

128 FERC ¶ 61,040  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

NorthWestern Corporation

Docket Nos. OA07-110-000  
OA07-110-001  
OA07-110-002

ORDER ON COMPLIANCE FILING

(Issued July 16, 2009)

1. On April 10, 2008, NorthWestern Corporation (NorthWestern)<sup>1</sup> submitted, pursuant to section 206 of the Federal Power Act (FPA),<sup>2</sup> a proposed Attachment C and a proposed Attachment K to its Open Access Transmission Tariff (OATT), as required by Order No. 890.<sup>3</sup> On August 29, 2008, NorthWestern submitted a substitute version of its Attachment K. In this order, we accept NorthWestern's filings, as modified, as discussed below.

**I. Background**

2. 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. The Commission, among other things, amended the *pro forma* OATT to require greater consistency and transparency in the calculation of

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<sup>1</sup> 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 South Dakota OATT services only.

<sup>2</sup> 16 U.S.C. § 824e (2006).

<sup>3</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

available transfer capability and standardization of charges for generator and energy imbalance services.<sup>4</sup> In addition, one of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles (discussed below) and to clearly describe that process in a new attachment (Attachment K) to their OATT.

3. 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 the Transmission Providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that although Order No. 890 allows for flexibility, each transmission provider has an obligation to address each of the nine principles in its transmission planning process, and that all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules, as supplemented with web-posted business practices when appropriate, must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.<sup>5</sup>

4. 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.<sup>6</sup>

5. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISO) or regional transmission organizations (RTO), and whose transmission facilities are not under the control of an ISO or RTO, were directed

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<sup>4</sup> 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.

<sup>5</sup> See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

<sup>6</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

to submit, within 180 days from the publication of Order No. 890 in the *Federal Register* (i.e., September 11, 2007), section 206 compliance filings to revise Attachment C of their OATTs. Similarly, transmission providers were directed to submit section 206 compliance filings to revise Attachment K of their OATTs by December 7, 2007. On September 11, 2007, NorthWestern filed a request for waiver for additional time to meet its compliance obligations under Order No. 890. On January 10, 2008, the Commission granted NorthWestern an extension of time to file up to and including April 10, 2008.<sup>7</sup>

## **II. Compliance Filing**

6. NorthWestern states that the Western Area Power Administration<sup>8</sup> (WAPA) operates the NorthWestern control area and that energy marketing for NorthWestern's operations is provided by WAPA. NorthWestern also states that its transmission facilities are part of an integrated transmission system administered by WAPA pursuant to a network agreement between NorthWestern and WAPA and that studies involving NorthWestern's facilities are undertaken in concert with WAPA. In addition, NorthWestern states that it has no non-firm transmission customers and that the Commission has granted NorthWestern waiver of the requirement to operate an Open Access Same-Time Information System (OASIS) because NorthWestern qualifies as a small utility that is not a member of a tight power pool. NorthWestern also states that its operations are located within the Mid-Continent Area Power Pool (MAPP).

7. In its April 10, 2008 filing, NorthWestern states that its Attachment C incorporates the MAPP procedures for calculating available transfer capability and includes the URL for these procedures. NorthWestern requests an April 10, 2008 effective date for its proposed Attachment C.

8. In its August 29, 2008 filing, NorthWestern states that its Attachment K consists of two parts. First, sections 1 through 12 address the regional planning process to which NorthWestern is a party through MAPP. Second, section 13 is NorthWestern's local transmission planning process. NorthWestern states that it is a network customer of WAPA and that WAPA and NorthWestern jointly plan all required facility expansions. Furthermore, NorthWestern states that for purposes of regional transmission planning, NorthWestern complies with the transmission planning requirements of Order No. 890

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<sup>7</sup> *NorthWestern Corporation (South Dakota)*, Notice of Extension of Time, Docket No. OA07-110-000 (Jan. 10, 2008).

