

128 FERC ¶ 61,064  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Idaho Power Company	Docket Nos. OA08-23-001 OA08-55-004
Deseret Generation & Transmission Co-operative, Inc.	OA08-28-002 OA08-54-004
NorthWestern Corporation	OA08-31-002 OA08-56-004
PacifiCorp	OA08-40-001 OA08-57-004
Portland General Electric Company	OA08-45-002 OA08-118-001
Black Hills Power, Inc.	OA08-99-002

ORDER ON COMPLIANCE FILINGS

(Issued July 16, 2009)

1. On October 29, 2008, as amended on November 13, 2008 and November 18, 2008, Idaho Power Company (Idaho Power), Deseret Generation & Transmission Co-operative, Inc. (Deseret), NorthWestern Corporation (NorthWestern),<sup>1</sup> PacifiCorp, and Portland General Electric Company (Portland General) (collectively, the Transmission Providers) submitted revised tariff sheets to comply with the Commission's July 17,

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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 Open Access Transmission Tariffs (OATTs) for its services in Montana and South Dakota. This proceeding addresses NorthWestern's Montana OATT services only.

2008<sup>2</sup> and October 16, 2008<sup>3</sup> orders addressing their Order No. 890<sup>4</sup> transmission planning processes.<sup>5</sup>

2. Also, on October 29, 2008, Idaho Power, Deseret, NorthWestern, PacifiCorp, Portland General and Black Hills Power Inc. (Black Hills) (collectively, the NTTG Filers) submitted a separate filing to comply with the Commission's directives in the NTTG Planning Order addressing certain Northern Tier Transmission Group (NTTG) agreements.<sup>6</sup> NTTG is a sub-regional planning group that coordinates transmission planning for multiple local transmission providers that are located in the Pacific Northwest.

3. In this order, the Commission will accept, subject to modification and a further compliance filing as discussed below, the Transmission Providers' proposed revisions to their respective Attachment Ks, effective December 7, 2007 as to Deseret, Idaho Power, NorthWestern, and PacifiCorp, and effective August 12, 2008 as to Portland General. The Commission will also accept the NTTG Filers' proposed revisions to the NTTG Group Planning Agreement (NTTG Planning Agreement) as in compliance with the requirements of the NTTG Planning Order, effective December 7, 2007 as to Idaho Power, Deseret, NorthWestern, and PacifiCorp, April 3, 2008 as to Black Hills, and May 22, 2008 as to Portland General.<sup>7</sup>

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<sup>2</sup> *Idaho Power Co., et al.*, 124 FERC ¶ 61,053 (2008) (NTTG Planning Order).

<sup>3</sup> *Portland General Elec.*, 125 FERC ¶ 61,067 (2008) (Portland General Planning Order).

<sup>4</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).

<sup>5</sup> We will refer to this as the "Attachment K Compliance Filing."

<sup>6</sup> We will refer to this as the "NTTG Agreement Compliance Filing."

<sup>7</sup> See Appendix A.

## **I. Background**

4. 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. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop transmission planning processes that satisfies nine principles and to clearly describe that process in a new attachment (Attachment K) to their Open Access Transmission Tariffs (OATT).

5. The nine planning principles each Transmission Provider was directed by Order No. 890 to address in its Attachment K planning process are (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;<sup>8</sup> (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,<sup>9</sup> must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

6. To comply with the transmission planning requirements of Order No. 890, on December 7, 2007, the Transmission Providers submitted filings containing transmission planning processes as proposed Attachment Ks to their respective OATTs. In those filings, the Transmission Providers stated that they are members of NTTG and plan to

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<sup>8</sup> In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

<sup>9</sup> *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55.

conduct sub-regional transmission planning through their memberships in NTTG. The Transmission Providers also stated that they will participate in the regional economic planning activities performed by Western Electricity Coordinating Council's (WECC) Transmission Expansion Policy and Planning Committee (TEPPC) through their participation in NTTG. The Transmission Providers also represented that their local planning processes together with their participation in the NTTG sub-regional transmission planning process and participation in the WECC's TEPPC process meet the Commission's nine planning principles.

