed by a Study Team (or by Staff in the absence of consensus)... and the transmission facilities included in such plan of service may be an Order 1000 Proposed Project.<sup>[189]</sup>

102. ColumbiaGrid Public Utilities state that this proposed provision would require ColumbiaGrid staff, in consultation with the study team and stakeholders, to assess whether regional transmission needs, when taken together, can be met more efficiently or cost-effectively by a regional solution that is not sponsored by a study team participant.<sup>190</sup>

103. Finally, ColumbiaGrid Public Utilities state that they have further revised their OATTs to include an affirmative obligation for ColumbiaGrid staff to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements, by: (1) revising the definition of an identified Order No. 1000 need to include transmission needs that are drive by reliability requirements, address economic considerations, or are driven by public policy requirements;<sup>191</sup> (2) providing an opportunity for interested persons to suggest potential need(s) that are driven by reliability requirements, economic considerations, or public policy requirements;<sup>192</sup> and (3) providing that ColumbiaGrid staff is to perform a system assessment to “identify Order 1000 Need(s), if any, including Order 1000 Needs that are

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<sup>189</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 4.4.

<sup>190</sup> *E.g.*, Avista Transmittal Letter at 12.

<sup>191</sup> *E.g.*, *id.* at 13. *See also* Avista, OATT, Attachment K, Appendix A (Order 1000 Need).

<sup>192</sup> *E.g.*, Avista Transmittal Letter at 13. *See also* Avista, OATT, Attachment K, Part IV, § 3.1.



driven by reliability requirements, economic considerations, or public policy requirements, projected to occur during the Planning Horizon.”<sup>193</sup>

(c) **Commission Determination**

104. We find that ColumbiaGrid Public Utilities’ proposed revisions to the regional transmission planning process comply with the directives in the First Compliance Order to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet regional transmission needs. Consistent with the directive in the First Compliance Order, ColumbiaGrid Public Utilities have revised their respective OATTs to state that the study team is to assess whether there is a solution that is a more efficient *or* cost-effective alternative to address Order No. 1000 needs.<sup>194</sup> We further find that ColumbiaGrid Public Utilities have complied with the requirements of the First Compliance Order to address how, in the study team process, unsponsored transmission projects are considered to ensure a study team identifies and evaluates potential solutions that may meet the region’s needs more efficiently or cost-effectively. In particular, we accept ColumbiaGrid Public Utilities’ proposed revision to their OATTs clarifying that a proposed solution to a need does not have to be sponsored to be considered by the study team complies with the First Compliance Order. In addition, we accept ColumbiaGrid Public Utilities’ proposed new OATT section that allows for the study team to consider proposed solutions for which there is no proponent. These revisions will help ensure that unsponsored transmission projects, including those that ColumbiaGrid staff identifies as part of the affirmative obligation to undertake a regional analysis to determine whether there are more efficient or cost-effective transmission solutions to meet regional transmission needs, will appropriately be considered in ColumbiaGrid’s regional transmission planning process.

105. On compliance, ColumbiaGrid Public Utilities have also modified their OATTs to revise the definition of an “Order No. 1000 Need” to include transmission needs that are driven by reliability requirements, address economic considerations, or are driven by public policy requirements, as well as expressly providing an opportunity for stakeholders to suggest potential needs that are driven by reliability requirements, economic considerations, or public policy requirements. ColumbiaGrid Public Utilities have also revised their OATTs to state that ColumbiaGrid staff is to perform a system assessment to “identify Order 1000 Need(s), if any, including Order 1000 Needs that are

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<sup>193</sup> *E.g.*, Avista Transmittal Letter at 13. *See also* Avista, OATT, Attachment K, Part IV, § 3.2.1.

<sup>194</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 4.3.

driven by reliability requirements, economic considerations, or public policy requirements.”<sup>195</sup> We find that the revised OATTs set forth ColumbiaGrid Public Utilities’ affirmative obligation to plan, and thus they satisfy the Commission’s directives in the First Compliance Order.

**ii. Merchant Transmission Developers**

**(a) First Compliance Order**

106. In the First Compliance Order, the Commission determined that ColumbiaGrid Public Utilities’ compliance filings did not address the requirement in Order No. 1000 to identify information that a merchant transmission developer would be required to provide to ColumbiaGrid staff in order for ColumbiaGrid staff to assess potential reliability and operational impacts of a merchant transmission developer’s proposed transmission facilities on other systems in the region.<sup>196</sup> ColumbiaGrid Public Utilities were directed to submit further compliance filings revising their respective OATTs to identify such information that a merchant transmission developer must provide.<sup>197</sup>

**(b) Summary of Compliance Filing**

107. ColumbiaGrid Public Utilities propose revisions to their OATTs to include a revised list of information that an Enrolled Party is required to submit to enable a study team to evaluate a proposed solution.<sup>198</sup> Under ColumbiaGrid Public Utilities’ proposal, a merchant transmission developer that is a signatory to the Functional Agreement must submit comparable information (exclusive of cost estimates) to the information requirements that an Enrolled Party is required to provide ColumbiaGrid staff with respect to transmission facilities it proposes to develop.<sup>199</sup> In addition, the revised

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<sup>195</sup> *E.g., id.* § 3.1.

<sup>196</sup> First Compliance Order, 143 FERC ¶ 61,255 at PP 105-106.

<sup>197</sup> *Id.* P 107.

<sup>198</sup> Avista, OATT, Attachment K, Part IV, § 2.6. See below in the Information Requirements section of this order.

<sup>199</sup> *E.g.,* Avista Transmittal Letter at 13-14; Avista, OATT, Attachment K, Part IV, § 2.6. An Enrolled Party must submit: (1) the purpose of the proposed solution and the identified need the proposed solution would address; (2) a development schedule indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the proposed solution so as to timely meet the identified need;

(continued...)

OATTs state that once this information is provided by a merchant developer, ColumbiaGrid staff will, to the extent practicable, consider the impacts of such merchant transmission developer's proposed transmission facilities on the facilities in the transmission planning region as part of its next system assessment.<sup>200</sup>

(c) **Commission Determination**

108. We find that ColumbiaGrid Public Utilities' proposed OATT revisions to the regional transmission planning process, which specify that merchant transmission developers who are signatories to the Functional Agreement must submit comparable information to the information requirements that an Enrolled Party provide, partially comply with the directives of the First Compliance Order. ColumbiaGrid Public Utilities' proposal, with the exceptions discussed herein, ensures that merchant

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(3) new substations and transmission lines that would be created; (4) upgrades or modifications to existing facilities that would be required (e.g., line reconductoring, transformer upgrades, substation expansions); (5) the identity of the proposed developer, owner, or operator, if any; (6) for solutions that are anticipated to be interregional transmission projects, identification of the relevant planning region where any new facilities are proposed to be interconnected to other than ColumbiaGrid and identification of the transmission system to which any new facilities would interconnect; (7) voltage level of the proposed facilities; (8) mileages associated with any new or upgraded transmission lines; (9) planned conductor to be used for any proposed new or upgraded transmission lines; (10) proposed increase in transmission system transfer capability; (11) ratings of individual transmission facility components (e.g., lines and transformers); (12) electrical parameters of the proposed solution components as necessary to model them accurately in power flow simulations (e.g., resistance, reactance, charging, ratings, etc.); (13) amount of reactive (in MVAR) for any proposed reactive components; (14) if the proposed solution involves new generation, then the machine parameters necessary to model the new generators accurately in power flow and stability simulations (e.g., machine reactances, time constants, control system parameters); (15) a list of new contingencies that should be analyzed as a result of the proposed solution; (16) a description of any new remedial action schemes, or changes to existing remedial action schemes, that would be required by the proposed solution; (17) cost estimates in as much detail as available; and (18) analysis to support the technical feasibility of the proposed solution. The information requirements are discussed below under Non-Incumbent Transmission Developer Reforms.

<sup>200</sup> *E.g.*, Avista Transmittal Letter at 13-14; Avista, OATT, Attachment K, Part IV, § 2.7.

transmission developers will provide adequate information and data to allow ColumbiaGrid staff to consider the impacts of the merchant transmission developer's proposed transmission facilities on the transmission planning region as part of its next system assessment. Certain of the information requirements that ColumbiaGrid Public Utilities propose to apply to transmission projects proposed for the regional transmission plan would be inappropriate to apply to merchant transmission developers whose projects are not eligible for regional cost allocation. Specifically, we find that the following information requirements should not apply to merchant transmission developers: (1) the purpose of the proposed solution and the identified need the proposed solution would address; and (2) a development schedule indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the proposed solution so as to timely meet the identified need. Because a prospective merchant transmission developer is not proposing its project as a solution to a need identified in the regional transmission planning process, it would not be reasonable to require the developer to provide this information.

109. In addition, as we further discuss in the Information Requirements section below, we reject ColumbiaGrid Public Utilities' proposal to require a prospective transmission developer to provide upgrades or modifications to existing facilities that would be required (e.g., line reconductoring, transformer upgrades, substation expansions) and to provide a description of any new remedial action schemes, or changes to existing remedial action schemes, that would be required by the proposed solution. We also conclude, as discussed below, that the requirement for an Enrolled Party to submit an "analysis to support the technical feasibility of the proposed solution" is unclear. Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that remove these four information requirements for merchant transmission developers from their OATTs.

110. Finally, we find that ColumbiaGrid Public Utilities' proposal to require merchant transmission developers to be signatories to the Functional Agreement to submit comparable information requirements (exclusive of cost estimates) as Enrolled Parties does not comply with Order No. 1000. An entity, including a merchant transmission developer, may participate in the ColumbiaGrid regional transmission planning process and suggest potential solutions to identified system needs without becoming a signatory to the Functional Agreement. In the First Compliance Order, the Commission found that only if an entity wants to request Order No. 1000 cost allocation for a transmission project would it need to become a signatory.<sup>201</sup> Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further

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<sup>201</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 181.

compliance filings that remove the requirement that a merchant transmission developer must be a signatory to the Functional Agreement to submit comparable information requirements as an Enrolled Party.

e. **Consideration of Transmission Needs Driven by Public Policy Requirements**

111. Order No. 1000 required public utility transmission providers to amend their OATTs to include procedures for the consideration of transmission needs driven by Public Policy Requirements in both the local and regional transmission planning processes.<sup>202</sup> Public Policy Requirements are requirements established by local, state or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).<sup>203</sup>

112. The Commission in Order No. 1000 explained that, to consider transmission needs driven by Public Policy Requirements, public utility transmission providers must adopt procedures to (1) identify transmission needs driven by Public Policy Requirements and (2) evaluate potential solutions to meet those identified needs.<sup>204</sup> More specifically, public utility transmission providers must adopt procedures in their local and regional transmission planning processes for identifying transmission needs driven by Public Policy Requirements that give all stakeholders a meaningful opportunity to provide input and to offer proposals regarding what they believe are transmission needs driven by Public Policy Requirements.<sup>205</sup> Each public utility transmission provider must explain how it will determine at both the local and regional level, the transmission needs driven by Public Policy Requirements for which solutions will be evaluated<sup>206</sup> and must post on its website an explanation of: (1) those transmission needs driven by Public Policy Requirements that were identified for evaluation for potential solutions in the local and

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<sup>202</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

<sup>203</sup> *Id.* P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

<sup>204</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 205.

<sup>205</sup> *Id.* PP 206-209; Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

<sup>206</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 208-209

regional transmission planning processes and (2) why other proposed transmission needs driven by Public Policy Requirements were not selected for further evaluation.<sup>207</sup>

113. Order No. 1000 also required public utility transmission providers, in consultation with stakeholders, to evaluate at the local and regional level potential solutions to identified transmission needs driven by Public Policy Requirements, including transmission facilities proposed by stakeholders.<sup>208</sup> The evaluation procedures must give stakeholders the opportunity to provide input and enable the Commission and stakeholders to review the record created by the process.<sup>209</sup>

**i. Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Regional Transmission Planning Process**

**(a) First Compliance Order**

114. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings partially complied with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements in the regional transmission planning process. The Commission found that ColumbiaGrid Public Utilities' definition of public policy requirements as "enacted statutes (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or the federal level" complied with Order No. 1000.<sup>210</sup> However, Avista had not included this definition in its OATT and, therefore, the Commission directed Avista to add the definition of public policy requirements on compliance. The Commission also required Avista and MATL to revise the definition of "need" in their OATTs to include transmission needs driven by public policy requirements, consistent with the revised definition of needs in the revised PEFA.<sup>211</sup>

115. Moreover, the Commission found that ColumbiaGrid Public Utilities did not include details in their OATTs explaining when and how stakeholders can provide input

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<sup>207</sup> *Id.* P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>208</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211 & n.191.

<sup>209</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 320-321.

<sup>210</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 127.

<sup>211</sup> *Id.*

on transmission needs driven by public policy requirements during the system assessment process. Therefore, the Commission directed ColumbiaGrid Public Utilities to revise their respective OATTs to describe how stakeholders can provide input and offer proposals regarding transmission needs they believe are driven by public policy requirements in the regional transmission planning process such that the process for doing so is transparent to all interested stakeholders.<sup>212</sup>

116. The Commission further concluded that ColumbiaGrid Public Utilities' proposal did not comply with Order No. 1000's requirement that the process for identifying transmission needs driven by public policy requirements allow for stakeholders to offer proposals regarding transmission needs that they believe are driven by public policy requirements because it unreasonably restricted the types of transmission needs driven by public policy requirements that stakeholders may propose to those needs for increased transmission capacity. The Commission directed ColumbiaGrid Public Utilities to revise their OATTs to allow stakeholders to propose in the system assessment process transmission needs driven by public policy requirements besides those transmission needs for increased transmission capacity driven by public policy requirements.<sup>213</sup>

117. Finally, the Commission found that ColumbiaGrid Public Utilities' proposals did not comply with Order No. 1000's requirement that each public utility transmission provider post on its website an explanation of: (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential transmission solutions in the regional transmission planning process; and (2) why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>214</sup> The Commission determined that ColumbiaGrid Public Utilities' process of posting all requests for and determinations on Order No. 1000 cost allocation did not fulfill this requirement because the posted information would address a transmission project's selection for Order No. 1000 cost allocation rather than the selection of those transmission needs driven by public policy requirements for which transmission solutions will be evaluated in the regional transmission planning process. The Commission directed ColumbiaGrid Public Utilities to revise their OATTs to provide for posting on the ColumbiaGrid website of an explanation of those transmission needs driven by public policy requirements that have been identified for evaluation for potential solutions in the regional transmission planning

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<sup>212</sup> *Id.* P 128.

<sup>213</sup> *Id.* P 129.

<sup>214</sup> *See* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

process and why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>215</sup>

(b) **Summary of Compliance Filing**

118. On compliance, Avista proposes to revise its OATT to include the definition of public policy requirements<sup>216</sup> that the Commission found complied with Order No. 1000.<sup>217</sup> Moreover, ColumbiaGrid Public Utilities propose a new defined term, “Order 1000 Need,” which includes any need for transmission facilities that is “driven by reliability requirements, addresses economic considerations, or is driven by Public Policy Requirements.”<sup>218</sup>

119. To address the directive regarding when and how stakeholders can provide input regarding transmission needs driven by public policy requirements, ColumbiaGrid Public Utilities propose to conduct an annual meeting that will be held to discuss potential needs that should be included in an upcoming system assessment. Under the proposal, stakeholders will be invited, and notice of the meetings will be posted on the ColumbiaGrid website. Further, prior to such meeting, any stakeholder may submit written suggestions to ColumbiaGrid staff of items that should be considered for inclusion as potential needs, including those driven by reliability requirements, economic considerations, or public policy requirements.<sup>219</sup> ColumbiaGrid Public Utilities state that the revised OATTs allow stakeholders to propose and provide input on any potential need, including those driven by public policy requirements, thus providing for opportunities for input in an open and transparent manner. The provision allowing for

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<sup>215</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 131.

<sup>216</sup> Public Policy Requirements are defined as “enacted statues (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level.”

<sup>217</sup> Avista Transmittal Letter at 14 (citing Avista, OATT, Attachment K, Appendix A). In the First Compliance Order, the Commission directed Avista to include the definition of public policy requirements in its OATT, finding that Puget Sound and MATL had already included the definition in their respective OATTs. First Compliance Order, 143 FERC ¶ 61,255 at P 127.

<sup>218</sup> *E.g.*, Avista Transmittal Letter at 14 (citing Avista, OATT, Attachment K, Appendix A).

<sup>219</sup> *E.g.*, *id.* at 14-15 (citing Avista, OATT, Attachment K, Part IV, § 3.1).



the consideration of the potential needs of a transmission provider to respond to requests for transmission service or interconnection, or to increase capacity on its transmission system, as well as potential needs identified by anyone for increased transmission capacity, has been deleted.

120. Lastly, ColumbiaGrid Public Utilities have revised their OATTs to require ColumbiaGrid staff to post Order 1000 Need Statements<sup>220</sup> and documentation of the basis upon which potential needs, including potential needs driven by public policy requirements, were or were not selected as Order 1000 needs, on the website.<sup>221</sup>

(c) **Commission Determination**

121. We find that ColumbiaGrid Public Utilities' proposed OATT revisions to the regional transmission planning process comply with the directives in the First Compliance Order concerning the consideration of transmission needs driven by public policy requirements. Specifically, as discussed in the Affirmative Obligation to Plan section of this order above, ColumbiaGrid Public Utilities have revised the definition of an Order 1000 need to expressly include any need for transmission facilities that is "driven by reliability requirements, addresses economic considerations, or is driven by public policy requirements."<sup>222</sup> In addition, Avista has added the definition of public policy requirements to its revised OATT consistent with the directive in the First Compliance Order.<sup>223</sup> We find that these OATT revisions are consistent with the directives of the First Compliance Order and therefore accept them.

122. We further find that ColumbiaGrid Public Utilities' proposed OATT revisions that provide for stakeholder input concerning transmission needs driven by public policy requirements comply with the Commission's directive in the First Compliance Order. The proposed OATT revisions allow stakeholders to propose and provide input on any

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<sup>220</sup> Order 1000 Need Statement is proposed to mean "a statement developed by Staff pursuant to section 3 of Appendix A of the Order 1000 Agreement and included for informational purposes in a Plan." *E.g.*, Avista, OATT, Attachment K, Appendix A.

<sup>221</sup> *E.g.*, Avista Transmittal Letter at 15 (citing Avista, OATT, Attachment K, Part III, § 3.2.5; Functional Agreement, § 3.25).

<sup>222</sup> *E.g.*, Avista, OATT, Attachment K, Appendix A.

<sup>223</sup> *E.g.*, *id.* In the First Compliance Order, the Commission found that Puget Sound and MATL had already included the definition of public policy requirements in their respective OATTs. First Compliance Order, 143 FERC ¶ 61,255 at P 127.

potential need, including those driven by public policy requirements, providing opportunities for input in an open and transparent manner. We therefore accept these proposed OATT revisions as well.

123. Finally, ColumbiaGrid Public Utilities revised their OATTs to require ColumbiaGrid staff to post on its website “Order 1000 Need Statements” and documentation addressing why potential transmission needs, including transmission needs driven by public policy requirements, were or were not selected as transmission needs that will be further considered in the regional transmission planning process. ColumbiaGrid Public Utilities’ revised process satisfies Order No. 1000’s requirement that each public utility transmission provider post on its website an explanation of : (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential transmission solutions in the regional transmission planning process; and (2) why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>224</sup> Thus, we find that ColumbiaGrid Public Utilities comply with the directive in the First Compliance Order.

**ii. Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process**

**(a) First Compliance Order**

124. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities’ compliance filings partially complied with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements in the local transmission planning process. The Commission found that ColumbiaGrid Public Utilities provided opportunities in their respective local transmission planning processes for stakeholders to propose transmission needs driven by public policy requirements for consideration. However, the Commission found that ColumbiaGrid Public Utilities had not proposed to revise their respective local transmission planning processes to include a just and reasonable and not unduly discriminatory process through which each public utility transmission provider will identify, out of the larger set of needs proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process, as required by Order No. 1000.<sup>225</sup> Therefore, the Commission directed

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<sup>224</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>225</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 151 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209).

ColumbiaGrid Public Utilities to revise their OATTs to establish a just and reasonable and not unduly discriminatory process through which the public utility transmission provider will identify those needs for which transmission solutions will be evaluated in the local transmission planning process.

125. The Commission also found that while ColumbiaGrid Public Utilities' respective OATTs provided for the evaluation of alternative solutions, ColumbiaGrid Public Utilities had not explained whether these evaluation processes would apply to potential transmission solutions to identified transmission needs driven by public policy requirements. Further, the Commission stated that, while ColumbiaGrid Public Utilities' existing local transmission planning processes provided opportunities for stakeholders to propose transmission facilities and to provide input in the evaluation process, it was not clear that those opportunities would also apply to a transmission facility proposed to address a transmission need driven by public policy requirements. The Commission therefore directed ColumbiaGrid Public Utilities to establish in their respective OATTs procedures to evaluate, at the local level, potential transmission solutions to identified transmission needs driven by public policy requirements that both include the evaluation of transmission facilities stakeholders propose to satisfy an identified transmission need driven by public policy requirements and allow stakeholders an opportunity to provide input during the evaluation of potential transmission solutions to identified transmission needs.<sup>226</sup>

**(b) Summary of Compliance Filing**

126. On compliance, Avista proposes to clarify in its OATT that the scope of the study development meeting<sup>227</sup> in its local transmission planning process may include "the identification of any local transmission needs (including local transmission needs driven by Public Policy Requirements)."<sup>228</sup> Avista further proposes to provide for the posting of all local transmission needs on its Open Access Same Time Information System (OASIS), including local transmission needs driven by public policy requirements, identified or proposed at the study development meeting. Under its proposal,

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<sup>226</sup> *Id.* P 155.

<sup>227</sup> A study development meeting is defined as "an open meeting to give participants an opportunity to provide comment for data gathering, initial assumptions and input into the study development within thirty (30) days following the initiation of the biennial local transmission planning process." Avista, OATT, Attachment K, Part III, § 3.2.

<sup>228</sup> *Id.*

stakeholders would have 30 days from the date of posting to provide written comments regarding any local transmission need(s) posted on OASIS. Avista states that, after considering any stakeholder comments, it will post the local transmission needs selected for further evaluation in the local transmission planning process and will also post an explanation why it did not select for evaluation in that process any identified local transmission need, including any identified local transmission need that is driven by public policy requirements.<sup>229</sup> In addition, Avista proposes to clarify in its OATT that it “will evaluate in its local transmission planning process transmission solutions, including transmission and Non-Transmission Alternatives... to local transmission needs (including local transmission needs driven by public policy requirements) that are selected by the Transmission Provider and listed on Transmission Provider’s OASIS as local transmission needs to be evaluated in the local planning process.”<sup>230</sup> Finally, Avista states that it has revised its OATT to provide customers and stakeholders an opportunity to submit solutions to local transmission needs, including local transmission needs driven by public policy requirements. Under its proposal, customers and stakeholders “may submit for inclusion in the local planning process, transmission and Non-Transmission Alternatives to address any local transmission need (including any local transmission needs driven by Public Policy Requirements) that is selected by the Transmission Provider and listed on Transmission Provider’s OASIS as a local transmission need to be evaluated for inclusion in the local planning process.”<sup>231</sup>

127. Puget Sound proposes revisions to its OATT to allow its customers, as well as interested stakeholders, an opportunity to: (1) suggest potential local transmission needs (including those driven by public policy requirements) for analysis in the development of the local transmission plan, or potential solutions (including non-transmission solutions) to local transmission needs at a transmission customer meeting or by email, and (2) comment on proposed solutions or suggest alternative proposed solutions to local transmission needs (including those driven by public policy requirements) at a Puget

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<sup>229</sup> Avista Transmittal Letter at 17 (citing Avista, OATT, Attachment K at Part III, § 3.2).

<sup>230</sup> *Id.*; Avista, OATT, Attachment K, Part III, § 4. Avista proposes to apply existing planning criteria in evaluating such transmission solutions, with the exception of one criterion, which it has revised to state that it “will also consider the ability to satisfy an identified local transmission need, including a local transmission need driven by Public Policy Requirements.” Avista Transmittal Letter at 17; Avista, OATT, Attachment K, Part III, § 4.F.

<sup>231</sup> Avista, OATT, Attachment K, Part III, § 5.3.1.