<sup>8</sup> WAPA is a Federal Power Marketing Administration created in 1977 by section 302(a)(1)(E) and (F) of the Department of Energy Organization Act, 42 U.S.C. § 7152, to perform the power marketing and transmission functions previously performed by the Bureau of Reclamation for the Secretary of Interior.

through participation in the regionally coordinated planning process provided for in the MAPP Attachment K template. NorthWestern explains that the MAPP template adopts long-standing transmission planning procedures employed by MAPP members as they have been modified to meet Order No. 890 requirements. NorthWestern states that its Attachment K conforms to MAPP's Attachment K template, MAPP's Transmission Planning Subcommittee Procedures Manual and the sub-regional Planning Group Guidelines. NorthWestern requests an August 29, 2008 effective date for its proposed Attachment K.

### **III. Notices of Filing**

9. Notices of NorthWestern's filings were published in the *Federal Register*, 73 Fed. Reg. 27,532 (2008) and 73 Fed Reg. 53,417 (2008), with interventions and protests due on or before May 1, 2008 and September 19, 2008, respectively. None were filed.

### **IV. Discussion**

#### **A. Attachment C: Methodology to Assess Available Transfer Capability**

##### **1. Order No. 890**

10. In Order No. 890, as clarified by Order No. 890-A, the Commission required transmission providers to amend their OATTs to include an Attachment C to set forth the methodology that would be used to calculate available transfer capability. The Commission required a transmission provider to clearly identify which methodology it employs (e.g., contract path, network available transfer capability, or network available flowgate capacity). The transmission provider also must describe in detail the specific mathematical algorithms used to calculate firm and non-firm available transfer capability (and available flowgate capacity, if applicable) for its scheduling, operating, and planning horizons<sup>9</sup> and provide a detailed explanation of the available transfer capability components.<sup>10</sup> Further, the actual mathematical algorithms must be posted on the transmission provider's website, with the link noted in the transmission provider's Attachment C.<sup>11</sup>

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<sup>9</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at *pro forma* OATT, Att. C and P 323.

<sup>10</sup> The available transfer capability components are total transfer capability, existing transmission commitments, capacity benefit margin, and transmission reserve margin.

<sup>11</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 325, 328.

## 2. NorthWestern's Proposal

11. NorthWestern states that TransServ International, Inc. calculates available transfer capability and schedules and tags transmission transactions on behalf of MAPP members. NorthWestern also states that because WAPA and NorthWestern are members of MAPP, the MAPP procedures are applicable to NorthWestern's OATT customers and that the Commission has already accepted MAPP's Attachment C.<sup>12</sup> NorthWestern's proposed Attachment C incorporates by reference the MAPP Attachment C Methodology. Specifically, NorthWestern's proposed Attachment C provides, "The MAPP Attachment C Methodology to Assess Available Transfer Capability and any amendments thereto are hereby incorporated and made part of this Tariff. See [http://toinfo.oasis.mapp.org/oasisinfo/Schedule\\_F.pdf](http://toinfo.oasis.mapp.org/oasisinfo/Schedule_F.pdf) for the current version of MAPP Attachment C."

## 3. Commission Determination

12. We find that NorthWestern's proposed Attachment C does not comply with the requirements of Order No. 890. NorthWestern proposes to incorporate the MAPP available transfer capability procedures into the NorthWestern OATT by reference and provides the URL for the MAPP procedures for calculating available transfer capability. As a member of MAPP, who relies on MAPP to calculate available transfer capability, NorthWestern may rely on the MAPP procedures for calculation of available transfer capability for transactions on the NorthWestern transmission system. However, merely referencing the MAPP procedures is insufficient to meet the requirements of Order No. 890. Accordingly, we direct NorthWestern to file, within 60 days of issuance of this order, a compliance filing revising its Attachment C to clearly identify which methodology it employs to calculate available transfer capability, describe in detail the specific mathematical algorithms used to calculate firm and non-firm available transfer capability for its scheduling, operating, and planning horizons, provide a detailed explanation of the available transfer capability components, and post the mathematical algorithms on its website, with the link noted in the NorthWestern Attachment C.

### B. Attachment K: Transmission Planning Process

13. As discussed below, we find that NorthWestern's Attachment K transmission planning process, with certain modifications, complies with each of the nine planning principles adopted in Order No. 890. We accept NorthWestern's Attachment K, effective August 29, 2008, subject to a further compliance filing, as discussed below, to be filed within 60 days of issuance of this order.