7. Additionally, on November 30, 2007, Deseret, Idaho Power, NorthWestern, and PacifiCorp submitted proposed revisions to their respective OATTs to incorporate rate schedules reflecting the NTTG Planning Agreement, the NTTG 2007 Funding Agreement, and the 2008-2009 NTTG Funding Agreement (collectively, NTTG Agreements). After becoming members of NTTG, on April 3, 2008 and on May 22, 2008, respectively, Black Hills and Portland General each respectively submitted a rate schedule reflecting the NTTG Planning Agreement. After becoming a funding member of NTTG, on August 12, 2008, Portland General submitted a rate schedule reflecting the 2008-2009 NTTG Funding Agreement.

8. In the NTTG and Portland General Planning Orders, the Commission found that the Transmission Providers had partially complied with Order No. 890's requirement for each transmission provider to develop an Attachment K planning process that considers local, sub-regional, and regional planning. The Commission found that the Transmission Providers had fulfilled the requirements of Order No. 890 regarding the following principles: coordination, openness, transparency, and information exchange. The Commission also found that the Transmission Providers partially complied with the comparability, dispute resolution, regional participation, economic planning studies, and cost allocation principles. The Commission directed the Transmission Providers to submit a compliance filing revising portions of their respective Attachment K planning processes to comply fully with Order No. 890.

9. In addition, in the NTTG Planning Order, the Commission accepted the NTTG Agreements, subject to a further compliance filing. Specifically, the Commission directed the NTTG Filers to revise the dispute resolution procedures of section 11 of the NTTG Planning Agreement to (1) ensure that any rights parties have under Federal Power Act (FPA) section 206 to file complaints with the Commission are retained; and (2) to explain how the WECC dispute resolution procedures can be utilized to address disputes that arise under the sub-regional planning process, including whether a non-WECC member can effectively invoke the WECC dispute resolution procedures.

## **II. Notices of Filings and Responsive Pleadings**

10. Notices of the Attachment K Compliance Filing and the NTTG Agreement Compliance Filing were published in the *Federal Register*, 73 Fed. Reg. 65,843 (2008), with interventions and protests due on or before November 19, 2008. American Wind Energy Association and Renewable Northwest Project (collectively, AWEA/RNP) filed comments on the Transmission Providers' proposed revisions to their respective Attachment K.<sup>10</sup> PPL EnergyPlus and PPL Montana, LLC, (collectively, PPL Companies) filed a timely motion to intervene and comments on NorthWestern's Attachment K and its proposed rate schedule incorporating the NTTG Planning Agreement into the NorthWestern OATT. The Transmission Providers filed an answer to the AWEA/RNP comments and NorthWestern filed a separate answer to the AWEA/RNP comments and to PPL Companies' protest.

11. On October 10, 2008, the NTTG Filers submitted a motion for an extension of time to file their respective compliance filings. The Commission issued a notice granting the requested extension of time on October 14, 2008<sup>11</sup> and the filings were subsequently made on October 29, 2008.

12. Notice of the Transmission Providers' November 13 and 18, 2008 filings, which revised the Attachment K Compliance Filing, was published in the *Federal Register*, 73 Fed. Reg. 75,423 (2008), with interventions and protests due on or before December 9, 2008. None was filed.

## **III. Discussion**

### **A. Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

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<sup>10</sup> AWEA states that it previously intervened in all of the dockets pertaining to the Transmission Providers' Attachment K filings and that RNP intervened only in Docket No. OA08-40-000 regarding PacifiCorp's Attachment K filing. Accordingly, AWEA's comments apply to all of the proposed Attachment Ks, while RNP's only applies to PacifiCorp.

<sup>11</sup> *Idaho Power Co., et al.*, Notice of Extension of Time, Docket No. OA08-23-000, *et al.* (Oct. 14, 2008).

14. 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 NorthWestern's and the Transmission Providers' answers because they have provided information that assisted us in our decision-making process.

## **B. Substantive Matters**

15. In the NTTG and Portland General Planning Orders, the Commission accepted for filing, subject to modification, the Transmission Providers' Attachment Ks.<sup>12</sup> Specifically, the Commission directed the Transmission Providers to make further modifications addressing comparability, dispute resolution, regional participation, economic planning studies, and cost allocation.<sup>13</sup> The Commission also directed revisions to the dispute resolution provision of the NTTG Planning Agreement. As discussed below, the Commission will accept the Transmission Providers' transmission planning processes and the revised NTTG Agreement, as in compliance with the NTTG and Portland General Planning Orders, subject to a further compliance filing.

