

124 FERC ¶ 61,053
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Idaho Power Company	Docket Nos. OA08-23-000 OA08-55-000 OA08-55-001 OA08-55-002
Deseret Generation & Transmission Co-operative, Inc.	OA08-28-000 OA08-54-000 OA08-54-001 OA08-54-002
NorthWestern Corporation	OA08-31-000 OA08-31-001 OA08-56-000 OA08-56-001 OA08-56-002
PacifiCorp	OA08-40-000 OA08-57-000 OA08-57-001 OA08-57-002
Black Hills Power, Inc.	OA08-43-000 OA08-99-000 OA08-99-001
Portland General Electric Company	OA08-118-000

ORDER ACCEPTING COMPLIANCE FILINGS SUBJECT TO MODIFICATIONS
AND DIRECTING FURTHER COMPLIANCE FILINGS

(Issued July 17, 2008)

1. In this order, the Commission addresses agreements jointly filed, pursuant to section 206 of the Federal Power Act (FPA),¹ by certain transmission providers in the Pacific Northwest, which establish a sub-regional planning process to be conducted by the Northern Tier Transmission Group (NTTG). In addition, the Commission addresses the individual transmission providers' filings, also made pursuant to section 206 of the FPA, in order to comply with the Attachment K transmission planning requirements of Order No. 890.²

2. On November 30, 2007, Deseret Generation & Transmission Co-operative, Inc. (Deseret), Idaho Power Company (Idaho Power), NorthWestern Corporation (NorthWestern)³ and PacifiCorp, (collectively, Funding Parties),⁴ submitted proposed revisions to their respective Open Access Transmission Tariffs (OATT) to incorporate rate schedules reflecting the NTTG Group Planning Agreement (NTTG Agreement), the NTTG 2007 Funding Agreement and the 2008-2009 NTTG Funding Agreement into their respective OATTs (collectively, NTTG Agreements).⁵ In addition, on April 3, 2008, the Funding Parties submitted revised rate schedules and Black Hills Power Inc.

¹ 16 U.S.C. § 824e (2006).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007). As will be discussed more fully below, Order No. 890, among other things, directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment (Attachment K) to their open access transmission tariffs (OATTs).

³ NorthWestern owns and operates transmission facilities in Montana and South Dakota that are neither physically connected, nor in the same North American Electric Reliability Council (NERC) region. NorthWestern maintains separate OATTs for its services in Montana and South Dakota. This proceeding addresses NorthWestern's Montana OATT services only. NorthWestern filed its Attachment K for its South Dakota operations in Docket No. OA07-110-001. We will address the NorthWestern-South Dakota filing in a separate order.

⁴ On June 17, 2008, the Funding Parties submitted an erratum to their December 7, 2007 filing to add an exhibit to the 2008-2009 NTTG Funding Agreement inadvertently omitted from their original filing.

⁵ These rate schedules were jointly filed in Docket Nos. OA08-54-000, OA08-55-000, OA08-56-000, and OA08-57-000 by Deseret, Idaho Power, NorthWestern, and PacifiCorp, respectively. Utah Associated Municipal Power Systems (UAMPS) is a non-public utility party to the NTTG Agreement.

(Black Hills) submitted an original rate schedule.⁶ The rate schedules reflect the addition of Black Hills and TransCanada Energy as new parties to the NTTG Agreement. Also, on May 22, 2008, the Funding Parties and Black Hills submitted revised rate schedules and Portland General Electric Company (PGE) submitted an original rate schedule.⁷ The rate schedules reflect the addition of PGE and Horizon Wind Energy (Horizon) as new parties to the NTTG Agreement.

3. Additionally, on December 7, 2007, each individual transmission provider⁸ submitted a transmission planning process as a proposed Attachment K to its OATT, as required by Order No. 890.⁹

4. In this order, we accept the NTTG Agreements and the Attachment K transmission planning compliance filings, subject to modifications and to further compliance filings, as discussed below. We will first discuss our findings related to the NTTG Agreements and then we will address the individual Attachment K transmission planning compliance filings.

⁶ These rate schedules were jointly filed in Docket Nos. OA08-54-001, OA08-55-001, OA08-56-001, and OA08-57-001 by Deseret, Idaho Power, NorthWestern, and PacifiCorp, respectively. Black Hills filed its rate schedule in Docket No. OA08-99-000.

⁷ These rate schedules were jointly filed in Docket Nos. OA08-54-002, OA08-55-002, OA08-56-002, OA08-57-002 and OA08-99-001 by Deseret, Idaho Power, NorthWestern, PacifiCorp and Black Hills, respectively. PGE filed its rate schedule in Docket No. OA08-118-000. We note that PGE made its Attachment K filing in Docket No. OA08-45-000 prior to becoming a party to the NTTG Agreements. As of the date of this order, PGE has yet to amend its Attachment K filing in Docket No. OA08-45-000 to reflect its participation in NTTG. Therefore, we will address its compliance filing in Docket No. OA08-45-000 in a separate order at a later date.

⁸ The Attachment K filed in Docket No. OA08-43-000, is a joint filing by Black Hills, Basin Electric Power Cooperative and Powder River Energy Corporation. For the purposes of discussion of the proposed Attachment K, "Black Hills" refers to all three of these transmission providers.

⁹ On December 11, 2007, in Docket No. OA08-31-001, NorthWestern filed to correct formatting errors in certain tariff sheets.

NTTG Agreements: Docket Nos. OA08-54-000, OA08-55-000, OA08-56-000, OA08-57-000, OA08-99-000 and OA08-118-000

I. Details of the Filings

5. Deseret, Idaho Power, NorthWestern, PacifiCorp, Black Hills and PGE (collectively, NTTG Filers) state that they each own and operate transmission facilities within a portion of the Northwest and Mountain states and that they are working to plan their transmission systems, through NTTG in conjunction with state governments, customers and other stakeholders, in order to increase efficient use of the grid and to develop the infrastructure needed to deliver new renewable and thermal power resources to customers.¹⁰

6. The NTTG Filers state that the NTTG Agreements, which are listed in the Appendix to this order, are being filed to complement the related filings of each transmission provider's Attachment K to its OATT in accordance with Order No. 890. According to the NTTG Filers, the agreements concern the planning process each NTTG Filer describes in its individual Attachment K filing.¹¹ The NTTG Filers therefore acknowledge that, when their filings become effective, the filed agreements will contain "rates, charges, classifications, services, rules, regulations or practices" that "affect or relate to" transmission service that is subject to the Commission's jurisdiction.¹² However, the NTTG Filers note that each of the formal agreements entered into specifically provide that there is no association, joint venture, or partnership created by the parties' agreement.¹³ Consequently, they state, there is no basis for Commission

¹⁰ The NTTG Filers note that NTTG's activities are managed by the NTTG Steering Committee, which is composed of representatives of the utility members of NTTG, together with representatives from the Idaho Public Utilities Commission, the Montana Consumer Counsel, the Montana Public Service Commission, the Oregon Public Utility Commission, the Utah Public Service Commission, and the Wyoming Public Service Commission.

¹¹ As noted above, PGE made its Attachment K filing in Docket No. OA08-45-000 prior to it becoming a party to the NTTG Agreements. As of this date of this order, PGE has yet to amend its Attachment K filing in Docket No. OA08-45-000 to reflect its participation in NTTG. Therefore, we will address its compliance filing in Docket No. OA08-45-000 in a separate order at a later date.

¹² November 30, 2007 Filing at 1-2 (*citing* 18 C.F.R. § 35.1(a) (2008)).

¹³ *Id.* at 6.

jurisdiction over NTTG, because there is no legal entity associated with NTTG apart from the member utilities and agencies themselves.¹⁴

7. In their November 30, 2007 filing, the NTTG Filers request that the NTTG Agreement and the 2007 Funding Agreement be made effective December 7, 2007 to coincide with the effective date of the NTTG Filers' Attachment K filings. In addition, they request that the 2008-2009 Funding Agreement be made effective on January 1, 2008. In the April 3, 2008 and May 22, 2008 filings, the NTTG Filers request effective dates of April 3, 2008 and May 22, 2008, respectively for the original and revised tariff sheets associated with the addition of new members to NTTG. Additionally, they request any necessary waiver of the requirements of Part 35 of the Commission's regulations because none of the terms or charges associated with the agreements apply directly to services provided under a Commission-jurisdictional tariff but concern agreements into which the NTTG Filers and other signatories have entered voluntarily to facilitate compliance with Order No. 890.

A. NTTG Agreement

8. The NTTG Filers state that the NTTG Agreement¹⁵ is a mechanism that allows members of NTTG, as well as interested customers and other parties, to carry out an open, transparent, coordinated transmission planning process for service and facilities involving the combined systems within NTTG. The NTTG planning process is designed to complement the individual transmission planning conducted by each of the NTTG members under their Attachment K transmission planning processes for their individual systems. The NTTG Agreement provides that NTTG will develop a ten-year integrated regional transmission plan for the NTTG footprint¹⁶ and update that plan on a biennial basis.¹⁷

9. Under section 2.1 of the NTTG Agreement, any entity engaged in the purchase or sale of electric transmission service in interstate commerce within the NTTG footprint is eligible to become a party to the NTTG Agreement. In addition, state regulatory

¹⁴ *Id.*

¹⁵ The NTTG Agreement is filed as Attachments 1, 4, 7, and 10 of the November 30, 2007 filing for Idaho Power, Deseret, NorthWestern and PacifiCorp, respectively, Attachment 9 of the April 3, 2008 filing for Black Hills, and Attachment 11 of the May 22, 2008 filing for PGE.

¹⁶ NTTG states that its footprint includes the states of Idaho, Montana, Oregon, Wyoming, and Utah. NTTG Agreement at Recital J.

¹⁷ NTTG Agreement at Recital K.

commission representatives, state consumer advocate group representatives and other state office representatives who have an interest in interstate transmission within the NTTG footprint may participate in the NTTG planning process without becoming a party to the NTTG Agreement or contributing funds. Section 4 provides that each member will appoint one representative to the NTTG Planning Committee, which manages the NTTG sub-regional planning process. Section 9 provides that the NTTG Agreement will terminate the earlier of December 31, 2009 or the date of termination of the Funding Agreement or any restatement mutually agreed to by the Funding Members.

10. In addition, section 11 of the NTTG Agreement includes a four-step dispute resolution process to be applied to all issues related to the NTTG planning process, including Steering Committee decisions on project and plan cost and benefit allocation (but excluding disputes concerning rights to withdraw from the NTTG Agreement).¹⁸ These four steps are: (1) executives representing the disputing parties gather to negotiate in good faith to resolve the dispute; (2) executives representing the disputing parties gather to negotiate in good faith with the participation of the NTTG Steering Committee; (3) if the first two steps are unsuccessful, the disputing parties will proceed to mediation in accordance with the dispute resolution procedures provided in the bylaws for the Western Electricity Coordination Council (WECC); and (4) if mediation is unsuccessful, disputing parties will participate in binding arbitration, using the arbitration procedures set forth in the bylaws for the WECC.

B. Funding Agreements

11. Two funding agreements provide the main source of funding to facilitate the NTTG planning process. The 2007 Funding Agreement,¹⁹ terminates effective December 31, 2007, and the 2008-2009 Funding Agreement,²⁰ is effective from January 1, 2008 through December 31, 2009.²¹

¹⁸ November 30, 2007 Filing at 8.

¹⁹ The 2007 Funding Agreement is filed as Attachments 2, 5, 8, and 11 of the November 30, 2007 filing for Idaho Power, Deseret, NorthWestern and PacifiCorp, respectively.

²⁰ The 2008-2009 Funding Agreement is filed as Attachments 3, 6, 9, and 12 of the November 30, 2007 filing for Idaho Power, Deseret, NorthWestern, and PacifiCorp, respectively.

²¹ UAMPS is also a party to the Funding Agreements. Black Hills and PGE are not parties to the Funding Agreements.