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<sup>12</sup> NorthWestern April 10, 2008 Filing at 4 (citing *Mid-Continent Area Power Pool*, 122 FERC ¶ 61,111 (2008)).

14. Although we accept NorthWestern's compliance filing below, subject to a further compliance filing to address certain discrete issues, the Commission remains interested in the development of transmission planning processes and will continue to examine the adequacy of the processes accepted to date. We reiterate the encouragement made in prior orders for further refinements and improvements to the planning processes as transmission providers, their customers, and other stakeholders gain more experience through actual implementation of the processes. As part of the Commission's ongoing evaluation of the implementation of the planning processes, the Commission intends to convene regional technical conferences later this year to determine if further refinements to these processes are necessary. 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 that may need improvement. The conferences will examine whether existing transmission planning processes adequately consider needs and solutions on a regional or interconnection-wide basis to ensure adequate and reliable supplies at just and reasonable rates. The Commission will also explore whether existing processes are sufficient to meet emerging challenges to the transmission system, such as the development of inter-regional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

**1. Coordination**

**a. Order No. 890**

15. 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 Attachment K planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.<sup>13</sup>

**b. NorthWestern's Proposal**

16. NorthWestern states that it will hold at least one face-to-face stakeholder annual meeting to discuss local transmission planning, including local transmission needs.

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<sup>13</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

Under section 13.4 of NorthWestern's proposed Attachment K, the stakeholder meetings will be open to NorthWestern's transmission service customers, generation interconnection customers, neighboring transmission owners, neighboring transmission providers, MAPP staff and members, affected state authorities, and regional planning groups. Section 13.4 of NorthWestern's proposed Attachment K also provides that notification of meetings will be sent via e-mail to the designated contact or signatory specified in a service agreement under NorthWestern's OATT, attendees of prior meetings, and to other key stakeholders. NorthWestern states that after the first year, NorthWestern will develop and maintain an updated e-mail list of stakeholders that have attended prior meetings, as well as key participants that should be invited regardless of attendance at prior meetings.

17. According to NorthWestern, it will hold an additional stakeholder meeting within 60 days after receipt of a written request from stakeholders from three or more different organizations. However, NorthWestern states that it is not required to hold more than two additional stakeholder meetings per year as a result of stakeholder requests.

18. To ensure meaningful dialogue at the stakeholder meetings, NorthWestern commits to distributing available information related to the proposed draft agenda with the meeting notices. Also, NorthWestern states that stakeholders may submit questions or comments in advance of the meeting or up to 30 days after such meeting.

**c. Commission Determination**

19. We find that NorthWestern's proposed Attachment K fails to comply with the coordination principle stated in Order No. 890. While NorthWestern's Attachment K provides that NorthWestern will hold at least one face-to-face stakeholder meeting annually to discuss local transmission planning, NorthWestern does not clearly set out in its Attachment K the details of how its local planning process operates so that interested stakeholders may know when and how they may provide meaningful input and participate in NorthWestern's local transmission plan. While Order No. 890 did not prescribe a number or schedule of meetings or other opportunities for interested stakeholders to provide input, a transmission planning process must be developed such that stakeholders may participate in the early stages of development. Further, NorthWestern does not clearly identify the specific planning cycle and planning horizon it will use to develop its local transmission plan.

20. NorthWestern also appears to limit the interested parties with whom it will coordinate to transmission service customers, generation interconnection customers, neighboring transmission owners, neighboring transmission providers, MAPP staff and members, affected state authorities, and regional planning groups. Such a listing of select stakeholders, without a qualification that such list is partial or that "other interested stakeholders" may also participate, excludes other interested stakeholders from participating in the NorthWestern transmission planning process. Accordingly, we direct

NorthWestern to submit a compliance filing within 60 days of issuance of this order revising its Attachment K to set out the details of its local plan so that interested stakeholders may know when and how they can participate, to identify the relevant planning cycle and planning horizon, and to remove any potential limitation on the interested stakeholders who may participate in the NorthWestern transmission planning process.