16. Although the Commission accepts the Transmission Providers' compliance filings 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

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<sup>12</sup> Black Hills filed separately, in Docket No. OA09-11-000, to comply with the Commission's directives in the NTTG Planning Order regarding the Black Hills Attachment K.

<sup>13</sup> The Commission also directed PacifiCorp to correct its Attachment K tariff pages to reflect an effective date of December 7, 2007.

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 interregional transmission facilities, the integration of large amounts of location-constrained generation, and the interconnection of distributed energy resources.

### 1. Comparability

17. In the NTTG Planning Order, the Commission stated, with regard to Idaho Power, Deseret and NorthWestern, that their respective Attachment Ks generally meet the comparability principle. The Commission found, however, that a statement in the transmittal letter of their December 7, 2007 filing indicated that each of the three transmission providers would develop a transmission plan that “meets the needs of its transmission customers on a basis comparable to its own merchant function’s needs.”<sup>14</sup> The Commission stated that this statement 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. Therefore, the Commission directed Idaho Power, Deseret, and NorthWestern to submit a compliance filing clarifying how their transmission plans treat similarly-situated customers comparably under Order No. 890.

18. In addition, the Commission noted that Order No. 890-A was issued subsequent to the submission of the Transmission Providers’ initial compliance filings and that Order No. 890-A provided additional guidance as to how a 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 process, “how it will treat resources on a comparable basis and therefore should identify how it will determine comparability for the purposes of transmission planning.”<sup>15</sup> As a result, the Commission directed the Transmission Providers to make this necessary demonstration in a further compliance filing.

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<sup>14</sup> NTTG Planning Order, 124 FERC ¶ 61,053 at P 63 (quoting Idaho Power Transmittal Letter at 10; Deseret Transmittal Letter at 10; NorthWestern Transmittal Letter at 7).

<sup>15</sup> *Id.* (citing Order No. 890-A, FERC Stats. & Regs. 31,261 at P 216); Portland General Planning Order, 125 FERC ¶ 61,067 at P 28.).

**a. Compliance Filing**

19. Deseret, Idaho Power and NorthWestern state that their respective Attachment Ks establish a transmission system planning process that provides comparable planning for similarly-situated customers, allow all stakeholders to participate at every planning level and require that point-to-point transmission customers, network customers, and native load customers provide information about their future needs at the same time during the planning process. Deseret, Idaho Power and NorthWestern also state that under each Attachment K, the transmission provider is required to post the transmission plans as they are being developed as well as the methodologies, criteria, assumptions, databases, and processes that the transmission provider uses to prepare the transmission plans so that all stakeholders have access to the same information at the same time. In addition, the respective Attachment Ks allow all stakeholders to submit economic study requests. Deseret, Idaho Power and NorthWestern conclude that their respective Attachment K planning processes treat similarly-situated customers comparably under Order No. 890.

20. With regard to the Commission's directive that the Transmission Providers must demonstrate how they will treat resources on a comparable basis, the Transmission Providers state that their respective Attachment Ks provide for comparable treatment of all entities, including demand resources. The Transmission Providers state that each of their Attachment K planning processes allows for all stakeholders to participate at every level of the planning process (i.e., local, sub-regional, and regional).<sup>16</sup>

21. The Transmission Providers state that by explicitly requiring that the transmission planning process be open to all stakeholders, the relevant language in the respective Attachment Ks is broader than that suggested by the Commission and allows for participation by a full range of stakeholders, including those that are available to supply demand resources. The Transmission Providers state that their existing planning processes set forth in their Attachment Ks already treat demand resources on a comparable basis to other resources. However, to clarify this comparable treatment, the Transmission Providers propose to define "demand resources" in their respective Attachment Ks as follows:

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<sup>16</sup> Transmission Providers Filing at 11 (*citing* Deseret Attachment K, Part A, sections 2.3 and 10.1, Part B, section 3.1, Part C, section 3; Idaho Power Attachment K, sections 3.3, 11.1, 14 and 20; NorthWestern Attachment K, sections 2.2.2, 2.4.2, 3.3 and 4.3; PacifiCorp Attachment K, sections 2.1.5, 2.11.1, 3.4, and 4.4; Portland General Attachment K, section 3.3, 11.1, 14, and 20).