12. The Funding Parties state that, under the Funding Agreements, they commit to providing funds according to an initial estimated budget for two years of NTTG activities. Both Funding Agreements provide formulas for determining the amount each Funding Party will contribute.²² The Funding Parties also state that the Funding Agreements establish a process for revising the initial budget and approving significant increases, identify the process by which funds for NTTG activities are called for and delivered, and specify how the designed custodian of the NTTG funds will obtain approval to pay NTTG expenses. In addition, the Funding Parties note that Exhibit D of the Funding Agreements is the Northern Tier Finance Agent Agreement, under which Idaho Power has agreed to act as the finance agent for collecting and disbursing NTTG funds in accordance with the Funding Agreements.

II. Notice of Filing and Responsive Pleadings

13. Notice of the NTTG Filers' November 30, 2007 filing was published in the *Federal Register*, 73 Fed. Reg. 2470 (2008), with interventions and protests due on or before December 18, 2007. Electric Power Supply Association (EPSA) and Powerex Corporation filed timely motions to intervene in Docket Nos. OA08-54-000, OA08-55-000, OA08-56-000, OA08-57-000. PPL Montana, LLC and PPL EnergyPlus, LLC (collectively, PPL Companies) filed a timely motion to intervene and a protest of NorthWestern's filing in Docket No. OA08-56-000.²³ On January 22, 2008, NorthWestern filed an answer to PPL Companies' protest and on February 6, 2008, PPL Companies filed an answer to NorthWestern's answer.

14. Notices of the NTTG Filers' April 3, 2008 and May 22, 2008 filings were published in the *Federal Register*, 73 Fed. Reg. 20,283 (2008) and 73 Fed. Reg. 32,321 (2008), with interventions and protests due on or before April 8, 2008 and June 12, 2008. None was filed.

²² See 2007 Funding Agreement and 2008-2009 Funding Agreement at Original Sheet No. 17.

²³ PPL Companies submitted their protest in Docket Nos. OA08-31-000 and OA08-56-000, NorthWestern's Attachment K filing and NorthWestern's submittal of the NTTG Agreements, respectively. Issues specific to NorthWestern's filing in Docket No. OA08-31-000, not pertaining to the NTTG Agreements, are addressed below in the Docket No. OA08-31-000 discussion.

III. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept NorthWestern's and PPL Companies' answers and will, therefore, reject them.

B. Substantive Matters

1. Protest and Answers

16. PPL Companies argue that the NTTG dispute resolution procedure is contrary to the Commission's requirements. They state that in Order No. 890 the Commission encouraged transmission providers to develop a dispute resolution process that consists of negotiation, mediation, and arbitration.²⁴ Additionally, according to PPL Companies, the Commission explicitly noted that regardless of the process adopted by a transmission provider, affected parties would retain any rights they may have under section 206 of the FPA to file complaints with the Commission.²⁵ PPL Companies argue that the NTTG procedure outlined in section 11 of the NTTG Agreement is silent on when, or if, a party may file a complaint with the Commission. In addition, they argue that by failing to make it clear that a party reserves its right to file a complaint with the Commission, the NTTG Agreement violates the Commission's dispute resolution policies and should therefore be amended to include the following language: "[N]othing in this section shall restrict the rights of any party to file a Complaint with the Commission under the relevant provisions of the Federal Power Act."²⁶

2. Commission Determination

17. As discussed below, we accept the filing of the NTTG Agreements subject to modification and further compliance filings.

²⁴ PPL Companies Protest at 21-22 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 503).

²⁵ *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 503).

²⁶ *Id.* at 24.

18. Under the NTTG Agreement and the associated Funding Agreements, the NTTG Filers agree to work with one another, affected stakeholders, and state officials to improve operations of the transmission grid, increase the efficient and economical use of the transmission grid, and pursue infrastructure to deliver resources to customers. Parties to the NTTG Agreement will pursue a collaborative, step-by-step approach to transmission planning. The NTTG Agreement provides that parties will provide resources for the development of a 10-year integrated regional transmission plan, updated on a biennial basis in an open, coordinated, and transparent manner. It further provides that parties agree to use existing regional forums and organizations, as practicable in this process. The Commission supports these efforts to coordinate planning activities on a regional basis with broad support and participation by non-jurisdictional entities and state commissions. The increased coordination and transparency contemplated by the NTTG Agreement have the potential to improve reliability, operational efficiency, and expansion of the transmission grid.

19. With regard to the dispute resolution process contained in the NTTG Agreement, we agree with PPL Companies' argument that the proposed process affects parties' rights under FPA section 206 to file complaints with the Commission,²⁷ and therefore should be modified. While the NTTG dispute resolution process includes negotiations, mediation, and arbitration, the final step appears to require the parties to submit to binding arbitration; however, the proposed process does not address how parties will retain any rights they may have under FPA section 206 to file complaints with the Commission. Moreover, it is unclear to us how the WECC dispute resolution procedures can be utilized to address disputes that arise under the sub-regional planning process created pursuant to the NTTG Agreement, including whether a non-WECC member can effectively invoke the WECC dispute resolution procedures. Accordingly, the Commission directs the NTTG Filers to file, within 90 days of the date of this order, a compliance filing revising the dispute resolution process outlined in section 11 of the NTTG Agreement to ensure that any rights parties may have under FPA section 206 to file complaints with the Commission are retained, as well as explain how the WECC dispute resolution procedures can be utilized to address disputes that arise under the sub-regional planning process created pursuant to the NTTG Agreement, including whether a non-WECC member can effectively invoke the WECC dispute resolution procedures.

20. The Commission therefore finds the NTTG Agreement, modified as discussed above, and the associated Funding Agreements to be just and reasonable, and not unduly discriminatory. Further, for good cause shown,²⁸ we will grant the NTTG Filers' request for waiver of the prior notice requirement and accept the filings, effective December 7,

²⁷ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-503.

²⁸ See *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

2007, April 3, 2008, and May 22, 2008, subject to the NTTG Filers submitting a compliance filing, within 90 days of the date of this order, as discussed above.

Attachment K Filings: Docket Nos. OA08-23-000 (Idaho Power), OA08-28-000 (Deseret), OA08-31-000 & OA08-31-001 (NorthWestern), OA08-40-000 (PacifiCorp), and OA08-43-000 (Black Hills)

I. Background

21. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process.²⁹ To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment (Attachment K) to their OATTs.

22. As discussed more fully below, the nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. However, the Commission also explained that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process, and that all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules must be specific and clear to

²⁹ The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

facilitate compliance by transmission providers and place customers on notice of their rights and obligations.³⁰

II. Transmission Providers' Compliance Filings

23. The Attachment K transmission planning processes filed by Deseret, Idaho Power, NorthWestern, PacifiCorp and Black Hills (collectively, Transmission Providers) include local, sub-regional and regional components which, according to each transmission provider, provide for open, coordinated and comprehensive planning of their respective transmission systems together with the interconnected regional transmission system. For each of the nine principles, the Transmission Providers address the application of the principle to their local planning process.

24. In addition, as discussed more fully below in the section on regional participation, the Transmission Providers all state that they are members of NTTG and plan to conduct sub-regional transmission planning through their memberships in NTTG. Black Hills states that it will also participate in sub-regional planning activities performed by WestConnect and the Colorado Coordinated Planning Group (CCPG) to coordinate with its neighbors, which are members of those groups. With regard to regional economic planning, the Transmission Providers state that they will participate in the regional economic planning activities performed by WECC's Transmission Expansion Policy and Planning Committee (TEPPC) through their participation in NTTG. They represent that their local planning processes together with their participation in the NTTG (and, in the case of Black Hills, the CCPG and WestConnect) sub-regional transmission planning process and their participation in the WECC's TEPPC process meet the Commission's nine planning principles.

25. Idaho Power, Deseret, and NorthWestern request a December 7, 2007, effective date for their Attachment Ks. Black Hills and PacifiCorp request an effective date of December 8, 2007 and February 5, 2008, respectively, and request that any necessary waivers be granted to allow their respective Attachment Ks to become effective on those dates.

³⁰ As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need be codified in the transmission provider's OATT. Rules, standards and practices that relate to, but do not significantly affect, transmission service may be placed on the transmission provider's website, provided there is a link to those business practices on its Open Access Same-Time Information System (OASIS). *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in Attachment K and a reference to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

III. Notice of Filings and Responsive Pleadings

26. Notice of Idaho Power's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. PPM Energy, Inc., and the Electric Power Supply Association (EPSA) filed timely motions to intervene. On January 31, 2008, the American Wind Energy Association (AWEA) filed a motion to intervene out of time and comments. On February 15, 2008, Idaho Power filed an answer to AWEA's comments.

27. Notice of Deseret's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. EPSA filed a timely motion to intervene and on January 31, 2008, AWEA filed a motion to intervene out of time and comments.

28. Notices of NorthWestern's December 7, 2007 and December 11, 2007 filings were published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007) and 73 Fed. Reg. 2470 (2008), with interventions and protests due on or before December 28, 2007, and January 2, 2008, respectively. EPSA filed a timely motion to intervene and Great Northern Power Development, L.P. (Great Northern) filed a timely motion to intervene and comments. PPL EnergyPlus, LLC and PPL Montana, LLC (collectively, PPL Companies) filed a timely motion to intervene and protest. On January 22, 2008, NorthWestern filed an answer to PPL Companies' protest and on January 31, 2008, PPL Companies filed an answer to NorthWestern's answer. Additionally, on January 31, 2008, AWEA filed a motion to intervene out of time and comments.

29. Notice of PacifiCorp's filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. EPSA filed a timely motion to intervene. AWEA, the Renewable Northwest Project, Interwest Energy Alliance and West Wind Wires (collectively, AWEA Parties) filed a timely motion to intervene and protest.³¹

30. Notice of Black Hills' filing was published in the *Federal Register*, 72 Fed. Reg. 71,883 (2007), with interventions and protests due on or before December 28, 2007. EPSA filed a timely motion to intervene.

31. On December 20, 2007, the Commission issued a Notice of Extension of Time to file comments regarding the December 7, 2007 Order No. 890 Attachment K compliance filings up to and including January 7, 2008, which included the above-referenced dockets.

³¹ In their comments to the Transmission Providers' filings, AWEA and AWEA Parties oppose certain provisions of the proposed Attachment Ks. Accordingly, we will treat these comments as protests.

IV. Discussion

A. Procedural Matters

32. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 C.F.R. § 385.214(d) (2008), the Commission will grant AWEA's late-filed motions to intervene and comments, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

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

B. Substantive Matters

34. We find that the Transmission Providers' Attachment K transmission planning processes, with certain modifications, comply with each of the nine planning principles and other planning requirements adopted in Order No. 890. Accordingly, we accept the Transmission Providers' Attachment Ks to be effective December 7, 2007, subject to further compliance filings as discussed below. The Transmission Providers are each directed to file the respective compliance filing within 90 days of the date of issuance of this order.

35. While we accept the Transmission Providers' Attachment K transmission planning processes, we nevertheless encourage further refinements and improvements to the Transmission Providers' planning process as they and their customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

C. Compliance with Order No. 890's Planning Principles**1. Coordination**

36. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between 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. In its planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.³²

a. Transmission Providers' Filings

37. Idaho Power states that it will develop its local transmission plan using a two-year study cycle, based on a twenty-year planning horizon.³³ Idaho Power also states that it will conduct quarterly public meetings open to all stakeholders, including but not limited to eligible customers, other transmission providers, federal, state, and local commissions and agencies, trade associations, and consumer advocates to discuss and receive input on its local transmission plan.³⁴ Additionally, Idaho Power's Attachment K details the timing and sequence of events involved in developing its local transmission plan including its plans to obtain customer input early in the plan development process.³⁵

38. Deseret plans to develop its local transmission plan using a two-year study cycle that covers, at a minimum, a ten-year planning horizon.³⁶ Deseret's Attachment K provides a quarter-by-quarter description of activities that will be involved in the development of its local transmission plan, including study milestones and quarterly stakeholder meetings.³⁷

³² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

³³ Idaho Power Attachment K, section 2.1.

³⁴ *Id.* at section 3.3.

³⁵ *Id.* at section 3.2

³⁶ Deseret Attachment K, Part A section 1.1.

³⁷ *Id.* at Part A, sections 2.2 and 2.3.