21. We also have concerns with NorthWestern's proposal to e-mail notifications of its annual stakeholder meetings to the designated contact or signatory specified in a service agreement under NorthWestern's OATT, attendees of prior meetings, and to other key stakeholders. While we recognize that the Commission has granted NorthWestern waiver of the requirement to operate an OASIS, NorthWestern must use an alternate method of notifying all interested stakeholders about transmission planning meetings. While e-mail may be effective for providing notice to a predetermined list of stakeholders, interested parties who are not designated contacts or signatories specified in service agreements, attendees of prior meetings, or those NorthWestern deems to be "other key stakeholders," may not receive timely notice of stakeholder meetings. Accordingly, we direct NorthWestern to revise its Attachment K to add a provision for posting meeting notices on its website.

## **2. Openness**

### **a. Order No. 890**

22. 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.<sup>14</sup> 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.<sup>15</sup>

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<sup>14</sup> The Commission made clear 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 Attachment K 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.

<sup>15</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

**b. NorthWestern's Proposal**

23. According to NorthWestern, all meetings are open to NorthWestern transmission service customers, generation interconnection customers, neighboring transmission owners, neighboring transmission providers, MAPP staff and members, affected state authorities, and regional planning groups. Prior to each stakeholder meeting, NorthWestern will distribute, via e-mail,<sup>16</sup> available information related to the proposed draft agenda. Stakeholders may submit questions or comments in advance of the meeting or up to 30 days after such meeting. NorthWestern also states that it will also comply with CEII and cyber security requirements.

**c. Commission Determination**

24. We find that NorthWestern's proposed Attachment K partially complies with the openness principle stated in Order No. 890. As discussed above, to the extent NorthWestern proposes to restrict the interested parties who may participate in its transmission planning process to transmission service customers, generation interconnection customers, neighboring transmission owners, neighboring transmission providers, MAPP staff and members, affected state authorities, and regional planning groups, we find such a limitation inconsistent with the openness principle of Order No. 890. Additionally, NorthWestern has not developed any mechanisms, such as confidentiality agreements and password-protected access to information, in order to manage confidentiality and CEII concerns. Accordingly, we direct NorthWestern to submit a compliance filing within 60 days of issuance of this order revising its Attachment K so that interested parties who may participate in the NorthWestern transmission planning process are not limited as NorthWestern proposes and to describe the mechanisms that NorthWestern will use to manage confidentiality and CEII concerns.

**3. Transparency**

**a. Order No. 890**

25. 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 Attachment K the method(s) it will use to disclose the criteria, assumptions, and data that underlie its transmission system plans.<sup>17</sup> The Commission specifically found that

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<sup>16</sup> As noted above, NorthWestern currently has a waiver of the obligation to operate an OASIS.

<sup>17</sup> In Order No. 890-A, the Commission made clear that this disclosure should

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

26. 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 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, the Commission concluded they should be permitted to participate in that process on a comparable basis.<sup>18</sup>

**b. NorthWestern's Proposal**

27. Section 13.5.1 of NorthWestern's Attachment K provides that for the purpose of making the basic criteria, assumptions, and data that underlie NorthWestern's transmission systems plans available, NorthWestern will make its Form Nos. 714 and 715 available in a way that maintains confidentiality and complies with CEII and cyber security requirements. NorthWestern also commits to providing information on the location of applicable North American Electric Reliability Corporation (NERC)/MAPP/Midwest Reliability Organization planning criteria, reliability standards, regional power flow models, or other pertinent information as available. Additionally, NorthWestern states that it will set the planning horizons and study frequencies considering NERC and/or regional entity standards and the MAPP sub-regional planning group's planning cycle.

**c. Commission Determination**

28. We find that NorthWestern fails to comply with the transparency principle. NorthWestern proposes to make its Form Nos. 714 and 715 data available as a means to making the basic criteria, assumptions, and data that underlie its transmission systems

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include 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.

<sup>18</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

plans available. However, in Order No. 890, the Commission made clear that transmission providers must provide sufficient information to “enable customers, other stakeholders, or an independent third party to replicate the results of planning studies.”<sup>19</sup> In Order No. 890, the Commission stated that Form Nos. 714 and 715 do not provide timely data needed to perform load flow studies and other analyses to ensure that planning is being conducted on a comparable basis.<sup>20</sup> Accordingly, we direct NorthWestern to submit a further compliance filing within 60 days of issuance of this order revising its Attachment K to describe how it will disclose to interested stakeholders the basic methodology, criteria, and processes used to develop transmission plans sufficient for them to be able to replicate a transmission plan.