Sound local transmission planning meeting or by email.<sup>232</sup> Puget Sound proposes to use the following factors in selecting local transmission needs, including those driven by public policy requirements, for analysis in developing the local transmission plan: (1) the level and form of support for addressing the potential local transmission need; (2) the feasibility of addressing the potential local transmission need; (3) the extent that addressing the potential local transmission need would also address other potential transmission needs; and (4) the factual basis supporting the potential local transmission need.<sup>233</sup> Puget Sound also proposes factors to be used in evaluating and selecting from alternative proposed solutions to local transmission needs, including those driven by public policy requirements, including: (1) sponsorship and degree of development of proposed solution; (2) feasibility; (3) coordination with any affected transmission system; (4) economics; (5) effectiveness of performance; (6) satisfaction of identified local transmission needs; (7) mitigation of any material adverse impacts of such proposed solution on any transmission system; (8) consistency with applicable state, regional, and federal planning requirements and regulations; and (9) consistency with such additional criteria as are then accepted or developed by Puget Sound.<sup>234</sup>

128. MATL highlights that, under its OATT, the Planning Advisory Group<sup>235</sup> may “propose for consideration, among other things, local transmission needs driven by Public Policy Requirements and transmission, generation, and demand response resource projects.”<sup>236</sup> In response to the requirement to provide procedures to evaluate potential solutions, MATL proposes criteria that it would apply to evaluate proposed local transmission solutions identified in the local planning process, including those solutions

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<sup>232</sup> Puget Sound, Transmittal Letter, Docket No. ER13-99-002, at 17-18 (filed June, 19, 2013) (Puget Sound Transmittal Letter). *See also* Puget Sound, OATT, Attachment K, Part V, § 4.

<sup>233</sup> Puget Sound Transmittal Letter at 18. *See also* Puget Sound, OATT, Attachment K, Part V, § 4.

<sup>234</sup> Puget Sound Transmittal Letter at 19-20. *See also* Puget Sound, OATT, Attachment K, Part V, § 4.

<sup>235</sup> The Planning Advisory Group consists of “all Interested Stakeholders, Transmission Provider’s customers, generators interconnected to the Transmission Provider’s Transmission System, other suppliers, neighboring transmission providers and control areas and state utility regulatory agencies and offices of public advocates in the State of Montana.” MATL, OATT, Attachment K, Part II, § 2.1.

<sup>236</sup> *Id.*

driven by public policy requirements.<sup>237</sup> The proposed factors are the same as proposed by Puget Sound, as noted above, with the exception of the criterion “consistency with such additional criteria as are then accepted or developed by Puget Sound,” which MATL does not include in its OATT revisions.

(c) **Commission Determination**

129. We find Avista’s and Puget Sound’s proposed OATT revisions to their local transmission planning processes comply with the directives in the First Compliance Order. As required by Order No. 1000, Avista’s and Puget Sound’s revised local transmission planning processes now separately provide for a just and reasonable and not unduly discriminatory process through which each public utility transmission provider will identify, out of the larger set of needs proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process, including public policy requirements, as required by Order No. 1000. However, as discussed below, we find that MATL’s proposed OATT revisions to its local transmission planning process partially comply with the directives in the First Compliance Order, and we therefore direct MATL to submit a further compliance filing.

130. Avista’s proposed OATT revisions, along with its existing tariff language, which was accepted by the Commission in the First Compliance Order, establish that Avista will: (1) include the identification of any local transmission needs (including local transmission needs driven by public policy requirements) at the study development meeting; (2) post all local transmission needs on its OASIS; (3) evaluate in its local transmission planning process transmission solutions, including transmission and non-transmission alternatives, to local transmission needs (including public policy requirements) that are selected by the transmission provider and listed on OASIS as local transmission needs to be evaluated in the local planning process; (4) after considering stakeholder comments, Avista will post the local transmission needs selected for further evaluation in the local planning process and will also post an explanation why it did not select for evaluation any identified local transmission need, including any identified local transmission need that is driven by public policy requirements; and (5) allow customers and stakeholders to submit for inclusion in the local planning process transmission and non-transmission alternatives to address any local transmission need that is selected by the Transmission Provider and listed on the transmission provider’s OASIS as a local transmission need to be evaluated for inclusion in the local planning process.<sup>238</sup> We

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<sup>237</sup> MATL Transmittal Letter at 25. *See also* MATL, OATT, Attachment K, Part II, § 4.5.

<sup>238</sup> Avista, OATT, Attachment K, Part III, §§ 3.2, 5.3.1.

therefore find that these revisions, as described in Avista's local transmission planning process, satisfy the First Compliance Order's directive.

131. Puget Sound's OATT revisions allow its customers, as well as interested stakeholders, an opportunity to: (1) suggest potential local transmission needs (including those driven by Public Policy Requirements) for analysis in the development of the local transmission plan, or potential solutions (including non-transmission solutions) to local transmission needs at a transmission customer meeting or by email, and (2) comment on proposed solutions or suggest alternative proposed solutions to local transmission needs (including those driven by public policy requirements) at a Puget Sound local transmission planning meeting or by email.<sup>239</sup> Puget Sound also proposes the factors to be used in selecting local transmission needs, including those driven by public policy requirements, for analysis in developing the local transmission plan as well as factors to be used in evaluating and selecting from alternative proposed solutions to local transmission needs, including those driven by public policy requirements.<sup>240</sup> We therefore find that these OATT revisions, as described in Puget Sound's local transmission planning process, satisfy the directive in the First Compliance Order.

132. MATL's OATT revisions provide that the Planning Advisory Group may propose for consideration local transmission needs driven by public policy requirements and transmission, generation, and demand response resource projects."<sup>241</sup> MATL proposes criteria that it would apply to evaluate proposed local transmission solutions identified in the local transmission planning process, including those solutions driven by public policy requirements.<sup>242</sup> We therefore find that these elements satisfy the First Compliance Order's directive. However, MATL did not include a just and reasonable and not unduly discriminatory process through which it will identify, out of the larger set of needs proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process, as required by Order No. 1000.<sup>243</sup> Therefore, we direct MATL to submit, within 60 days of the date of issuance of this order, a further compliance filing to revise their OATT to establish a just and reasonable and not unduly discriminatory process through which it will identify, out of the large set of needs

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<sup>239</sup> Puget Sound, OATT, Attachment K, Part V, § 4.

<sup>240</sup> *Id.*

<sup>241</sup> MATL, OATT, Attachment K, Part II, § 2.1.

<sup>242</sup> *Id.* § 4.5.

<sup>243</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209.

proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process.

### 3. Nonincumbent Transmission Developer Reforms

133. In Order No. 1000, the Commission adopted a framework of reforms to ensure that nonincumbent transmission developers have the opportunity to participate in the transmission development process. In particular, public utility transmission providers must eliminate federal rights of first refusal from Commission-jurisdictional tariffs and agreements and develop not unduly discriminatory qualification criteria and processes governing the submission and evaluation of proposals for new transmission facilities.

#### a. Qualification Criteria

134. Order No. 1000 required each public utility transmission provider to revise its OATT to establish appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation.<sup>244</sup> These criteria must not be unduly discriminatory or preferential when applied to either an incumbent transmission provider or a nonincumbent transmission developer.<sup>245</sup> In addition, public utility transmission providers must adopt procedures for timely notifying transmission developers of whether they satisfy the region's qualification criteria and allowing them to remedy any deficiencies.<sup>246</sup>

135. Order No. 1000-A clarified that it would be an impermissible barrier to entry to require a transmission developer to demonstrate, as part of the qualification criteria, that it has, or can obtain, state approvals necessary to operate in a state to be eligible to propose a transmission facility.<sup>247</sup>

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<sup>244</sup> *Id.* PP 225, 323.

<sup>245</sup> *Id.* P 323.

<sup>246</sup> *Id.* P 324.

<sup>247</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.



**i. Fee Structure**

**(a) First Compliance Order**

136. In the First Compliance Order, the Commission found that Columbia Grid Public Utilities' proposed qualification criteria provisions partially complied with the requirements of Order No. 1000. The Commission found reasonable the requirement that any transmission developer who intends to sponsor a transmission project in the ColumbiaGrid transmission planning region execute the PEFA before requesting Order No. 1000 cost allocation for a transmission project that it proposed.<sup>248</sup> However, the Commission found unreasonable the proposal that a nonincumbent transmission developer that signed the PEFA in order to be eligible to request cost allocation for a transmission project it proposed was obligated to continue to fund ColumbiaGrid's operations for up to thirty months after it had given notice of its withdrawal from the PEFA. Specifically, the Commission observed that a transmission developer that signed the PEFA to be eligible to receive cost allocation for a transmission project that it proposed must continue to pay its share of ColumbiaGrid's costs for at least twenty-four months (i.e., a complete transmission planning cycle) after it learns that its proposed project was not selected. The Commission determined that while the withdrawal provision was reasonable as it applied to signatories that own transmission facilities in the ColumbiaGrid transmission planning region and participate in the ColumbiaGrid transmission planning process, the provision places an undue burden on and barrier to nonincumbent transmission developers that become signatories to the PEFA to receive cost allocation for their proposed projects.<sup>249</sup> The Commission determined that this continuing payment obligation after withdrawal from the PEFA may discourage nonincumbent transmission developers from proposing transmission solutions in the ColumbiaGrid transmission planning region and thus inhibit ColumbiaGrid staff from identifying and evaluating more efficient or cost-effective transmission solutions to its regional transmission needs. The Commission therefore directed ColumbiaGrid Public Utilities to revise the PEFA so that a nonincumbent transmission developer that signed the PEFA will incur no further payment obligations to ColumbiaGrid upon giving written notice of withdrawal from the PEFA.<sup>250</sup>

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<sup>248</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 182.

<sup>249</sup> *Id.* P 183. The Commission noted that ColumbiaGrid can collect its current costs (including the costs of analyzing proposed transmission projects) from a nonincumbent transmission developer.

<sup>250</sup> *Id.* P 184.

(b) **Requests for Rehearing or Clarification**

(1) **Summary of Requests for Rehearing or Clarification**

137. ColumbiaGrid Public Utilities request clarification of the First Compliance Order's directive allowing a nonincumbent transmission developer that signs the PEFA in order to request cost allocation under Order No. 1000 to later withdraw from the PEFA without any further obligation to fund ColumbiaGrid's operations.<sup>251</sup> They ask the Commission to find that the ruling is without prejudice to ColumbiaGrid Public Utilities proposing a revised fee structure in which a nonincumbent transmission developer would, as a condition of requesting cost allocation for a transmission project it proposes, be required to pay an amount equal to the minimum amount to be paid by a signatory to the PEFA over a two-year period, which is \$50,000.<sup>252</sup> ColumbiaGrid Public Utilities explain that the \$50,000 is the minimum amount that a PEFA signatory with no transmission facilities or load would pay ColumbiaGrid over a two-year period. Therefore, according to ColumbiaGrid Public Utilities, requiring this level of contribution to ColumbiaGrid would treat PEFA members and withdrawing nonincumbent transmission developers fairly and comparably.<sup>253</sup>

138. If the Commission does not grant their requested clarification, ColumbiaGrid Public Utilities seek rehearing of the Commission's ruling. They claim that, without their requested clarification, the First Compliance Order would be arbitrary and capricious, an abuse of discretion, and otherwise inconsistent with law. In support, they argue that granting nonincumbent transmission developers preferential withdrawal rights would be unduly discriminatory, resulting in incomparable and inequitable treatment of PEFA Planning Parties and nonincumbent transmission developers, and in ColumbiaGrid

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<sup>251</sup> ColumbiaGrid Public Utilities Request for Rehearing at 40 (referencing First Compliance Order, 143 FERC ¶ 61,255 at P 184). While ColumbiaGrid Public Utilities refer to a payment obligation under the PEFA, which is no longer before the Commission (as discussed above), we note that Enrolled Parties are required under the Functional Agreement to make a payment of \$50,000. Functional Agreement, § 3.1.

<sup>252</sup> ColumbiaGrid Public Utilities explain that a signatory to the PEFA will, in general, pay a greater amount if it has transmission facilities or load in the Pacific Northwest, and the greater amount is generally consistent with the fact that ColumbiaGrid staff will perform more work for a party that has more transmission facilities or load in the Pacific Northwest.

<sup>253</sup> ColumbiaGrid Public Utilities Request for Rehearing at 40.

performing work without adequate financial contribution by nonincumbent transmission developers who withdraw.<sup>254</sup>

(2) **Commission Determination**

139. With regard to ColumbiaGrid Public Utilities' request for clarification of the First Compliance Order's directive allowing a non-incumbent transmission developer that signs the PEFA in order to request cost allocation under Order No. 1000 to later withdraw from the PEFA without any further obligation to fund ColumbiaGrid's operations, we find that such request is moot. On compliance, under their revised transmission planning process, ColumbiaGrid Public Utilities propose a revised fee structure, which we find reasonable, as discussed further below.<sup>255</sup>

(c) **Compliance**

(1) **Summary of Compliance Filings**

140. In response to the Commission's directive to revise the PEFA so that a nonincumbent transmission developer that signed the PEFA will incur no further payment obligations to ColumbiaGrid upon giving written notice of withdrawal from the PEFA, ColumbiaGrid Public Utilities propose to include provisions in the Functional Agreement that require each party to make a \$50,000 payment upon the latter of such party's execution of the agreement, or upon the effective date of the agreement. ColumbiaGrid Public Utilities note that the amount of the payment is intended to reimburse ColumbiaGrid for additional administrative expenses incurred under the Functional Agreement for the planning cycle in which the payment is made.<sup>256</sup> Following the planning cycle in which the initial \$50,000 was paid, each party that made a \$50,000 payment is required to pay \$2,083.33 per calendar month until the party has withdrawn from the Functional Agreement. Under the proposal, a party may withdraw from the Functional Agreement by providing written notice to ColumbiaGrid and each of the other parties to the Functional Agreement. The party's withdrawal is effective 90 days following the receipt of such notice, at which time the withdrawing party will have no further payment obligation to ColumbiaGrid.

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<sup>254</sup> *Id.* at 41.

<sup>255</sup> See below in the Qualification Criteria section of this order.

<sup>256</sup> *E.g.*, Avista Transmittal Letter at 18. *See also* Functional Agreement, § 3.1.

**(2) Commission Determination**

141. The Commission finds reasonable ColumbiaGrid Public Utilities' proposal that any transmission developer (both incumbent and nonincumbent) that intends to sponsor a transmission project in the ColumbiaGrid transmission planning region execute the Functional Agreement and pay \$50,000 upon the later of the execution or the effective date of the Functional Agreement. We find the amount of the payment is reasonable because it is intended to reimburse ColumbiaGrid for additional administrative expenses incurred under the Functional Agreement for the planning cycle in which the payment is made.<sup>257</sup> We also find reasonable the requirements that after the transmission planning cycle in which the \$50,000 payment is made, parties to the Functional Agreement pay \$2,083.33 per calendar month until the party has withdrawn from the Functional Agreement and that a party incurs no further payment obligation once its withdrawal from the Functional Agreement is effective (i.e., 90 days after providing written notice to ColumbiaGrid staff and each of the other parties to the Functional Agreement). However, we direct ColumbiaGrid Public Utilities to clarify in their OATTs the point in the regional transmission planning process at which a transmission developer is required to execute the Functional Agreement in a further compliance filing to be filed within 60 days of the date of issuance of this order. Further, we note that the proposed payment provisions submitted in compliance with the First Compliance Order directives are only reflected in the Functional Agreement. As noted above, we direct ColumbiaGrid Public Utilities to submit the Functional Agreement as part of further compliance filings. We also direct ColumbiaGrid Public Utilities to include the proposed payment provisions in their respective OATTs as part of the further compliance filings.

**ii. Transmission Developer Qualification**

**(a) First Compliance Order**

142. In the First Compliance Order, the Commission found four out of the five factors that ColumbiaGrid Public Utilities proposed to consider when determining a transmission developer's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation did not comply with the requirements of Order No. 1000. First, the Commission found that the proposal to consider transmission

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<sup>257</sup> In the First Compliance Order, we did not find unreasonable the \$50,000 payment per biennial planning cycle required of signatories to the Restated PEFA. Rather, we found unreasonable the obligation to continue funding ColumbiaGrid's operations for up to thirty months after giving notice of withdrawal from the PEFA. *See* First Compliance Order, 143 FERC ¶ 61,255 at PP 182-183.

developers' "financial resources" was too vague and required ColumbiaGrid Public Utilities to revise their OATTs to provide more detail to prospective transmission developers about what information they must provide for ColumbiaGrid staff to determine whether they qualify as a transmission developer.<sup>258</sup>

143. Second, the Commission found that ColumbiaGrid Public Utilities must revise the qualification criteria to reflect the reasonable expectations that a transmission developer can secure the required capabilities by the time of project licensing and also to allow transmission developers to satisfy these criteria by relying upon the relevant experience of third-party contractors.<sup>259</sup> In addition, the Commission found the proposal that ColumbiaGrid staff would consider a transmission developer's capability to "seek licenses" as a factor when determining whether a transmission developer is eligible to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation<sup>260</sup> was an impermissible barrier to entry and directed removal of such reference from ColumbiaGrid Public Utilities' OATTs.<sup>261</sup>

144. Third, the Commission found that the proposal to include as a qualification criterion the demonstrated cost containment capability and other advantages or disadvantages a transmission developer may have in developing or constructing its proposed transmission project was more appropriately considered as it applies to a specific transmission project proposal, rather than as a qualification criterion that must be met in order to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation. Therefore, the Commission required ColumbiaGrid Public Utilities to remove this provision from the qualification criterion in their OATTs and noted that, to the extent that ColumbiaGrid Public Utilities wanted to require this information, they could include such a requirement as part of the information

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<sup>258</sup> *Id.* PP 186.

<sup>259</sup> *Id.* P 187.

<sup>260</sup> In its entirety, the proposed factor is "the current and expected capabilities of the Order 1000 Sponsor to finance, seek licenses, plan, design, develop, and construct the proposed Order 1000 Project on a timely basis consistent with the proposed schedule and to own, reliably operate, and maintain such Project for the life of such Project." *E.g.*, Avista, OATT, Attachment K, Part IV, § 10.1.2.2 (1.0.0).

<sup>261</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 188.

requirements for proposing a transmission project for selection in the regional transmission plan for purposes of cost allocation.<sup>262</sup>

145. Fourth, the Commission found: (1) that it was unclear what was intended by the proposed qualification criterion that a transmission developer demonstrate its ability to assume liability for major losses from failure of, or damage to, facilities associated with a transmission project; and (2) that it was unclear how a prospective transmission developer would demonstrate such ability. The Commission directed ColumbiaGrid Public Utilities to either explain why this proposal is necessary and not unduly discriminatory when transmission developers are already required to demonstrate their financial resources or remove this qualification criterion from their OATTs.<sup>263</sup>

(b) **Requests for Rehearing or Clarification**

(1) **Summary of Requests for Rehearing or Clarification**

146. LS Power requests that the Commission require ColumbiaGrid to clarify how it will evaluate a transmission developer's capability to own, operate, and maintain a transmission project "for the life of the project."<sup>264</sup> It asserts that the transmission providers' compliance filings provide no insight on how ColumbiaGrid staff can judge a company's capability to operate and maintain a project 30 or 40 years into the future. LS Power further asserts that, in contrast to the qualification criterion relating to "the life of the project," in the First Compliance Order, the Commission determined that proposed criteria relating to a transmission developer's financial resources and to its ability to assume liability for major losses associated with a project were vague and required further explanation of these criteria upon compliance.<sup>265</sup>

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<sup>262</sup> *Id.* P 190.

<sup>263</sup> *Id.* P 191.

<sup>264</sup> LS Power, Request for Clarification, Docket Nos. ER13-98-000, ER13-99-000, ER13-93-000, ER13-94-000, & NJ13-1-000, at 1 (filed July 19, 2013) (citing First Compliance Order, 143 FERC ¶ 61,255 at P 189).

<sup>265</sup> *Id.* at 2-3.

**(2) Commission Determination**

147. We deny LS Power’s request that ColumbiaGrid Public Utilities be required to further clarify how they will evaluate a transmission developer’s capability to operate and maintain a transmission facility “for the life of the project.” The Commission has previously found it reasonable to consider whether the transmission developer’s existing resources and commitments provided sufficient assurance that the developer would be able to operate and maintain a facility for the life of the project in evaluating the qualifications of a transmission developer.<sup>266</sup> LS Power has not persuaded us that it is unreasonable for ColumbiaGrid staff to similarly consider a potential transmission developer’s current and expected capabilities to own, reliably operate and maintain a transmission facility for the life of the project when evaluating whether a potential transmission developer meets the proposed qualification criteria.

**(c) Compliance**

**(1) Summary of Compliance Filings**

148. In their revised OATTs, in response to Commission directives in the First Compliance Order, ColumbiaGrid Public Utilities propose to revise the qualification criteria to require that the following information be submitted with respect to any proposed developer(s) owner(s) or operator of a project: (1) the identity of the proposed developer(s), owner(s), or operator(s); (2) the current and expected capabilities of the proposed developer(s), owner(s), or operator(s) to finance, plan, design, develop, and construct transmission facilities on a timely basis and to own, reliably operate, and maintain such project for the life of the project; and (3) the current and expected capabilities of the proposed developer(s), owner(s), or operator(s) to adhere to construction, maintenance, and operating practices consistent with Good Utility Practices with respect to transmission facilities and (4) the creditworthiness of the proposed developer(s), owner(s), or operator(s).<sup>267</sup>

149. Throughout the qualification criteria sections of their OATTs, ColumbiaGrid Public Utilities propose to replace the term “Order 1000 Sponsor” with “any proposed

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<sup>266</sup> *ISO New England, Inc.*, 143 FERC ¶ 61,150, at P 273 (2013).

<sup>267</sup> The specific creditworthiness provisions are discussed below. Note that items (1) and (4) are newly proposed criteria.

developer(s), owner(s), or operator(s).” ColumbiaGrid Public Utilities also propose to replace “demonstrated capability” with “the current and expected capabilities.”<sup>268</sup>

150. To address the Commission’s determination that the original proposal to consider transmission developers’ “financial resources” was too vague, ColumbiaGrid Public Utilities removed from their OATTs the requirement for ColumbiaGrid staff to consider transmission developers’ “financial resources.”<sup>269</sup> Instead, they propose that, to become qualified, a potential transmission developer must submit:

the creditworthiness of any Person proposed as developer(s), owner(s), or operator(s), as demonstrated for example by (a) an investment grade credit rating, (b) information demonstrating that such Person (1) has existed for at least five years, (2) has maintained positive working capital for the prior three years, and (3) has a minimum tangible net worth of \$1 million or total assets of \$10 million, or (c) other demonstration of creditworthiness acceptable to ColumbiaGrid.<sup>270</sup>

151. Next, ColumbiaGrid Public Utilities have revised their OATTs to allow transmission developers to rely on third-party contractors to satisfy the qualification criteria.<sup>271</sup> Specifically, the revised OATTs provide that any of the qualification requirements may be satisfied by reliance on relevant experience of third-party contractors; provided, however, that any third-party contractors to be relied upon must be specifically identified and ColumbiaGrid staff must be provided sufficient information regarding such third-party contractors to allow ColumbiaGrid staff to fully review and evaluate the relevant qualifications of such third-party contractors.<sup>272</sup>

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<sup>268</sup> These revisions are not in response to Commission directives; rather they are submitted as part of the revised regional transmission planning proposal.

<sup>269</sup> *E.g.*, Avista Transmittal Letter at 20.

<sup>270</sup> *E.g.*, Avista Transmittal Letter at 20; Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.iv.

<sup>271</sup> *E.g.*, Avista Transmittal Letter at 19; Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.

<sup>272</sup> *E.g.*, Avista Transmittal Letter at 19; Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.



152. Further, ColumbiaGrid Public Utilities have revised their OATTs to remove the reference to the current and expected capability of a transmission developer to “seek licenses” related to the proposed transmission project.<sup>273</sup>

153. In response to the Commission’s directive that ColumbiaGrid Public Utilities remove from the proposed qualification criteria the requirement that a prospective transmission developer include information regarding demonstrated cost containment capability and other advantages or disadvantages the transmission developer may have in developing or constructing its proposed transmission project, ColumbiaGrid Public Utilities state that they have removed this qualification criterion from their OATTs.<sup>274</sup>

154. Regarding the Commission’s determination that it was unclear what was intended by the proposed criterion that a developer demonstrate its ability to assume liability for major losses from failure of, or damage to, facilities associated with a transmission project and the Commission’s directive to either explain why this provision is necessary and not unduly discriminatory or remove it from their OATTs, ColumbiaGrid Public Utilities state that they have removed this qualification criterion from their OATTs.<sup>275</sup>

## (2) Commission Determination

155. We find that the following proposed revisions comply with the directives in the First Compliance Order: (1) the removal from their OATTs of the proposed qualification criterion concerning demonstrated cost containment capability and other advantages or disadvantages the transmission developer may have in developing or constructing its proposed transmission project; (2) the removal from their OATTs of the proposed criterion that a developer demonstrate its ability to assume liability for major losses from failure of, or damage to, facilities associated with a transmission project; and (3) the removal from their OATTs of the reference to the current and expected capability of a transmission developer to “seek licenses” related to the proposed transmission project.