39. NorthWestern states that it will prepare, with the input of interested stakeholders, one local transmission plan every two years based on a fifteen-year planning horizon.³⁸ NorthWestern also states that, during the development stage of its local transmission plan, it will have an open public process to allow communication with stakeholders and interested parties.³⁹ NorthWestern's Attachment K specifies the sequence of events and timelines, on a quarterly basis, for the development of its local transmission plan and for obtaining information from customers and input from stakeholders.⁴⁰

40. PacifiCorp's Attachment K provides for its local transmission plan, which will be based on a ten-year planning horizon, to be updated biennially.⁴¹ In addition, PacifiCorp intends to conduct a planning meeting, open to all stakeholders, during each quarter over the two-year planning cycle in order to present a status report on the transmission system plan, summarize the substantive results at each quarter, present drafts of documents, and/or receive comments.⁴²

41. According to Black Hills, its local planning process will be based on a one-year cycle and will cover a ten-year planning horizon.⁴³ In its Attachment K, Black Hills describes, on a quarterly basis, the sequence and timing of events involved in developing its local transmission plan, including how and when it will obtain stakeholder input on its plan.⁴⁴

b. Commission Determination

42. We find the planning processes outlined in the Transmission Providers' respective Attachment Ks satisfy the coordination principle outlined in Order No. 890. Specifically, the Transmission Providers' proposed Attachment Ks detail their local planning processes including how and when customers and interested stakeholders can provide

³⁸ NorthWestern Attachment K, section 2.1.

³⁹ *Id.* at section 2.2

⁴⁰ *Id.* at section 2.3.

⁴¹ PacifiCorp Attachment K, section 2.1.1.

⁴² *Id.* at section 2.1.5.

⁴³ Black Hills Attachment K, section 2.2.2.

⁴⁴ *Id.*

input in the early stages of the planning process.⁴⁵ Additionally, in their Attachment Ks the Transmission Providers have committed to establishing open lines of communication with their transmission providing neighbors, affected state authorities, customers and other stakeholders for effective participation in the transmission planning process.⁴⁶ In addition, as more fully discussed below under the regional participation principle, the Transmission Providers will coordinate with each other and with other non-jurisdictional transmission providers by providing information on their local single system projects to NTTG, and each will support NTTG's efforts to develop a coordinated sub-regional plan. The agreements under which the NTTG planning process and NTTG funding are established, as accepted for filing above, will be on file with the Commission and available for interested stakeholders. Further, under their respective Attachment K processes, the Transmission Providers also will coordinate on a regional basis using WECC's regional planning review and rating processes, as discussed further below.

2. Openness

43. 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.⁴⁷ Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.⁴⁸

⁴⁵ For example, Part A, section 2.2 of Deseret's Attachment K provides a quarter by quarter sequence of events in Deseret's two-year planning cycle, including how Deseret will gather customer input in Quarter 1 and post the basic methodologies, criteria and assumptions underlying its local plan in Quarter 2.

⁴⁶ *See, e.g.*, NorthWestern's Attachment K, sections 2.1.2, 2.2.2, and 2.4.2.

⁴⁷ The Commission stated in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

⁴⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

a. Transmission Providers' Filings

44. Each of the Transmission Providers state that its local transmission planning meetings will be public and open to all interested stakeholders.⁴⁹ In addition, each proposed Attachment K addresses adherence to applicable regulations for the handling and use of information including CEII⁵⁰ and confidential information, including requiring the execution of confidentiality agreements.⁵¹

b. Commission Determination

45. We find that the Transmission Providers' Attachment Ks provide an opportunity for all affected parties to participate in the transmission planning processes and, therefore, satisfy the openness principle set forth in Order No. 890. Moreover, as required by Order No. 890, the Transmission Providers' respective Attachment Ks also include a process to obtain access to confidential information and CEII consistent with the requirements.

3. Transparency

46. The transparency principle requires 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 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.⁵² The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different

⁴⁹ Idaho Power Attachment K, section 3.3; Deseret Attachment K, Part A, section 2.3; NorthWestern Attachment K, section 2.2.2; PacifiCorp Attachment K, section 2.1.5; Black Hills Attachment K, section 2.2.3.

⁵⁰ Idaho Power Attachment K, sections 11.2-11.3; Deseret Attachment K, Part A, section 10; NorthWestern Attachment K, section 2.2.4; PacifiCorp Attachment K, section 2.11.2; Black Hills Attachment K, section 2.3.

⁵¹ Idaho Power Attachment K, sections 11.2-11.3; Deseret Attachment K, Part A, section 10; NorthWestern Attachment K, section 2.2.4; PacifiCorp Attachment K, section 2.11.3; Black Hills Attachment K, section 2.3.

⁵² In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

purposes. Transmission providers also were directed to provide information regarding the status of upgrades identified in the transmission plan.

47. The Commission explained that sufficient information should 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. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand response resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.⁵³

a. Transmission Providers' Filings

48. The Transmission Providers all maintain that their respective Attachment Ks include a provision for maintaining a transmission planning folder on the publicly accessible portion of each Transmission Provider's OASIS to distribute information related to the Attachment K planning process.⁵⁴ These publicly accessible planning folders will include, among other information, information on study timelines and public meetings as well as draft, interim and final versions of the local transmission plan.⁵⁵ Each Transmission Provider's Attachment K provides, early in the planning cycle, for the defining and posting of the basic methodology, criteria, and process that each

⁵³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

⁵⁴ Idaho Power Attachment K, section 5; Deseret Attachment K, Part A, section 4; NorthWestern Attachment K, section 2.4.7; PacifiCorp Attachment K, section 2.5; Black Hills Attachment K, section 2.4.

⁵⁵ Idaho Power Attachment K, section 5.2; Deseret Attachment K, Part A, section 4.2; NorthWestern Attachment K, section 2.4.7; PacifiCorp Attachment K, section 2.5.2; Black Hills Attachment K, section 2.4.1.3.

Transmission Provider will use to craft its local transmission plan.⁵⁶ In addition, the proposed Attachment Ks address database access with regard to planning information.⁵⁷

b. Commission Determination

49. We find that the respective Attachment Ks comply with the transparency principle provided in Order No. 890. Each proposed Attachment K provides, early in the planning cycle, for the defining and posting of the basic methodology, criteria, and process that each Transmission Provider will use to craft its local transmission plan.⁵⁸

4. Information Exchange

50. 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 transmission providers in planning for their native load. Point-to-point customers are required to submit any projections they have of a need for service over the planning horizon and at what receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.⁵⁹ Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

51. The Commission also provided that, to the extent applicable, transmission customers should provide information on existing and planned demand resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand response resources if they wish to have them considered in the

⁵⁶ Idaho Power Attachment K, section 3.2.2 (Quarter 2); Deseret Attachment K, Part A, section 2.2 (Quarter 2); NorthWestern Attachment K, section 2.3.2.1 (Quarter 1); PacifiCorp Attachment K, section 2.2.2.2 (Quarter 2); Black Hills Attachment K, section 2.2.2.1.2 (Quarter 1).

⁵⁷ Idaho Power Attachment K, section 5.3; Deseret Attachment K, Part A, section 4.3; NorthWestern Attachment K, section 2.4.8; PacifiCorp Attachment K, section 2.5.3; Black Hills Attachment K, section 2.4.2.

⁵⁸ Idaho Power Attachment K, section 3.2.2 (Quarter 2); Deseret Attachment K, Part A, section 2.2 (Quarter 2); NorthWestern Attachment K, section 2.3.2.1 (Quarter 1); PacifiCorp Attachment K, section 2.2.2.2 (Quarter 2); Black Hills Attachment K, section 2.2.2.1.2 (Quarter 1).

⁵⁹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

development of the transmission plan. The Commission stressed that information collected by transmission providers to provide transmission service to their native load customers must be transparent, and equivalent information must be provided by other transmission customers to ensure effective planning and comparability. In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information. To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.⁶⁰

52. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange relates to planning, not other studies performed in response to interconnection or transmission service requests.⁶¹

a. Transmission Providers' Filings

53. With regard to information exchange, the Attachment Ks submitted by Idaho Power and Deseret require point-to-point transmission service customers to provide, during the first quarter of each planning cycle, their good faith load forecasts of energy to be transmitted in each direction across each posted transmission path for the planning horizon (i.e., 20 years for Idaho Power customers and 10 years for Deseret customers).⁶² In addition, network service customers⁶³ are required to submit their projected loads and resources, and load growth expectations.⁶⁴ Idaho Power's and Deseret's Attachment Ks also provide that network customers may satisfy the obligation to provide forecasts by

⁶⁰ *Id.* P 206.

⁶¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

⁶² Idaho Power Attachment K, section 4.1.1; Deseret Attachment K, Part A, section 3.1.1.

⁶³ Deseret notes that it does not currently have any network integration transmission service customers. Deseret Transmittal Letter at 3.

⁶⁴ Idaho Power Attachment K, section 3.2.1; Deseret Attachment K, Part A, section 2.2.1.

submitting annual updates.⁶⁵ Further, Idaho Power's Attachment K requires it to gather its own projections for its native load needs during the first quarter of the eight-quarter planning cycle.⁶⁶ Similarly, under its Attachment K, Deseret will gather information comparable to that to be provided by its customers in order to evaluate the needs of its native load customers.⁶⁷ Both Idaho Power and Deseret will collect data for all customers, including their native load customers, on existing and planned demand resources and their impacts on demand and peak demand.⁶⁸

54. Information exchange principles for network customers, point-to-point transmission service customers, and load serving entities are outlined in section 2.5 of NorthWestern's Attachment K. Specifically, NorthWestern's Attachment K requires its customers to submit their good faith fifteen-year monthly energy and peak load forecast data, demand response data and generation and/or sources of supply data during the first quarter of NorthWestern's two-year planning cycle.⁶⁹ In addition, during the first quarter NorthWestern, on behalf of its native load customers, will gather data concerning existing and planned demand resources and their impact on demand and peak demand.⁷⁰

55. Under PacifiCorp's Attachment K, during the first quarter of each planning cycle point-to-point transmission service customers are required to submit to PacifiCorp their good faith ten-year forecast of their transmission service needs.⁷¹ Network transmission service customers are required to submit their good faith ten-year forecast including existing and planned demand resources and their impact on demand and peak demand.⁷² Similarly, PacifiCorp, on behalf of its native load customers, will provide its good faith ten-year load and resources forecast including existing and planned demand resources and their impact on demand and peak demand.⁷³

⁶⁵ *Id.*

⁶⁶ Idaho Power Attachment K, section 3.2.1.

⁶⁷ Deseret Attachment K, Part A, section 2.2.1.

⁶⁸ Idaho Power Attachment K, section 3.2.1; Deseret Attachment K, Part A, section 2.2.1.

⁶⁹ NorthWestern Attachment K, section 2.5.1.

⁷⁰ *Id.* at section 2.3.2.1.1.

⁷¹ PacifiCorp Attachment K, section 2.3.1.1.

⁷² *Id.* at section 2.3.1.2.

⁷³ *Id.* at section 2.3.1.3.

56. Under the Black Hills Attachment K, transmission customers are required to submit data annually on their projected load and resources. Network transmission service customers are required to supply their ten-year monthly energy, peak, load and resource, and minimum land and resource forecast data.⁷⁴ Point-to-point and other transmission customers must provide their ten-year forecast of projected use of rollover of existing reservations and any expected additional reservations.⁷⁵ Transmission customers are also required to provide data from their own generators, demand response resource savings, conservation savings and other customer load reduction alternatives.⁷⁶ In addition, Black Hills states that it will gather its projected load and resource needs for its native load customers.⁷⁷ All transmission customers, including Black Hills on behalf of its native load, are required to provide existing and planned demand resources.⁷⁸

57. The proposed Attachment Ks recognize the importance of information exchange to the planning process. Idaho Power, Deseret, NorthWestern, and Black Hills note that failure of an eligible customer or stakeholder to provide the data required by Attachment K will result in the transmission provider's inability to effectively include the needs of that customer or stakeholder in its planning obligations and will result in the transmission provider using the most recent load and resource data received.⁷⁹ Similarly, PacifiCorp states that if an eligible customer or stakeholder fails to provide required data, PacifiCorp will use the most recent data received, adjusted for recent observed network customer usage patterns.⁸⁰

b. Commission Determination

58. We find that the respective Attachment Ks comply with the information exchange principle provided in Order No. 890. Under each proposed Attachment K, network customers are required to provide projected loads and resources and point-to-point

⁷⁴ Black Hills Attachment K, section 2.3.1.2.