#### **4. Information Exchange**

##### **a. Order No. 890**

29. 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.<sup>21</sup> Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

30. 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 resources if they wish to have them considered in the 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 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

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<sup>19</sup> *Id.* P 471.

<sup>20</sup> *Id.* P 477.

<sup>21</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

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.<sup>22</sup>

31. 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.<sup>23</sup>

**b. NorthWestern's Proposal**

32. NorthWestern's proposed Attachment K indicates that NorthWestern "participates in the annual development of the regional base case power flow and stability models"<sup>24</sup> and requires network customers and other load serving entities, including the transmission provider for its native end-use load within the NorthWestern transmission system, to annually submit existing loads and future loads "for the horizon of the regional base case models (typically ten years)."<sup>25</sup> Additionally, NorthWestern's proposed Attachment K requires point-to-point customers to annually submit projections of their quantifiable transmission service needs over the planning horizon, including available receipt and delivery points and the transmission service reservations anticipated to be scheduled. Section 13.6.3 of NorthWestern's proposed Attachment K also provides as follows:

The NorthWestern data request will be sent annually in coordination with the regional data request. NorthWestern will send a data request to its Transmission Customers typically prior to expected transmittal of the regional data request. Transmission Customers will be expected to respond to the NorthWestern data request in a timely fashion.

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<sup>22</sup> *Id.* P 206.

<sup>23</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

<sup>24</sup> NorthWestern proposed Attachment K, section 13.6.1.

<sup>25</sup> *Id.* at section 13.6.1.1.

**c. Commission Determination**

33. We find that NorthWestern’s proposed Attachment K partially complies with the information exchange principle. Under NorthWestern’s proposed Attachment K, customers, including the transmission provider for its native end-use load within the NorthWestern transmission system, are required to submit relevant information regarding their projected usage of NorthWestern’s system “for the horizon of the regional base case models.” However, NorthWestern does not clearly identify what regional base case models will be used and does not definitively identify the planning horizon to which it refers. NorthWestern’s Attachment K also does not clearly specify the timelines and milestones involved in developing its local transmission plan or how it will develop guidelines and a schedule for the submittal of customer information. Under proposed section 13.6.3, NorthWestern will issue a data request “typically prior to expected transmittal of the regional data request” and transmission customers are to respond “in a timely fashion.” The Commission finds such tariff language to be insufficient to identify how long customers and other stakeholders will have to provide the requested data, and the amount of time between when data is submitted to NorthWestern and the time that a final plan will be developed. Accordingly, we direct NorthWestern to submit a further compliance filing within 60 days of issuance of this order revising its Attachment K to clearly identify what it means by “for the horizon of the regional base case models,” and to specify the timelines and milestones required to develop its local transmission plan.<sup>26</sup>

**5. Comparability**

**a. Order No. 890**

34. 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 historically have 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

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<sup>26</sup> As discussed more fully below in the section on the comparability principle, we also find that NorthWestern fails to identify where and when stakeholders that may not be transmission customers, such as resource developers, may provide their input into the planning process.

explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.<sup>27</sup>

35. 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.<sup>28</sup>

**b. NorthWestern's Proposal**

36. NorthWestern states that its proposed Attachment K provides long-term reliability and economic planning of transmission facilities for the NorthWestern transmission system for firm commitments and network customers served from the NorthWestern transmission system that is comparable to the long-term planning of NorthWestern's native end-use load served from the NorthWestern transmission system.<sup>29</sup> NorthWestern also states that the MAPP Restated Agreement, sections 1.1, 2.1, 7.1, and 7.2, requires comparability and has been effective in assuring comparability throughout the region. As an example, NorthWestern points out that section 7.2 provides that "All Eligible Customers, as defined by [the Federal Energy Regulatory Commission], shall be entitled to receive comparable, not unduly discriminatory transmission service over the transmission facilities of [the Regional Transmission Committee] Members that are Transmission Providers." NorthWestern further explains that because many of the Regional Transmission Committee member transmission providers are non-jurisdictional, the MAPP Restated Agreement extends comparability beyond jurisdictional borders. NorthWestern states that it participates in the MAPP coordinated regional transmission planning process, which provides for comparable treatment of similarly-situated customers as described in Attachment K.