156. We find that ColumbiaGrid Public Utilities’ proposed revisions to allow developers to rely on third-party contractors to satisfy the qualification criteria are

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<sup>273</sup> *E.g.*, Avista Transmittal Letter at 20.

<sup>274</sup> *E.g.*, *id.* at 20-21.

<sup>275</sup> *E.g.*, *id.* at 21.

consistent with the First Compliance Order and satisfy the Order No. 1000 requirement that qualification criteria be fair and not unreasonably stringent.<sup>276</sup>

157. With respect to the proposed information to be submitted to demonstrate the creditworthiness of the proposed developer(s), owner(s), or operator(s), we find that ColumbiaGrid Public Utilities' removal from their OATTs of a transmission developer's "financial resources" as a qualification criterion complies with the First Compliance Order, in which we found this criterion to be too vague.<sup>277</sup> Further, we find the proposal to require a prospective transmission developer to demonstrate that it has an investment grade credit rating is reasonable and that it is appropriate to allow a prospective transmission developer to satisfy an alternative demonstration if it cannot demonstrate that it has an investment grade credit rating.<sup>278</sup> With respect to the alternative demonstration establishing creditworthiness of a proposed developer by submitting information demonstrating that the developer has a minimum net worth of \$1 million or total assets of \$10 million, we find this alternative is acceptable because the development and construction of transmission projects requires a significant financial investment; therefore, it is not unreasonable to require some assurance that the transmission developer will have the financial assets necessary to complete the project. This proposed alternative to an investment grade credit rating is fair, not unreasonably stringent, and not unduly discriminatory or preferential, and provides each transmission developer with the opportunity to demonstrate that it has the necessary financial resources to develop, construct, own, operate, and maintain transmission facilities. Therefore, we find that this revision is reasonably related to the transmission developer's financial ability to undertake a transmission project and, accordingly, we accept this revised requirement.<sup>279</sup>

158. However, we find that the remaining two information requirements to be provided as an alternative demonstration if a prospective transmission developer does not have an investment grade credit rating (i.e., the prospective developer has existed for at least five years and has maintained positive working capital for the prior three years) would

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<sup>276</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

<sup>277</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 186.

<sup>278</sup> *See, e.g., PacifiCorp*, 143 FERC ¶ 61,151, at P 158 (2013) (accepting similar OATT revisions submitted by public utility transmission providers in the NTTG transmission planning region).

<sup>279</sup> *See, e.g., PacifiCorp*, 147 FERC ¶ 61,057 at P 113 (accepting similar OATT revisions submitted by public utility transmission providers in the NTTG transmission planning region).

needlessly restrict the pool of qualified transmission developers to companies that are at least five years old. Such a requirement would preclude otherwise well-qualified transmission developers that could rely on the technical expertise of third parties to construct and operate a transmission project and that are well-capitalized and have ready access to capital markets from proposing transmission projects for selection in the regional transmission plan. Thus, ColumbiaGrid Public Utilities' proposal to require these two alternative demonstrations unduly restricts newly-formed companies from proposing transmission projects in the regional transmission planning process, regardless of their financial ability to undertake a transmission project.<sup>280</sup> Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their respective OATTs to remove these alternative demonstrations.

159. We also conditionally accept the proposed OATT provision that allows an "other demonstration of creditworthiness acceptable to ColumbiaGrid"<sup>281</sup> as an alternative to an investment grade credit rating and the alternative demonstration. While we find that allowing such a showing will provide transmission developers with more options to satisfy the creditworthiness criterion, which we support, ColumbiaGrid Public Utilities must provide additional clarity regarding what alternative showings would be acceptable. Therefore, we direct ColumbiaGrid Public Utilities to clarify in their subsequent compliance filings what other demonstration(s) of creditworthiness would be acceptable to ColumbiaGrid staff.<sup>282</sup>

160. Finally, we find that additional proposed revisions noted above and not specifically directed in the First Compliance Order are reasonable and consistent with Order No. 1000, including: (1) the proposal to revise the qualification criterion regarding the capabilities of the proposed developer(s), owner(s), or operator(s) to adhere to construction, maintenance, and operating practices consistent with Good Utility Practices with respect to transmission facilities by replacing "demonstrated capability" with "the current and expected capabilities"; and (2) the proposal to replace the term "Order 1000 Sponsor" with "any proposed developer(s), owner(s), or operator(s)" throughout the

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<sup>280</sup> See *also id.* P 114 (rejecting similar OATT revisions submitted by public utility transmission providers in the NTTG transmission planning region).

<sup>281</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 2.5.

<sup>282</sup> We note, for example, that the Commission has accepted a number of other financial qualification criteria in the California Independent System Operator Corporation tariff. See *Cal. Indep. Operator Corp.*, 146 FERC ¶ 61,198 at P 73.

qualification criteria sections of their OATTs. The term “any proposed developer(s), owner(s), or operator(s)” is consistent with the Order No. 1000 requirement that qualification criteria should not be applied to an entity proposing a transmission project for consideration in the regional transmission planning process if that entity does not intend to develop the proposed transmission project.<sup>283</sup>

**iii. Timing of Qualification Determination**

**(a) First Compliance Order**

161. In the First Compliance Order, the Commission found that the proposal to determine whether a transmission developer satisfies the qualification criteria only after that developer has requested that its proposed transmission project be selected in the regional transmission plan for purposes of cost allocation as an Order No. 1000 transmission project did not comply with Order No. 1000. The Commission found it unreasonable for ColumbiaGrid to require a potential transmission developer to participate fully in the transmission planning process absent confirmation that the developer is eligible to propose its project for selection in the regional transmission plan for purposes of Order No. 1000 cost allocation.<sup>284</sup> Accordingly, the Commission directed ColumbiaGrid Public Utilities to revise their OATTs such that ColumbiaGrid staff would determine whether a transmission developer is eligible to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation before the transmission developer is required to propose its project for selection in the regional transmission plan for purposes of cost allocation in the transmission planning process.<sup>285</sup>

**(b) Summary of Compliance Filings**

162. In response to the Commission’s directive that ColumbiaGrid Public Utilities revise their OATTs such that ColumbiaGrid staff would determine whether a transmission developer is eligible to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation before the transmission developer is required to propose its project for selection in the regional transmission plan for purposes of cost allocation in the transmission planning process, ColumbiaGrid Public Utilities have revised their OATTs so that a proposed developer, owner, or operator may

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<sup>283</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324 n.304, *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 439 n.520.

<sup>284</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 192.

<sup>285</sup> *Id.*

submit qualification information to ColumbiaGrid staff at any time and seek a determination regarding whether it is qualified to be a developer, owner, or operator under the Functional Agreement.<sup>286</sup> Under the proposal, ColumbiaGrid staff will notify a potential transmission developer whether or not the developer meets the qualification requirements within 60 days of ColumbiaGrid staff receiving all the required qualification information. If ColumbiaGrid staff determines that a proposed transmission developer is not qualified, ColumbiaGrid staff will notify the developer of its determination and provide a list of the deficiencies, which the developer can attempt to cure by providing additional information to ColumbiaGrid staff.<sup>287</sup> Additionally, from time to time, ColumbiaGrid staff may request additional information from a previously qualified transmission developer to verify the developer's continued qualifications. ColumbiaGrid staff may also determine that a previously qualified transmission developer no longer qualifies to be a developer, owner, or operator under the Functional Agreement.<sup>288</sup>

**(c) Commission Determination**

163. We find that the revised OATT provisions that allow any potential transmission developer, owner, or operator to submit qualification information to ColumbiaGrid staff at any time and seek a determination regarding whether it is qualified to be a developer, owner, or operator are consistent with the First Compliance Order. We note that, under the proposal, ColumbiaGrid staff will provide notification to the potential transmission developer of its determination within 60 days of ColumbiaGrid staff receiving all the required qualification information. If ColumbiaGrid staff determines that a potential transmission developer is not qualified, ColumbiaGrid staff will provide a list of the developer's deficiencies, which the developer can attempt to cure by providing additional information to ColumbiaGrid staff. We find these provisions satisfy the Order No. 1000 requirement for procedures to be in place for timely notifying transmission developers of whether they satisfy the region's qualification criteria and for providing opportunities to remedy any deficiencies.<sup>289</sup> Finally, under the proposal, ColumbiaGrid staff may request

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<sup>286</sup> *E.g.*, Avista Transmittal Letter at 21; Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.

<sup>287</sup> *E.g.*, Avista Transmittal Letter at 21-22; Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.

<sup>288</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 2.5. *See also* Functional Agreement, Appendix A, § 2.5.

<sup>289</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

additional information from a previously qualified transmission developer to verify the developer's continued qualifications, and ColumbiaGrid staff may also determine that a previously qualified transmission developer no longer qualifies to be a developer, owner or operator. We find that this provision is reasonable because it recognizes that a transmission developer's ability to meet the qualification criteria may change over time.<sup>290</sup> However, the OATT language is unclear if a previously qualified transmission developer may remedy the deficiencies that have caused it to no longer qualify. Therefore, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings to include such provisions in their OATTs.

**b. Information Requirements**

164. Order No. 1000 required each public utility transmission provider to identify in its OATT the information that a prospective transmission developer must submit in support of a transmission project proposed in the regional transmission planning process.<sup>291</sup> The information requirements must be sufficiently detailed to allow a proposed transmission project to be evaluated comparably to other transmission facilities proposed in the regional transmission planning process. The information requirements must be fair and not be so cumbersome as to effectively prohibit transmission developers from proposing transmission facilities, yet not be so relaxed that they allow for relatively unsupported proposals.<sup>292</sup> Order No. 1000 also required each public utility transmission provider to identify in its OATT the date by which a transmission developer must submit information on a proposed transmission project to be considered in a given transmission planning cycle.<sup>293</sup>

**i. First Compliance Order**

165. In the First Compliance Order, the Commission determined that the provisions in ColumbiaGrid Public Utilities' compliance filings addressing information requirements for submitting proposals did not comply with the requirements of Order No. 1000.<sup>294</sup>

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<sup>290</sup> We note that requests for additional information, as well as determinations that a previously qualified transmission developer no longer qualifies, must be made on a not unduly discriminatory or preferential basis.

<sup>291</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 325.

<sup>292</sup> *Id.* P 326.

<sup>293</sup> *Id.* P 325.

<sup>294</sup> First Compliance Order, 143 FERC ¶ 61,255 at PP 198-199.

The Commission stated that they failed to identify the specific information required to be submitted by transmission developers to allow a proposed Order No. 1000 transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process. Instead, the Commission noted that the proposals simply referred to the submission of “required information” to the study team, without specifying the information that the study teams will require in their consideration of transmission needs in the region. Further, the Commission found that ColumbiaGrid Public Utilities did not identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle. Thus, the Commission directed ColumbiaGrid Public Utilities to make further compliance filings to revise their OATTs to identify: (1) the information that a prospective transmission developer must submit in support of a transmission project the developer proposes in the regional transmission planning process in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process; and (2) the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle.<sup>295</sup>

## **ii. Summary of Compliance Filings**

166. ColumbiaGrid Public Utilities propose revisions to their OATTs to reflect the information that a prospective transmission developer must submit to ColumbiaGrid staff in order for a study team to evaluate a proposed solution for potential selection in the regional transmission plan for purposes of cost allocation. An Enrolled Party must submit: (1) the purpose of the proposed solution and the identified need the proposed solution would address; (2) a development schedule indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the proposed solution so as to timely meet the identified need; (3) new substations and transmission lines that would be created; (4) upgrades or modifications to existing facilities that would be required (e.g., line reconductoring, transformer upgrades, substation expansions); (5) the identity of the proposed developer, owner, or operator, if any; (6) for solutions that are anticipated to be interregional transmission projects, identification of the relevant planning region where any new facilities are proposed to be interconnected to other than ColumbiaGrid and identification of the transmission system to which any new facilities would interconnect; (7) voltage level of the proposed facilities; (8) mileages associated with any new or upgraded transmission lines; (9) planned conductor to be used for any proposed new or upgraded transmission lines;

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<sup>295</sup> *Id.* PP 198-199.

(10) proposed increase in transmission system transfer capability; (11) ratings of individual transmission facility components (e.g., lines and transformers); (12) electrical parameters of the proposed solution components as necessary to model them accurately in power flow simulations (e.g., resistance, reactance, charging, ratings, etc.); (13) amount of reactive (in MVAR) for any proposed reactive components; (14) if the proposed solution involves new generation, then the machine parameters necessary to model the new generators accurately in power flow and stability simulations (e.g., machine reactances, time constants, control system parameters); (15) a list of new contingencies that should be analyzed as a result of the proposed solution; (16) a description of any new remedial action schemes, or changes to existing remedial action schemes, that would be required by the proposed solution; (17) cost estimates in as much detail as available; and (18) analysis to support the technical feasibility of the proposed solution.<sup>296</sup>

167. Under the proposal, ColumbiaGrid staff will give entities submitting this information written notice describing any deficiencies and provide the entities 30 days to cure any deficiencies. The information, including any cure of deficiencies, must be submitted no later than 30 days after the issuance of the system assessment report for the regional transmission plan then being developed. To the extent that any required information is submitted later than 30 days after the issuance of the system assessment report for the regional transmission plan then being developed, the study team will consider the proposed solution only if, in ColumbiaGrid staff's sole discretion, such consideration is practicable.<sup>297</sup>

### **iii. Commission Determination**

168. We find that the provisions in ColumbiaGrid Public Utilities' filings addressing information requirements for submitting proposals partially comply with the directives in the First Compliance Order.

169. ColumbiaGrid Public Utilities' proposed information requirements identify the information that a prospective transmission developer must submit regarding its proposed transmission project in sufficient detail to allow ColumbiaGrid study teams to evaluate a proposed transmission project on a basis comparable to other transmission projects that are proposed for selection in the regional transmission plan for purposes of cost

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<sup>296</sup> *E.g.*, Avista Transmittal Letter at 23; Avista, OATT, Attachment K, Part IV, § 2.6. *See also* Functional Agreement, Appendix A, § 2.6.

<sup>297</sup> *See, e.g.*, Avista, OATT, Attachment K, Part IV, § 2.6.



allocation, including those developed by ColumbiaGrid staff.<sup>298</sup> We find that ColumbiaGrid Public Utilities' proposed information requirements strike a reasonable balance between being not so cumbersome that they effectively prohibit transmission developers from proposing transmission projects, yet not so relaxed that they allow for relatively unsupported proposals. We therefore accept this proposal, subject to the further revisions discussed below.

170. We find that ColumbiaGrid Public Utilities' proposal to require a prospective transmission developer to provide upgrades or modifications to existing facilities that would be required (e.g., line reconductoring, transformer upgrades, substation expansions) and to provide a description of any new remedial action schemes, or changes to existing remedial action schemes, that would be required by the proposed solution does not comply with Order No. 1000. We find that requiring a prospective transmission developer to perform the studies and analysis required to determine this information in order to have its proposed transmission project evaluated in the regional transmission planning process is overly burdensome.<sup>299</sup> We conclude that such detailed studies and analysis are more appropriately performed in the regional transmission planning process to determine whether or not to select a proposed transmission project in the regional transmission plan for purposes of cost allocation. The information requirements should permit a transmission developer to submit any studies and analysis it performed to support its proposed transmission project, but should not require studies and analyses that only incumbent transmission owners are likely to have sufficient information to complete. Instead, the transmission planning region must conduct the studies and analysis that it will use to evaluate proposed transmission projects as part of the regional transmission planning process. Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that remove these information requirements from their OATTs.

171. We also conclude that the requirement for an Enrolled Party to submit an "analysis to support the technical feasibility of the proposed solution" is unclear because ColumbiaGrid Public Utilities do not provide details on the type of analysis that would be acceptable to fulfill this requirement. Therefore, we direct ColumbiaGrid Public Utilities to clarify, within 60 days of the date of issuance of this order, what type of analysis would be acceptable to meet this information requirement.

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<sup>298</sup> See *e.g.*, *id.* § 4.4. See also Functional Agreement, Appendix A, § 4.4.

<sup>299</sup> See *e.g.*, *ISO New England, Inc.*, 143 FERC ¶ 61,150 at P 292.

172. Finally, we accept ColumbiaGrid Public Utilities' proposal to notify in writing each prospective transmission developer describing any deficiencies in the information submitted and providing the opportunity to cure any deficiencies within 30 days of receipt of such notice. We find that the proposal is reasonable because it allows for the timely notification of deficiencies in a transmission developer's information submittal and an opportunity to cure those deficiencies. We also find that by requiring Enrolled Parties to submit the required information to ColumbiaGrid staff no later than 30 days after the issuance of the system assessment report for the regional transmission plan then being developed, ColumbiaGrid Public Utilities satisfy Order No. 1000's requirement that each public utility transmission provider revise its OATT to identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle.<sup>300</sup> However, to ensure that Enrolled Parties have sufficient time to submit the required information and cure any deficiencies, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their OATTs to clarify that the deadline to submit the required information is no later than 30 days after the issuance of the *final* system assessment report.

c. **Evaluation Process for Transmission Proposals Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

173. Order No. 1000 required each public utility transmission provider to amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.<sup>301</sup> The evaluation process must ensure transparency and provide the opportunity for stakeholder coordination.<sup>302</sup> In addition, the evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>303</sup>

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<sup>300</sup> See *e.g.*, Avista, OATT, Attachment K, Part IV, § 3.5. See also Functional Agreement, Appendix A, § 3.5.

<sup>301</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

<sup>302</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>303</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328, *order on reh'g*, Order

(continued...)

**i. First Compliance Order**

174. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' compliance filings partially complied with the requirements of Order No. 1000 regarding an evaluation process for selecting transmission proposals in the regional transmission plan for purposes of cost allocation. Specifically, the Commission determined that the proposed regional transmission planning process provided the opportunity for stakeholder coordination and would culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>304</sup>

175. In general, the Commission found that the proposed evaluation criteria<sup>305</sup> were transparent, not unduly discriminatory, and complied with Order No. 1000's requirement to consider the "relative efficiency and cost-effectiveness of [a proposed transmission] solution."<sup>306</sup> However, the Commission noted that under the proposal, economics would only be considered "as appropriate." The Commission directed ColumbiaGrid Public Utilities to further explain the circumstances, if any, under which the economics of a proposed transmission solution would not be a factor in ColumbiaGrid staff's evaluation of that solution.<sup>307</sup>

176. The Commission found that, although it appeared that ColumbiaGrid staff will use the same process to evaluate a new transmission facility proposed by a nonincumbent transmission developer as one proposed by an incumbent transmission developer, it was

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No. 1000-A, 139 FERC ¶ 61,132 at P 267.

<sup>304</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 211.

<sup>305</sup> ColumbiaGrid Public Utilities proposed that the following factors be considered when evaluating the ability of any proposed solutions to address a need: (1) in the case of a proposed project, sponsorship and degree of development of a proposal for such project; (2) feasibility; (3) coordination with any affected transmission system and any other affected persons; (4) economics; (5) effectiveness of performance; (6) satisfaction of need, including the extent to which the proposed solution satisfies multiple needs; and (7) consistency with applicable state, regional, and federal planning requirements and regulations. *Id.* P 212.

<sup>306</sup> *Id.* (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 331 n.307).

<sup>307</sup> *Id.*

concerned with the lack of specificity regarding the process for determining which transmission projects would be included in the study team's initial report. For example, the Commission noted that it was not clear who will ultimately decide that a transmission facility should be included in an initial report as a result of the study team process and how such decision will be made.<sup>308</sup> The Commission found that this information was necessary to ensure that the evaluation process is transparent and not unduly discriminatory. Therefore, the Commission directed ColumbiaGrid Public Utilities to describe in their OATTs who will ultimately decide that a transmission facility should be included in an initial report as a result of the study team process and how such decision will be made.<sup>309</sup>

177. In reviewing a second proposed set of evaluation criteria that the study team or ColumbiaGrid staff, as appropriate, would apply to a transmission project for which regional cost allocation has been requested to determine whether it should be selected in the regional transmission plan for purposes of cost allocation,<sup>310</sup> the Commission found that two of these proposed evaluation criteria lacked sufficient detail to comply with Order No. 1000's requirement that they be transparent and not unduly discriminatory. Specifically, the Commission directed ColumbiaGrid Public Utilities to modify their OATTs to reflect the Order No. 1000 standard of "more efficient or cost-effective" and also to describe how the study team or ColumbiaGrid staff would determine whether a proposed transmission project is confirmed to be the more efficient or cost-effective solution to meet an identified need.<sup>311</sup> The Commission also directed ColumbiaGrid Public Utilities to revise their OATTs to explain what it means for a project to be "developed by a study team" and the circumstances under which ColumbiaGrid staff, as

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<sup>308</sup> *Id.* at 213

<sup>309</sup> *Id.*

<sup>310</sup> The proposed evaluation criteria previously proposed are: (1) the proposed transmission project meets an identified need; (2) the project is confirmed to be the "more cost-effective and efficient" solution to meet such need; (3) the project has been developed by a study team and been included in the related initial report; (4) Order No. 1000 cost allocation for such project has been timely requested by the transmission developer; (5) the transmission developer meets the transmission developer qualification criteria; and (6) the transmission developer has submitted required information on a timely basis, including project data and a development schedule. *Id.* P 214.

<sup>311</sup> *Id.* PP 214-215.

opposed to the study team, will evaluate whether a project should be selected in the regional transmission plan for purposes of cost allocation.<sup>312</sup>

**ii. Summary of Compliance Filings**

178. In response to the Commission's directive to explain the circumstances, if any, under which the economics of a proposed transmission solution would not be a factor in its evaluation, ColumbiaGrid Public Utilities state that they have removed the phrase "as appropriate" from their OATTs to clarify that economics will be used in evaluating all proposed solutions.<sup>313</sup>

179. With respect to the Commission's directive to describe who ultimately decides that a transmission facility should be included in a study team initial report and how such decision will be made, ColumbiaGrid Public Utilities propose to revise their OATTs to clarify that the general objective of a study team is the collaborative and timely development of all required elements of a plan(s) to address identified needs.<sup>314</sup> Under the revised OATTs, the study team will attempt to reach agreement on all the elements of a plan(s) to meet the identified needs and, in the event that the study team does not reach consensus, ColumbiaGrid staff would address those outstanding elements of the plan. In formulating determinations on outstanding elements, ColumbiaGrid staff would consider any comments provided by any party to the Functional Agreement or stakeholder and would reflect those comments in the final study team report that is reviewed by the ColumbiaGrid Board.<sup>315</sup>

180. ColumbiaGrid Public Utilities state that they have revised their OATTs to be consistent with the Order No. 1000 standard of "more efficient or cost-effective."<sup>316</sup> They also propose revisions to clarify how a proposed transmission project is confirmed as the more efficient or cost-effective solution and under which circumstances the study

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<sup>312</sup> *Id.*

<sup>313</sup> *E.g.*, Avista Transmittal Letter at 23; Avista, OATT, Attachment K, Part IV, § 2.3. *See also* Functional Agreement, Appendix A, § 2.3.

<sup>314</sup> Avista Transmittal Letter at 24. § 4.3

<sup>315</sup> *E.g.*, Avista Transmittal Letter at 24; Avista, OATT, Attachment K, Part IV, § 4.3. *See also* Functional Agreement, Appendix A, § 4.3.

<sup>316</sup> *E.g.*, Avista Transmittal Letter at 25; Avista, OATT, Attachment K, Part IV, § 5.3. *See also* Functional Agreement, Appendix A, § 5.3.

team, ColumbiaGrid staff, and the ColumbiaGrid Board are to evaluate whether a project is the more efficient or cost-effective solution.<sup>317</sup> Specifically, under the proposal, the study team will evaluate any proposed solutions to a need, including non-transmission alternatives and conceptual solutions that are reflected in the system assessment reports or proposed by any study team participant, by assessing the ability of any proposed solution to address an identified need considering the solution evaluation factors noted above<sup>318</sup> together with an assessment of any Material Adverse Impacts<sup>319</sup> and mitigation thereof, of such proposed solution on any transmission system.<sup>320</sup> In addition, the study team will use these factors to assess whether there is a solution that is a more efficient or cost-effective alternative to address an identified need<sup>321</sup> and the study team then issues a final report. Additionally ColumbiaGrid staff, in consultation with the study team and stakeholders, reviews each plan included in the final study team report to assess whether identified needs, when taken together, can be met by any more efficient or cost-effective solution.<sup>322</sup>

181. In response to the Commission's directive to clarify what it means for a project to be developed by a study team, ColumbiaGrid Public Utilities revised their OATTs to state that ColumbiaGrid staff, in consultation with the study team and stakeholders, will review each plan included in a final study team report and assess whether identified

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<sup>317</sup> *E.g.*, Avista Transmittal Letter at 25.