⁷⁵ *Id.* at section 2.3.1.3.

⁷⁶ *Id.* at section 2.3.1.4 - 2.3.1.5.

⁷⁷ *Id.* at section 2.2.2.1.

⁷⁸ *Id.*

⁷⁹ Idaho Power Attachment K, section 4.2; Deseret Attachment K, Part A, section 3.2; NorthWestern Attachment K, section 2.5.7; Black Hills Attachment K, section 2.3.5.2.

⁸⁰ PacifiCorp Attachment K, section 2.3.2.

customers are required to provide their projected need for service over the same planning horizon and in the same format as the Transmission Provider uses for its native load.⁸¹ Additionally, the Transmission Providers state that they will collect data concerning existing and planned demand resources for inclusion in their local plans. Accordingly, we find that the Transmission Providers' guidelines for the submittal of customer information comply with the information exchange principle described in Order No. 890.

5. Comparability

59. The comparability principle requires 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. In Order No. 890, the Commission expressed concern that transmission providers have historically planned their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. Through the comparability principle, the Commission required that the interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a basis comparable to the service provided by generation resources where appropriate.⁸² Lastly, in Order No. 890-A, the Commission clarified that, as part of its Attachment K planning process, each transmission provider is required to identify how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.⁸³

a. Transmission Providers' Filings

60. Idaho Power, Deseret, and NorthWestern each state that the purpose of its Attachment K is to develop a transmission plan that meets the needs of its transmission customers on a basis comparable to its own merchant function's needs. They state that comparability implicates each of the eight other planning principles and they believe that

⁸¹ *See, e.g.*, NorthWestern's Attachment K, section 2.5.

⁸² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

⁸³ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

they have achieved comparability by satisfying the other eight planning principles.⁸⁴ Specifically, they state that their planning processes are fully open to all stakeholders and that their Attachment Ks require them to post the underlying methodologies, criteria, assumptions, databases and processes, and to make the local transmission plans transparent by posting on OASIS. They assert that their Attachment Ks require eligible customers to provide the necessary data to each Transmission Provider so that it can plan for the needs of its customers on a comparable basis. They each conclude that they seek full input and participation from eligible customers and other stakeholders in all stages of the planning process in order to achieve comparability in the development of transmission plans that fully meet the needs of all of their customers on the same basis as their merchant functions.

61. PacifiCorp's Attachment K provides that its planning process is fully open to all stakeholders.⁸⁵ Under PacifiCorp's Attachment K, PacifiCorp is required to post the underlying methodologies, criteria, assumptions, databases and processes, and to make the local transmission plans transparent by posting on OASIS.⁸⁶ PacifiCorp's Attachment K also requires PacifiCorp to gather network customers' projected loads and resources and load growth expectations, and point-to-point transmission service usage at each receipt and delivery point,⁸⁷ along with PacifiCorp's projected load growth and resource needs for its native load customers, to be used in developing its transmission system plan. PacifiCorp asserts that its proposed planning process includes all of the relevant requirements of Order No. 890.

62. Black Hills states that under its proposed Attachment K all valid customer data will be included and equally considered in the database used in the reliability assessment to help to ensure that all customers are treated in a comparable and non-discriminatory manner.⁸⁸ Section 2.3.6 of its Attachment K (Comparability of Data) provides that the same type of data request will be sent by the transmission provider to all customers and

⁸⁴ See Idaho Power Transmittal Letter at 10 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Transmission Planning Process Staff White Paper, Docket No. RM05-17-000, RM05-25-000 (issued Aug. 2, 2007) (Staff White Paper); Deseret Transmittal Letter at 10 (same); NorthWestern Transmittal Letter at 7 (same).

⁸⁵ PacifiCorp's Attachment K, section 2.11.1.

⁸⁶ *Id.* at section 2.2.2.2.

⁸⁷ *Id.* at section 2.2.2.1.

⁸⁸ Black Hills Transmittal Letter at 3.

that the transmission provider will include all valid data, along with appropriate comments on data received from transmission customers.

b. Commission Determination

63. Our review of the Attachment Ks filed by PacifiCorp and Black Hills indicates that the Transmission Providers generally comply with the comparability principle stated in Order No. 890 because their planning processes treat similarly-situated customers comparably in transmission system planning. With regard to Idaho Power, Deseret and NorthWestern, while it appears that their Attachment Ks also generally meet the comparability principle, the statement that they will develop a transmission plan that “meets the needs of its transmission customers on a basis comparable to its own merchant function’s needs”⁸⁹ appears to misapprehend the requirement of the comparability principle that transmission plans must treat similarly-situated customers (e.g., network and retail native load) comparably. Accordingly, we direct Idaho Power, Deseret and NorthWestern to file within 90 days of issuance of this order, a compliance filing clarifying how their transmission plans treat similarly-situated customers comparably under Order No. 890.

64. In addition, we note that Order No. 890-A was issued on December 27, 2007, subsequent to the Transmission Providers submitting their Order No. 890 Attachment K compliance filings. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to identify as part of its Attachment K planning process “how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.”⁹⁰ Here, the Transmission Providers have not addressed how they will treat demand resources comparably. However, since Order No. 890-A was issued subsequent to the filings before us, the Transmission Providers did not have an opportunity to demonstrate that they comply with this requirement of Order No. 890-A. Therefore, the Transmission Providers are directed to file within 90 days of issuance of this order, a compliance filing providing the necessary demonstration required by Order No. 890-A.⁹¹

⁸⁹ Idaho Power Transmittal Letter at 10; Deseret Transmittal Letter at 10; NorthWestern Transmittal Letter at 7.

⁹⁰ Order No. 890-A, FERC Stats & Regs. ¶ 31,261 at P 216; *see also* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 479, 487, 494 and 549.

⁹¹ For example, tariff language should provide for participation throughout the transmission planning process by sponsors of transmission solutions, generation solutions, and solutions utilizing demand resources.

6. Dispute Resolution

65. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a three-step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.⁹²

a. Transmission Providers' Filings

66. The Attachment Ks submitted by Idaho Power, Deseret, and PacifiCorp describe a process to be used before a party may initiate a hotline complaint or a formal complaint with the Commission to address procedural and substantive concerns over each of the transmission provider's compliance with its Attachment K.⁹³ First, any party may initiate the dispute resolution process by sending a letter to the transmission provider who will set up a meeting with the senior representatives from the disputing parties to engage in direct negotiations. Second, if negotiations are unsuccessful, the next step will be mediation unless a party waives mediation. The parties may request that the Commission's Dispute Resolution Service be used. Third, if mediation is not successful or is waived, a party may initiate complaint proceedings at the Commission within 180 days of completion of the second step.

67. NorthWestern and Black Hills have three-step dispute resolution processes which apply to disputes that arise from the transmission providers' local system planning processes.⁹⁴ Step one involves negotiation and step two involves mediation. If both of those steps are unsuccessful, the third step is binding arbitration. The mediation and arbitration steps are both as defined in Appendix C of the WECC bylaws. Under

⁹² Order No. 890, FERC Stats. & Regs. ¶ 31,241 P 501-03.

⁹³ See Idaho Power Attachment K, section 9.1; Deseret Attachment K, Part A, section 8.1; PacifiCorp Attachment K, section 2.9.1.

⁹⁴ See NorthWestern Attachment K, section 2.8; Black Hills Attachment K, section 2.7.

NorthWestern's dispute resolution provision, the three-step process must be used before a party may file a complaint with the Commission.⁹⁵ Similarly Black Hills' provision provides that its three-step dispute resolution process must be completed before a party may initiate a hotline complaint or a formal complaint with the Commission.⁹⁶

b. Protest, Comments and Answers

68. PPL Companies claim NorthWestern's proposed dispute resolution process violates the Commission's dispute resolution policy by failing to give parties the opportunity to file a complaint with the Commission during the mediation or negotiation process before entering into binding arbitration and by requiring parties to submit to binding arbitration prior to filing a complaint with the Commission. PPL Companies assert that Commission staff guidance recommends that parties should be given the opportunity to file a complaint with the Commission during the mediation or negotiation stage.⁹⁷ Additionally, PPL Companies assert that, under NorthWestern's proposed process, parties will be bound by the outcome of the arbitration and, therefore, would be limited in their ability to file a meaningful complaint with the Commission. They propose that NorthWestern adopt the Commission staff's recommendation and clarify that its dispute resolution procedures are not intended to restrict the rights of any party under section 206 of the FPA. They also request that the Commission direct NorthWestern to include the following language, as set forth in the dispute resolution procedures of the *pro forma* OATT, in its Attachment K: "Nothing in this section shall restrict the rights of any party to file a Complaint with the Commission under the relevant provisions of the Federal Power Act."⁹⁸ PPL Companies request that the Commission set this issue for hearing, but hold the hearing in abeyance to allow interested parties to address the issues in settlement judge proceedings.

69. While Great Northern states that NorthWestern's Attachment K appears to be generally in compliance with Order No. 890, it requests clarification of two aspects of the proposed dispute resolution procedures. First, Great Northern notes that section 2.8.1 of NorthWestern's Attachment K provides that the dispute resolution procedures apply to disputes that arise from NorthWestern's local system planning. Great Northern requests clarification as to whether there are any matters that may arise under Attachment K that would not be subject to the proposed dispute resolution procedures, the scope of such

⁹⁵ NorthWestern Attachment K, section 2.8.2.

⁹⁶ Black Hills Attachment K, section 2.7.3.

⁹⁷ PPL's Protest at 22 (citing Staff White Paper at 11-12).

⁹⁸ *Id.* at 24 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at *pro forma* OATT section 12.5).

matters, and whether this complies with the requirements of Order No. 890. Great Northern notes, for example, that in Order No. 890 the Commission required transmission providers to disclose to all customers and other stakeholders the basic criteria, assumptions, and data that underlie their transmission plans, as part of satisfying the transmission planning transparency principle.⁹⁹ Great Northern seeks clarification that the proposed dispute resolution procedures apply to issues that may arise regarding the basic criteria, assumptions, and data that underlie NorthWestern's transmission system plans, including NorthWestern's exercise of discretion in implementing the methodology, criteria, and processes developed pursuant to Order No. 890. Second, Great Northern requests clarification as to the binding nature of the arbitration procedure and, in particular, clarification that affected parties will not be requested to waive any rights under section 206 of the FPA.

70. In response to PPL Companies' protest, NorthWestern argues that PPL Companies comments are untimely and inappropriate and should be rejected. NorthWestern states that it posted strawman versions of its Attachment K and held several open meetings prior to filing its Attachment K, but PPL Companies did not submit any comments before it filed its protest. Next, NorthWestern argues that its dispute resolution provisions are consistent with the policy underlying Order No. 890 and that granting PPL Companies' request would undermine the integrity of the alternative dispute resolution process by allowing parties to circumvent the process in the early stages. NorthWestern maintains that issues related to transmission planning should be addressed by key stakeholders in an open transparent manner without Commission intervention. According to NorthWestern, allowing Commission intervention in the early stages would be equivalent to having no dispute resolution at all.¹⁰⁰

c. Commission Determination

71. As a preliminary matter, we will address Great Northern's request for clarification as to whether there are any matters that may arise under NorthWestern's Attachment K that would not be subject to the proposed dispute resolution procedures and the scope of such matters. As noted above, the dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process and must be available to address both procedural and substantive planning issues. NorthWestern states that its plan applies to disputes that arise from its local system

⁹⁹ Great Northern Comments at 4 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471).

¹⁰⁰ NorthWestern Answer at 14.

planning process.¹⁰¹ The Commission interprets this to mean that NorthWestern's proposed dispute resolution process applies to procedural and substantive planning issues, including those that may arise regarding the basic criteria, assumptions, and data that underlie NorthWestern's transmission system plans, as well as to NorthWestern's exercise of its discretion in implementing the methodology, criteria, and processes.