**c. Commission Determination**

37. We find that NorthWestern's proposed Attachment K partially complies with the comparability principle stated in Order No. 890. NorthWestern's planning process will reflect the needs of firm point-to-point customers, bundled retail customers, or network customers that may exist on the system and will apply the same planning criteria to the same types of projects.

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<sup>27</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

<sup>28</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>29</sup> See NorthWestern proposed Attachment K, section 13.2.

38. However, neither the MAPP Planning Template that NorthWestern incorporated into its Attachment K at sections 1 through 12 nor NorthWestern's local process outlined in section 13 allow for sponsors of all types of resources, including transmission, generation, and demand resources, to provide information for use in developing the base-line assumptions and models used by NorthWestern. In addition, NorthWestern's Attachment K does not affirmatively state that, once needs on its system are identified, sponsors of transmission, generation, and demand resources can propose alternative solutions to those identified needs. NorthWestern also fails to identify how it will evaluate alternative solutions when determining what facilities will be included in its transmission plan. We therefore require NorthWestern to submit a further compliance filing, within 60 days of this order, revising its Attachment K (including any portion of the MAPP Planning Template that NorthWestern relies on for transmission planning on the NorthWestern system) to state that sponsors of transmission, generation, and demand resources can provide information for use in developing base-line assumptions and models and propose alternative solutions to any needs identified on the NorthWestern system as part of the transmission planning process.<sup>30</sup> We further direct NorthWestern to state how it will evaluate and select from among competing solutions such that all types of resources are considered on a comparable basis.<sup>31</sup>

39. With regard to economic planning studies requested by stakeholders, NorthWestern does not address how it will ensure comparable treatment of resources in its economic planning process. Accordingly, we require NorthWestern to submit a further compliance filing, within 60 days of this order, revising its Attachment K to indicate clearly that a stakeholder is able to submit a request for NorthWestern to study potential upgrades or other investments necessary to integrate any resource, whether transmission, generation, or demand resources, identified by the stakeholder.

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<sup>30</sup>See *MidAmerican Energy Company*, 127 FERC ¶ 61,168, at P 12 (2009) (*MidAmerican*) (requiring MidAmerican to make these same changes to the MAPP Planning Template).

<sup>31</sup> Tariff language could, for example, state that solutions will be evaluated against each other based on a comparison of their relative economics and effectiveness of performance. Although the particular standard a transmission provider uses to perform this evaluation can vary, it should be clear from the tariff language how one type of investment would be considered against another and how the transmission provider would choose one resource over another or a competing proposal.

## 6. Dispute Resolution

### a. Order No. 890

40. 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 used, 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.<sup>32</sup>

### b. NorthWestern's Proposal

41. NorthWestern states that because NorthWestern is obligated by contract to do joint planning with WAPA, WAPA's dispute resolution process will apply for local planning issues.

### c. Commission Determination

42. We find that NorthWestern's proposed Attachment K does not comply with the dispute resolution principle stated in Order No. 890. NorthWestern states that WAPA's dispute resolution procedures will apply to any disputes regarding local planning on the NorthWestern transmission system. However, NorthWestern does not describe the WAPA dispute resolution procedures in its proposed Attachment K nor how the WAPA procedures may apply to resolve disputes that may arise from the local planning process, including both procedural and substantive planning issues. Therefore, we direct NorthWestern to file, within 60 days of issuance of this order, a compliance filing to include a dispute resolution process as required by Order No. 890.

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<sup>32</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 501-03.

## 7. Regional Participation

### a. Order No. 890

43. 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 (1) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data; and (2) 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 subregions. 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 are not appropriate for such economic issues, individual regions or subregions must develop alternative processes.<sup>33</sup>

44. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed toward transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.<sup>34</sup> The Commission also emphasized that effective regional planning should include coordination among regions and subregions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.<sup>35</sup>

### b. NorthWestern's Proposal

45. NorthWestern states that it participates in the MAPP coordinated regional transmission planning process, which is described in sections 1 through 12 of NorthWestern's Attachment K. Section 3.4 of NorthWestern's proposed Attachment K

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<sup>33</sup> *Id.* P 523-28.