<sup>318</sup> See above in the Evaluation Process section of this order.

<sup>319</sup> Material Adverse Impacts, with respect to a project, are proposed to mean “a reduction of transmission capacity on a transmission system (or other adverse impact on such transmission system that is generally considered in transmission planning in the Western Interconnection) due to such [p]roject that is material, that would result from a [p]roject, and that is unacceptable to the [p]erson that owns or operates such transmission system.” Further, ColumbiaGrid Public Utilities propose that Material Adverse Impacts are considered mitigated if there would not be any Material Adverse Impacts due to the project. *E.g.*, Avista, OATT, Attachment K, Appendix A.

<sup>320</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 2.3. *See also* Functional Agreement, Appendix A, § 2.3.

<sup>321</sup> *E.g.*, Avista Transmittal Letter at 25; Avista, OATT, Attachment K, Part IV, § 4.3. *See also* Functional Agreement, Appendix A, § 4.3.

<sup>322</sup> *E.g.*, Avista Transmittal Letter at 25; Avista, OATT, Attachment K, Part IV, § 4.3. *See also* Functional Agreement, Appendix A, § 4.4.

needs, when taken together, can be met by a more efficient or cost-effective transmission solution. If a more efficient or cost-effective solution is identified as result of such assessment (referred as proposed staff solution) ColumbiaGrid staff will develop information regarding the solution, a plan will be developed by the study team, and included in the final study team report.<sup>323</sup>

182. Within 30 days of the issuance of the final study team report, any Enrolled Party may request that ColumbiaGrid staff identify any project eligible to receive regional cost allocation, i.e. identify from among the proposed projects in the final study team report any project that is a more efficient or cost-effective solution to meet a need. An identified eligible project can receive regional cost allocation only if the ColumbiaGrid Board, in an open, public process, confirms that the proposed project is a more efficient or cost effective solution to meet a need. The ColumbiaGrid Board also confirms, for each project, that (1) timely request for cost allocation has been made (i.e., where parties have not withdrawn such request), (2) the benefit to cost ratio for project is 1.25 or higher; (3) no agreement has been reached on implementation of such project; and (4) the project is still reflected in the plan (i.e., it has not been removed under to reevaluation criteria).

### **iii. Commission Determination**

183. We find that the provisions in ColumbiaGrid Public Utilities' compliance filings addressing the evaluation of proposed transmission facilities partially comply with the directives in the First Compliance Order. First, ColumbiaGrid Public Utilities' removal of the phrase "as appropriate" ensures that economics, an essential factor in determining cost-effectiveness, will be used in evaluating all proposed solutions, and we therefore accept that revision. Additionally, the proposed OATT revisions regarding the Order No. 1000 standard of "more efficient or cost-effective" satisfy the Commission's directive in the First Compliance Order.

184. Second, we also accept ColumbiaGrid Public Utilities' proposal to include an additional factor, i.e., mitigation of any Material Adverse Impacts of a proposed solution on any transmission system, as appropriate when assessing the ability of proposed transmission project to meet an identified need.<sup>324</sup> We find that consideration of material adverse impacts as an evaluation criterion for solutions to an identified need in the study team is reasonable to ensure mitigation of such impacts for a regional transmission

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<sup>323</sup> *E.g.*, Avista Transmittal Letter at 25; Avista, OATT, Attachment K, Part IV, § 4.4. *See also* Functional Agreement, Appendix A, § 4.4.

<sup>324</sup> See below in the Cost Allocation section of this order.

project selected in a regional transmission plan for purposes of cost allocation. We also note that the costs associated with any mitigation measures should be accounted for as part of the costs of the proposed project, and not assigned directly to the transmission developer. Moreover, if the proposed project's benefit to cost ratio exceeds 1.25 when accounting for the costs of the necessary mitigation measures, then the project should be eligible for selection in the regional transmission plan for purposes of cost allocation.<sup>325</sup> ColumbiaGrid Public Utilities' proposed OATT revisions seem to indicate that ColumbiaGrid Public Utilities will consider the costs of mitigation measures necessary to address any adverse reliability impact when evaluating a regional transmission project selected in a regional transmission plan for purposes of cost allocation. However, we find that the OATTs do not clearly indicate that this is in fact ColumbiaGrid Public Utilities' intent. Thus, we require ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, a further compliance filing revising their OATTs to clarify how the costs of any necessary mitigation measures will be accounted for as part of the costs of a proposed regional transmission project.

185. Third, we accept the proposed OATT revisions that describe who ultimately decides that a transmission facility should be included in a study team initial report and how such decision will be made, as well as how a proposed transmission project is confirmed to be the more efficient or cost-effective solution to meet an identified need. However, it is not clear whether ColumbiaGrid staff, as well as the ColumbiaGrid Board, will use the same evaluation factors as the study team, or a different set of factors, in addition to stakeholder comments, when making its determination on whether a transmission project is a more efficient or cost-effective transmission solution.

186. We therefore require ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings revising their OATTs to clarify whether ColumbiaGrid staff and the ColumbiaGrid Board will use the same eight factors as the study team, or a different set of factors, in addition to considering stakeholder comments when making the determination that a project is a more efficient or cost-effective transmission solution.

187. Finally, we find that the proposed OATT revisions to describe what it means for a transmission project to be developed by a study team provide the necessary detail to ensure the proposal is transparent and not unduly discriminatory. They also ensure an

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<sup>325</sup> *South Carolina Elec. & Gas Co.*, 147 FERC ¶ 61,126 at P 211. We discuss the merits of the set point of the benefit to cost ratio of 1.25 in the Cost Allocation section of this order.



opportunity for stakeholder coordination because the development of the transmission project is done in consultation with ColumbiaGrid staff and interested stakeholders.

**d. Reevaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

188. To ensure the incumbent transmission provider can meet its reliability needs or service obligations, Order No. 1000 required each public utility transmission provider to amend its OATT to describe the circumstances and procedures for reevaluating the regional transmission plan to determine if alternative transmission solutions must be evaluated as a result of delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation.<sup>326</sup> If an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint, and if that solution is a transmission facility, then the proposed transmission facility should be evaluated for possible selection in the regional transmission plan for purposes of cost allocation.<sup>327</sup>

**i. First Compliance Order**

189. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' provisions addressing the reevaluation of proposed transmission projects did not comply with the requirements of Order No. 1000. Under the proposal, ColumbiaGrid staff would determine during the annual system assessment whether a transmission project continued to be expected to meet the relevant regional need in a timely manner, and that assessment would be based on updated project information provided by the project developer. The Commission noted that while Order No. 1000 specifically requires public utility transmission providers to reevaluate the regional transmission plans,<sup>328</sup> the proposed tariff revisions provide that ColumbiaGrid staff will reevaluate Order No. 1000 transmission projects. The Commission directed ColumbiaGrid Public Utilities to clarify in their OATTs that ColumbiaGrid staff will undertake a reevaluation of the regional transmission plan, rather than only Order No. 1000 transmission projects. The Commission further required that the revisions must: (1) allow the incumbent

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<sup>326</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>327</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329.

<sup>328</sup> *Id.*

transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if an evaluation of alternatives is needed; and (2) if the proposed solution is a transmission facility, provide for the facility's evaluation for possible selection in the regional transmission plan for purposes of cost allocation.<sup>329</sup>

## ii. Summary of Compliance Filings

190. To comply with the Commission's directive, ColumbiaGrid Public Utilities have revised their OATTs to clarify that the regional transmission plan taken as a whole, rather than individual transmission projects, is to be reevaluated in each system assessment.<sup>330</sup> Specifically, they propose that in each system assessment, ColumbiaGrid staff, in consultation with any identified developer, owner, or operator and any beneficiary of an Order 1000 Project, will reevaluate the most recent prior regional transmission plan, taken as a whole, to determine if changes in circumstances, including project delays, require the evaluation of alternative transmission solutions, including those that the incumbent transmission provider proposes, so that the incumbent transmission provider can meet its reliability needs or service obligations.<sup>331</sup>

191. ColumbiaGrid Public Utilities propose that, based on such reevaluation, ColumbiaGrid staff may recommend removal of a project that has been selected in the regional transmission plan for purposes of cost allocation if, for example: (1) the transmission project would no longer qualify for selection as an Order 1000 Project; (2) a project development schedule has not been submitted to ColumbiaGrid staff demonstrating that the transmission project will timely meet the identified needs; (3) the development of the selected transmission project is not progressing consistent with the project development schedule such that it will not timely meet the identified needs; (4) either there is no identified developer, owner, or operator for the project or one or more of the developers, owners, or operators no longer meet the qualification criteria such that the transmission project will not timely meet the identified needs; (5) if all requests for regional cost allocation have been withdrawn; or (6) the developer, owner, or operator of the transmission project fails to provide information needed for the reevaluation.<sup>332</sup>

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<sup>329</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 219.

<sup>330</sup> *E.g.*, Avista Transmittal Letter at 26.

<sup>331</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 3.3. *See also* Functional Agreement, Appendix A, § 3.3.

<sup>332</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, §§ 3.3.i-vi. *See also* Functional Agreement, Appendix A, § 3.3.i-vi.

Under ColumbiaGrid Public Utilities' proposal, the Board will make the final determination as to the removal from the regional transmission plan of a previously selected transmission project.<sup>333</sup>

192. Finally, ColumbiaGrid Public Utilities propose that, in the event that a previously selected transmission project is removed from the regional transmission plan, the incumbent transmission provider "may propose solutions that it would implement within its retail distribution service territory or footprint, if any evaluation of alternatives is needed" and also that if the proposed solution is a transmission facility, then such proposed solution is to be evaluated as a proposed solution in accordance with the Functional Agreement.<sup>334</sup>

### **iii. Commission Determination**

193. We find that ColumbiaGrid Public Utilities' proposal concerning the reevaluation of the regional transmission plan partially complies with the directives in the First Compliance Order. ColumbiaGrid Public Utilities have revised their respective OATTs to state that ColumbiaGrid staff will undertake a reevaluation of the regional transmission *plan*, rather than only transmission *projects*. ColumbiaGrid Public Utilities' have also made revisions to: (1) allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if an evaluation of alternatives is needed; and (2) if the proposed solution is a transmission facility, provide for the facility's evaluation for possible selection in the regional transmission plan for purposes of cost allocation. We find that these proposed OATT revisions comply with the directives in the First Compliance Order.

194. However, we find that ColumbiaGrid Public Utilities' proposed OATT provisions offering circumstances under which ColumbiaGrid staff may recommend removal of a transmission project that has been selected in the prior regional transmission plan for purposes of cost allocation do not comply with the requirements of Order No. 1000. First, the list of factors that would cause the removal of a previously selected transmission project appears to be non-exhaustive. Specifically, the proposed language indicates that ColumbiaGrid staff may recommend removal of a transmission project for factors outside of the six expressly listed in the OATT. We find that such a non-exhaustive list does not provide certainty to transmission developers and stakeholders as

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<sup>333</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 3.3. *See also* Functional Agreement, Appendix A, § 3.3.

<sup>334</sup> *E.g.*, Avista Transmittal Letter at 26; Avista, OATT, Attachment K, Part IV, § 3.3. *See also* Functional Agreement, Appendix A, § 3.3.

to when ColumbiaGrid staff may recommend removal of a transmission project and may vest an improper amount of discretion in ColumbiaGrid staff to make transmission project removal recommendations. Second, even if the list of factors was definite, we find that it is not necessary to recommend the removal of a transmission project based on factor four, i.e., either there is no identified transmission developer for the project or one or more of the transmission developers no longer meets the qualification criteria. In those instances, the transmission project simply becomes an unsponsored transmission project for which any other qualified transmission developer could request regional cost allocation.<sup>335</sup> Accordingly, we direct ColumbiaGrid Public Utilities' to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their OATTs to provide a definite list of factors that would permit ColumbiaGrid staff to recommend removal of a transmission project, as well as to remove factor four from the list.

e. **Cost Allocation for Transmission Facilities Selected in the Regional Transmission Plan for Purposes of Cost Allocation**

195. Order No. 1000 required each public utility transmission provider to participate in a regional transmission planning process that provides nonincumbent transmission developers and incumbent transmission developers the same eligibility to use a regional cost allocation method or methods for any transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>336</sup> Order No. 1000 also required that the regional transmission planning process have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>337</sup>

i. **First Compliance Order**

196. In the First Compliance Order, the Commission found that the provisions in ColumbiaGrid Public Utilities' filings addressing cost allocation for a nonincumbent transmission developer's facilities partially complied with the requirements of Order No. 1000. The Commission noted that ColumbiaGrid Public Utilities had proposed a

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<sup>335</sup> To the extent that no other qualified transmission developer requests regional cost allocation for an unsponsored transmission project, it would then be reasonable to remove that project from the regional transmission plan.

<sup>336</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 332.

<sup>337</sup> *Id.* P 336.

sponsorship model, which would permit a qualified transmission developer, whether an incumbent or a nonincumbent, to submit a transmission facility, and if that transmission facility was selected in the ColumbiaGrid regional transmission plan for purposes of cost allocation, then the transmission developer would be eligible to use the regional cost allocation method. However, the Commission found that the proposal lacked a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation. Accordingly, the Commission directed ColumbiaGrid Public Utilities to file a further compliance filing that revises their OATTs to establish such a mechanism.<sup>338</sup>

**ii. Summary of Compliance Filings**

197. In response to the Commission's directive to establish a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation, ColumbiaGrid Public Utilities explain that any qualified transmission developer may request regional cost allocation for any transmission project that is eligible for potential selection in the regional transmission plan for purposes of cost allocation, including eligible unsponsored transmission projects. According to ColumbiaGrid Public Utilities, the Board will select a transmission project for selection in the regional transmission plan for purposes of cost allocation, regardless of whether it is sponsored or unsponsored, if: (1) the transmission project is eligible for potential selection; (2) an entity has timely requested cost allocation for the transmission project; and (3) the Board confirms it is the more efficient or cost-effective solution to an identified need.<sup>339</sup> ColumbiaGrid Public Utilities state that they have revised their OATTs to provide that if the benefit to cost ratio for any Order 1000 Project is determined to be less than 1.25, such project is, upon such determination, to no longer be an Order 1000 Project and any regional cost allocation for such project is to be vacated.<sup>340</sup>

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<sup>338</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 227.

<sup>339</sup> *E.g.*, Avista Transmittal Letter at 27; Avista, OATT, Attachment K, Part IV, §§ 5.2, 5.3. *See also* Functional Agreement, Appendix A, §§ 5.2, 5.3.

<sup>340</sup> *E.g.*, Avista Transmittal Letter at 30 (citing Avista, OATT, Attachment K, Part IV, § 6.3.2). ColumbiaGrid Public Utilities propose to calculate the benefit to cost ratio by dividing the sum of the benefits of all beneficiaries of an Order 1000 Project by

(continued...)

198. ColumbiaGrid Public Utilities state that ColumbiaGrid staff will apply the regional cost allocation method to Order 1000 Projects that are not sponsored.<sup>341</sup> However, in the event that cost allocation is applied to an Order 1000 Project prior to the identification of its sponsor, ColumbiaGrid staff would reapply the regional cost allocation method again if, and at such time as, the sponsor of such project is identified and any Enrolled Party requests that ColumbiaGrid staff reapply the regional cost allocation method. Any prior regional cost allocation with respect to such transmission project would then be vacated.<sup>342</sup>

199. ColumbiaGrid Public Utilities also state that in the event that more than one Enrolled Party has requested regional cost allocation for a transmission project, it will apply the regional cost allocation methodology, so long as at least one such party's request has not been withdrawn, and if no agreement on implementation has been reached.<sup>343</sup> ColumbiaGrid staff will allow six full calendar months (or additional time if requested by all parties and Affected Persons) for the parties that requested regional cost allocation to reach agreement on implementation of such transmission project, including responsibility for the funding of such project.<sup>344</sup> If after such additional time, if any, such an agreement on implementation of a project has not been reached, ColumbiaGrid staff is to include the preliminary cost allocation report in the draft regional transmission plan.<sup>345</sup>

### iii. Commission Determination

200. In the First Compliance Order, the Commission accepted ColumbiaGrid Public Utilities' proposal with the understanding that it was a sponsorship model, which would

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the projected capital costs of such project. *E.g.*, Avista, OATT, Attachment K, Part IV, § 6.3.2.

<sup>341</sup> *E.g.*, Avista Transmittal Letter at 27; Avista, OATT, Attachment K, Part IV, § 6. *See also* Functional Agreement, Appendix A, § 6.

<sup>342</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 5.2. *See also* Functional Agreement, Appendix A, § 5.2.

<sup>343</sup> *E.g.*, *id.*

<sup>344</sup> Avista, OATT, Attachment K, Part IV, § 5.4. *See also* Functional Agreement, Appendix A, § 5.4.

<sup>345</sup> Avista, OATT, Attachment K, Part IV, § 6.4. *See also* Functional Agreement, Appendix A, § 6.4.

permit any qualified transmission developer to submit a transmission facility in the regional transmission planning process, and if that transmission facility was selected in the regional transmission plan for purposes of cost allocation, then the transmission developer would be eligible to use the regional cost allocation method.<sup>346</sup> However, ColumbiaGrid Public Utilities' proposed tariff revisions here suggest that any qualified transmission developer may request regional cost allocation for any transmission facility that is eligible for potential selection in the regional transmission plan for purposes of cost allocation, regardless of whether another qualified transmission developer proposed that facility for consideration and requests regional cost allocation for it.<sup>347</sup> We find this approach complies with the requirement to have a fair and not unduly discriminatory mechanism grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for *unsponsored* transmission facilities. However, ColumbiaGrid Public Utilities' proposed tariff revisions may preclude a qualified transmission developer who has proposed a project for consideration and has requested regional cost allocation (i.e., for a *sponsored* transmission facility), from obtaining regional cost allocation. Thus, it is unclear whether ColumbiaGrid Public Utilities are using a sponsorship model. While Order No. 1000 does not require use of a sponsorship model, where this approach is used, we find that it would not be just and reasonable to allow any qualified transmission developer to request regional cost allocation for an eligible project that another qualified transmission developer has already proposed and for which that other qualified transmission developer has sought regional cost allocation.

201. Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their OATTs to clarify whether they are using a sponsorship model. If so, we direct ColumbiaGrid Public Utilities to clarify that if (1) a qualified transmission developer proposes a transmission project in the regional transmission planning process, (2) the project is found to be eligible for potential selection in the regional transmission plan for purposes of cost allocation, and (3) the transmission developer requests regional cost allocation for that project, that transmission developer (whether incumbent or nonincumbent) has the right to use the regional cost allocation method for its proposed project if the project is selected in the regional transmission plan for purposes of cost allocation. If ColumbiaGrid Public Utilities are not using a sponsorship model, we direct them to submit, within 60 days of

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<sup>346</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 227.

<sup>347</sup> *See, e.g.*, Avista, OATT, Attachment K, Part IV, § 5.2 (“any Order 1000 Enrolled Party ... may request Order 1000 Cost Allocation for any such Order 1000 Eligible Project(s).”).

the date of issuance of this order, further compliance filings that explain what model they are using and demonstrate how it complies with the requirements of Order No. 1000.

#### 4. Cost Allocation

202. Order No. 1000 required each public utility transmission provider to have in its OATT a method, or set of methods, for allocating the costs of any new transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>348</sup> Each public utility transmission provider must demonstrate that its cost allocation method satisfies six regional cost allocation principles.<sup>349</sup> In addition, while Order No. 1000 permitted participant funding, participant funding cannot be the regional cost allocation method.<sup>350</sup>

203. Regional Cost Allocation Principle 1 requires that the cost of transmission facilities be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits. The cost allocation methods must clearly and definitively specify identifiable benefits and the class of beneficiaries, and the transmission facility costs allocated must be roughly commensurate with that benefit.<sup>351</sup>

204. Regional Cost Allocation Principle 2 requires that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, not be involuntarily allocated any of the costs of those transmission facilities.<sup>352</sup>

205. Regional Cost Allocation Principle 3 specifies that, if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. Public utility transmission providers may choose to use such a threshold to account for uncertainty in the calculation of benefits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the

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<sup>348</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 558, 690.

<sup>349</sup> *Id.* P 603.

<sup>350</sup> *Id.* P 723.

<sup>351</sup> *Id.* PP 625, 678.

<sup>352</sup> *Id.* P 637.



transmission planning region or public utility transmission provider justifies, and the Commission approves, a higher ratio.<sup>353</sup>

206. Regional Cost Allocation Principle 4 specifies that the regional cost allocation methods must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. In addition, each regional transmission planning process must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.<sup>354</sup>

207. Regional Cost Allocation Principle 5 specifies that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.<sup>355</sup>

208. Regional Cost Allocation Principle 6 specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, but there can be only one cost allocation method for each type of transmission facility.<sup>356</sup> If a transmission planning region chooses to use a different cost allocation method for different types of transmission facilities, each cost allocation method must be determined in advance for each type of facility.<sup>357</sup> A regional cost allocation method may include voting requirements for identified beneficiaries to vote on proposed transmission facilities.<sup>358</sup>

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<sup>353</sup> *Id.* P 646.

<sup>354</sup> *Id.* P 657.

<sup>355</sup> *Id.* P 668.

<sup>356</sup> *Id.* PP 685-686.

<sup>357</sup> *Id.* P 560.

<sup>358</sup> *Id.* P 689.

a. **Binding Cost Allocation Under the ColumbiaGrid Process**

i. **First Compliance Order**

209. In the First Compliance Order, the Commission stated that, generally, ColumbiaGrid Public Utilities and Bonneville Power met the Order No. 1000 requirement that each public utility transmission provider have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation but that to fully comply with the cost allocation requirements of Order No. 1000, cost allocation determinations for transmission projects selected in the regional transmission plan for purposes of cost allocation would need to be binding upon identified beneficiaries.<sup>359</sup>

210. Accordingly, the Commission found that the proposed non-binding cost allocation provision, as found in section 2.1 of the revised PEFA, did not comply with Order No. 1000.<sup>360</sup> The Commission also found that Bonneville's OATT, as revised to include the non-binding cost allocation provisions in part III, section 8.1 and part IV, section 2, did not substantially conform with, and was not superior to, the *pro forma tariff*, as it had been modified by Order No. 1000.<sup>361</sup> Accordingly, the Commission directed ColumbiaGrid Public Utilities to file further compliance filings to revise their respective Restated PEFA filings and OATTs to provide that the regional cost allocation method would be binding on identified beneficiaries.<sup>362</sup>

211. In making its determination, the Commission reiterated that Order No. 1000 established a requirement that cost allocation determinations for transmission projects selected in the regional transmission plan for purposes of cost allocation be binding upon identified beneficiaries. The Commission stated that a regional cost allocation method that is not binding on identified beneficiaries would not comply with Regional Cost Allocation Principle 1, would not minimize the regional free rider problem, and would not provide the required certainty about who is obligated to pay for transmission facilities selected in the regional transmission plan for purposes of cost allocation, thus providing a

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<sup>359</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 266.

<sup>360</sup> *Id.*

<sup>361</sup> *Id.* P 272.

<sup>362</sup> *Id.* P 271.

disincentive for non-incumbent transmission developers to propose more efficient or cost-effective solutions.<sup>363</sup>

ii. **Requests for Rehearing or Clarification**

(a) **Arguments that Binding Cost Allocation is Not Required by Order No. 1000**

(1) **Summary of Requests for Rehearing or Clarification**

212. ColumbiaGrid Public Utilities and Bonneville Power argue that binding cost allocation is not required by Order No. 1000 and, instead, is a new policy or amendment to Order No. 1000 that was unexplained by the Commission in the First Compliance Order. They assert that Order No. 1000's cost allocation requirements for public utility transmission providers did not establish a binding obligation to pay costs allocated to beneficiaries.<sup>364</sup> They argue that Order No. 1000's cost allocation requirements were procedural in character and did not dictate substantive outcomes, requiring only that a cost allocation method be put in place.<sup>365</sup> Bonneville Power argues that, because an obligation to implement or pay a cost allocation is a matter of cost recovery, the Commission's repeated statements that cost allocation in a regional planning process is distinct from cost recovery reinforces the notion that a binding cost allocation requirement is a substantive outcome that is not part of Order No. 1000.<sup>366</sup>

213. Bonneville Power and ColumbiaGrid Public Utilities argue that, because the binding cost allocation requirement in the First Compliance Order is a significant change or amendment to Order No. 1000, the Commission must explain the change in a new notice and comment rulemaking process compliant with the Administrative Procedure

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<sup>363</sup> *Id.* P 267.

<sup>364</sup> ColumbiaGrid Public Utilities Request for Rehearing at 15-17. *See* Bonneville Power Request for Rehearing at 21-22.

<sup>365</sup> *See* ColumbiaGrid Public Utilities Request for Rehearing at 19; Bonneville Power Request for Rehearing at 21-22 (citing Order No. 1000, 135 FERC ¶ 61,051 at P 113, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 188).