72. Turning to whether the Transmission Providers' proposed dispute resolution procedures comply with the dispute resolution principle established in Order No. 890, we find the dispute resolution procedures submitted by the Transmission Providers to be in partial compliance with the dispute resolution principle provided in Order No. 890.

73. In Order No. 890, the Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a three-step dispute resolution process, consisting of negotiation, mediation, and arbitration. However, the Commission made clear that all affected parties should retain any rights they may have under FPA section 206 to file complaints with the Commission.¹⁰² Here, the Transmission Providers have all developed processes for resolving disputes relating to transmission planning. While we encourage the parties to seek the resolution of issues related to planning through a three-step process of negotiation, mediation, and arbitration, we find that the Transmission Providers have proposed processes that may inappropriately affect the ability of a party to exercise its rights under section 206 of the FPA. Therefore, we direct the Transmission Providers to revise their dispute resolution procedures to preserve the rights of a party to exercise its rights under section 206 of the FPA.¹⁰³

74. Further, NorthWestern and Black Hills propose to use Appendix C of the WECC bylaws in the mediation and arbitration steps of their dispute resolution procedures;

¹⁰¹ The Transmission Providers, in addressing regional planning, state that they will participate in the NTTG dispute resolution process to resolve disputes related to the integration of each of their local transmission plans with the sub-regional expansion plan and that regional dispute resolution will be pursuant to the process developed by WECC. As noted in the above discussion on the NTTG Agreements, Transmission Providers must explain on compliance how the WECC dispute resolution procedures can be utilized to address disputes that arise under the sub-regional planning process created pursuant to the NTTG Agreement, including whether a non-WECC member can effectively invoke the WECC dispute resolution procedures.

¹⁰² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

¹⁰³ Because we have directed NorthWestern to revise its dispute resolution process to preserve parties' rights under section 206, PPL Companies' request for hearing on this issue is now moot.

however, as we note above, it is unclear how the WECC dispute resolution procedures would apply to address disputes outside of WECC or that may involve non-WECC members.¹⁰⁴ Accordingly, we direct NorthWestern and Black Hills to submit a compliance filing revising their dispute resolution provisions to address how the WECC dispute resolution procedures would apply in a dispute over the local transmission plan.

7. Regional Participation

75. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and sub-regions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent a transmission provider's implementation of the NERC processes is not appropriate for such economic issues, individual regions or sub-regions must develop alternative processes.¹⁰⁵

76. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.¹⁰⁶ In Order No. 890-A, the Commission also emphasized that effective regional planning should include coordination among regions and sub-regions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.¹⁰⁷

¹⁰⁴ See *supra* note 101.

¹⁰⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

¹⁰⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

¹⁰⁷ *Id.*

a. **Transmission Providers' Filings**

77. The Transmission Providers state that they are members of NTTG and use the NTTG process for sub-regional planning and coordination with adjacent sub-regional groups.¹⁰⁸ Each Transmission Provider states that it will provide NTTG with its local transmission plan and that NTTG will conduct its planning process to identify needs, least cost expansion project alternatives, technical benefits, and projected costs.¹⁰⁹ According to the Transmission Providers, specifics of the NTTG planning process are available on NTTG's website at www.nttg.biz.¹¹⁰

78. In addition, the Transmission Providers state that eligible customers and stakeholders may participate directly in the NTTG planning process or they may participate indirectly through a Transmission Provider via development of a Transmission Provider's local transmission plan. Eligible Customers and stakeholders may comment on NTTG study criteria, assumptions, or results either through direct participation in NTTG or indirectly by submitting comments to a Transmission Provider to be evaluated and consolidated with the Transmission Provider's comments on the sub-regional plan, criteria and assumptions.¹¹¹ They also state that they will post the dates of the current NTTG study cycle on their OASIS, along with notices for the upcoming sub-regional planning meetings which are open to all parties. In addition, Idaho Power, Deseret, NorthWestern and PacifiCorp state that they will maintain links to NTTG's website on their OASIS.¹¹² Additionally, the Transmission Providers state that they will participate in the NTTG dispute resolution process to resolve disputes related to the integration of

¹⁰⁸ Idaho Power Attachment K, section 12; Deseret Attachment K, Part B, Introduction; NorthWestern Attachment K, section 3; PacifiCorp Attachment K, section 3.1; Black Hills Attachment K, section 3.1.1.

¹⁰⁹ Idaho Power Attachment K, section 12; Deseret Attachment K, Part B, section 1; NorthWestern Attachment K, section 3.1.1; PacifiCorp Attachment K, section 3.2.1; Black Hills Attachment K, section 3.1.2.1.

¹¹⁰ Idaho Power Attachment K, section 12; Deseret Attachment K, Part B, section 1; NorthWestern Attachment K, section 3.1.1; PacifiCorp Attachment K, section 3.2.; Black Hills Attachment K, section 3.1.1.1.

¹¹¹ *Id.*

¹¹² Idaho Power Attachment K, section 13; Deseret Attachment K, Part B, section 2; NorthWestern Attachment K, section 3.2.1; PacifiCorp Attachment K, section 3.3.

each of their local transmission plans with the sub-regional expansion plan.¹¹³ For regional disputes, the Transmission Providers state that such disputes will be resolved pursuant to the process developed by WECC.¹¹⁴

79. With regard to sub-regional planning, Black Hills adds that its transmission system is located primarily in Northeast Wyoming and Western South Dakota with interconnections with neighboring transmission systems in both Wyoming and Nebraska. The neighboring transmission systems are owned and operated by entities which are members of either the NTTG or CCPG and WestConnect. According to Black Hills, due to the importance of coordinating transmission planning activities with neighboring transmission systems in a sub-regional context, it will participate in the NTTG, CCPG, and WestConnect sub-regional planning groups. Black Hills explains that CCPG is a joint, high voltage transmission planning forum for the purpose of assuring a high degree of reliability in the planning, development, and operation of the high voltage transmission system in the Rocky Mountain Region. CCPG has a footprint encompassing Colorado, Wyoming, and Western South Dakota. Black Hills states that the goal of the WestConnect Regional Planning Work Group is to promote effective transmission planning within the sub-region comprised of the WestConnect footprint. According to Black Hills, this goal is accomplished through coordination with CCPG, SWAT, and Sierra Coordinated Planning Group sub-regional planning groups.

80. Additionally, Black Hills states that all stakeholders may participate in the CCPG sub-regional planning process through attendance of CCPG meetings or through Black Hills. Further, CCPG meetings are held three times per year and are open to any provider of transmission services, any eligible customer, any state utility commission, and any interested party.¹¹⁵ Regarding WestConnect, Black Hills states that all stakeholders may participate in the WestConnect planning process through participation in two public stakeholder meetings held each year or by providing input to Black Hills for submission to WestConnect.

¹¹³ Idaho Power Attachment K, section 16; Deseret Attachment K, Part B, section 5; NorthWestern Attachment K, section 3.5; PacifiCorp Attachment K, section 3.6; Black Hills Attachment K, section 3.1.6.

¹¹⁴ Idaho Power Attachment K, section 22; Deseret Attachment K, Part C, section 5; NorthWestern Attachment K, section 4.5; PacifiCorp Attachment K, section 4.6; Black Hills Attachment K, section 4.6.

¹¹⁵ Black Hills Attachment K, section 3.2.4.

81. With regard to regional economic planning, the Transmission Providers state that they will coordinate through the WECC's TEPPC¹¹⁶ process for regional economic planning through their participation in NTTG.¹¹⁷ According to Idaho Power, Deseret, NorthWestern and PacifiCorp, the TEPPC's transmission economic planning protocol and information are available on the WECC TEPPC website.¹¹⁸ Black Hills states that the TEPPC's transmission economic planning protocol will be available by document or link on Black Hills's OASIS.¹¹⁹ Idaho Power also states that a link to the TEPPC website is maintained on its OASIS.¹²⁰ NTTG's planning charter provides that NTTG, in addition to coordinating through the WECC's TEPPC process, will coordinate with other sub-regional groups including Northwest Transmission Assessment Committee (NTAC), the California Independent System Operator Corporation, ColumbiaGrid, WestConnect, CCPG, and Southwest Area Transmission group (SWAT).¹²¹

b. Protests and Answers

i. AWEA and AWEA Parties, Protest

82. AWEA argues that each Transmission Providers' Attachment K planning process does not adequately detail how regional coordination will occur, and thus does not satisfy the requirements of Order No. 890.¹²² Specifically, AWEA argues that the Attachment Ks do not adequately address coordination because there is no formal process established

¹¹⁶ WECC organized TEPPC to provide west-wide study and data services, and to provide coordination and transmission planning leadership across the Western Interconnection. *See* Transmission Planning Protocol of the Western Electric Coordination Council TEPPC section 3.4.

¹¹⁷ Idaho Power Attachment K, section 18; Deseret Attachment K, Part C, section 1; NorthWestern Attachment K, section 4.1.1; PacifiCorp Attachment K, section 4.2; Black Hills Attachment K, section 4.2.

¹¹⁸ Idaho Power Attachment K, section 19; Deseret Attachment K, Part C, section 2; NorthWestern Attachment K, section 4.2.1; PacifiCorp Attachment K, section 4.3.

¹¹⁹ Black Hills Attachment K, section 4.2.

¹²⁰ Idaho Power Attachment K, section 19.

¹²¹ *See* Idaho Power Transmittal Letter at 7-8 (describing NTTG coordination responsibilities under the NTTG planning charter).

¹²² AWEA filed separate protests on the Attachment K filings made by Idaho Power, Deseret and NorthWestern raising the same issues.

between the sub-regional planning groups, NTTG, ColumbiaGrid, and NTAC, in the Pacific Northwest. AWEA requests that the Commission require Idaho Power, Deseret, and NorthWestern to work with other transmission providers in the Northwest to develop a formal process for coordination between these sub-regional transmission planning groups.

83. In comments on the PacifiCorp Attachment K, the AWEA Parties argue that PacifiCorp has not adequately detailed the coordination of NTTG with TEPPC, or with Columbia Grid and NTAC. AWEA Parties assert that given the significant overlap of service territories covered by NTTG, ColumbiaGrid, and NTAC, the best solution for the Northwest is to work towards a single sub-regional transmission planning group. Absent that, AWEA states, the Commission should require PacifiCorp to work with other transmission provider members of NTTG, Columbia Grid, and NTAC to develop a strong coordination process for the transmission planning groups in the Northwest sub-region.

84. AWEA Parties also assert that PacifiCorp's Attachment K does not detail a process that can ensure that all necessary information will be shared among NTTG, ColumbiaGrid, and NTAC in a timely way, so that plans will be coordinated to avoid duplication. According to AWEA Parties, such details should include timelines and frequency of coordination meetings, how and when the exchange of information among groups will take place, and opportunities for stakeholders to participate, review, and provide comments.

85. In response, Idaho Power states that AWEA's protest should be rejected as untimely. Idaho Power disputes AWEA's argument that there is insufficient detail regarding how Idaho Power and NTTG will coordinate with ColumbiaGrid and NTAC. Idaho Power maintains that its Attachment K explains that it is a member of NTTG, and that it uses the NTTG process for sub-regional planning, for coordination with adjacent sub-regional groups, and for proposals to the WECC's TEPPC process to coordinate regional planning. Idaho Power also states that its transmittal letter explains in detail how transmission plans will be coordinated vertically between the local, sub-regional and regional planning entities, and how local and sub-regional transmission plans will be coordinated horizontally.¹²³ Idaho Power asserts that its Attachment K clearly identifies its responsibilities for planning and that its transmittal letter explains the local, sub-regional, and regional planning context in which it will implement its planning responsibilities, and references the NTTG and WECC TEPPC charters.

ii. PPL Companies Protest

86. In their protest of NorthWestern's filing, PPL Companies argue that NorthWestern's proposed Attachment K lacks a proper regional planning component and

¹²³ Idaho Power Answer at 4 (citing Idaho Power Transmittal Letter at 11-12).

adds a sub-regional component that adds complexity, reduces transparency, and is inconsistent with WECC's existing sub-regions. They state that section 4 of NorthWestern's proposed Attachment K indicates that NorthWestern will coordinate, through its participation in NTTG, with the WECC's TEPPC for regional planning. According to PPL Companies, NorthWestern's commitment to the TEPPC planning process and the extent to which NorthWestern will directly participate in that process are unclear. They assert that NorthWestern provides little detail regarding its intended level of participation in the TEPPC study process, its commitment to the success of that process, and how the process will serve the needs of its transmission customers. Additionally, PPL Companies argue that the WECC's TEPPC planning process is not final.