mechanisms to manage demand for power in response to supply conditions, for example, having electricity customers reduce their consumption at critical times or in response to market prices. This methodology focuses on curtailment of demand thus avoiding the requirement to plan new resources of generation or transmission capacity.<sup>17</sup>

22. The Transmission Providers state that this definition clarifies that when evaluating demand resources in the transmission plan, the Transmission Providers treat demand resources as a generation-based response. The Transmission Providers state that as a practical matter, demand resources reflect a reduced need for generation and that their process for addressing demand resources is flexible. For example, the transmission plan can study the effects of varying load during the planning horizon and study specific proposals involving demand resources when presented as economic study requests.<sup>18</sup> As defined in their respective Attachment Ks, an economic study request includes the submission of demand resources for modeling. The Transmission Providers conclude that their respective Attachment Ks treat demand resources comparably under Order Nos. 890 and 890-A.

**b. Protest**

23. PPL Companies state that NorthWestern's Attachment K does not adequately address comparability among similarly-situated customers because NorthWestern has not explained how it plans to coordinate and apply the nine planning principles as they relate to the Collector System<sup>19</sup> being proposed in Montana. PPL Companies note that the

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<sup>17</sup> See Deseret Attachment K, Definitions; Idaho Power Attachment K, section 1.1; NorthWestern Attachment K, section 1.1; PacifiCorp Attachment K, section 1.1; Portland General Attachment K, section 1.2.

<sup>18</sup> Transmission Providers Filing at 12 (*citing* Deseret Attachment K, Definitions; Idaho Power Attachment K, section 1.2; NorthWestern Attachment K, section 1.2; PacifiCorp Attachment K, section 1.3; Portland General Attachment K, section 1.2).

<sup>19</sup> The Collector System is a proposed transmission expansion consisting of a series of five generator lead lines, over which NorthWestern expects to offer service from five areas on NorthWestern's system to Townsend, Montana. See *NorthWestern Corp.*, 127 FERC ¶ 61,266, at P 2 (2009).

Collector System will serve both Large Generator Interconnection Procedures<sup>20</sup> applicants and existing network customers, as well as relieve congestion and serve native load growth. PPL Companies state that it is not clear whether NorthWestern intends to allocate any costs of the Collector System to non-participants who will benefit from it.

**c. Answer**

24. NorthWestern states that sections 2.1.3 (Comparability Between Customers) and 2.1.4 (Comparability Between Resources) of its Attachment K were added to fully address comparability among similarly-situated customers. NorthWestern states that PPL Companies' Collector System example is flawed, as it is a reference to new generator interconnection requests that NorthWestern has received and not for native load growth. NorthWestern states that the Collector System is not needed by native load customers and that cost allocation for such projects will be covered under NorthWestern's Large Generator Interconnection Procedures and business practices. NorthWestern also states that section 2.6.4.2 of its Attachment K (Cost Allocation Principles: Proportional Allocation) addresses cost allocation for non-participating beneficiaries, providing that "allocation of costs and benefits for network upgrades required by the local project will be allocated on a pro-rated share of the network facility capacity (MW) use, which will be quantified by technical study."<sup>21</sup>

**d. Commission Determination**

25. The Commission finds that Deseret, Idaho Power, and NorthWestern have clarified how their transmission planning processes treat similarly-situated customers comparably under Order No. 890. The Attachment Ks filed by Deseret, Idaho Power and NorthWestern provide for stakeholder participation at the local, sub-regional, and regional level.<sup>22</sup> In addition, the Transmission Providers have revised their respective

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<sup>20</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

<sup>21</sup> NorthWestern Attachment K, section 2.6.4.2.

<sup>22</sup> *See* Deseret Attachment K, Part A, sections 2.3 and 10.1, Part B, section 3.1, Part C, section 3; Idaho Power Attachment K, sections 3.3, 11.1, 14 and 20; NorthWestern Attachment K, sections 2.4.2, 3.3 and 4.3.