<sup>366</sup> Bonneville Power Request for Rehearing at 21-22 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 563, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 616).

Act.<sup>367</sup> Specifically, ColumbiaGrid Public Utilities assert that, because the First Compliance Order found that implementing a process is not sufficient, the Commission must explain its change in position on this issue, as well as departure from its policy of regional flexibility, and a new notice and comment rulemaking process is required.<sup>368</sup>

214. ColumbiaGrid Public Utilities also dispute the Commission's finding that a nonbinding regional cost allocation method does not comply with Regional Cost Allocation Principle 1. They state that nothing in Regional Cost Allocation Principle 1 states that cost allocation methods must create a binding obligation upon beneficiaries to pay.<sup>369</sup>

215. ColumbiaGrid Public Utilities state that any requirement in Order No. 1000 that cost allocations create an obligation to pay was not stated with sufficient specificity and, thus, is impermissibly vague. They argue that Order No. 1000 was limited to transmission planning, did not address cost recovery, and did not impose any new service on beneficiaries. ColumbiaGrid Public Utilities argue that, if the Commission intended Order No. 1000 cost allocation determinations to be binding, the Commission would have needed to provide additional detail, including guidance on how cost allocations could be recovered in the absence of contractual relationships. They state that the Commission also declined to impose obligations to build or mandatory processes to obtain commitments to construct transmission facilities in the regional transmission plan.<sup>370</sup>

216. Moreover, ColumbiaGrid Public Utilities state that the Commission made clear that the cost allocation requirements in Order No. 1000 were established for transmission planning purposes only. ColumbiaGrid Public Utilities state that, to the extent that cost allocation has a role in transmission planning, that role cannot properly be construed to

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<sup>367</sup> 5 U.S.C. §§ 551-553. Bonneville Power Request for Rehearing at 22; ColumbiaGrid Public Utilities Request for Rehearing at 26-28 (citing 5 U.S.C. § 706; *Motor Vehicle Mfs. Ass'n v. State Farm Mutual Auto. Insurance Co.*, 463 U.S. 29, at 41-42 (1983); *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, at 294 (1974); *Action on Smoking & Health v. Civil Aeronautics Bd.*, 713 F.2d 795, at 798-801 (D.C. Cir. 1983); *Am. Fed'n of Gov't Employees v. Fed. Labor Relations Auth.*, 777 F.2d 751, at 759 (D.C. Cir. 1985)).

<sup>368</sup> ColumbiaGrid Public Utilities Request for Rehearing at 27.

<sup>369</sup> *Id.* at 18 n.42.

<sup>370</sup> *Id.* at 24-26 (citing *FCC v. Fox Television Stations, Inc.*, 132 S.Ct. 2307, at 2317 (2012); *Hill v. Colorado*, 530 U.S. 703, at 732 (2000)).

create a binding cost allocation obligation because there can be a substantial change in circumstances and costs between the time that the transmission planning process is concluded and a transmission project is actually constructed.<sup>371</sup> Thus, they argue that the cost allocation determinations made during the planning process may bear little relation to actual costs and benefits to identified beneficiaries, especially if a project takes years to complete. ColumbiaGrid Public Utilities assert that any cost allocation determination applied beyond planning as a binding obligation to pay may be unfair, arbitrary and inconsistent with Regional Cost Allocation Principle 1.<sup>372</sup>

217. ColumbiaGrid Public Utilities argue that a binding cost allocation requirement is contrary to express language in Order No. 1000, which indicates that the receipt of benefits determined in accordance with an Order No. 1000 cost allocation methodology is not a receipt of transmission service.<sup>373</sup> They argue that, because the Commission made clear that Order No. 1000 cost allocation is separate and distinct from cost recovery and does not constitute a transmission rate (but rather that specific cost allocations will be incorporated in rates to be filed with the Commission),<sup>374</sup> they dispute the Commission's authority to require a rate to recover costs allocated to beneficiaries that receive no transmission service. ColumbiaGrid Public Utilities also argue that any reliance on

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<sup>371</sup> ColumbiaGrid Public Utilities state that, for example, identified beneficiaries may realize no actual benefit by the time a project is completed, and projected costs used in planning a project may be substantially lower or higher than actual costs. *Id.* at 20.

<sup>372</sup> *Id.* at 20-21.

<sup>373</sup> *Id.* at 21-22. ColumbiaGrid Public Utilities point to the following language:

Contrary to ColumbiaGrid's position, *Exxon Mobil Corp.* does not apply here. As ColumbiaGrid states, in *Exxon Mobil Corp.* the court held that the Commission may not require distributors to accept or pay for additional service. *See Exxon Mobil Corp. v. FERC*, 430 F.3d 1166, 1176-77 (D.C. Cir. 2005). Unlike the situation addressed in *Exxon Mobil Corp.*, the requirements of this Final Rule with respect to cost allocation do not "impose" any new service on beneficiaries.

Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 541

<sup>374</sup> ColumbiaGrid Public Utilities Request for Rehearing at 22 (*quoting* Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 543).

*Illinois Commerce Commission v. FERC*<sup>375</sup> to support a requirement for binding cost allocation is misplaced. They argue that *Illinois Commerce Commission* involved a rate design for allocating costs of new transmission facilities to beneficiary customers for purposes of setting transmission rates by a Regional Transmission Organization (RTO), which was clearly within the Commission’s jurisdiction under FPA sections 205 and 206 with regard to terms and conditions of transmission service. In contrast, they assert that the First Compliance Order’s binding cost allocation requirement is not based on beneficiaries taking transmission service and being transmission customers with respect to such payment. Instead, it appears to require, outside the RTO/ISO context, costs of new transmission facilities being recovered directly from identified beneficiaries rather than from transmission customers through rates for transmission service, which ColumbiaGrid Public Utilities believe is not properly within the scope of FPA sections 205 and 206.<sup>376</sup>

218. ColumbiaGrid Public Utilities further argue that, while the Commission cited to Order No. 1000-A’s statement that “[t]he obligation under the FPA to pay costs under a regional or interregional cost allocation method is imposed by a Commission-approved tariff concerning the charges made by a public utility transmission provider for the use of the public utility transmission provider’s facility” to support its finding of binding cost allocation,<sup>377</sup> this statement suggests that any obligation will only arise in the context of a transmission rate under FPA section 205 or 206 for transmission service. ColumbiaGrid Public Utilities state that, because Order No. 1000 expressly did not address cost recovery and because cost allocations impose no new service on beneficiaries, the Commission’s statement from Order No. 1000-A does not support a finding of binding cost allocation.<sup>378</sup>

219. Bonneville Power also points to this statement from Order No. 1000-A and states that the Commission did not say that “the charges made by a public utility transmission

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<sup>375</sup> 576 F.3d 470 (7<sup>th</sup> Cir. 2009) (*Illinois Commerce Commission*). ColumbiaGrid Public Utilities argue that the Commission relied on this case as authority for its cost allocation reforms in Order No. 1000. ColumbiaGrid Public Utilities Request for Rehearing at 22.

<sup>376</sup> ColumbiaGrid Public Utilities Request for Rehearing at 22-24.

<sup>377</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 267 n.486 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 568).

<sup>378</sup> ColumbiaGrid Public Utilities Request for Rehearing at 17-18.

provider for the use of the public utility transmission provider's facility" could be imposed by a regional cost allocation determination.

220. ColumbiaGrid Public Utilities argue that the First Compliance Order's binding cost allocation requirement ignores the fact that the Commission has failed to explain the legal mechanism by which Order No. 1000 cost allocations create an obligation of beneficiaries to pay (i.e., how allocated costs are to be recovered).<sup>379</sup> ColumbiaGrid Public Utilities argue that it is arbitrary and capricious to impose a payment obligation on beneficiaries without identifying a legal mechanism to impose such a payment obligation. ColumbiaGrid Public Utilities assert that the Commission has not explained how the transmission developer will be able to collect the costs allocated to it, particularly in the absence of an existing contractual relationship entitling the developer to do so and because Order No. 1000 does not impose any new service obligation on beneficiaries.<sup>380</sup> ColumbiaGrid Public Utilities argue that, as described above, since Order No. 1000 indicates that it is not addressing cost recovery and receipt of benefits is not a receipt of transmission service, Order No. 1000 cost allocations do not constitute a transmission rate, nor can a transmission developer (at least in a non-RTO/ISO context) recover its costs through a rate for transmission service on another transmission provider's facilities.

221. Bonneville Power argues that the Commission's finding that Bonneville Power's proposed non-binding cost allocation provision (i.e., Part III, section 8.1 of Bonneville Power's OATT) *contravenes* the requirements of Order No. 1000 is also a significant change from Order No. 1000 that separately requires notice and comment.<sup>381</sup> Bonneville Power explains that it had raised its statutory conflict with binding cost allocation in the Order No. 1000 proceeding<sup>382</sup> and the Commission did not find that Bonneville Power's ability to accept or reject a cost allocation *contravened* Order No. 1000's requirements. Rather, according to Bonneville Power, the Commission indicated that: (1) Bonneville

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<sup>379</sup> *Id.* at 30.

<sup>380</sup> *Id.* at 28-30.

<sup>381</sup> Bonneville Power Request for Rehearing at 23 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 273).

<sup>382</sup> Bonneville Power states that, in its request for rehearing of Order No. 1000, it argued that, "under Order No. 1000...[Bonneville] would be obligated to accept a cost allocation determined by the regional planning process even if Bonneville disagreed with the allocation. Such an obligation is inconsistent with Bonneville's statutes." *Id.* (citing Bonneville Power, Request for Rehearing, Docket No. RM10-23-000, at 13 (filed Aug. 22, 2011)).

Power could successfully resolve its “perceived” statutory conflict with appropriate provisions in the ColumbiaGrid cost allocation method; thus, Bonneville Power’s ability to accept or reject a cost allocation on its face does not contravene the requirements of Order No. 1000, especially if Bonneville Power could successfully address its concerns with ColumbiaGrid utilities;<sup>383</sup> and (2) Order No. 1000 requires a planning process that maintains flexibility to accommodate the unique needs of the transmission planning region.<sup>384</sup> For those reasons, Bonneville Power argues that the Commission’s decision in the First Compliance Order is inconsistent with its previous determination in Order No. 1000-A.<sup>385</sup>

222. Further, ColumbiaGrid Public Utilities claim that, in the First Compliance Order, the Commission did not demonstrate that FPA section 206 authorizes it to impose cost allocations for Order No. 1000 transmission projects on identified beneficiaries of the projects.<sup>386</sup> They argue that the First Compliance Order does not explain how provisions in FPA section 206 allowing the Commission to determine just and reasonable rates and practices for transmission service vest it with the authority to mandate binding cost allocation. They further claim that the First Compliance Order does not demonstrate that the Commission has the authority under the FPA to require a public utility to impose an involuntary charge on non-customers, or even accept a filing under FPA section 205 by a public utility to charge non-customers.<sup>387</sup>

223. According to ColumbiaGrid Public Utilities, the Commission has turned the law on its head by asserting that the FPA does not expressly forbid the Commission to do what it desires with respect to cost allocation.<sup>388</sup> On the contrary, they argue, the

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<sup>383</sup> *Id.* at 24 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 279) (“[a]dditionally, with respect to Bonneville Power’s concerns regarding its perceived conflict between its statutory authorities and Order No. 1000’s cost allocation requirements, we believe that any such perceived conflict is best addressed in the first instance through participation in the development of the regional transmission planning process and cost allocation method.”).

<sup>384</sup> *Id.* (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 266).

<sup>385</sup> *Id.*

<sup>386</sup> ColumbiaGrid Public Utilities Request for Rehearing at 33.

<sup>387</sup> *Id.* at 35.

<sup>388</sup> *Id.* at 35-36 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 533, *order on reh’g*, and Order No. 1000-A, 139 FERC ¶ 61,132 at P 570).



Commission is a creature of statute and has only the authority conferred upon it by Congress.<sup>389</sup> They conclude that, if First Compliance Order construes Order No. 1000 to create an obligation to pay in accordance with cost allocations required by that order, then such construction is unjustified and arbitrary and capricious because it would require, without adequate explanation, payments by beneficiaries based on benefits rather than payments required by rates under the FPA by transmission customers for transmission service.<sup>390</sup>

224. Finally, ColumbiaGrid Public Utilities assert that the Commission has not shown that the scope of its jurisdiction, as defined in section 201(b)(1) of the FPA,<sup>391</sup> defines its substantive authority, which is set out in sections 203,<sup>392</sup> 205 and 206 of the statute.<sup>393</sup> They point out that the Commission acknowledges that FPA section 201 simply sets forth the facilities and transactions in interstate commerce that are subject to the Commission's jurisdiction under Part II of the FPA.<sup>394</sup> Accordingly, they argue that FPA section 201(b) should not be construed as a grant of substantive authority for the First Compliance

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<sup>389</sup> *Id.* at 36 (citing *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 8 (D.C. Cir. 2002)).

<sup>390</sup> *Id.*

<sup>391</sup> 16 U.S.C. § 824(b)(1) (2012). FPA section 201(b)(1) states:

The provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but...shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction...over facilities used for the generation of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed by wholly by the transmitter.

<sup>392</sup> 16 U.S.C. § 824b (2012).

<sup>393</sup> ColumbiaGrid Public Utilities Request for Rehearing at 37.

<sup>394</sup> *Id.* (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 577).

Order's ruling that Order No. 1000 cost allocations create binding obligations to pay. Likewise, ColumbiaGrid Public Utilities assert the Commission has not demonstrated that section 202(a) of the FPA<sup>395</sup> authorizes it to create a binding obligation for transmission project beneficiaries to pay, noting that by its terms FPA section 202(a) only relates to voluntary interconnection and coordination of electric facilities.<sup>396</sup>

**(2) Commission Determination**

225. We deny the requests for rehearing. We affirm our finding in the First Compliance Order that to comply with the cost allocation requirements of Order No. 1000, cost allocation determinations for transmission projects selected in the regional transmission plan for purposes of cost allocation must be binding. In the next section of this order, we clarify whether the regional cost allocation method must be binding on non-public utility transmission providers that do not enroll in the transmission planning region.

226. We reject arguments that binding cost allocation was not required by Order No. 1000 but, instead, is a new policy that was first established in the First Compliance Order. Contrary to these arguments, Order No. 1000 established a requirement that cost allocation determinations be binding on enrolled transmission providers that are

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<sup>395</sup> 16 U.S.C. § 824a(a) (2012). FPA section 202(a) states, in relevant part:

For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and between such districts.

<sup>396</sup> ColumbiaGrid Public Utilities Request for Rehearing at 39.

identified as beneficiaries.<sup>397</sup> In Order No. 1000, the Commission stated that the cost allocation requirements of Order No. 1000 are based on the principle of cost causation, which requires that costs be allocated in a way that is roughly commensurate with benefits.<sup>398</sup> The Commission made clear that beneficiaries of service provided by specific transmission facilities would be required to bear the costs of providing those benefits.<sup>399</sup> In other words, consistent with the principle of cost causation, enrolled transmission providers that are found to be beneficiaries and that are allocated costs pursuant to a regional cost allocation method must pay the costs associated with those benefits.<sup>400</sup> The Commission clarified that use of a public utility transmission provider's facility was voluntary, but that such voluntary use entailed acceptance of the terms and conditions of use set forth in the tariff, including an applicable cost allocation.<sup>401</sup> Thus, to the extent an entity makes voluntary use of the transmission grid, the Commission

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<sup>397</sup> Under ColumbiaGrid Public Utilities' proposal, identified beneficiaries are defined as Enrolled Parties. *See* Functional Agreement, § 1.30 (Order 1000 Beneficiary).

<sup>398</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 578.

<sup>399</sup> The Commission stated that the cost allocation provisions of Order No. 1000 are consistent with the statement in *Illinois Commerce Commission* that “[a]ll approved rates [must] reflect to some degree the costs actually caused by the customer who must pay them.” *Id.* P 565 (citing *Illinois Commerce Commission*, 576 F.3d 470 at 476). *See also id.* P 539 (“the Commission’s jurisdiction is broad enough to allow it to ensure that beneficiaries of service provided by specific transmission facilities bear the costs of those benefits regardless of their contractual relationship with the owner of those transmission facilities.”); *id.* P 568 (“The obligation under the FPA to pay costs allocated under a regional or interregional cost allocation method is imposed by a Commission-approved tariff concerning the charges made by a public utility transmission provider for the use of the public utility transmission provider’s facility”).

<sup>400</sup> The Commission noted an argument raised by a petitioner, which stated that the court in *Illinois Commerce Commission* indicated that costs must be recovered from entities that have a preexisting contractual relationship with the entity seeking cost allocation. The Commission stated that such an interpretation would inappropriately revise the court’s statement of the cost causation principle by adding a further requirement that the customer must also *agree* to be responsible for such costs. Noting that the court did not reach such conclusion, the Commission rejected this interpretation. *Id.* P 565 (emphasis added).

<sup>401</sup> *Id.* P 568.

determined that entity would be obligated under the FPA to pay costs allocated under a regional or interregional cost allocation.<sup>402</sup> The D.C. Circuit has affirmed the Commission's authority to mandate that the costs of new transmission facilities be allocated *ex ante* to those who would benefit from those facilities.<sup>403</sup>

227. Additionally, arguments that Order No. 1000 did not require binding cost allocation run contrary to Order No. 1000's goals of providing upfront cost certainty, addressing free rider problems, and ensuring that practices that affect transmission rates are just and reasonable and not unduly discriminatory or preferential. In Order No. 1000, the Commission stated that the purpose of its cost allocation requirements was to enhance certainty for developers of potential transmission facilities by identifying, up front, the cost allocation implications of selecting a transmission facility in the regional transmission plan for purposes of cost allocation.<sup>404</sup> Further, noting that free riders for the purposes of Order No. 1000 are entities "who do not bear cost responsibility for benefits that they receive in their use of the transmission grid"<sup>405</sup> and that "are being subsidized by those who pay the costs of the benefits that free riders receive for nothing,"<sup>406</sup> the Commission stated that, "in seeking to eliminate free riders on the transmission grid, Order No. 1000 [was seeking] to eliminate a form of subsidization."<sup>407</sup> The Commission found that the lack of an *ex ante* regional cost allocation method, which identified the beneficiaries of proposed regional transmission facilities and that was known in advance to transmission planners, as well as the existence of free riders on the transmission grid, resulted in inefficient transmission planning that impeded the development of more efficient and cost-effective new transmission facilities, with the

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<sup>402</sup> *Id.*

<sup>403</sup> *South Carolina Pub. Serv. Auth. v. FERC*, No. 12-1232, 2014 WL 3973116, at \*34-39 (D.C. Cir. Aug. 15, 2014).

<sup>404</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 561. The Commission noted that it was appropriate for this cost consideration to take place during the regional transmission planning process, as it would increase the likelihood that transmission facilities selected in regional transmission plans for purposes of cost allocation would be actually constructed, rather than later encountering cost allocation disputes that would prevent their construction. *Id.* P 562.

<sup>405</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 576.

<sup>406</sup> *Id.* P 578.

<sup>407</sup> *Id.*

result that jurisdictional rates were higher than they would otherwise be.<sup>408</sup> Thus, if enrolled transmission providers that are identified as beneficiaries have the option not to accept transmission costs allocated pursuant to a regional cost allocation method, in reliance that other beneficiaries would fund the costs needed for a transmission project's development, this could lead to the scenario where the potential transmission developer did not have the required certainty to move forward with the transmission project. Because we find that the foundation of Order No. 1000's cost allocation reforms is dependent on binding cost allocation, we dismiss arguments that Order No. 1000 did not require binding cost allocation as without merit. Additionally, because we find that binding cost allocation was required by Order No. 1000 and was not a new policy or amendment to Order No. 1000, we dismiss Bonneville Power's and ColumbiaGrid Public Utilities' argument that the Commission was required to issue a new notice and comment rulemaking process.

228. Furthermore, the Commission required that a regional cost allocation method must be consistent with Regional Cost Allocation Principle 1, which states that costs of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits.<sup>409</sup> As we noted in the First Compliance Order, and for the reasons discussed above in this section, because nonbinding cost allocation would not provide the assurance that costs will be allocated roughly commensurate with estimated benefits, it would not comply with Regional Cost Allocation Principle 1.<sup>410</sup> We deny rehearing on this issue.

229. We also reject the premise that Order No. 1000 did not state the binding cost allocation requirement with sufficient specificity resulting in a requirement that was impermissibly vague, as well as the notion that the cost allocation requirements of Order No. 1000 were for planning purposes only. We disagree with ColumbiaGrid Public Utilities' argument that if the Commission intended for binding cost allocation, it would have needed to provide additional detail such as guidance with respect to cost recovery in

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<sup>408</sup> *Id.* P 592. *See also id.* P 588 (“The absence of a cost allocation method or methods also has an adverse effect on rates by making it difficult to deal with free rider problems related to new facilities. The Commission’s authority to require the adoption of a cost allocation method or methods arises directly from its authority under section 206 to ensure that practices that affect transmission rates, such as transmission planning, are just and reasonable and not unduly discriminatory or preferential.”).

<sup>409</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622.

<sup>410</sup> First Compliance Order, 143 FERC 61,255 at P 267.

the absence of contractual relationships. While the Commission found that cost allocation and cost recovery were distinct issues and declined to address cost recovery issues in the Order No. 1000 proceeding,<sup>411</sup> it clarified that entities that received benefits would be subject to an obligation to pay costs allocated under a regional cost allocation method under a Commission-approved tariff.<sup>412</sup> While providing information about specific recovery mechanisms may be useful in determining how to implement a cost allocation, it is not clear why this additional information would be necessary for establishing the requirement of binding cost allocation with sufficient specificity.<sup>413</sup>

230. With respect to the argument that Order No. 1000's cost allocation provisions were for planning purposes only, we note that Order No. 1000 requires each public utility transmission provider to amend its OATT to describe the circumstances and procedures under which public utility transmission providers in the regional transmission planning process will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation requires evaluation of alternative solutions, to ensure that the incumbent transmission provider can meet its reliability needs or service obligations.<sup>414</sup> As we discuss above, ColumbiaGrid Public Utilities propose reevaluation procedures under which ColumbiaGrid staff will reevaluate the most recent regional transmission plan, as part of a system assessment, to determine whether a change of circumstances, including delays in the development of an Order 1000 Project, requires the evaluation of alternative transmission solutions and/or removal of an Order 1000 Project from the regional transmission plan.<sup>415</sup> We find that the inclusion of such reevaluation procedures adequately addresses ColumbiaGrid Public Utilities' concern that changes in circumstances could result in changes to costs and benefits such that they bear little relation to actual costs and benefits to enrolled transmission providers that are identified as beneficiaries. Under the proposed reevaluation procedures, an Order 1000 Project will be removed from a regional transmission plan if it would no longer qualify as an Order

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<sup>411</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 615-616.

<sup>412</sup> *Id.* PP 568, 615

<sup>413</sup> Similarly, it is not clear why not providing for an obligation to build in Order No. 1000 would be relevant to whether the requirement of binding cost allocation was established with sufficient specificity. Since ColumbiaGrid Public Utilities do not provide an explanation for this argument, we dismiss it accordingly.

<sup>414</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>415</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 3.3.

1000 Project,<sup>416</sup> including if it is found to no longer meet a benefit to cost ratio of at least 1.25.<sup>417</sup> An Order 1000 Project will also be removed if the development of the Order 1000 Project is not progressing consistent with the project development schedule such that the Order 1000 Project will not timely meet Order No. 1000 needs.<sup>418</sup> Thus, the inclusion of the reevaluation procedures proposed by ColumbiaGrid Public Utilities ensures that changing circumstances, including potential delays and changing costs, will not result in binding cost allocation determinations that are unfair, arbitrary, or inconsistent with Regional Cost Allocation Principle 1. Indeed, as discussed above, nonbinding cost allocation determinations are inconsistent with Regional Cost Allocation Principle 1 because of the lack of assurance that costs will be allocated roughly commensurate with benefits.

231. We disagree with ColumbiaGrid Public Utilities' argument that the Commission is acting outside its authority by requiring a rate to recover costs allocated to beneficiaries that receive no transmission service. In Order No. 1000, the Commission stated that, "all cost allocation contemplated by Order No. 1000 pertains to rates 'for or in connection with the transmission of electric energy.' Order No. 1000 does not permit a public utility transmission provider to collect charges other than in connection with the use of the transmission grid."<sup>419</sup> ColumbiaGrid Public Utilities point to a statement from Order No. 1000, in which the Commission stated that "the requirements of this Final Rule with respect to cost allocation do not 'impose' any new service on beneficiaries"<sup>420</sup> to support their argument here that a receipt of benefits under a regional cost allocation method is not a receipt of transmission service. In this statement, the Commission was responding to ColumbiaGrid's argument that the Commission could not force customers to pay for additional benefits that go beyond their existing service. In response, the Commission stated that Order No. 1000's cost allocation requirements did not impose any *new* service on beneficiaries. ColumbiaGrid Public Utilities have taken this statement out of context

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<sup>416</sup> *E.g., id.* § 3.3.i.