87. With regard to NorthWestern's participation in NTTG, PPL Companies state that, as the Transmission Providers made clear in filing the NTTG agreements, the Commission does not have jurisdiction over NTTG and there is no legal entity associated with NTTG apart from the individual members to be held accountable for transmission planning problems. They add that the NTTG Planning Agreement expires on December 31, 2009 and it is unclear whether the NTTG sub-regional process will exist after 2009. Moreover, PPL Companies state, WECC already has in place sub-regional reporting areas and, as a member of WECC, NorthWestern is bound by the WECC bylaws to participate in WECC's regional planning activities.¹²⁴ They assert that if a sub-regional planning process is needed, NorthWestern should rely on existing sub-regional groups within the WECC such as the Northwest Power Pool (NWPP), which is more consistent with historical practice and physical transfiguration of the transmission grid. PPL Companies request that the Commission reject NorthWestern's proposed reliance upon the NTTG as its sub-regional planning coordinator.

88. In response to PPL Companies' protest, NorthWestern states that the WECC's TEPPC has recognized NTTG as a sub-regional planning group¹²⁵ and that in Order No. 890 the Commission acknowledged that in very large regions there may be both sub-regional and regional processes.¹²⁶ NorthWestern asserts that through its Attachment K and the NTTG Agreements filing, the scope of the sub-regional process and coordination among sub-regions is adequately demonstrated. Regarding PPL Companies' statement that NTTG is inconsistent with WECC's existing sub-regions, NorthWestern argues that the WECC sub-regions have evolved because of common interests and convenience and can be redesigned if needed. NorthWestern also states that it fully supports using the NWPP's NTAC for coordination among NTTG, ColumbiaGrid, and the Canadian

¹²⁴ PPL Companies Protest at 11.

¹²⁵ NorthWestern Answer at 8 (citing TEPPC Protocol, section 4.2).

¹²⁶ *Id.* at 8 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

utilities; however, accepting PPL Companies' suggestion to use NWPP instead of NTTG and ColumbiaGrid would unwind the sub-regional processes that have been developed, would be a significant detriment to fulfilling the regional coordination requirements of Order No. 890, and would yield no benefit. NorthWestern concludes that while PPL Companies have questioned its commitment to the WECC's TEPPC process, NorthWestern is currently participating in the WECC Operating Committee, Planning Committee, Market Interface Committee, TEPPC, and sub-committees.

89. In response, PPL Companies argue that NorthWestern's answer failed to provide evidence to demonstrate why NWPP is not workable as a sub-regional planning group or how NTTG adequately takes into account the existing institutions and physical characteristics of the regional transmission grid. PPL Companies also claim that the NTTG Planning Committee Charter provides very little detail regarding coordination and has not been filed with the Commission for review and approval.¹²⁷

c. Commission Determination

90. We find the proposed Attachment Ks to generally comply with the regional participation principle provided in Order No. 890. As required by Order No. 890, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each Transmission Provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data and (ii) identify system enhancements that could relieve congestion or integrate new resources. To meet this requirement, the Transmission Providers state that they will coordinate with NTTG on a sub-regional basis by submitting their local transmission plans to NTTG to be used to develop a coordinated sub-regional plan to meet the needs of the NTTG members, their customers, and other stakeholders in the NTTG footprint. The Transmission Providers state that eligible customers and stakeholders may participate in the NTTG sub-regional planning process and may comment on NTTG's study criteria, assumptions, or results either through direct participation with NTTG or by submitting comments to their Transmission Provider to be evaluated and consolidated with the Transmission Provider's comments on the sub-regional plan, criteria, and assumptions. They also state that NTTG will coordinate with neighboring sub-regional groups, including ColumbiaGrid and NTAC, and will coordinate with WECC on its regional planning process. Black Hills states that it will also participate in the CCPG and WestConnect sub-regional planning processes and that interested stakeholders may participate in these sub-regional processes. With regard to regional planning, the Transmission Providers state that they will coordinate with the WECC's TEPPC for regional economic planning through their participation in NTTG.

¹²⁷ PPL Companies Answer at 5-6.

91. The Commission supports the Transmission Providers' efforts to coordinate their planning activities through NTTG. As we recognized in Order No. 890, in the West there are various sub-regional processes in addition to the WECC's TEPPC regional economic planning process¹²⁸ and the NTTG process appears to have the potential to help the Transmission Providers to meet their obligations under Order No. 890. However, we find that while the Transmission Providers have provided a general overview of the NTTG and the WECC's TEPPC processes, they have not provided in their Attachment Ks sufficient detail to allow customers and other interested stakeholders to fully understand how the data and inputs they provide on the local transmission plan will be integrated into the sub-regional plan being developed by NTTG and incorporated into WECC TEPPC studies. For example, none of the proposed Attachment Ks provide the timelines and milestones between the time that the Transmission Providers submit their individual local plans to NTTG and the time that a final sub-regional plan will be developed. Further, the timing of any specific opportunities customers and stakeholders will have to provide input into the elements of the sub-regional and regional plans have not been identified. Additionally, we find it insufficient for the Transmission Providers to reference in their Attachment Ks the NTTG and WECC homepage as a means for customers and interested stakeholders to obtain the details of the NTTG planning process. Any link offered in the Attachment K or on a Transmission Provider's OASIS to provide customers and interested stakeholders access to a specific element of the NTTG or WECC TEPPC economic planning studies should be a direct URL to the relevant planning document. Similarly, we find that Black Hills has not provided sufficient detail in its Attachment K on the CCPG and WestConnect processes and that the general cites to these sub-regional planning groups' websites do not allow customers and interested parties to locate the information they need to fully understand and participate in these sub-regional processes.

92. With regard to the protests, we find that PPL Companies' concern regarding the NTTG sub-regional process ceasing to exist after 2009 is premature and speculative. As discussed above, the Transmission Providers have agreed to work through NTTG together with customers, state representatives, and other stakeholders to increase efficient use of the grid and to develop the infrastructure needed to deliver new renewable and thermal power resources to customers. The Commission will not prejudge the success of the NTTG process where PPL Companies have provided no evidence that the NTTG process will not lead to effective and efficient sub-regional transmission planning within the Western Interconnection. We emphasize, however, that the Transmission Providers will remain under a continuing obligation to comply with the planning-related requirements of Order No. 890 should alternative processes be pursued.

¹²⁸ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527.

93. AWEA and AWEA Parties express concern that there is no formal process established between the sub-regional groups in the West. While we recognize that no formal process has been established between the sub-regional organizations in the West, we note that under the WECC TEPPC's Transmission Planning Protocol, all sub-regional organizations, including NTTG, ColumbiaGrid, CCPC, WestConnect and NTAC must commit to coordinate and share information and assumptions for planning studies; coordinate planning efforts between groups while maintaining their individual planning processes; and coordinate with the TEPPC and other sub-regional planning groups, to develop coordinated transmission studies and plans.¹²⁹ We find that the WECC's TEPPC process, as outlined in the Transmission Planning Protocol, can provide a sufficient forum for coordination between these and other sub-regional planning organizations, including NTTG and ColumbiaGrid. Therefore, the Commission will not require the creation of an additional formal process between these entities. We will also address coordination under the TEPPC Transmission Planning Protocol during our follow-up planning technical conferences in 2009.

94. Additionally, as stated above, it is unclear how the WECC dispute resolution procedures can be utilized to address disputes that arise under the sub-regional planning process created pursuant to the NTTG Agreement, including whether a non-WECC member can effectively invoke the WECC dispute resolution procedures. Similarly, it is unclear how the WECC dispute resolution process can be utilized to address regional planning disputes that arise under each Transmission Provider's tariff.

95. For the reasons discussed above, we find the proposed Attachments Ks to be in partial compliance with the regional participation principle. Accordingly, we direct the Transmission Providers to file, within 90 days of issuance of this order, further compliance filings as discussed above.

8. Economic Planning Studies

96. The economic planning studies principle requires transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically-integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for OATT customers as well. The Commission emphasized that the scope of economic studies should not just be limited to individual requests for transmission service. Customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that

¹²⁹ See Transmission Planning Protocol of the Western Electric Coordination Council TEPPC section 4.3.

could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

97. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.¹³⁰

98. In Order No. 890-A, the Commission made clear that the transmission provider's planning process must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.¹³¹ In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the procedures outlined in the transmission provider's planning process.¹³²

a. Transmission Providers' Filings

99. Black Hills states that it will perform up to one priority economic study per year¹³³ and NorthWestern states that it will do up to two economic studies per year.¹³⁴ Idaho Power, Deseret, and PacifiCorp state that they will each conduct up to two economic studies per two-year study cycle.¹³⁵ PacifiCorp adds that one study will be conducted in the first year of the two-year study cycle and the other study will be done in the second year.¹³⁶ If more than two studies are requested, PacifiCorp will determine which studies are to be performed based on (1) evaluation of study requests that present the most significant opportunities to reduce overall costs of the local transmission plan; (2) the date and time of the request; and (3) interaction with all stakeholders at the public

¹³⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

¹³¹ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

¹³² *Id.*

¹³³ Black Hills Attachment K, section 2.6.4.

¹³⁴ NorthWestern Attachment K, section 2.7.1.

¹³⁵ Idaho Power Attachment K, section 7.3; Deseret Attachment K, Part A, section 6.3; PacifiCorp Attachment K, section 2.7.

¹³⁶ PacifiCorp Attachment K, section 2.7.

meetings required by PacifiCorp's Attachment K.¹³⁷ Similarly, to determine which studies are to be performed, Idaho Power and Deseret will also use these three criteria, as well as consider other regional and sub-regional practices and criteria developed by NTTG and the WECC's TEPPC.¹³⁸ Additionally, the Transmission Providers state that they may cluster economic study requests in order to perform the studies in the most efficient manner.¹³⁹ Costs will be recovered in the Transmission Providers' base rates and the cost of additional studies will be funded by the stakeholder requesting the study.¹⁴⁰

100. In the event that a Transmission Provider receives an economic study request that affects more than its own transmission system, the Transmission Provider will forward the request to NTTG for consideration and processing under NTTG's procedures.¹⁴¹ As members of NTTG, the Transmission Providers will participate in the NTTG process to prioritize and complete up to two sub-regional economic congestion studies per NTTG planning cycle, as outlined in NTTG's Planning Committee Charter.¹⁴² NTTG may submit requests for regional economic congestion studies to the WECC TEPPC pursuant to NTTG developed processes.¹⁴³ The Attachment Ks filed by Idaho Power, Deseret, NorthWestern and PacifiCorp provide that the "Transmission Provider will support, directly and through its participation in NTTG, the WECC's TEPPC processes to prioritize and complete regional economic congestion studies requested by customers and

¹³⁷ PacifiCorp Attachment K, section 2.7.

¹³⁸ Idaho Power Attachment K, section 7.3; Deseret Attachment K, Part A, section 6.3.

¹³⁹ Idaho Power Attachment K, section 7.3; Deseret Attachment K, section 6.3; NorthWestern Attachment K, section 2.7.5.1; PacifiCorp Attachment K, section 2.7.2; Black Hills Attachment K, section 2.6.3.

¹⁴⁰ Idaho Power Attachment K, section 8; Deseret Attachment K, Part A, section 7; NorthWestern Attachment K, sections 2.7.9, 2.9; PacifiCorp Attachment K, section 2.8; Black Hills Attachment K, section 2.6.11.

¹⁴¹ Idaho Power Attachment K, section 7.4; Deseret Attachment K, Part A, section 6.4; NorthWestern Attachment K, sections 2.7.4.2; PacifiCorp Attachment K, section 2.7.5; Black Hills Attachment K, section 3.1.5.1.

¹⁴² Idaho Power Attachment K, section 15; Deseret Attachment K, Part B, section 4; NorthWestern Attachment K, sections 3.4.1; PacifiCorp Attachment K, section 3.5; Black Hills Attachment K, section 3.1.5.1.