Attachment Ks to recognize “demand resources” as mechanisms to manage demand for power in response to supply conditions that focus on curtailment of demand and thereby are considered as potential alternatives to new generation or transmission.<sup>23</sup>

26. Nevertheless, the Transmission Providers have only partially complied with the Commission’s directives in the NTTG and Portland General Planning Orders to demonstrate how they will treat resources on a comparable basis and identify how they will determine comparability for the purposes of transmission planning, as required by Order No. 890-A. For example, each transmission provider will conduct a public meeting at the end of each quarter<sup>24</sup> in the study cycle to report on the development of the local transmission plan, present drafts of documents, and receive stakeholder comments.<sup>25</sup> However, the Transmission Providers fail to identify where and when in the transmission planning process stakeholders, including sponsors of transmission, generation and demand resources, have the ability to propose alternative solutions to identified needs. The Transmission Providers also do not identify how they will evaluate alternate solutions when determining facilities that will be included in the local transmission plans and in the NTTG transmission plan, before it is submitted to the NTTG Steering Committee for approval.

27. Furthermore, although Transmission Providers state that, during the first quarter of the two-year local transmission planning cycle they will gather network customers’ projected load, resources and load growth expectations, the transmission provider’s projected load growth and resource needs for native load customers, and eligible customers’ projections of point-to-point transmission service usage at each receipt and delivery point,<sup>26</sup> the Transmission Providers fail to specify in their Attachment Ks when and where in the planning process, stakeholders, other than transmission customers, may submit data to be evaluated in the transmission plan.

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<sup>23</sup> See Deseret Attachment K, Definitions; Idaho Power Attachment K, section 1.1; NorthWestern Attachment K, section 1.1; PacifiCorp Attachment K, section 1.1; Portland General Attachment K, section 1.2.

<sup>24</sup> Portland General will conduct public meetings semiannually. See Portland General Attachment K, section 3.3.

<sup>25</sup> See *e.g.*, Deseret Attachment K, Part A section 2.3.

<sup>26</sup> Deseret Attachment K, Part A, sections 2.2.1; Idaho Power Attachment K, sections 3.2.1; NorthWestern Attachment K, sections 2.3.2.1.1; PacifiCorp Attachment K, sections 2.2.2.1; Portland General Attachment K, sections 3.2.1.

28. We therefore require the Transmission Providers to submit a further compliance filing, within 60 days of this order, revising their respective Attachment Ks to state (1) where and when stakeholders can propose alternatives; (2) how they will evaluate and select from among competing solutions such that all types of resources are considered on a comparable basis;<sup>27</sup> and (3) specify that all stakeholders, not just transmission customers, may submit data to be evaluated in the transmission plan.

29. Further, we find PPL Companies' comments regarding NorthWestern's Collector System to be beyond the scope of the instant proceeding. As NorthWestern explained, cost allocation for that proposed project would be determined pursuant to NorthWestern's Large Generator Interconnection Procedures. Thus, the cost allocation procedures of NorthWestern's Attachment K transmission planning process would not be applicable to the Collector System.<sup>28</sup>

## 2. Dispute Resolution

30. In the NTTG and Portland General Planning Orders, the Commission found that the Transmission Providers' Attachment Ks partially complied with the requirements of the dispute resolution principle stated in Order No. 890. The Commission stated that the Transmission Providers' proposed dispute resolution processes may inappropriately affect the ability of a party to exercise its rights under section 206 of the FPA prior to the conclusion of negotiation and mediation. Specifically, the Commission determined that affected parties in the transmission planning process should retain any rights they may have under section 206 of the FPA to file a complaint with the Commission.<sup>29</sup>

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<sup>27</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.

<sup>28</sup> See *NorthWestern Corp.*, 127 FERC ¶ 61,266 at P 27-28 (2009) (noting that the Collector System project consists of a series of generator lead lines that are intended to interconnect project participants with NorthWestern's transmission system and approving NorthWestern's proposal to directly assign the costs of the Collector System project to participating interconnection customers).

<sup>29</sup> Portland General Planning Order, 125 FERC ¶ 61,067 at P 31; NTTG Planning Order, 124 FERC ¶ 61,053 at P 73.

Accordingly, the Commission directed the Transmission Providers to file revised dispute resolution provisions that preserve the ability of any party to exercise its rights under section 206 of the FPA.<sup>30</sup>

31. In addition, in the NTTG Planning Order, the Commission found that it was 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 and how the WECC dispute resolution process can be utilized to address regional planning disputes that arise under each Transmission Provider's tariff.<sup>31</sup> Similarly, with respect to NorthWestern's proposed dispute resolution process concerning local planning, the Commission found it unclear how the WECC dispute resolution procedures would apply to address disputes outside of WECC or that may involve non-WECC members.<sup>32</sup> Accordingly, the Commission directed the Transmission Providers to submit revised dispute resolution provisions to address these issues.