<sup>417</sup> *E.g., id.* § 5.3.

<sup>418</sup> *E.g., id.* § 3.3.iii.

<sup>419</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 571. *See also id.* P 575 ("we disagree with the claim...that Order No. 1000 authorizes allocation of costs to persons that benefit in some way from the existence of a transmission facility even if they use no transmission service at all.").

<sup>420</sup> ColumbiaGrid Public Utilities Request for Rehearing (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 541).

to support their argument that beneficiaries are not receiving transmission service. Indeed, the Commission made clear that it has jurisdiction over “the use of [the] transmission facilities in the provision of transmission service, which includes consideration of the benefits that any beneficiaries derive from those transmission facilities in electric service.”<sup>421</sup>

232. We turn to ColumbiaGrid Public Utilities’ argument that any reliance on *Illinois Commerce Commission* to support a requirement for binding cost allocation is misplaced.<sup>422</sup> ColumbiaGrid Public Utilities argue that *Illinois Commerce Commission* involved an RTO/ISO tariff, which allows for the allocation of costs to beneficiaries to set transmission rates through which costs of transmission facilities are recovered from transmission customers. They claim that the First Compliance Order appears to require that, outside of an RTO/ISO, costs of new transmission facilities would be recovered directly from identified beneficiaries rather than from transmission customers through rates for transmission service. We disagree. Outside of an RTO/ISO, a public utility transmission provider has different options for recovering costs from identified beneficiaries. For example, a public utility transmission provider may enter into a bilateral contract directly with an entity for service, under which costs may be recovered. Another option would be for an entity to request service from a public utility transmission provider under its Commission-approved tariff, and costs can be recovered under the tariff. As another example, the Commission accepted a proposal by public utility transmission providers in the Florida region to include provisions in their OATTs that allow an incumbent transmission provider that constructs a transmission project selected in a regional transmission plan for purposes of cost allocation to recover costs of the project from other incumbent transmission providers that are identified as beneficiaries.<sup>423</sup>

233. Similarly, in response to petitioners who argue that the Commission erroneously cited to a statement in Order No. 1000-A<sup>424</sup> to support its finding that binding cost

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<sup>421</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 532.

<sup>422</sup> As noted by ColumbiaGrid Public Utilities, the Commission relied on this case as authority for its cost allocation reforms in Order No. 1000 but did not cite to this case in the First Compliance Order. *See* ColumbiaGrid Public Utilities Request for Rehearing at 22.

<sup>423</sup> *Tampa Elec. Co.*, 143 FERC ¶ 61,254, at PP 265-268 & 284-291 (2013).

<sup>424</sup> Petitioners point to the following statement: “The obligation under the FPA to pay costs under a regional or interregional cost allocation method is imposed by a Commission-approved tariff concerning the charges made by a public utility transmission

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allocation is required because this statement suggests that any obligation will only arise in the context of a transmission rate for transmission service, the Commission noted that Order No. 1000 did not contemplate “the recovery of costs from a beneficiary in the absence of an applicable tariff or agreement.”<sup>425</sup> We find that the First Compliance Order’s citation of the relevant statement from Order No. 1000-A was consistent with this language and, thus, appropriate.

234. Further, we disagree with petitioners’ characterization of binding cost allocation as a “substantive outcome” to the ColumbiaGrid planning process that was not required by Order No. 1000. It is true that Order No. 1000 required public utility transmission providers to have in place a method for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation,<sup>426</sup> and that Order No. 1000 did not specify how costs should be allocated but allowed individual transmission planning regions to develop their own method, subject to the Commission’s approval.<sup>427</sup> However, the Commission determined that such cost allocation methods would need to be consistent with certain regional cost allocation principles, including Regional Cost Allocation Principle 1 (i.e., that the cost of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits). As we stated above, if cost allocations made pursuant to the regional cost allocation method were not binding on enrolled transmission providers that are identified as beneficiaries, those transmission providers could decide to not accept costs allocated to them while receiving the associated benefits. Such a result would contradict the principle of cost causation and Regional Cost Allocation Principle 1. In addition, Regional Cost Allocation Principle 5 provides that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility. Nonbinding cost allocation conflicts with this principle because if cost allocation determinations were nonbinding on enrolled transmission providers that are identified as beneficiaries, the transparency and certainty inherent in this principle would not be achieved. The Commission also explained in

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provider for the use of the public utility transmission provider’s facility.” First Compliance Order, 143 FERC ¶ 61,255 at P 267 n.486 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 568).

<sup>425</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 618.

<sup>426</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 558.

<sup>427</sup> *Id.* P 560.

Order No. 1000 that the transparency required by Cost Allocation Principle 5 will allow stakeholders to see clearly who is benefiting from, and subsequently who is paying for, the transmission investment.<sup>428</sup> If regional cost allocation determinations for transmission projects selected in the regional transmission plan for purposes of cost allocation were not binding on enrolled transmission providers that are identified as beneficiaries, stakeholders will not be able to determine how the cost allocation method was applied to any particular transmission project. Thus, we conclude that non-binding cost allocation violates this principle.

235. We turn next to Bonneville Power's arguments that "an obligation to implement or pay a cost allocation is a matter of cost recovery" and that the Commission did not specifically find that the charges for use of a transmission facility could be imposed by a regional cost allocation determination.<sup>429</sup> These arguments are similar to ColumbiaGrid Public Utilities' claim that it is arbitrary and capricious to impose a payment obligation without specifying the "legal mechanism by which [an obligation of identified beneficiaries to pay] is created—i.e., how the costs allocated are to be recovered."<sup>430</sup> In response, we acknowledge that Order No. 1000 made a distinction between cost allocation and cost recovery. Cost allocation involves the identification of beneficiaries and the costs they cause, while cost recovery describes *how* cost allocations will be implemented by specific mechanisms to recover and collect those costs.<sup>431</sup> Thus, we disagree with Bonneville Power that an obligation to have in place a cost allocation method is a matter of cost recovery. Cost recovery involves *how* those allocated costs will be recovered under specific mechanisms to collect the costs. Further, the Commission stated in Order No. 1000-A that entities that receive benefits are subject to a Commission-approved transmission tariff, which will contain the appropriate cost allocation method.<sup>432</sup> What the Commission did not do, however, is establish a specific mechanism describing how costs are to be recovered under the relevant Commission-approved transmission tariff.<sup>433</sup> Finally, we dismiss Bonneville Power's argument that

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<sup>428</sup> *Id.* P 669.

<sup>429</sup> Bonneville Power Request for Rehearing at 21-22.

<sup>430</sup> ColumbiaGrid Public Utilities Request for Rehearing at 28.

<sup>431</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 616, *order on reh'g*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 26, 537 n.427.

<sup>432</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 615, 618. *See also id.* P 568.

<sup>433</sup> The Commission noted that, while it would not address cost recovery in the

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the charges for use of a transmission facility could be imposed by a regional cost allocation determination. As noted above, a regional cost allocation determination will identify the benefits, beneficiaries, and costs of a new transmission facility. The mechanism by which the costs are recovered is a matter of cost recovery.

236. Contrary to Bonneville Power's position that the First Compliance Order created a new policy, without notice, in finding that Bonneville Power's nonbinding cost allocation provision contravenes the requirements of Order No. 1000, we conclude that the Commission's finding is consistent with Order No. 1000-A. It is true that, in Order No. 1000-A, the Commission did not find that Bonneville Power's stated statutory conflict with the cost allocation requirements, on its face, contravened the requirements of Order No. 1000, but instead explained that the stated conflict should be addressed in the development of ColumbiaGrid's regional transmission planning process and cost allocation method.<sup>434</sup> However, in the First Compliance Order, the Commission was reviewing Bonneville Power's compliance filing, which was submitted to comply with the requirements of Order No. 1000. Indeed, the issue of whether Bonneville Power adequately addressed its stated statutory conflict consistent with the cost allocation requirements of Order No. 1000 was not ripe for consideration until the Commission reviewed Bonneville Power's specific proposal on compliance. We deny rehearing accordingly.

237. Finally, we are not persuaded by petitioners' claims that binding cost allocation is not authorized by the FPA or is otherwise outside of the Commission's jurisdiction. We have explained at length above that binding cost allocation is a requirement of Order No. 1000. The Commission's cost allocation reforms in Order No. 1000 were based on the Commission's jurisdiction under FPA section 201(b)(1) over the transmission of electric energy in interstate commerce and its duty to exercise its authority under FPA sections 205 and 206 to ensure that Commission-jurisdictional rates are just and

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Order No. 1000 proceeding, public utility transmission providers could include cost recovery provisions in their compliance filings to the extent those provisions were considered in connection with a regional cost allocation method. *Id.* P 616. As noted above, the Commission accepted a proposal by public utility transmission providers in the Florida region to include provisions in their OATTs that allow an incumbent transmission provider that constructs a transmission project selected in a regional transmission plan for purposes of cost allocation to recover costs of the project from other incumbent transmission providers that are identified as beneficiaries. *Tampa Elec. Co.*, 143 FERC ¶ 61,254 at PP 265-268 & 284-291.

<sup>434</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 279.

reasonable and not unduly discriminatory or preferential.<sup>435</sup> We will not reexamine Order No. 1000's jurisdictional determinations in this order. With respect to FPA section 202(a), the Commission did not base its Order No. 1000 reforms on its jurisdiction under this section,<sup>436</sup> and we decline to do so here. Moreover, we note that the Commission in Order Nos. 1000 and 1000-A addressed arguments that the Commission was precluded from engaging in Order No. 1000's regional transmission planning reforms and, to the extent ColumbiaGrid Public Utilities are re-litigating that argument here, we reject their arguments as a collateral attack.

(b) **Other Arguments Concerning Binding Cost Allocation**

(1) **Summary of Requests for Rehearing or Clarification**

238. Petitioners seek rehearing of the Commission's determination in the First Compliance Order that cost allocation must be binding on identified beneficiaries, arguing that this finding is arbitrary and capricious and not a product of reasoned decision-making, lacks a rational connection between the facts and decision, and does not consider all relevant factors. Bonneville Power states that it cannot participate in a binding cost allocation process that delegates its transmission investment decisions to ColumbiaGrid's transmission planning process because it would conflict with its specific statutory authorities. Bonneville Power argues that, having accepted these statutory limitations that preclude Bonneville Power from agreeing to binding cost allocation, the Commission's decision requiring Bonneville Power to revise its OATT to provide for binding cost allocation, as a condition of reciprocity, lacked a connection between the facts and decision.<sup>437</sup> Further, Bonneville Power argues that, although the Commission states that it relies on Bonneville Power's interpretation of its statutory authorities, the Commission did not address its legitimate concerns including: (1) Bonneville Power's inability to delegate its statutory obligations; and (2) the effect of Bonneville Power's inability to participate fully in Order No. 1000 planning in the Pacific Northwest. Instead, Bonneville Power states that the Commission explains only that a non-binding cost allocation method would not provide developers with "the required certainty about

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<sup>435</sup> *Id.* PP 558, 577, 587-589. *See also* Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 78, 530-533, 547.

<sup>436</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 125.

<sup>437</sup> Bonneville Power Request for Rehearing at 13-14 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 271, n.501).

who is obligated to pay for transmission facilities.”<sup>438</sup> Bonneville Power argues that the Commission failed to address its legitimate concerns.<sup>439</sup>

239. ColumbiaGrid Public Utilities assert that the one-size-fits-all approach required by the First Compliance Order directly conflicts with the flexibility Order No. 1000 provided to transmission planning regions to accommodate for regional differences.<sup>440</sup> Northwest Government Utilities state that, although the Commission encouraged non-public utility entities to advocate for processes to accommodate their unique limitations and requirements in the regional transmission planning process, it summarily rejected Northwest Government Utilities’ efforts to reconcile their legal restrictions with the requirements of Order No. 1000.<sup>441</sup> Bonneville Power similarly states that if Order No. 1000 did not allow flexibility to accommodate its statutory conflicts with binding cost allocation, the Commission should have clarified in Order No. 1000-A that Bonneville Power would have to accept binding cost allocation as a condition of reciprocity notwithstanding its statutory obligations.<sup>442</sup>

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<sup>438</sup> *Id.* at 20 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 267).

<sup>439</sup> *Id.* at 20-21 (citing *PSEG Energy Res. Trade LLC v. FERC*, 665 F.3d 203, 209 (D.C. Cir. 2011) (stating that “an agency’s ‘failure to respond meaningfully’ to objections raised by a party renders its decision arbitrary and capricious.”) (additional citation omitted)).

<sup>440</sup> ColumbiaGrid Public Utilities Request for Rehearing at 17 (citing Order No. 1000, FERC Stats & Regs. ¶ 31,323 at 61, *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 266; *Louisville Gas and Elec. Co.*, 144 FERC ¶ 61,054 (2013)).

<sup>441</sup> Northwest Government Utilities state that, under the Washington State Constitution and various state statutes, decisions to expend public funds in any material amount must first be reviewed and approved by a governing board of directors, and governmental utilities are prohibited from making gifts of public funds or lending public credit to third parties. Thus, their governing boards must decide, at the time a specific transmission project is proposed, whether to participate in that proposed project, including a determination of whether fair value is received in return for any financial investment or contribution requested of a governmental utility. Northwest Governmental Utilities Request for Rehearing at 8-9 (additional citations omitted).

<sup>442</sup> Bonneville Power Request for Rehearing at 12-14, 24-25 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at PP 266, 279).

240. Northwest Governmental Utilities argue that the Commission erroneously based its decisions in the First Compliance Order on misunderstandings about the Northwest. They argue that any concerns regarding free ridership in the region are misplaced because there is an ongoing history of cooperative transmission development in the Northwest. Further, Northwest Governmental Utilities argue that, while Order No. 1000 works well for regions served by an RTO or ISO, it fits poorly in regions in which transmission is not centralized into a single regional transmission business and particularly to the Northwest. They state that, unlike an RTO or ISO, ColumbiaGrid is only a transmission-planning organization formed to improve efficiency, reliability, and planned expansion of the grid; it does not build or finance transmission projects, does not provide transmission service, and does not have transmission rates. Moreover, Northwest Governmental Utilities explain that, in performing its transmission planning activities, ColumbiaGrid serves a membership that includes eight governmental utilities and only three investor-owned public utilities. Thus, Northwest Governmental Utilities assert, it is arbitrary and capricious for the Commission to ignore the reality in the Northwest and instead impose an unworkable national framework based only on preconceptions.

241. ColumbiaGrid Public Utilities argue that the binding cost allocation requirement would likely result in non-public utility transmission providers electing not to enroll in the ColumbiaGrid Order No. 1000 cost allocation process.<sup>443</sup> ColumbiaGrid Public Utilities and Northwest Governmental Utilities claim that, without such enrollment and participation, the scope of the transmission planning region for which there can be Order No. 1000 cost allocation would be restricted to the public utility transmission providers, which would severely limit and ultimately undermine the goal of more efficient or cost-effective regional transmission planning.<sup>444</sup> Further, noting that it owns approximately 75 percent of the transmission system in ColumbiaGrid, Bonneville Power states that the Commission's determination could result in its withdrawal from the Order No. 1000 transmission planning region,<sup>445</sup> resulting in regional planning for less than 25 percent of ColumbiaGrid's transmission system. In addition, transmission developers would have less *ex ante* knowledge of Bonneville Power's willingness to accept a regional cost

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<sup>443</sup> ColumbiaGrid Public Utilities Request for Rehearing at 28.

<sup>444</sup> *Id.* at 31; Northwest Governmental Utilities Request for Rehearing at 4.

<sup>445</sup> Bonneville Power states that the Commission's decision leaves it with the choice to either not enroll in an Order No. 1000 region; accept a binding cost allocation that conflicts with its statutory authorities; or withdraw from the Order No. 1000 region. Bonneville Power Request for Rehearing at 15.

allocation.<sup>446</sup> Similarly, ColumbiaGrid Public Utilities assert that binding cost allocations will create, rather than eliminate, free ridership by incenting non-public utility transmission providers to not enroll in the region, thus preventing allocation of costs to them even if they are determined to be beneficiaries. ColumbiaGrid Public Utilities argue that binding cost allocation will lead to greater uncertainty for project developers and will lead to the likelihood of projects not being proposed or analyzed.<sup>447</sup> Bonneville Power asserts that, while coordinated regional transmission planning will continue in the Pacific Northwest if the Commission does not grant rehearing on its binding cost allocation requirement, the transmission planning may be less efficient and more fractured and confrontational, which it argues could jeopardize the continued success of the ColumbiaGrid transmission planning region.<sup>448</sup>

242. Northwest Governmental Utilities state that the immediate-withdrawal option would destabilize ColumbiaGrid as a transmission planning organization.<sup>449</sup> Northwest Governmental Utilities claim that ColumbiaGrid's annual budget exceeds \$4 million and over 75 percent of that amount is funded by non-public utility transmission providers.<sup>450</sup> Bonneville Power indicates that its withdrawal would reduce the funding for the ColumbiaGrid planning process by half.<sup>451</sup> Further, Northwest Governmental Utilities assert that all PEFA Planning Parties have budget-cap protection, so ColumbiaGrid could not make up any shortage created by an immediate withdrawal through a deficiency assessment against the remaining signatories. According to Northwest Governmental

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<sup>446</sup> In contrast, Bonneville Power states that its participation in ColumbiaGrid's Order No. 1000 regional transmission planning process under its proposed nonbinding cost allocation provision would provide valuable information and enhanced certainty, including its position on a proposed project and proposed cost allocation and whether it would contribute to a project's costs. *Id.* at 16-19.

<sup>447</sup> ColumbiaGrid Public Utilities Request for Rehearing at 31-32.

<sup>448</sup> Bonneville Power Request for Rehearing at 25.

<sup>449</sup> Northwest Governmental Utilities Request for Rehearing at 10.

<sup>450</sup> Northwest Government Utilities states that ColumbiaGrid employs fifteen professionals – five transmission planning engineers, one production cost engineer, two accountants, one business development specialist, three supporting staff members and three full-time professional Board members and conducts business in its own offices. *Id.*

<sup>451</sup> Bonneville Power Request for Rehearing at 19, n.58.

Utilities, each current PEFA Planning Party commits to pay its budgeted share of ColumbiaGrid costs and to continue paying that share throughout a 30-month period should it decide to withdraw. According to Northwest Governmental Utilities, this provides ColumbiaGrid with reasonable assurance that it can continue to pay its bills. Northwest Governmental Utilities believe that the immediate-withdrawal option would frustrate the regional planning objectives that the Commission shares with ColumbiaGrid's membership.<sup>452</sup>

243. Bonneville Power states that the Commission failed to explain how the goals of Order No. 1000 will be met with the constant threat of its withdrawal from the region should it not accept a cost allocation. Bonneville Power notes that, while it has raised the issue that continued uncertainty about its enrollment status would inhibit effective and non-discriminatory regional transmission planning, the Commission's only response was that Bonneville Power would be expected to actively participate and review ColumbiaGrid's transmission planning and cost allocation decisions in any event.<sup>453</sup> Bonneville Power states that, while the Commission is correct that Bonneville Power would be actively involved in the ColumbiaGrid planning process as an enrolled member, it fails to explain how Bonneville Power's participation in the ColumbiaGrid transmission planning process in general relates to its withdrawal to avoid a cost allocation.<sup>454</sup>

244. Additionally, Northwest Governmental Utilities argue that the Commission's requirement for non-public utilities to enroll in a regional transmission planning process as a condition of participating in that process, and the requirement to agree to binding cost allocation without review by their boards of directors, equates to requiring a waiver by the non-public utility of its exemption, set forth in section 201(f) of the FPA, from Commission jurisdiction under FPA Part II with regard to Order No. 1000.<sup>455</sup> Northwest

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<sup>452</sup> Northwest Governmental Utilities Request for Rehearing at 10-12.

<sup>453</sup> Bonneville Power Request for Rehearing at 19 (citing Bonneville Power Petition at 9; First Compliance Order, 143 FERC ¶ 61,255 at P 275).

<sup>454</sup> *Id.*

<sup>455</sup> Northwest Governmental Utilities Request for Rehearing at 3, 6. Section 201(f) provides in relevant part that "No provision in this Part [II] shall apply to, or be deemed to include, the United States, a state or any political subdivision of a state...unless such provision makes specific reference thereto." 16 U.S.C. § 824(f) (2012).



Governmental Utilities believe that their respective governing boards have no legal authority to waive this exemption.<sup>456</sup> They also assert that requiring enrollment in the regional planning process is an unlawful, indirect attempt to regulate non-public utilities under sections 205 and 206 of the FPA, when it is clear that the Commission lacks the statutory authority to regulate non-public utilities under these sections of the FPA.<sup>457</sup> Furthermore, Northwest Government Utilities argue that filing a complaint under FPA section 206 as recourse against a ColumbiaGrid cost allocation is not an adequate substitute for a FPA section 201(f) exemption. Finally, Northwest Governmental Utilities assert that the Order No. 1000 cost allocation requirements are applicable to public utilities whose rates are subject to FPA section 205, and if non-public utilities were to agree to a binding cost allocation under Order No. 1000, non-public utilities would be implicitly agreeing to be subject to section 205-like rate procedures.<sup>458</sup>

245. Finally, some petitioners request that the Commission consider alternative provisions to alleviate their concerns with the First Compliance Order's binding cost allocation requirement. In place of the binding cost allocation requirement, Northwest Governmental Utilities support an alternative whereby ColumbiaGrid staff would analyze each Order No. 1000 transmission proposal and prepare an advisory, non-binding cost-allocation recommendation with regard to both to public utilities and to governmental utilities identified as potential beneficiaries. The government utilities identified as potential beneficiaries would decide, in accordance with relevant substantive laws, whether to participate in the proposed project. A "no" vote would avoid any cost-allocation but also represent a self-selection not to be a beneficiary, while a "yes" vote would commit the governmental utility to undertake negotiations for an agreement for a share of benefits in return for the specified allocation of project costs. Accordingly, cost-allocation determinations would be binding on beneficiaries, including those governmental utilities self-selecting themselves.<sup>459</sup>

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<sup>456</sup> Northwest Governmental Utilities Request for Rehearing at 6, 8.

<sup>457</sup> *Id.* at 3 (citing *Bonneville Power Administration v. FERC*, 422 F.3d 908 (9th Cir. 2005)).

<sup>458</sup> *Id.* at 8 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 543) ("all specific allocations will be incorporated in rates that must be filed with and accepted by the Commission.").

<sup>459</sup> Northwest Governmental Utilities assert that this proposal would relieve governmental utilities of being asked to agree, in advance, to pay whatever cost-allocation that might be decided thereafter by ColumbiaGrid. They argue that

(continued...)

246. Similarly, Bonneville Power requests that, to the extent that Order No. 1000 provides it with an alternative to adopt project approval provisions with respect to projects developed in the regional transmission planning process,<sup>460</sup> the Commission adopt project approval provisions that permit it to independently consider and determine, in accordance with its statutory authorities, whether it will pay the costs allocated to it under the ColumbiaGrid regional planning process. Bonneville Power also requests that the Commission clarify that acceptance of such project approval provisions in its tariff would mean that Bonneville Power would not have to withdraw from the ColumbiaGrid regional transmission planning process if, according to these project approval provisions, it did not accept an Order No. 1000 cost allocation. Bonneville Power states that its requested clarification is appropriate because it would allow it to participate in the Commission's reforms in a manner that respects its statutory authorities and would eliminate the constant uncertainty of its potential withdrawal from an Order No. 1000 region based on its statutory limitations.<sup>461</sup>

## (2) Commission Determination

247. We address first the requests for rehearing and clarification to consider alternative provisions proposed by Northwest Governmental Utilities and Bonneville Power. Under both proposals, non-public utility transmission providers found to be beneficiaries of a new transmission facility selected in a regional transmission plan for purposes of cost allocation would have the option to confirm, in accordance with their specific statutory authorities, whether to accept the costs allocated to them pursuant to ColumbiaGrid's regional cost allocation method. We decline to accept either proposal because they would impermissibly allow enrolled transmission providers that are identified as beneficiaries to decide whether to accept costs allocated to them pursuant to the regional cost allocation methodology. For instance, under Bonneville Power's proposal,

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governmental utilities would be able to ensure through contract negotiations that there would be no governmental gift of public funds or other state law violation and that execution of any agreement would be conditioned on its approval by the relevant governmental governing board or, in the case of Bonneville Power, by its Administrator. *Id.* at 13-14.