¹⁴³ *Id.*

stakeholders to each member transmission provider in each calendar year within the WECC's footprint as outlined in the standardized mechanism."¹⁴⁴ Black Hills uses similar language but adds that it will support the WECC's TEPPC process through its participation in NTTG and WestConnect.¹⁴⁵

b. Commission Determination

101. We find that the Transmission Providers' Attachment Ks partially comply with the economic planning studies principle described in Order No. 890, subject to the modifications discussed below. In Order No. 890, the Commission directed all transmission providers to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. Here, each of the Transmission Providers have included in their Attachment Ks procedures for conducting economic planning studies and for stakeholders to request such studies. However, while the Transmission Providers all state that they may cluster or batch requests to streamline processing, they have not described how such clustering or batching will be done.

102. Additionally, we find that the Transmission Providers have provided insufficient information in their Attachment Ks on the WECC's TEPPC processes to prioritize and complete regional economic studies. In Order No. 890, the Commission stated that regional congestion studies can be used as part of regional transmission planning processes required by the final rule.¹⁴⁶ Here, the Transmission Providers Attachment Ks reference the TEPPC processes but provide no detail on those processes. Further, as discussed above in regional participation, the Attachment Ks reference the general WECC website but do not provide links to the appropriate WECC TEPPC documents in which those processes are discussed. Accordingly, the Transmission Providers are directed to submit compliance filings within 90 days of the date of this order providing more detail in their Attachment Ks on the WECC's TEPPC processes or providing direct links (i.e., URLs) to the appropriate documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed.

9. Cost Allocation

103. The cost allocation principle requires that transmission providers address in their planning process the allocation of costs of new facilities that do not fit under existing rate

¹⁴⁴ Idaho Power Attachment K, section 21; Deseret Attachment K, Part C, section 4; NorthWestern Attachment K, sections 4.4.1; PacifiCorp Attachment K, section 4.5.

¹⁴⁵ Black Hills Attachment K, section 4.5.1.

¹⁴⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 551.

structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fit their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

104. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them re-litigated each time a project is proposed.¹⁴⁷ In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.¹⁴⁸

a. Transmission Providers' Filings

105. The Transmission Providers state that the cost allocation principles outlined in their respective Attachment Ks apply in a planning context and do not supersede cost obligations as determined by other parts of their tariffs.¹⁴⁹ With regard to cost allocation for local projects, the Attachment Ks submitted by Idaho Power and Deseret provide that they will categorize transmission project costs into three types: (1) costs related to the provision of service to the Transmission Providers' native load customers; (2) costs related to the sale or purchase of power at wholesale to non-native load customers; and (3) costs incurred specifically as alternatives to (or deferrals of) transmission line costs (typically Type 1 projects), such as the installation of distributed resources (including

¹⁴⁷ *Id.* P 557-61.

¹⁴⁸ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

¹⁴⁹ Idaho Power Attachment K, section 6; Deseret Attachment K, Part A, section 5; NorthWestern Attachment K, sections 2.6.1; PacifiCorp Attachment K, section 2.6; Black Hills Attachment K, section 2.5.1.

distributed generation, load management and energy efficiency).¹⁵⁰ The third category of costs does not include demand-side projects which do not have the effect of deferring or displacing the first category of costs.¹⁵¹

106. Similarly, PacifiCorp's Attachment K provides that it will categorize transmission project costs into three types: (1) costs related to the provision of service to the Transmission Providers' network and native load customers; (2) costs related to point-to-point transmission service and requests for service; and (3) costs incurred specifically as alternatives to (or deferrals of) transmission line costs (typically Type 1 projects), such as the installation of distributed resources (including distributed generation, load management and energy efficiency).¹⁵² The third category of costs does not include demand-side projects which do not have the effect of deferring or displacing the first category of costs.¹⁵³ Further, the Attachment Ks submitted by Idaho Power, Deseret and PacifiCorp provide that unless an alternative cost allocation process is utilized and described in their local transmission plans, these three Transmission Providers will identify anticipated cost allocations in the local transmission plan based on the type of costs (as detailed above) and the following principles: (1) adherence to the Commission's regulations, policy statements, and precedent on transmission pricing and (2) to the extent not in conflict with Principle 1, costs will be allocated consistent with the provisions of the NTTG cost allocation principles, as posted at NTTG's website, <http://www.nttg.biz>.¹⁵⁴ The current NTTG cost allocation principles are as follows:¹⁵⁵

¹⁵⁰ Idaho Power Attachment K, section 6.2; Deseret Attachment K, Part A, section 5.2.

¹⁵¹ *Id.*

¹⁵² PacifiCorp Attachment K, section 2.6.2.

¹⁵³ *Id.*

¹⁵⁴ Idaho Power Attachment K, section 6.3; Deseret Attachment K, Part A, section 5.3; PacifiCorp Attachment K, section 2.6.3.

¹⁵⁵ *See* Idaho Power Transmittal Letter at 15-16; Deseret Transmittal Letter at 14-15; NorthWestern Transmittal Letter at 13. The following link is provided to the NTTG cost allocation principles:
http://nttg.biz/site/index.php?option=com_docman&task=doc_download&gid=193&Itemid=31

Principle 1. As a matter of equity, cost allocations will reflect the classic principles that ‘cost causers should be cost bearers’ and that ‘beneficiaries should pay’ in amounts that are reflective of the benefits received.

Principle 2. Projects brought forward for consideration will be shown not to be in conflict with state and federal [Integrated Resource Planning], Competitive Bidding, RPS (Renewable Portfolio Standard), siting, certification and other policy and planning requirements affecting transmission development, to the extent they are applicable to the project. Selecting an efficient portfolio of remote generation, in-state generation and demand-side solutions requires that the proposed allocation of transmission project costs be known with clarity. Therefore, the Northern Tier process will encourage efficient and stable resource planning processes by which the project developer identifies the extent of cost allocation consensus for a proposed transmission project as soon as practical in the project life cycle, allowing the states to evaluate the proposed project for compliance purposes and to understand costs relative to other resource options. Regional and subregional planning resources should be utilized and the results demonstrated.

Principle 3. Cost allocations will result in a reasonable opportunity for the transmission owner(s) to achieve full recovery of the costs of the project, but no more.

Principle 3a. Transmission project costs should be directly assigned to a single transmission customer or allocated to multiple transmission customers or areas (or the entire region) based upon the distribution of benefits.

Principle 3b. Upgrades and other projects proposed on the basis of economic or other benefits for specific transmission customers will be accommodated if [i] the customers and/or transmission owner accept responsibility for the associated costs; [ii] the project does no harm to the network; and [iii] the project otherwise results in no uncompensated adverse impact on regional transmission service.

Principle 4. For Type 2 project costs, the rest of the network and its customers will be held harmless and the transmission owner should look to its transmission customers for direct recovery of costs.¹⁵⁶

¹⁵⁶ Type 2 transmission line costs are those related to the sale or purchase of power at wholesale not directly for the benefit of native load, or on behalf of or at the request of a wholesale generator or a wholesale transmission customer. See NTTG Cost Allocation Principles at 5, available at http://nttg.biz/site/index.php?option=com_content&task=view&id=42&Itemid=84.

107. NorthWestern states that for new local projects that do not fit into its OATT cost allocation principles, it will follow its “Local Cost Allocation Methodology Projects Outside OATT” process that is posted on its OASIS website to develop a non-binding cost estimate for an indicative cost allocation, unless a mutually agreeable cost allocation method can be reached between NorthWestern and the project participants or sponsors.¹⁵⁷

108. Similarly, Black Hills’ Attachment K provides that it will follow its “Local Cost Allocation Methodology,” which is posted on the OASIS under the “Transmission Planning” folder, unless a mutually agreeable cost allocation method can be reached between the Transmission Provider and the project sponsor or participants.¹⁵⁸ Further, both NorthWestern and Black Hills state that they will use their local transmission planning committees to seek input from stakeholders on cost allocation for projects whose costs are not otherwise addressed under their OATTs.¹⁵⁹

109. The Transmission Providers state that they will support NTTG by preparing and submitting recommendations for cost allocation associated with the NTTG sub-regional planning projects to the NTTG Cost Allocation Committee and ultimately the NTTG Steering Committee for approval.¹⁶⁰ This Steering Committee approval will represent a non-binding sub-regional consensus of cost allocation formed with direct state regulatory commission involvement and support.¹⁶¹ In addition, Black Hills’ Attachment K maintains that costs associated with sub-regional projects will be allocated consistent with the cost allocation principles of the applicable sub-regional entity, WestConnect or NTTG.¹⁶² Regarding WestConnect’s sub-regional cost allocation process, Black Hills states that WestConnect “encourages the use of open season solicitation, multi-party transmission ownership, and potential co-existence of both physical and financial transmission rights for transmission projects planned under the WestConnect process.”¹⁶³

¹⁵⁷ NorthWestern Attachment K, section 2.6.4.1.

¹⁵⁸ Black Hills Attachment K, section 2.5.2.1.

¹⁵⁹ NorthWestern Attachment K, section 2.6.4.1; Black Hills Attachment K, section 2.5.2.3.

¹⁶⁰ Idaho Power Attachment K, section 17; Deseret Attachment K, Part B, section 6; NorthWestern Attachment K, section 3.6.1; PacifiCorp Attachment K, section 3.7; Black Hills Attachment K, section 3.1.7.1.

¹⁶¹ *Id.*

¹⁶² Black Hills Attachment K, section 2.5.2.5.

¹⁶³ *Id.* at section 3.3.4.1.

110. Regarding cost allocation for regional projects, the Transmission Providers' Attachment Ks indicate that a Western Interconnection regional cost allocation methodology does not exist; therefore, cost allocations for regional transmission projects will be addressed on a case-by-case basis by parties participating in the project.¹⁶⁴

b. Protests and Answers

111. AWEA Parties point out that PacifiCorp plans to use NTTG's cost allocation principles for transmission projects with other NTTG members. They argue that PacifiCorp should also indicate what cost allocation methodologies will be used for projects that involve transmission providers that are not NTTG members. In addition, AWEA Parties note that PacifiCorp's proposed Attachment K indicates that a Western Interconnection regional cost allocation methodology does not exist; therefore cost allocations for regional transmission projects will be addressed on a case-by-case basis.¹⁶⁵ AWEA Parties argue that this is not in compliance with the Commission's instruction that a transmission provider develop a regional cost allocation approach that establishes policy "up front" and does not entail re-litigation of cost allocation every time a new project is proposed.¹⁶⁶ AWEA Parties request that the Commission require PacifiCorp to work with the WECC's TEPPC and other utilities in the West to develop a cost allocation framework that can work for large regional projects that may cross sub-regional boundaries.

112. PPL Companies argue that NorthWestern's proposed cost allocation procedures require greater specificity and must be set forth in NorthWestern's OATT. Specifically, PPL Companies assert that NorthWestern's cost allocation principle fails to identify projects addressed by NorthWestern's cost allocation rules and fails to provide a sufficient explanation of how costs for different projects will be allocated.¹⁶⁷ PPL Companies request that the Commission set this issue for hearing, but hold the hearing in abeyance to allow interested parties to address the issues in settlement judge proceedings.

113. In response, NorthWestern asserts that the real issue is when costs of the studies become binding. NorthWestern states that it is not part of an RTO, which can compel

¹⁶⁴ Idaho Power Attachment K, section 23; Deseret Attachment K, Part C, section 6; NorthWestern Attachment K, section 4.6.1; PacifiCorp Attachment K, section 4.7; Black Hills Attachment K, section 4.7.1.

¹⁶⁵ AWEA Protest at 8 (citing PacifiCorp Attachment K., section 4.7).

¹⁶⁶ AWEA Protest at 8 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 561).