32. The Commission also found that the dispute resolution provision of the NTTG Planning Agreement needed to be revised to preserve a party's section 206 rights and to 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.<sup>33</sup>

**a. Compliance Filing**

33. The NTTG Filers<sup>34</sup> state that they have revised section 11 of the NTTG Agreement to comply with the Commission's directives and that each Transmission Provider has revised its respective Attachment K to clarify that each Transmission

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

<sup>31</sup> NTTG Planning Order, 124 FERC ¶ 61,053 at P 94.

<sup>32</sup> *Id.* P 74.

<sup>33</sup> *Id.* P 19.

<sup>34</sup> "NTTG Filers" includes Black Hills, a party to the NTTG Agreement. Black Hills is not included in "Transmission Providers" because, as noted above, it submitted a separate Attachment K compliance filing.

Provider will participate in the dispute resolution process under the NTTG Planning Agreement to resolve disputes related to the integration of a Transmission Provider's local transmission plan with the sub-regional expansion plan and associated cost allocation. For the obligations of parties other than the Transmission Providers, the revised Attachment Ks provide that, "eligible customers and stakeholders that seek to participate in the sub-regional planning process are expected to participate in the NTTG Planning Committee and utilize the NTTG Planning Agreement dispute resolution process."<sup>35</sup> The Transmission Providers propose changes to section 11 of the NTTG Planning Agreement (which will be used to resolve disputes related to the integration of each Transmission Provider's local plan into the sub-regional transmission plan). Specifically, they have added section 11.2 which provides, "[n]othing in this section 11 shall restrict the rights of any party to file a complaint with the Commission under relevant provision of the Federal Power Act."

34. The Transmission Providers also have revised the four-step dispute resolution provision of the NTTG Planning Agreement to make clear how the process would work for a dispute that is covered by the dispute resolution process under the WECC Bylaws, and one that is not (i.e., a dispute regarding an issue that is not defined within the WECC Bylaws as a dispute covered therein or a dispute involving a non-WECC party). The Transmission Providers propose to revise the mediation step of the dispute resolution process to state that if the dispute is within the scope of the WECC dispute resolution process, then the disputing parties shall follow the mediation process defined in Appendix C of the WECC Bylaws. The Transmission Providers further propose that if the dispute is not within the scope of the WECC dispute resolution process, the disputing parties may utilize the Commission's dispute resolution service to facilitate mediation.<sup>36</sup>

35. Similarly, the Transmission Providers propose to revise the arbitration step of the NTTG dispute resolution process to provide that if the dispute is within the scope of the WECC dispute resolution process, and if mediation is unsuccessful, then the disputing parties shall follow the binding arbitration process defined in Appendix C of the WECC Bylaws. If the dispute is not within the scope of the WECC dispute resolution process, the disputing parties may invoke the arbitration procedures set out in Article 12 of the *pro forma* OATT, which is incorporated into each transmission provider's OATT.

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<sup>35</sup> Deseret Attachment K, Part B, section 5; Idaho Power's Attachment K, section 16; NorthWestern Attachment K, section 3.5; PacifiCorp Attachment K, section 3.6.1; Portland General Attachment K, section 16.

<sup>36</sup> NTTG Planning Agreement, section 11.1.

36. The Transmission Providers also state that they have revised their local planning process to ensure that a stakeholder's rights to file a complaint pursuant to the FPA are not abridged in any manner<sup>37</sup> and to clarify that mediation is only required with respect to those parties willing to mediate.<sup>38</sup>

**b. Protest**

37. PPL Companies request clarification that the revisions to the NTTG Planning Agreement preserve the right of transmission and interconnection customers to file FPA section 206 complaints with the Commission at any time. PPL Companies state that section 11 of the NTTG Planning Agreement includes references to "binding arbitration." PPL Companies have concerns that such wording is unclear. PPL Companies also state that NorthWestern's proposed section 3.5 contains a typographical error<sup>39</sup> and should be revised as follows:

Nothing contained in Section 3.5 of the NTTG Planning Agreement shall restrict the rights of any party to file a complaint with the Commission at any time under the relevant provisions of the Federal Power Act.