<sup>460</sup> Bonneville Power notes that the Commission stated that "the Restated PEFA could be modified to include, for example, project approval or withdrawal provisions reflecting Bonneville Power's unique needs and limitations." Bonneville Power Request for Rehearing at 11-12 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 272).

<sup>461</sup> *Id.* at 12.

Bonneville Power would determine whether it would pay the costs allocated to it under the ColumbiaGrid regional transmission planning process. Assuming that Bonneville Power would be an enrolled party in the ColumbiaGrid transmission planning region, this proposal would not comply with Order No. 1000's requirement that the regional cost allocation method be binding on enrolled transmission providers that are identified as beneficiaries because Bonneville Power could elect to not pay the costs that it is allocated. Similarly, under Northwest Governmental Utilities' proposal, ColumbiaGrid would prepare advisory, non-binding cost-allocation recommendations for both public utility transmission providers and governmental utilities identified as potential beneficiaries of a transmission project, and both the enrolled and non-enrolled transmission providers identified as potential beneficiaries would decide whether to accept the costs allocated to them pursuant to the regional cost allocation method. This proposal is also inconsistent with Order No. 1000's rejection of such an opt-out provision.<sup>462</sup>

248. However, given the unique circumstances in ColumbiaGrid, in which one non-public utility transmission provider, i.e., Bonneville Power, owns approximately 75 percent of the transmission system,<sup>463</sup> we find that a clarification is appropriate. Thus, we clarify that a non-public transmission provider that is not enrolled in the ColumbiaGrid transmission planning region, and that is determined to be a beneficiary of a transmission project proposed for selection in the regional transmission plan for purposes of cost allocation, may determine whether, consistent with its view of its statutory authorities, it will accept its share of the costs of that transmission facility. Under ColumbiaGrid Public Utilities' current proposal, ColumbiaGrid staff applies the regional cost allocation method to an Order 1000 Project and issues a preliminary cost allocation report, which includes the relevant project costs, benefits, and beneficiaries.<sup>464</sup> If the preliminary cost allocation report is approved by the ColumbiaGrid Board, it is

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<sup>462</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 640 (“We disagree...that the Principle 2 gives parties the ability to opt out of a Commission-approved cost allocation for a specific transmission project if they merely assert that they receive no benefits from it. Whether an entity is identified as a beneficiary that must be allocated costs of a new transmission facility is not determined by the entity itself by rather through the applicable, Commission-approved transmission planning processes and cost allocation methods.”).

<sup>463</sup> Bonneville Power Request for Rehearing at 16.

<sup>464</sup> *E.g.*, Avista, OATT, Attachment K, Part IV, § 6.

included in the regional transmission plan.<sup>465</sup> To ensure that a transmission project proposed for selection in the regional transmission plan for purposes of cost allocation, and which would provide benefits to a non-public utility transmission provider that is not enrolled in the region, may be considered for possible selection in a timely manner, we direct ColumbiaGrid Public Utilities to revise their respective OATTs to describe the process by which a non-enrolled, non-public utility transmission provider that is identified as a beneficiary of a transmission project proposed for selection in the regional transmission plan for purposes of cost allocation will advise the enrolled transmission providers of whether it will accept its share of the costs of that transmission facility.

249. For example, consistent with our clarification above and ColumbiaGrid's process, ColumbiaGrid Public Utilities could propose an approach in their next compliance filing under which the non-public utility transmission providers that are not enrolled in the transmission planning region but that have been determined to be potential beneficiaries of an Order 1000 Project in the preliminary cost allocation report would have an opportunity to examine their statutory authorities and find that they either: (1) will accept in accordance with their view of their statutory authorities the costs that they would be allocated pursuant to the regional cost allocation method or (2) will not accept in accordance with their view of their statutory authorities the costs that they would be allocated pursuant to the regional cost allocation method. After the non-public utility transmission providers that are not enrolled have made these decisions, ColumbiaGrid staff would reapply the regional cost allocation method to the public utility transmission providers and those non-enrolled non-public utility transmission providers that have found that they will accept the costs that they would be allocated pursuant to the regional cost allocation method. The preliminary cost allocation report would then be presented to the ColumbiaGrid Board for approval. While this approach is similar to Northwest Governmental Utilities' proposal above, it is different from an "opt-out" provision because it would apply only to non-public utility transmission providers that are not enrolled in the transmission planning region. We also clarify for Bonneville Power that, under this revised approach, there would be no need to exit the transmission planning region if a non-enrolled, non-public utility transmission provider elected not to accept the costs that it would be allocated pursuant to the regional cost allocation method because such an entity would not be enrolled in the region.

250. In response to Bonneville Power, the Commission did not "accept" that Bonneville Power has a statutory conflict with Order No. 1000's requirement that costs allocated pursuant to a regional cost allocation method are binding on enrolled transmission providers that are identified as beneficiaries. Instead, the Commission stated that it

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<sup>465</sup> *E.g., id.* § 6.4.

would not determine whether Bonneville Power had the statutory authority to have in its tariff a cost allocation method that would be binding, but instead, for purposes of the Commission's analysis of the compliance proposal before it, that the Commission would rely on Bonneville Power's representation that it did face a conflict.<sup>466</sup> Taking this into account during its review of the compliance proposal, the Commission found that Bonneville Power had the choice of whether to enroll in a transmission planning region and thus be responsible for costs associated with benefits it would receive, if it was found to be a beneficiary of a transmission project included in the regional transmission plan for purposes of cost allocation.<sup>467</sup> Thus, we disagree that our decision to require Bonneville Power to remove the non-binding cost allocation provisions from its tariff and the PEFA lacked a connection with the facts.

251. We also find to be without merit Bonneville Power's claim that the Commission's decision was arbitrary and capricious because it did not address concerns regarding Bonneville Power's stated statutory conflict or the impact of Bonneville Power's nonparticipation on ColumbiaGrid's regional transmission planning. Unlike as in *PSEG Energy Res. Trade LLC v. FERC*,<sup>468</sup> which Bonneville Power cites, Bonneville Power did not raise these points as objections. Rather, they served as explanations for why Bonneville Power was proposing the relevant non-binding cost allocation provisions in its tariff and PEFA. Further, Bonneville Power elected to submit its revised tariff seeking a determination that revisions to its transmission planning process under its tariff substantially conformed, or were superior to, the *pro forma* tariff, as it had been modified by Order No. 1000. Thus, the issue in front of the Commission was whether Bonneville Power's revised tariff was consistent with this standard. Both of Bonneville Power's concerns regarding its stated statutory conflict and the effect on regional planning were not germane to this analysis.

252. We turn next to similar arguments by petitioners that the First Compliance Order did not consider efforts by the non-public utility transmission providers in ColumbiaGrid to reconcile their stated conflicts with binding cost allocation and also did not provide flexibility needed to accommodate ColumbiaGrid's regional differences. In response, we note that, in considering Bonneville Power's concerns regarding its stated statutory conflict in Order No. 1000, the Commission found that any such conflict would be best addressed by Bonneville Power's participation in the development of the regional transmission planning process and cost allocation method that would be used by

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<sup>466</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 272 n.501.

<sup>467</sup> *Id.* P 273.

<sup>468</sup> 665 F.3d at 209.

Bonneville Power's neighboring public utility transmission providers to comply with Order No. 1000.<sup>469</sup> The Commission also stated that it would consider, on compliance, additional cost allocation principles or requirements that the enrolled transmission providers of a regional transmission planning process had deemed necessary to meet the specific needs of that transmission planning region. However, the Commission stated that any such requirements would need to include an explanation of how they complied with the requirements of Order No. 1000, including the six Regional Cost Allocation Principles.<sup>470</sup> Thus, although the Commission provided the flexibility for transmission planning regions to tailor regional transmission planning and cost allocation processes to accommodate their region's characteristics, the Commission made clear that any proposals would need to be within in the parameters of Order No. 1000.<sup>471</sup>

253. We deny rehearing on arguments that the Commission's determinations in the First Compliance Order were based on misunderstandings about the Northwest, that there is little concern for free ridership in the region, and that Order No. 1000's reforms do not work well in non-RTO/ISO regions. The Commission already considered similar concerns in the Order No. 1000 proceeding and found that the reforms instituted by Order No. 1000 were needed in all regions of the country.<sup>472</sup> We will not reexamine the Commission's determinations there in this proceeding.

254. We acknowledge concerns raised by petitioners about the effect on ColumbiaGrid's existing transmission planning process of not having Bonneville Power or other non-public utility transmission providers enroll in an Order No. 1000 regional transmission planning process. We find that the clarification provided in this section above, as well as the option for participation by non-enrolled non-public utility transmission providers in ColumbiaGrid's regional transmission planning process, as proposed by ColumbiaGrid Public Utilities, whereby ColumbiaGrid staff would identify the transmission needs and convene study teams to evaluate solutions thereto for

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<sup>469</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 279.

<sup>470</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 705.

<sup>471</sup> *Id.* P 61 ("the Commission recognizes that each transmission planning region has unique characteristics and, therefore, this Final Rule accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate these regional differences...[We] compel them to abide by the requirements of this Final Rule.").

<sup>472</sup> *See* Order No. 1000-A, 139 FERC ¶ 61,132 at PP 50-54, 59-75.

Governmental Non-Enrolled Parties,<sup>473</sup> address these concerns. However, we are also open to other solutions that address the non-public utility transmission providers' concerns regarding statutory and other conflicts and that are also consistent with the Regional Cost Allocation Principles and other requirements of Order No. 1000.

255. We turn to Bonneville Power's argument that, in the First Compliance Order, the Commission failed to address how the withdrawal provision described in Order No. 1000 meets the goals of Order No. 1000, given the constant threat of Bonneville Power's withdrawal from the region should it not accept a cost allocation. Bonneville Power argues that such uncertainty "would inhibit effective and non-discriminatory regional transmission planning."<sup>474</sup> In response, we first point out that, consistent with our discussion accepting ColumbiaGrid Public Utilities' proposal allowing for the participation by non-enrolled, non-public utility transmission providers in ColumbiaGrid's regional transmission planning process, as well as the clarification we grant above that permits non-enrolled, non-public utility transmission providers to determine whether they will accept allocated costs for a new transmission facility in accordance with their view of their statutory authorities, an entity such as Bonneville Power would not have to solely rely on an option to withdraw to participate and be allocated costs in ColumbiaGrid's regional transmission planning process. We also note that some uncertainty is inherent in the enrollment of non-public utility transmission providers in a regional transmission planning process because they retain the discretion to decide whether to enroll in the transmission planning region. The Order No. 1000 withdrawal provision strikes a balance between providing certainty, and accommodating the participation of non-public utility transmission providers in the regional transmission planning process. We disagree that such uncertainty would inhibit effective or non-discriminatory regional transmission planning. Indeed, enrolled non-public utility transmission providers would still be required to pay in accordance with cost allocation decisions subject to the accepted withdrawal process. Thus, even with an Order No. 1000 withdrawal provision, effective transmission planning would be performed with a clear *ex ante* understanding of those enrolled transmission providers identified as beneficiaries who will pay for a facility selected in a regional transmission plan for purposes of cost allocation, allowing for the development of efficient or cost-effective transmission solutions.

256. Finally, we find that Northwest Governmental Utilities' concern that the Commission is requiring non-public utility transmission providers to enroll in a

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<sup>473</sup> See the discussion in the section above on Participation by Non-Public Utility Transmission Providers.

<sup>474</sup> Bonneville Power Request for Rehearing at 19.

transmission planning region to participate in regional transmission planning is addressed by the discussion of ColumbiaGrid Public Utilities' proposed participation by non-enrolled, non-public utility transmission providers in ColumbiaGrid's regional transmission planning process described above. Because we are not requiring

enrollment<sup>475</sup> and non-public utility transmission providers have opportunities to participate in the regional transmission planning process, we dismiss the notion that the Commission is requiring non-public utility transmission providers to waive their exemption from Commission jurisdiction. Further, we note that an enrolled non-public utility transmission provider could file a complaint under section 206 of the FPA if it believed the approved regional cost allocation method was no longer just and reasonable or was unduly discriminatory or preferential.<sup>476</sup>

### **iii. Compliance**

#### **(a) Summary of Compliance Filings**

257. ColumbiaGrid Public Utilities state that their respective OATTs and the Functional Agreement do not include a provision similar to the non-binding cost allocation provision that the Commission found did not comply with the requirements of Order No. 1000, i.e., section 2.1 of the revised PEFA, or that otherwise limits ColumbiaGrid Public Utilities' ability to recover or pay any cost allocation that they are required to recover or pay under Order No. 1000. Further, ColumbiaGrid Public Utilities note that they have made clear in their OATTs that being "Enrolled" in the ColumbiaGrid Planning Region means that such an entity would be subject to cost allocations as implemented by ColumbiaGrid staff.<sup>477</sup>

258. Further, with respect to Governmental Non-Enrolled Parties, ColumbiaGrid Public Utilities propose that, if a Governmental Non-Enrolled Party requests that ColumbiaGrid

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<sup>475</sup> The Commission has made clear that a non-public utility transmission provider has the choice of whether to enroll in a transmission planning region and become subject to the regional cost allocation method. *See, e.g.*, Order No. 1000-A, 139 FERC ¶ 61,132 at PP 275, 279, 622.

<sup>476</sup> *Id.* P 622.

<sup>477</sup> *E.g.*, Avista Transmittal Letter at 28 (citing Avista, OATT, Attachment K, Appendix A (Enrolled); Functional Agreement, § 1.18 (Enrolled)). ColumbiaGrid Public Utilities also note that they do not address cost recovery of any Order 1000 Cost Allocation in the instant compliance filings. *Id.*



staff identify their needs in the system assessment report<sup>478</sup> and a plan is subsequently established by a study team to address these transmission needs.<sup>479</sup> Any party could request an advisory cost allocation, in writing within 60 days after the study team issues a final report, for any proposed transmission facilities that are included in such a plan.<sup>480</sup> Upon receipt of a written request for an advisory cost allocation, ColumbiaGrid staff would determine an advisory cost allocation for the proposed transmission facilities that are the subject of such request, as if the proposed transmission facilities were eligible for cost allocation and all Governmental Non-Enrolled Parties were Enrolled Parties. The advisory cost allocation would not impose payment obligations. Further, the proposed transmission facilities would not become an Order 1000 Project as a result of the advisory cost allocation.<sup>481</sup>

**(b) Commission Determination**

259. We find that removal of the non-binding cost allocation provision from the PEFA, as well as the fact that ColumbiaGrid Public Utilities did not include a similar provision in either ColumbiaGrid Public Utilities' respective OATTs or the Functional Agreement, complies with the directives of the First Compliance Order.

260. With respect to the proposed provisions in the Functional Agreement that allow any party to the Functional Agreement, including Governmental Non-Enrolled Parties, to request an advisory cost allocation for transmission facilities included in a plan created to address the needs of Governmental Non-Enrolled Parties pursuant to section 2.6.2 of the Functional Agreement, as well as to have ColumbiaGrid staff prepare an advisory cost allocation pursuant to this request,<sup>482</sup> we reject these provisions as part of the proposal to allow Governmental Non-Enrolled Parties to opt-in and opt-out of regional transmission planning under Order No. 1000. As explained in the Participation by Non-Public Utility Transmission Providers section above, this proposal could impede the enrolled transmission providers' Order No. 1000 regional transmission planning process by creating uncertainty about the parties for which ColumbiaGrid staff will plan from transmission planning cycle to transmission planning cycle.<sup>483</sup> As we note above,

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<sup>478</sup> Functional Agreement, § 2.6.1.

<sup>479</sup> *Id.* § 2.6.2.

<sup>480</sup> *Id.* § 2.6.3.

<sup>481</sup> *Id.* at Appendix A, § 9.

<sup>482</sup> *Id.* § 2.6.3 & Appendix A, § 9.

<sup>483</sup> Additionally, in light of our clarification that non-public transmission providers

(continued...)

ColumbiaGrid Public Utilities have reflected these advisory cost allocation provisions only in the Functional Agreement, and not their respective OATTs. We direct ColumbiaGrid Public Utilities to submit, within 60 days of the date of issuance of this order, a further compliance filing that includes the Functional Agreement but that does not include the proposed advisory cost allocation provisions.

**b. Cost Allocation Principles**

**i. First Compliance Order**

261. In the First Compliance Order, the Commission found that ColumbiaGrid Public Utilities' cost allocation method for Order No. 1000 transmission projects selected in the regional transmission plan for purposes of cost allocation partially complied with regional cost allocation principles. The Commission stated that, generally, the proposal met the Order No. 1000 requirement that each public utility transmission provider have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation but that to fully comply with the cost allocation requirements of Order No. 1000, certain aspects of the proposed cost allocation method would need to be modified.<sup>484</sup>

262. With respect to Regional Cost Allocation Principle 1, the Commission stated that the proposal failed to fully comply with this principle in part because a regional cost allocation method that is not binding on identified beneficiaries does not comply with the requirement that costs must be allocated in a manner that is roughly commensurate with estimated benefits.<sup>485</sup> Separate from this determination, the Commission found that, as it applied to a beneficiary of an Order No. 1000 transmission project other than the transmission developer of such project, the proposal to identify the beneficiaries of an

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that are not enrolled in the ColumbiaGrid transmission planning region, but that are allocated costs under the regional cost allocation method, may determine whether, consistent with their view of their statutory authorities, they will accept the costs of a new transmission facility selected in a regional transmission plan for purposes of cost allocation allocated to them, it is not clear that advisory cost allocation continues to be necessary, given that ColumbiaGrid staff issues preliminary cost allocation reports as part of the regional transmission planning process. *E.g.*, Avista, OATT, Attachment K, Part IV, § 6.

<sup>484</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 296 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 558).

<sup>485</sup> *Id.* P 298.

Order No. 1000 transmission project besides the transmission developer and to assess the benefits that they receive based on: (1) the costs of transmission facilities that are displaced or deferred by the Order No. 1000 transmission project, and (2) the value that a beneficiary is projected to realize on its transmission system due to the Order No. 1000 transmission project partially complied with Regional Cost Allocation Principle 1, subject to modifications. The Commission stated that by accounting for the costs that a beneficiary is projected to avoid over the planning horizon due to the elimination or deferral of planned additions of transmission facilities and the value that a beneficiary is projected to realize on its transmission system,<sup>486</sup> the proposed regional cost allocation method, with directed modifications, would identify beneficiaries other than the transmission developer and adequately assess the benefits that an Order No. 1000 transmission project provides. The Commission noted, however, that, unlike Avista and MATL, Puget Sound included the definition of Order No. 1000 benefits in its OATT; accordingly, the Commission directed Avista and MATL to revise their OATTs to include the definition of Order No. 1000 benefits for a beneficiary of an Order No. 1000 transmission project other than the transmission developer of such project.<sup>487</sup>

263. The Commission also found that the proposed cost allocation method lacked clarity, and therefore transparency, regarding how ColumbiaGrid Public Utilities proposed to account for benefits other than avoided costs. The Commission stated that ColumbiaGrid Public Utilities had not explained how the regional transmission planning process will determine whether, and if so, to what extent, increased capacity on a beneficiary's transmission system is "usable and marketable."<sup>488</sup> The Commission found that without such explanation, it was not clear whether the proposed consideration of the value of increased capacity on a beneficiary's transmission system would result in a regional cost allocation method that adequately assesses the benefits, besides those

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<sup>486</sup> The Commission noted that ColumbiaGrid Public Utilities proposed to account for the value that a beneficiary is projected to realize on its transmission system measured as the lesser of: (1) the costs that a beneficiary would have otherwise incurred over the planning horizon to achieve an increase in capacity on its transmission system equivalent to that resulting from the Order No. 1000 transmission project or (2) the projected changes in revenues for a beneficiary over the planning horizon directly resulting from the Order No. 1000 transmission project or its elimination or deferral of planned transmission facilities. *Id.* P 299 n.559.

<sup>487</sup> *Id.* P 299.

<sup>488</sup> *Id.* P 301 (citing Avista, Transmittal Letter, Docket No. ER13-93-000, at 20 (filed Oct. 11, 2012)).

measured as the value of avoiding the costs of certain transmission projects, that an Order No. 1000 transmission project provides. The Commission directed ColumbiaGrid Public Utilities to revise their OATTs to describe how it will be determined in the regional transmission planning process whether, and if so, to what extent, increased capacity on a beneficiary's transmission system is "usable and marketable."<sup>489</sup>

264. In addition, the Commission noted ColumbiaGrid Public Utilities' proposal that the analytical tools that would be used to identify benefits would include, *as appropriate*, (1) power flow and stability studies to project the extent, if any, to which any beneficiary would avoid costs due to elimination or deferral of planned transmission facility additions, as well as changes in transfer capability, and (2) production cost studies to project the estimated usage of any such changes in transfer capability.<sup>490</sup> The Commission noted that, when calculating the projected changes in revenues over the planning horizon to a beneficiary of an Order No. 1000 transmission project that directly result from the project or its elimination or deferral of planned transmission facilities, the revised PEFA provided that such changes in revenue shall be based on the changes of usage of the beneficiary's transmission system projected using an economic analysis that includes, *as appropriate*, production cost, power flow, and stability analyses and evaluation of transmission queues and that is repeatable over a wide range of reasonable assumptions.<sup>491</sup> However, the Commission determined that ColumbiaGrid Public Utilities had not explained how they will determine whether such analytical tools or components of the economic analysis are not appropriate for use in identifying the benefits of a particular Order No. 1000 transmission project, such that it is clear that their proposed regional cost allocation method adequately assesses the benefits that an Order No. 1000 transmission project provides and allocates the costs of such a project in a manner that is at least roughly commensurate with estimated benefits. Accordingly, the Commission required ColumbiaGrid Public Utilities to revise their OATTs to describe the circumstances, if any, under which each analytical tool and component of the economic analysis would not be used in identifying the benefits of a particular Order No. 1000 transmission project.<sup>492</sup>

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<sup>489</sup> *Id.*

<sup>490</sup> *Id.* P 302 (citing Avista, OATT, Attachment K, Part IV, § 10.3.2.1 (1.0.0) (emphasis added)).

<sup>491</sup> *Id.* (citing Avista, PEFA, § 1.37 (1.0.0) (emphasis added)).

<sup>492</sup> *Id.*

265. Furthermore, the Commission found that the proposal that the benefits of an Order No. 1000 transmission project for the transmission developer of that project will be equal to the projected capital costs of the project did not comply with Regional Cost Allocation Principle 1. The Commission stated that ColumbiaGrid Public Utilities had not explained how the projected capital cost of an Order No. 1000 transmission project was a reasonable approximation of the benefits that the project would provide to the transmission developer. The Commission directed ColumbiaGrid Public Utilities to justify the proposal to measure the benefits of an Order No. 1000 transmission project for its transmission developer as the projected capital costs of the project, or to remove this proposal from their OATTs.<sup>493</sup>

266. With respect to Regional Cost Allocation Principle 2, the Commission found that, with the exception of the proposal that the benefits of an Order No. 1000 transmission project for the transmission developer of that project will be equal to the projected capital costs of the project, ColumbiaGrid Public Utilities' proposed regional cost allocation method complied with this principle.<sup>494</sup> The Commission stated that because the projected capital cost of an Order No. 1000 transmission project may not be a reasonable approximation of the benefits that the project will provide to the transmission developer, the proposed regional cost allocation method as it applies to a transmission developer of an Order No. 1000 transmission project may allocate costs to a transmission developer that receives no benefit. The Commission directed ColumbiaGrid Public Utilities in the further compliance filings to explain how the proposal that the benefits of an Order No. 1000 transmission project for the transmission developer of that project will be equal to the projected capital costs of the project complies with Cost Allocation Principle 2, or to remove this proposal from their OATTs.<sup>495</sup>

267. The Commission stated that ColumbiaGrid Public Utilities did not propose to apply a benefit to cost ratio. The Commission found that ColumbiaGrid Public Utilities' proposed regional cost allocation method complies with Regional Cost Allocation

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<sup>493</sup> *Id.* P 304.

<sup>494</sup> To be clear, in the First Compliance Order, the Commission found ColumbiaGrid Public Utilities' proposal that the benefits of an Order No. 1000 transmission project for the transmission developer of that project will be equal to the projected capital costs of the project to be a violation of both Regional Cost Allocation Principles 1 and 2.

<sup>495</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 305.