¹⁶⁷ PPL Companies Protest at 13.

construction of projects that result from a planning study for projects that fall outside of the individual Transmission Providers' OATTs. NorthWestern also states that during the planning stage all costs are high level and suggesting that the costs should be binding is not appropriate. According to NorthWestern, costs determined from planning studies for projects outside the OATT are high-level costs and should be considered as high-level estimators of what costs might be. NorthWestern asserts that the "Applicability" section of NorthWestern's "Local Cost Allocation Methodology Projects Outside the OATT" business practice clearly states that planning costs are just planning costs and that the actual cost allocations will be negotiated and specified within the contract. NorthWestern also states that within the Methodology there is a six-step process that differentiates between project-specific costs and network-upgrade costs, and which clarifies any confusion regarding cost allocation.¹⁶⁸

114. In their answer, PPL Companies state that the negotiation of costs between the affected parties does not provide the "*ex ante* certainty" in the cost allocation process that the Commission stressed was necessary in order to foster new transmission investment.¹⁶⁹ PPL Companies also state that Order No. 890 provides that "there are free rider problems associated with new transmission investment, such that customers who do not agree to support a particular project may nonetheless receive substantial benefits from it."¹⁷⁰ PPL Companies argue that NorthWestern's answer does not address the Commission's significant concerns regarding this free rider problem.

c. Commission Determination

115. We find that the respective Attachment Ks generally comply with the cost allocation principle provided in Order No. 890. As noted above, in Order No. 890, the Commission directed transmission providers to address in their planning processes the allocation of costs of new facilities that do not fit under existing rate structures. As detailed above, with regard to local projects, Idaho Power, Deseret and PacifiCorp have identified in their Attachment Ks the types of new local projects that are not covered under existing cost allocation rules. In addition, their Attachment Ks indicate that the allocation of costs for such projects will be based on the principle that the Commission's regulations, policy statements, and precedent on transmission pricing should be followed and, to the extent not in conflict with the aforementioned principle, costs will be allocated consistent with the NTTG cost allocation principles. However, the proposed Attachment Ks fail to address how costs will be fairly assigned among participants, because they only refer to unspecified Commission decisions and pronouncements on cost allocation and

¹⁶⁸ NorthWestern Answer at 13.

¹⁶⁹ PPL Reply Answer at 8 (citing Staff White Paper at 18).

¹⁷⁰ *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 561).

the NTTG cost allocation principles, which as we discuss below, appear to envision a case-by-case approach to cost allocation that is not consistent with Order No. 890's direction to provide for a methodology to determine cost allocation up front in order to provide certainty to market participants.

116. NorthWestern and Black Hills point to their respective "Local Cost Allocation Methodology Projects Outside the OATT" business practices to be used to allocate costs for new local projects that do not fit into their respective OATT cost principles. They do not, however, incorporate the relevant provisions of this business practice into their respective Attachment Ks. Nor do they provide any detail in their Attachment Ks on the types of new local projects that are not covered under existing cost allocation rules or how this existing business practice meets the requirements of the cost allocation principle of Order No. 890. Moreover, while NorthWestern and Black Hills may provide additional details on their cost allocation approaches in their business practices, they must nevertheless include sufficient detail in their Attachment Ks for planning participants to understand their cost allocation methodology.

117. In Order No. 890-A, the Commission made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment. We find that the Transmission Providers' proposed cost allocation methodologies, as described in their Attachment Ks, do not provide the degree of certainty required by participants seeking to pursue new investment.

118. In addition, although the Transmission Providers' Attachment Ks provide that NTTG will make a cost allocation recommendation for sub-regional projects based on the NTTG Cost Allocation Principles for certain projects, Order No. 890 requires a specific cost allocation methodology that is reflected up front in the Attachment K, rather than considered on a case-by-case basis. While we recognize that the NTTG sub-regional planning process to which the Transmission Providers participate is fairly new, the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment. As such, we direct the Transmission Providers through their participation in NTTG to work to further refine a specific methodology for cost allocation to provide more certainty for transmission providers and market participants to support new regional and sub-regional transmission infrastructure investment.

119. Accordingly, the Transmission Providers are directed to submit compliance filings within 90 days of the date of this order identifying the cost methodologies that will be

used for allocation of costs for projects developed in response to their local transmission planning process and the NTTG sub-regional process, as discussed above.¹⁷¹

10. Cost Recovery

120. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.¹⁷²

a. Transmission Providers' Filings

121. Idaho Power, Deseret, NorthWestern, and PacifiCorp each state that costs they incur related to their local transmission planning process or the sub-regional or regional planning process will be included in their base rate.¹⁷³

b. Commission Determination

122. We find that Idaho Power, Deseret, NorthWestern, and PacifiCorp have provided an explanation of cost recovery for transmission planning costs. Black Hills did not address cost recovery for planning activities in its Attachment K. Therefore, we direct Black Hills to file, within 90 days of the date of this order, a further compliance filing explaining how it intends to recover transmission planning costs.

¹⁷¹ Because we have directed the Transmission Providers, including NorthWestern, to work through NTTG to further refine a specific methodology for cost allocation to provide more certainty for transmission providers and market participants to support new regional and sub-regional transmission infrastructure investment and to file compliance filings refining their respective local cost allocation processes, PPL Companies' request for hearing on this issue is now moot.

¹⁷² Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

¹⁷³ Idaho Power Attachment K, section 8; Deseret Attachment K, Part A, section 7; NorthWestern Attachment K, section 2.9; PacifiCorp Attachment K, section 2.8.

11. Other Issues

123. Black Hills and PacifiCorp requested an effective date of December 8, 2007, and February 5, 2008, respectively. The effective date for Attachment K compliance filings is the date the Transmission Providers were directed to submit the filings. Therefore, their Attachment K compliance filings shall be effective December 7, 2007. As a result, Black Hills and PacifiCorp are directed to file revised tariff sheets containing the corrected effective date in a compliance filing, within 90 days of the date of this order.

The Commission orders:

(A) The tariff revisions filed by Deseret, Idaho Power, NorthWestern, and PacifiCorp in Docket Nos. OA08-54-000, OA08-55-000, OA08-56-000, and OA08-57-000, respectively, are each hereby accepted, effective December 7, 2007 and January 1, 2008, subject to further compliance filings as discussed in the body of this order and Ordering Paragraph (D) below.

(B) The tariff revisions filed by Deseret, Idaho Power, NorthWestern, PacifiCorp, and Black Hills in Docket Nos. OA08-54-001, OA08-55-001, OA08-56-001, OA08-57-001, and OA08-99-000, respectively, are each hereby accepted, effective April 3, 2008, subject to further compliance filings as discussed in the body of this order and Ordering Paragraph (D) below.

(C) The tariff revisions filed by Deseret, Idaho Power, NorthWestern, PacifiCorp, Black Hills, and PGE in Docket Nos. OA08-54-002, OA08-55-002, OA08-56-002, OA08-57-002, OA08-99-001, and OA08-118-000, respectively, are each hereby accepted, effective May 22, 2008, subject to further compliance filings as discussed in the body of this order and Ordering Paragraph (D) below.

(D) Deseret, Idaho Power, NorthWestern, PacifiCorp, Black Hills, and PGE are hereby directed to submit a compliance filing within 90 days of the date of this order, revising the rate schedules listed on the Appendix to this order, as discussed in the body of this order.

(E) The respective Attachment K filings of Idaho Power, Deseret, NorthWestern, PacifiCorp, and Black Hills are each hereby accepted, effective December 7, 2007, subject to further compliance filings, as discussed in the body of this order.

(F) The Transmission Providers are hereby directed to submit their respective compliance filings, within 90 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**Deseret Generation & Transmission Co-operative, Inc.****Filing Date: November 30, 2007****Docket No. OA08-54-000**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 23, Original Sheet Nos. 1-16	Group Planning Agreement	12/7/07
Rate Schedule FERC No. 24, Original Sheet Nos. 1-26	2007 Funding Agreement	12/7/07
Rate Schedule FERC No. 25, Original Sheet Nos. 1-26	2008-09 Funding Agreement	1/1/08

Deseret Generation & Transmission Co-operative, Inc.**Filing Date: April 3, 2008****Docket No. OA08-54-001**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 23, Original Sheet Nos. 17-18 and First Revised Sheet Nos. 14-15	Group Planning Agreement (adding Planning Parties)	4/3/08

Deseret Generation & Transmission Co-operative, Inc.**Filing Date: May 22, 2008****Docket No. OA08-54-002**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 23, Original Sheet Nos. 15-A, 19 And Second Revised Sheet Nos. 14-15	Group Planning Agreement	5/22/08

Deseret Generation & Transmission Co-operative, Inc.**Filing Date: June 17, 2008****Docket No. OA08-54-000**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 25, Original Sheet Nos. 16-A	2008-09 Funding Agreement	1/1/08

Idaho Power Company
Filing Date: November 30, 2007
Docket No. OA08-55-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 150, Original Sheet Nos. 1-16	Group Planning Agreement	12/7/07
Rate Schedule FERC No. 151, Original Sheet Nos. 1-26	2007 Funding Agreement	12/7/07
Rate Schedule FERC No. 152, Original Sheet Nos. 1-26	2008-09 Funding Agreement	1/1/08

Idaho Power Company
Filing Date: April 3, 2008
Docket No. OA08-55-001

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 150, Original Sheet Nos. 17-18 and First Revised Sheet Nos. 14-15	Group Planning Agreement	4/3/08

Idaho Power Company
Filing Date: May 22, 2008
Docket No. OA08-55-002

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 150, Original Sheet Nos. 15-A, 19 And Second Revised Sheet Nos. 14-15	Group Planning Agreement	5/22/08

Idaho Power Company
Filing Date: June 17, 2008
Docket No. OA08-55-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 152, Original Sheet Nos. 16-A	2008-09 Funding Agreement	1/1/08

NorthWestern Corporation
Filing Date: November 30, 2007
Docket No. OA08-56-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 251, Original Sheet Nos. 1-16	Group Planning Agreement	12/7/07
Rate Schedule FERC No. 252, Original Sheet Nos. 1-26	2007 Funding Agreement	12/7/07
Rate Schedule FERC No. 253, Original Sheet Nos. 1-26	2008-09 Funding Agreement	1/1/08

NorthWestern Corporation
Filing Date: April 3, 2008
Docket No. OA08-56-001

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 251, Original Sheet Nos. 17-18 and First Revised Sheet Nos. 14-15	Group Planning Agreement	4/3/08

NorthWestern Corporation
Filing Date: May 22, 2008
Docket No. OA08-56-002

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 251, Original Sheet Nos. 15-A, 19 And Second Revised Sheet Nos. 14-15	Group Planning Agreement	5/22/08

NorthWestern Corporation
Filing Date: June 17, 2008
Docket No. OA08-56-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 253, Original Sheet Nos. 16-A	2008-09 Funding Agreement	1/1/08

PacifiCorp
Filing Date: November 30, 2007
Docket No. OA08-57-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 610, Original Sheet Nos. 1-16	Group Planning Agreement	12/7/07
Rate Schedule FERC No. 611, Original Sheet Nos. 1-26	2007 Funding Agreement	12/7/07
Rate Schedule FERC No. 612, Original Sheet Nos. 1-26	2008-09 Funding Agreement	1/1/08

PacifiCorp
Filing Date: April 3, 2008
Docket No. OA08-57-001

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 610, Original Sheet Nos. 17-18 and First Revised Sheet Nos. 14-15	Group Planning Agreement	4/3/08

PacifiCorp
Filing Date: May 22, 2008
Docket No. OA08-57-002

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 610, Original Sheet Nos. 15-A, 19 And Second Revised Sheet Nos. 14-15	Group Planning Agreement	5/22/08

PacifiCorp
Filing Date: June 17, 2008
Docket No. OA08-57-000

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 612, Original Sheet Nos. 16-A	2008-09 Funding Agreement	1/1/08

Black Hills Power, Inc.
Filing Date: April 3, 2008
Docket No. OA08-99-00

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 35, Original Sheet Nos. 1-18	Group Planning Agreement	4/3/08

Black Hills Power, Inc.
Filing Date: May 22, 2008
Docket No. OA08-99-001

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 35, Original Sheet Nos. 15-A, 19, 20, and First Revised Sheet Nos. 14-15	Group Planning Agreement	5/22/08

Portland General Electric Company
Filing Date: May 22, 2008
Docket No. OA08-118-00

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 16, Original Sheet Nos. 1-21	Group Planning Agreement	5/22/08