<sup>34</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

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

provides that no less often than biennially, the MAPP Regional Transmission Committee will develop and approve a coordinated transmission plan for a ten-year planning period or other planning period specified by NERC. Section 4 of NorthWestern's Attachment K describes the coordinated regional planning process to be carried out among MAPP members, including steps for developing the MAPP regional plan, updating the MAPP regional plan, and identification of transmission requirements. Specifically, under section 4.1, all MAPP members are obligated to submit their transmission member plans to the Transmission Planning Subcommittee of the Regional Transmission Committee and the MAPP members' transmission plans will be integrated into four coordinated sub-regional plans. In turn, the Transmission Planning Subcommittee integrates the sub-regional plans into the MAPP regional plan. Section 4.2 of NorthWestern's proposed Attachment K provides that the Transmission Planning Subcommittee uses milestone dates for activities such as data collection and analysis, model preparation, and regional plan reporting and approval as established in the MAPP Regional Planning Procedures Manual.

46. In addition, section 6 of NorthWestern's proposed Attachment K describes the sub-regional planning groups and their responsibilities. Membership in a sub-regional planning group is open to any interested party and any actual or potential user of the relevant transmission facilities. Additionally, NorthWestern's proposed Attachment K provides that neighboring transmission owning utilities and regulatory participants are eligible and encouraged to join a sub-regional planning group. Section 6 also provides that each sub-regional planning group should meet at least twice annually to review plans and determine any necessary changes. These meetings will be open to all MAPP members, interested parties, and regulatory participants and the sub-regional transmission plan will be developed for the ensuing ten years.

47. Section 7 of NorthWestern's proposed Attachment K details the public input and participation process in the sub-regional and regional planning processes and section 8 of NorthWestern's Attachment K describes how MAPP will participate in a joint planning committee with representatives of adjacent transmission providers or regional transmission organizations, or their designated regional planning organizations to conduct a coordinated regional transmission planning study. Specifically, the joint planning committee will coordinate the development of common power system analysis models, conduct a Coordinated Regional Transmission Planning Study on a regular basis, maintain an internet site and email lists for the communication of information related to coordinated planning, meet at least semi-annually to review and coordinate transmission planning activities, establish working groups as necessary and establish a schedule for the rotation of responsibilities to be carried out by the joint planning committee.

48. Section 8.3 of NorthWestern's Attachment K describes data and information exchange activities and responsibilities associated with membership in the joint planning committee. It includes details related to the development of power flow and other system

analysis models, planning models, regional plan documents, reliability assessments, operating assessments, the status of studies, transmission system maps, contingency lists, the timing of planned enhancements, identification of interconnection requests and information regarding long-term firm transmission service on relevant interfaces in accordance with Critical Energy Infrastructure Information requirements.

49. Section 8.4 of NorthWestern's Attachment K describes the coordinated system planning process to be carried out between members of the joint planning committee, which includes the coordination of analyses of interconnection requests, coordination of analyses of long-term firm transmission service requests and participation in a periodic Coordinated Regional Transmission Planning Study. Members of the joint planning committee, including MAPP, will review the scope, key modeling assumptions, and preliminary and final results of the Coordinated Regional Transmission Planning Study in coordination with stakeholders using existing stakeholder forums of the coordinating parties. Further, NorthWestern states that it will continue to participate in the MAPP regional and sub-regional committees and successor regional groups as needed to coordinate transmission planning with interconnected systems.

**c. Commission Determination**

50. We find that NorthWestern's participation in MAPP, as laid out in sections 1 through 12 of NorthWestern's Attachment K, complies with the regional participation principle. NorthWestern's Attachment K describes how the sub-regional and regional transmission planning processes will work, and how local member plans are integrated into the sub-regional and regional plans, and how interested stakeholders may participate in these processes.<sup>36</sup>

**8. Economic Planning Studies**

**a. Order No. 890**

51. 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.

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<sup>36</sup> See *MidAmerican*, 127 FERC ¶ 61,168 at P 15-18, 30 (the Commission found that the same version of the MAPP Planning Template as that filed by NorthWestern in this proceeding fully complies with the regional participation principle of Order No. 890).