**c. Answer**

38. NorthWestern states that the PPL Companies' criticism of its dispute resolution process is without merit. NorthWestern states that section 11 of the NTTG Planning Agreement is derived directly from section 12.5 of the Order 890-B *pro forma* OATT.<sup>40</sup>

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<sup>37</sup> See Deseret Attachment K, Part A, section 8.4; Idaho Power Attachment K, section 9.4; NorthWestern Attachment K, section 2.8.5; PacifiCorp Attachment K, section 2.9.5; PGE Attachment K, section 9.4.

<sup>38</sup> See Deseret Attachment K, Part A, section 8.1.2; Idaho Power Attachment K, section 9.1.2; NorthWestern Attachment K, section 2.8.1.2; PacifiCorp Attachment K, section 2.9.1.2; PGE Attachment K, section 9.1.2.

<sup>39</sup> The Commission notes that, although PPL Companies only addressed NorthWestern's Attachment K, a similar provision is contained in each of the transmission provider's respective Attachment Ks. See Deseret Attachment K, Part B, section 5; Idaho Power Attachment K section 16; PacifiCorp Attachment K, section 3.6.2; Portland General Attachment K, section 16.

<sup>40</sup> NorthWestern Answer at 8 (*citing* Order No. 890-B, 123 FERC ¶ 61,299 at *pro forma* OATT, section 12.5).

However, NorthWestern states that it is willing, at the Commission's direction, to make a filing to address the revised language proposed by PPL Companies.

**d. Commission Determination**

39. The proposed tariff revisions for dispute resolution comply with the Commission's directives in the NTTG and Portland General Planning Orders.

40. As directed in the NTTG Planning Order, the NTTG Filers have revised the dispute resolution process contained in the NTTG Planning Agreement to clarify how the process would work for a dispute that is covered by the dispute resolution procedures defined in Appendix C of the WECC Bylaws versus a dispute that is not. Similarly, NorthWestern has revised its local planning process to clarify how the WECC dispute resolution process applies to address disputes outside of WECC or involving non-WECC members. Additionally, the Transmission Providers have revised the dispute resolution provisions applicable to their local transmission planning process and the NTTG sub-regional planning process to address the Commission's directive that affected parties should retain any rights they may have under section 206 of the FPA. We disagree with PPL Companies that it is unclear that the NTTG Planning Agreement preserves the right of transmission and interconnection customers to file FPA section 206 complaints with the Commission. We also disagree that NorthWestern's proposed section 3.5 contains a typographical error. NorthWestern's proposed section 3.5 conforms to the dispute resolution provision of the Order No. 890 *pro forma* OATT.<sup>41</sup> Accordingly, we accept the Transmission Providers' proposed dispute resolution provisions as in compliance with the NTTG and Portland General Planning Orders.

**3. Regional Participation**

41. In the NTTG and Portland General Planning Orders, the Commission found that the Transmission Providers' respective Attachment Ks generally complied with the regional participation principle of Order No. 890. However, the Commission found that the Transmission Providers' respective Attachment Ks did not provide sufficient detail to

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<sup>41</sup> See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at *pro forma* OATT, section 12.5 ("Nothing in this section shall restrict the rights of any party to file a Complaint with the Commission under relevant provisions of the Federal Power Act.").

allow customers and stakeholders to fully understand how the data and inputs provided on a local transmission plan will be integrated in the sub-regional and regional studies.<sup>42</sup>

42. Specifically, the Commission found that 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 had not been identified.<sup>43</sup> Additionally, the Commission stated it was 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. The Commission stated that any link offered in the Attachment K or on a Transmission Provider's Open Access Same-time Information System (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. Therefore, the Commission directed the Transmission Providers to revise their respective Attachment Ks to provide greater specificity regarding how their respective local transmission plans will be integrated into sub-regional and regional transmission plans.

**a. Compliance Filing**

43. The Transmission Providers propose revisions to their Attachment Ks to add specificity regarding the sub-regional planning process. The Transmission Providers state that as part of the sub-regional planning process, NTTG's Planning Committee will biennially prepare a long-term (ten-year) bulk transmission expansion plan, while taking into consideration up to a twenty-year planning horizon. The Transmission Providers state that the NTTG planning process consists of an eight-quarter study cycle that provides a timeline and specific milestones for the sub-regional planning process. Also, the Transmission Providers state that by including a description of each quarter of the

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<sup>42</sup> Portland General Planning Order, 125 FERC ¶ 61,067 at P 38; NTTG Planning Order, 124 FERC ¶ 61,053 at P 91.