Principle 3, which requires that if adopted, a benefit to cost threshold may not include a ratio of benefits to costs that exceeds 1.25.<sup>496</sup>

268. In the First Compliance Order, the Commission stated that the proposal requiring that costs be allocated solely within the ColumbiaGrid transmission planning region unless other transmission planning regions or entities voluntarily assumed costs was consistent with Regional Cost Allocation Principle 4.<sup>497</sup> However, the Commission found the proposed tariff revisions did not comply with Regional Cost Allocation Principle 4's requirement that the regional transmission planning process identify the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions, such as upgrades that might be required in another region. The Commission stated that ColumbiaGrid Public Utilities also failed to address whether the ColumbiaGrid transmission planning region had agreed to bear the costs associated with any required upgrades in another transmission planning region or, if so, how such costs would be allocated within the ColumbiaGrid transmission planning region. Thus, the Commission directed ColumbiaGrid Public Utilities to revise their OATTs to provide for identification of the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission regions and to also address whether the ColumbiaGrid transmission planning region had agreed to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs would be allocated within the ColumbiaGrid transmission planning region.<sup>498</sup>

269. The Commission found that ColumbiaGrid Public Utilities' proposal partially complied with Regional Cost Allocation Principle 5. The Commission stated that, as required by Order No. 1000, the proposal defined and explained how benefits and beneficiaries would be determined, thus providing adequate documentation to allow a stakeholder to determine how the cost allocation method was applied to a proposed transmission facility. The Commission stated that, however, ColumbiaGrid Public Utilities did not explain how they will determine whether the analytical tools used to identify benefits of Order No. 1000 transmission projects, or the components of the economic analysis used to calculate the projected changes in revenues over the planning horizon to a beneficiary of such a project, are not appropriate for use in identifying the benefits of a particular Order No. 1000 transmission project, in such manner that the

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<sup>496</sup> *Id.* P 306.

<sup>497</sup> *Id.* P 307 (citing Avista OATT, Attachment K, Part IV, §§ 10.3.2, 10.3.3 (1.0.0)).

<sup>498</sup> *Id.*

regional cost allocation method and data requirements for determining benefits and identifying beneficiaries are transparent. The Commission reiterated their earlier directive requiring ColumbiaGrid Public Utilities to revise their OATTs to describe the circumstances, if any, under which each analytical tool and component of the economic analysis will not be used in identifying the benefits of a particular Order No. 1000 transmission project.<sup>499</sup>

270. Finally, the Commission found that ColumbiaGrid Public Utilities' proposal complied with Regional Cost Allocation Principle 6, as ColumbiaGrid Public Utilities proposed to use the same cost allocation method for different types of transmission facilities in the regional transmission plan. The Commission stated that, additionally, ColumbiaGrid Public Utilities had not proposed to designate a type of transmission facility that has no regional cost allocation method applied to it.<sup>500</sup>

## ii. Compliance

### (a) Summary of Compliance Filings

271. In their compliance filings, Avista and MATL have revised their respective OATTs to include the definition of Order No. 1000 benefits that was not previously included in their first compliance filing.<sup>501</sup>

272. In response to the directive requiring ColumbiaGrid Public Utilities to describe how the regional transmission planning process will determine whether and to what

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<sup>499</sup> *Id.* PP 308-309.

<sup>500</sup> *Id.* P 310 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 685, 690).

<sup>501</sup> *E.g.*, Avista Transmittal Letter at 28 (citing Avista, OATT, Attachment K, Appendix A (Order 1000 Benefits)). Order 1000 Benefits are proposed to equal the sum of : (1) the projected costs that a beneficiary is projected to avoid over the planning horizon, as a direct result of an Order 1000 Project due to elimination or deferral of planned additions of transmission facilities in the ColumbiaGrid transmission planning region; and (2) the value that such beneficiary is projected to realize on its transmission system over the planning horizon, as a direct result of an Order 1000 Project, equal to the lesser of: (i) the projected costs that the beneficiary would have occurred but for the Order 1000 Project to achieve the increase in capacity resulting from the project, or (ii) the projected changes in revenues directly resulting from the Order 1000 Project or the Order 1000 Project's elimination or deferral of planned transmission facilities.

extent increased capacity on a beneficiary's transmission system is "usable and marketable," ColumbiaGrid Public Utilities state that, as a threshold matter, it is necessary to determine whether any increased capacity will actually benefit the transmission provider whose transmission system will obtain increased capacity as a result of an Order 1000 Project. They state that, as an example, additional stranded capacity on a transmission provider's system cannot be fairly said to be a benefit to the transmission provider. Accordingly, ColumbiaGrid Public Utilities state that they have revised their OATTs to describe the tools and methodologies to be used to calculate any benefit that may be associated with increased capacity that results from an Order 1000 Project.<sup>502</sup> Specifically, ColumbiaGrid Public Utilities revise their OATTs to state that they will use the following tools and methodologies in projecting benefits: (1) power flow and stability studies to project changes in transfer capability; (2) projected changes in usability of transmission paths or flowgates; (3) review of any of a beneficiary's customers' commitment to take service to project any expected subscriptions for increased transfer capability on such beneficiary's transmission system projected to result from an Order 1000 Project; and (4) consultation with a beneficiary to project its share of increased transfer capability on any transmission paths or flowgates.<sup>503</sup>

273. To address the requirement that they must describe the circumstances, if any, under which each analytical tool and component of the economic analysis will not be used in identifying the benefits of a particular Order No. 1000 transmission project, ColumbiaGrid Public Utilities state that they have removed the phrase "as appropriate" to make clear that the listed analytical tools will be used in projecting the benefits of a particular Order 1000 Project.<sup>504</sup>

274. ColumbiaGrid Public Utilities state that, consistent with the directives to either justify and/or explain how their proposal to set a transmission developer's benefits equal to the projected capital cost of such transmission developer's Order 1000 Project complies with Regional Cost Allocation Principle 2, or to remove it, ColumbiaGrid Public Utilities have removed this provision from their OATTs. ColumbiaGrid Public Utilities have revised their OATTs such that benefits are determined in the same manner for both sponsor and non-sponsor beneficiaries.<sup>505</sup>

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<sup>502</sup> *E.g., id.* at 28-29 (citing Avista, OATT, Attachment K, Part IV, § 6.2).

<sup>503</sup> *E.g.,* Avista, OATT, Attachment K, Part IV, § 6.2.1.

<sup>504</sup> *E.g.,* Avista Transmittal Letter at 29.

<sup>505</sup> *E.g., id.* at 29-30 (citing Avista, OATT, Attachment K, Appendix A (Order 1000 Benefits); Avista, OATT, Attachment K, Part IV, §§ 6.2-6.3).



275. In their compliance filings, ColumbiaGrid Public Utilities state that although the Commission found that they had not proposed a benefit to cost ratio and thus complied with Regional Cost Allocation Principle 3, they have revised their OATTs in the second compliance filing to include a benefit to cost ratio as a result of other changes to their OATTs.<sup>506</sup> Specifically, ColumbiaGrid Public Utilities propose to calculate the benefit to cost ratio by dividing the sum of the benefits of all beneficiaries of an Order 1000 Project by the projected capital costs of such project.<sup>507</sup> ColumbiaGrid Public Utilities state that they have revised their OATTs to provide that if the benefit to cost ratio for any Order 1000 Project is determined to be less than 1.25, such project is, upon such determination, to no longer be an Order 1000 Project and any regional cost allocation for such project is to be vacated.<sup>508</sup> They claim that this provision is consistent with Regional Cost Allocation Principle 3, which allows the use of a benefit to cost ratio to account for uncertainty in the calculation of benefits, so long as such threshold does not exceed 1.25 (unless a higher threshold is approved by the Commission).<sup>509</sup>

276. In their compliance filings, in response to the directives requiring ColumbiaGrid Public Utilities to: (1) provide for identification of the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission regions; and (2) explain whether the ColumbiaGrid transmission planning region has agreed to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated within the ColumbiaGrid transmission planning region, ColumbiaGrid Public Utilities have revised their OATTs to provide that study teams are to assess any Material Adverse Impact of a proposed solution on any transmission system and the mitigation thereof.<sup>510</sup>

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<sup>506</sup> *E.g., id.* at 30.

<sup>507</sup> *E.g.,* Avista, OATT, Attachment K, Part IV, § 6.3.2.

<sup>508</sup> *E.g.,* Avista Transmittal Letter at 30 (citing Avista, OATT, Attachment K, Part IV, § 6.3.2).

<sup>509</sup> *E.g., id.* (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 646).

<sup>510</sup> *E.g., id.* at 30-31. *See, e.g.,* Avista, OATT, Attachment K, Part IV, § 4.3. ColumbiaGrid Public Utilities proposes to define Material Adverse Impacts as:

a reduction of transmission capacity on a transmission system (or other adverse impact on such transmission system that is generally considered in transmission planning in the Western

(continued...)

277. Additionally, ColumbiaGrid Public Utilities state that their revised OATTs further provide that “for purposes of regional cost allocation, the projected costs of any Order 1000 Project ... are to include the projected costs required as a result of such project, if any, (i) that relate to transmission facilities outside the ColumbiaGrid transmission planning region; and (ii) that all identified beneficiaries of such Order 1000 Project agree, in writing, to bear.”<sup>511</sup>

**(b) Protests/Comments**

278. In response to the First Compliance Order’s directive that ColumbiaGrid Public Utilities revise their tariffs to address responsibility for costs that will be incurred in other regions to avoid adverse impacts from a project selected for cost allocation by ColumbiaGrid,<sup>512</sup> Neighboring NJs note that ColumbiaGrid Public Utilities propose that only those costs that “all Order 1000 Beneficiaries of such Order 1000 Project agree, in writing, to bear” will be included for purposes of cost allocation.<sup>513</sup> Neighboring NJs request the Commission to direct ColumbiaGrid to clarify that its tariff provisions do not allow ColumbiaGrid or a project developer to proceed with the development of a project selected for cost allocation without first remedying Material Adverse Impacts that the project causes on non-ColumbiaGrid systems. Neighboring NJs assert that it has long been recognized in the Western Interconnection that a project developer must mitigate adverse reliability impacts of its project on neighboring systems before the project can be placed into operation or a transmission path rating can be obtained or increased. Neighboring NJs state that, as a member of the WECC, ColumbiaGrid participates in the WECC Project Coordination and Path Rating Processes, which requires that the “burden of mitigating or compensating for new problems relative to the existing system lies with the project sponsor.”<sup>514</sup>

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Interconnection) due to such solution that is material. Avista, OATT, Attachment K, Appendix A.

<sup>511</sup> *E.g.*, Avista Transmittal Letter at 31 (citing Avista, Attachment K, Part IV, § 6.1).

<sup>512</sup> Neighboring NJs, Comments, Docket Nos. ER13-94-003, ER13-99-002, & ER13-836-002, at 2 (filed January 16, 2014) (citing First Compliance Order, 143 FERC ¶ 61,255 at P 307).

<sup>513</sup> *Id.* at 2-3 (citing Avista, OATT, Attachment K, Part IV § 6.1).

<sup>514</sup> *Id.* at 4-7 (citing WECC, Project Coordination and Path Rating Processes, at 17 (Oct. 10, 2012)).

279. Neighboring NJs believe that the proposal does not make clear whether a transmission project would be allowed to move forward if the project would cause a Material Adverse Impact on a neighboring transmission system and the beneficiaries do not agree to pay for its mitigation. Instead, Neighboring NJs assert that, under the proposed tariff provision, beneficiaries would pay for the costs of the project only if all of the beneficiaries of the project agree to pay. Neighboring NJs state that the proposal does not include a specific provision governing situations in which less than all of such beneficiaries agree to pay.<sup>515</sup>

280. In addition, Neighboring NJs request that the Commission direct ColumbiaGrid Public Utilities to clarify that their proposed definition of Material Adverse Impacts would include those impacts that require mitigation in the WECC transmission planning process. Neighboring NJs assert that ColumbiaGrid Public Utilities proposed definition is circular, fails to provide the criteria for materiality, and could be read to mean that an impact unacceptable to an entity in another region may not meet the standard of materiality unless ColumbiaGrid concludes that the adverse impact is material. Accordingly, Neighboring NJs seek clarification on the specific criteria that will be used to determine “material” adverse impacts.<sup>516</sup>

281. Finally, Neighboring NJs state that the only avenue for a transmission system owner or operator that is materially impacted to affirmatively assert that a proposed solution is “unacceptable” would be to participate in the ColumbiaGrid planning process.<sup>517</sup> Neighboring NJs contend that requiring affected persons to participate as a member of the study team in order to address the mitigation of a Material Adverse Impact, however, could unnecessarily require a neighboring transmission system to expend significant resources to protect their systems from adverse impacts caused by neighboring systems. Neighboring NJs state that other means should be available to discuss and negotiate appropriate mitigation solutions without participation in the ColumbiaGrid transmission planning process.<sup>518</sup>

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<sup>515</sup> *Id.* at 7.

<sup>516</sup> *Id.* at 8-9.

<sup>517</sup> *Id.* at 9. Neighboring NJs state that during the formation of a study team, ColumbiaGrid is required to provide “specific notice” to those “Interested Persons that ColumbiaGrid anticipates may be materially affected.” *Id.* (citing Avista, OATT, Attachment K, Part IV, § 4.1; Functional Agreement, Appendix A, § 4.1).

<sup>518</sup> *Id.* at 9-10.

(c) Answer

282. ColumbiaGrid Public Utilities state that they have revised their OATTs consistent with the Commission's directive in the First Compliance Order to: (1) provide for the identification of the consequences of other transmission planning regions of a transmission facility selected in the ColumbiaGrid transmission plan for purposes of cost allocation; and (2) address whether the ColumbiaGrid transmission planning region had agreed to bear costs associated with any required upgrades in another transmission planning region. ColumbiaGrid Public Utilities argue that the Commission has expressly determined that costs associated with consequences outside of a region are to be allocated under Order No. 1000 only if the region agrees to bear such costs.<sup>519</sup>

283. ColumbiaGrid Public Utilities argue that the Neighboring NJs seek to address costs that are not to be allocated under Order No. 1000 and are therefore beyond the scope of this proceeding. ColumbiaGrid Public Utilities state that, consistent with the requirement in the First Compliance Order, the Functional Agreement and their respective OATTs provide for the assessment of any Material Adverse Impacts of any transmission solution selected as an Order 1000 Project on any transmission system and the mitigation thereof.<sup>520</sup> ColumbiaGrid Public Utilities also state that their OATTs address whether the entities enrolled in the ColumbiaGrid transmission planning region have agreed to bear costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated to such entities.<sup>521</sup>

284. ColumbiaGrid Public Utilities argue that nothing in their OATTs hinders other non-Order No. 1000 processes, such as the WECC Project Coordination and Path Rating Processes described by Neighboring NJs. ColumbiaGrid Public Utilities contend that the Neighboring NJs are attempting to expand the obligations under Order No. 1000 with regard to projected costs arising out of consequences in regions in which a proposed project is not located and that these attempts are beyond the scope of Order No. 1000.

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<sup>519</sup> ColumbiaGrid Public Utilities, Answer, Docket Nos. ER13-94-003, ER13-99-002, & ER13-836-002, at 3-4 (filed January 31, 2014) (citing First Compliance Order, 143 FERC ¶ 61,255 at P 307; Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 657).

<sup>520</sup> *Id.* at 4-5 (citing Puget Sound, OATT, Attachment K, Part III, § 4.3; Functional Agreement, Appendix A, § 4.3).

<sup>521</sup> *Id.* at 5-6 (citing Puget Sound, OATT, Attachment K, Part IV, § 6.1; Functional Agreement, Appendix A, § 6.1).

285. ColumbiaGrid Public Utilities also maintain that their OATTs' definition of Material Adverse Impacts does not require clarification. ColumbiaGrid Public Utilities argue that Neighboring NJs incorrectly assert that this definition is "circular" in that it fails to provide the criteria for materiality. ColumbiaGrid Public Utilities state that Neighboring NJs fail to recognize the clear language of the definition under which the criteria for materiality is whether the adverse impact on a transmission system "is generally considered in transmission planning in the Western Interconnection" and "unacceptable to the Person that owns or operates such transmission system."<sup>522</sup>

**(d) Commission Determination**

286. We find that ColumbiaGrid Public Utilities' proposed regional cost allocation method complies with the Commission's directives in the First Compliance Order addressing the Regional Cost Allocation Principles. Specifically, Avista and MATL have revised their OATTs to include the definition of benefits that was previously not included and ColumbiaGrid Public Utilities have revised their OATTs to (1) describe the tools and methodologies to be used to calculate to what extent increased capacity on a beneficiary's system is usable and marketable; (2) clarify that there are no circumstances under which each analytical tool and component of the economic analysis will not be used in identifying the benefits of a particular Order 1000 Project by removing the phrase "as appropriate"; and (3) remove their prior proposed tariff language to set a transmission developer's benefits equal to the projected capital cost of such transmission developer's Order 1000 Project.

287. Regional Cost Allocation Principle 3 requires that if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not exceed 1.25.<sup>523</sup> Under ColumbiaGrid Public Utilities' proposal, if the benefit to cost ratio for any Order 1000 Project is determined to be less than 1.25, such Order 1000 Project is, upon such determination, to no longer be an Order 1000 Project and any cost allocation for such project is to be vacated. Thus, we find that ColumbiaGrid Public Utilities' regional cost allocation method complies with Regional Cost Allocation Principle 3.

288. ColumbiaGrid Public Utilities have revised their OATTs to provide that study teams will, as part of considering solutions to an identified need, identify the consequences of a proposed transmission facility on a neighboring system. Additionally, ColumbiaGrid Public Utilities have revised their OATTs to include, in the projected cost

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<sup>522</sup> *Id.*

<sup>523</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 646.

of an Order 1000 Project, costs relating to transmission facilities outside of the ColumbiaGrid transmission planning region if all of the beneficiaries of such project agree in writing to bear such costs. Therefore, we find that ColumbiaGrid Public Utilities have addressed the Commission's concerns with the prior tariff language in the First Compliance Order and that ColumbiaGrid Public Utilities' proposed tariff language complies with Regional Cost Allocation Principle No. 4. We also agree with ColumbiaGrid Public Utilities that the criteria for materiality is clearly defined as whether the adverse impact on a transmission system "is generally considered in transmission planning in the Western Interconnection" and "unacceptable to the Person that owns or operates such transmission system." Thus, we conclude that no further revisions to the definition are necessary.

289. Although we find that ColumbiaGrid Public Utilities have complied with the First Compliance Order's directives regarding Cost Allocation Principle No. 4, and thus do not direct any further tariff revisions, we acknowledge Neighboring NJs' concerns regarding the potentially adverse consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation on other transmission systems that are not part of that transmission planning region. To that end, we encourage the continuation of existing voluntary arrangements, as well as consideration of new opportunities to work together to address any such issues that might arise. Order No. 1000 was not intended to disrupt or impede any such arrangements.

**c. Opportunities to Negotiate a Voluntary Cost Allocation**

**i. First Compliance Order**

290. In the First Compliance Order, the Commission noted that ColumbiaGrid Public Utilities had proposed two opportunities for transmission developers and Affected Persons<sup>524</sup> to reach a voluntary agreement on a cost allocation for a transmission facility selected in the regional transmission plan for purposes of cost allocation. The first opportunity was after a study team or ColumbiaGrid staff evaluated and determined that a transmission project met the Order No. 1000 transmission project selection criteria and that the transmission developer met the Order No. 1000 transmission developer qualification criteria. The opportunity for negotiations allowed "six full calendar months and such additional time, if any, as requested by *all* Order No. 1000 Sponsors *and* other Affected Parties with respect to such project for the Order No. 1000 Sponsors and

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<sup>524</sup> Affected Persons was defined as those Planning Parties and persons that would bear material adverse impacts from such project or are otherwise materially affected by such project. *E.g.*, Avista, OATT, Attachment K, Appendix A (1.0.0).

Affected Parties to reach agreement” on project implementation, including cost allocation, after which time ColumbiaGrid staff would apply the Order No. 1000 cost allocation method.<sup>525</sup>

291. The second opportunity was after ColumbiaGrid staff prepared a preliminary cost allocation report, which included the selection of a proposed transmission project as an Order No. 1000 transmission project and the results of the application of the Order No. 1000 cost allocation method to such project (i.e., the costs and beneficiaries would have been determined). Before ColumbiaGrid staff included the report in the draft regional transmission plan for the ColumbiaGrid Board’s approval, the Commission noted another opportunity to negotiate a voluntary cost allocation occurs if requested by “one or more Affected Persons with respect to such Project.”<sup>526</sup> If after such “additional time” an agreement has not been reached, ColumbiaGrid staff would include the preliminary cost allocation report in the draft regional transmission plan. The Commission also noted that the provision did not impose any limit on the period of “additional time” for negotiations after which ColumbiaGrid staff would include the preliminary cost allocation report in the draft regional transmission plan.<sup>527</sup>

292. The Commission found that ColumbiaGrid staff’s first opportunity to negotiate a voluntary cost allocation was reasonable and consistent with Order No. 1000.<sup>528</sup> The Commission stated that although the first opportunity to negotiate a voluntary cost allocation may delay application of the Order No. 1000 regional cost allocation method, its concerns regarding this delay were mitigated because negotiation was set at six months and could be concluded earlier if the relevant entities reached agreement, and because any additional time for negotiation beyond the initial six-month period was only permitted upon agreement of all transmission developers and affected persons.<sup>529</sup>

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<sup>525</sup> First Compliance Order, 143 FERC ¶ 61,255 at P 322 (citing Avista, OATT, Attachment K, Part IV, § 10.2 (1.0.0); Avista, PEFA, Appendix A, § 10.2 (1.0.0) (emphasis added)).

<sup>526</sup> *Id.* P 323 (citing Avista, OATT, Attachment K, Part IV, § 10.4 (1.0.0); Avista, PEFA, Appendix A, § 10.4 (1.0.0)).

<sup>527</sup> *Id.*

<sup>528</sup> *Id.* P 326.

<sup>529</sup> *Id.*

293. However, the Commission found that the second opportunity to negotiate a voluntary cost allocation granted a single affected person (including an incumbent transmission provider) the opportunity to prevent or stall the inclusion of the preliminary cost allocation report in the draft regional transmission plan, effectively precluding a transmission project's selection in the regional transmission plan for purposes of cost allocation and preventing identified beneficiaries from realizing the project's benefits. The Commission stated that allowing the opportunity to negotiate if "one affected person or more" requests additional time introduces additional uncertainty into the process both for the transmission developer and for the beneficiaries to whom the transmission project's costs will be allocated, thus leading to a lower likelihood that the transmission project will be constructed.<sup>530</sup>

294. The Commission directed ColumbiaGrid Public Utilities to revise their respective OATTs to provide a second opportunity to negotiate a voluntary cost allocation for an Order No. 1000 transmission project only if requested by *all* sponsors and affected persons. The Commission stated that this revision would make the language in the provision providing for the second opportunity to negotiate consistent with that of the provision providing for the first opportunity, and would address the Commission's concern that the provision may be used to undermine Order No. 1000.<sup>531</sup>

**ii. Compliance**

**(a) Summary of Compliance Filings**

295. ColumbiaGrid Public Utilities propose in their OATTs a second opportunity to reach an agreement on Order 1000 Project implementation, including funding, but only if such further opportunity is requested by *all* Enrolled Parties that requested cost allocation, *all* beneficiaries, and *all* Affected Persons.

**(b) Commission Determination**

296. We find that the proposed provision in ColumbiaGrid Public Utilities' respective filings addressing opportunities to negotiate a voluntary cost allocation comply with the directives of the First Compliance Order. As directed, ColumbiaGrid Public Utilities have revised their OATTs to provide a second opportunity to negotiate a voluntary cost allocation only if requested by *all* sponsors *and* affected persons. By removing the opportunity for a single affected person to prevent or stall the inclusion of the preliminary

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<sup>530</sup> *Id.* P 327.

<sup>531</sup> *Id.*



cost allocation report in the draft regional transmission plan, ColumbiaGrid Public Utilities' revised OATTs reduces uncertainty in the process for both the transmission developer and the project's beneficiaries.

The Commission orders:

(A) The requests for rehearing and clarification are hereby denied in part and granted in part, as discussed in the body of this order.

(B) ColumbiaGrid Public Utilities' respective compliance filings are hereby accepted, effective February 17, 2014, subject to further compliance filings, as discussed in the body of this order.

(C) ColumbiaGrid Public Utilities are hereby directed to submit further compliance filings, which includes the Functional Agreement, within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix A: Abbreviated Names of Petitioners and Commenters**

<b>Abbreviation</b>	<b>Petitioner and/or Commenter</b>
AWEA	American Wind Energy Association and Wind Renewable Northwest Project
Bonneville Power	Bonneville Power Administration
ColumbiaGrid Public Utilities	Avista Corporation, Puget Sound Energy, Inc., and MATL LLP
Neighboring NJs	Transmission Agency of Northern California and Sacramento Municipal Utility District
LS Power	LSP Transmission, LLC and LSP Transmission Holdings, LLC
Northwest Governmental Utilities	Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 1 of Snohomish County, Washington; Public Utility District No. 2 of Grant County, Washington; City of Tacoma, Department of Public Utilities, Light Division; and the City of Seattle, by and through its City Light Department