The Commission emphasized that the scope of economic studies should not be limited solely to individual requests for transmission service. Customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

52. In Order No. 890, all transmission providers 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, and were required to post requests for economic planning studies, as well as responses to the requests, on their OASIS or web sites. 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.<sup>37</sup>

53. In Order No. 890-A, the Commission made clear that the transmission provider's Attachment K must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.<sup>38</sup> 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 process outlined in the transmission provider's Attachment K.<sup>39</sup>

**b. NorthWestern's Proposal**

54. NorthWestern's Attachment K provides that to the extent WAPA's local planning process addresses economic studies, NorthWestern will participate in that process.

**c. Commission Determination**

55. We find that NorthWestern does not comply with the economic planning studies principle. NorthWestern has not developed a process for evaluating network additions or upgrades that may alleviate significant or recurring congestion or integrate new resources or load on its transmission system. Additionally, NorthWestern has not described the process by which economic planning studies may be requested by any stakeholder, how they will be prioritized, how they will be clustered, or how many high priority studies annually will be included in its overall OATT cost of service. To the extent that

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<sup>37</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

<sup>38</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

<sup>39</sup> *Id.* P 237.

NorthWestern plans to use the WAPA local planning process to address economic studies, NorthWestern is required to describe that process in its Attachment K in sufficient detail to meet the aforementioned requirements of Order No. 890 and provide direct URL links to that process. Accordingly, in a compliance filing to be made within 60 days of issuance of this order, we direct NorthWestern to modify its Attachment K to include an economic planning studies process as required by Order Nos. 890 and 890-A.<sup>40</sup>

## 9. Cost Allocation

### a. Order No. 890

56. The cost allocation principle requires that transmission providers address in their Attachment K the allocation of costs of new facilities that do not fit under existing rate 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 fits 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.

57. 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.<sup>41</sup> In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as

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<sup>40</sup> We also note that regional economic planning studies will be conducted pursuant to section 11 of the MAPP Planning Template. We have already found this section of the MAPP Planning Template to comply with Order No. 890. *See MidAmerican Energy Company*, 123 FERC ¶ 61,160, at P 38, 41 (2008).

<sup>41</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 557-61.

participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.<sup>42</sup>

**b. NorthWestern's Proposal**

58. NorthWestern's proposed Attachment K provides, in pertinent part:

Network Upgrades through the joint planning process with WAPA will be allocated under traditional cost allocation procedures: (i) the cost of Direct Assignment Facilities will be charged to the Transmission Customer, and (ii) the Transmission Customer's appropriate share of the cost of any required Network Upgrades will be charged to the Transmission Customer.<sup>43</sup>

**c. Commission Determination**

59. We find that NorthWestern's proposed Attachment K partially complies with the cost allocation principle stated in Order No. 890. While the cost of upgrades associated with reliability needs or requests for service will be allocated in accordance with existing mechanisms, NorthWestern has not stated how the cost of upgrades identified in an economic planning study will be allocated. Additionally, NorthWestern references section 32.5 of its OATT (Penalties for Failure to Meet Study Deadlines), which does not pertain to cost allocation. NorthWestern is directed to remove this reference as it is extraneous or explain why it should not be removed. In a compliance filing to be made within 60 days of issuance of this order, we direct NorthWestern to modify its Attachment K to identify the types of new facilities that are not covered under existing cost allocation rules and include a cost allocation methodology for costs of such facilities.

**10. Recovery of Planning Costs**

**a. Order No. 890**

60. 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

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<sup>42</sup> Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

<sup>43</sup> NorthWestern OATT, section 32.5.

recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.<sup>44</sup>

**b. Commission Determination**

61. NorthWestern's proposed Attachment K does not address the recovery of planning costs. We direct NorthWestern, within 60 days of issuance of this order, to revise its Attachment K to address the recovery of its planning costs, as required by Order No. 890.

The Commission orders:

(A) NorthWestern's proposed Attachment C is hereby accepted, effective April 10, 2008, subject to a further compliance filing as discussed in the body of this order.

(B) NorthWestern's proposed Attachment K is hereby accepted, effective August 29, 2008, as modified, as discussed in the body of this order.

(C) NorthWestern is hereby directed to submit a compliance filing, within 60 days of issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>44</sup> Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.