<sup>43</sup> *Id.*

planning process, they have further identified the timing and opportunities that customers and stakeholders will have to provide input into elements of the sub-regional plan.<sup>44</sup>

44. In addition, under the proposed Attachment Ks, membership in the NTTG Planning Committee is open to Transmission Providers, any providers of transmission services, any Eligible Customer, and any state regulatory commission. The Transmission Providers have also added language in the stakeholder participation section of the sub-regional planning process on how an entity can become a voting member of the NTTG Planning Committee.<sup>45</sup>

45. The Transmission Providers state that they have also revised the sub-regional and regional planning sections of their respective Attachment Ks to include direct links to their respective business practices, including direct links to the relevant planning documents. The Transmission Providers also state that they have replaced “WECC TEPPC” with “WECC” and have removed the definition of “WECC TEPPC” in their respective Attachment Ks to recognize the roles of both TEPPC and the WECC Planning Coordination Committee in the WECC regional planning process.

46. Additionally, the Transmission Providers state that they have drafted a “Western Systems Transmission Planning Guidance for Customer and Stakeholder Participation” (Guidance Document), which is linked and referenced in each Transmission Provider’s business practice manual.<sup>46</sup> The Transmission Providers state that the Guidance Document is intended to provide customers and stakeholders with additional information regarding the Western Interconnection transmission planning processes. The Transmission Providers also state that the Guidance Document explains the relationship between the local, sub-regional, and regional planning processes and demonstrates how planning is coordinated between and within interconnected systems.

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<sup>44</sup> Attachment K Compliance Filing at 17 (*citing* Deseret Attachment K, Part B, section 2; Idaho Power Attachment K, section 13; NorthWestern Attachment K, section 3.2; PacifiCorp Attachment K, section 3.3; Portland General Attachment K, section 13).

<sup>45</sup> *See* Deseret Attachment K, Part B, section 3; Idaho Power Attachment K, Part B, section 14; NorthWestern Attachment K, section 3.3; PacifiCorp Attachment K, section 3.4; Portland General Attachment K, Part B, section 14.

<sup>46</sup> The proposed Attachment Ks provide links to the business practice. *See* Deseret Attachment K, Part B, section 2; Idaho Power Attachment K, section 12; NorthWestern Attachment K, section 3; PacifiCorp Attachment K, section 3.1; Portland General Attachment K, section 12.

**b. Protest**

47. PPL Companies state that NorthWestern has not sufficiently identified and explained the linkages between the local, sub-regional, and regional planning processes, or explained how its Attachment K planning processes will affect junior- and senior-queued projects in the Large Generator Interconnection Procedures process. PPL Companies note that the relationship between the findings of the local transmission plan process and how they relate to OATT and Large Generator Interconnection Procedures service requests needs to be more fully explained in the tariff.

**c. Answer**

48. NorthWestern states that the coordination of the local, sub-regional and regional transmission plans is sufficiently addressed in section 3.1 (Transmission Provider Coordination with NTTG) of its Attachment K, in the Guidance Document, and in the discussion of the eight-quarter planning cycle provided in section 3.2 (Study Process) of its Attachment K. NorthWestern also states that section 2.1.9 of its Attachment K describes how the effects of the various local planning processes are coordinated and includes a link to its business practice document, which provides additional detail.<sup>47</sup>

**d. Commission Determination**

49. We find that the proposed tariff revisions for regional participation partially comply with the Commission's directives in the NTTG and Portland General Planning

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<sup>47</sup> Section 2.1.9 of NorthWestern's Attachment K provides:

The Transmission Provider shall take the generation interconnect, transmission service and economic study results into consideration, to the extent required by law or regulation, as is appropriate when preparing and conducting the [local transmission plan] studies. Explanation of the coordination of the [local transmission plan], generation interconnect studies and Economic Studies is available in Section "1.P - OASIS Attachment K Business Practice" of the Transmission Provider's business practices, available on Transmission Provider's OASIS at:

[http://www.oatioasis.com/NWMT/NWMTdocs/Attachment\\_K\\_Business\\_Practice\\_Links.doc](http://www.oatioasis.com/NWMT/NWMTdocs/Attachment_K_Business_Practice_Links.doc).

Orders. The Transmission Providers have revised the sub-regional<sup>48</sup> and regional<sup>49</sup> sections of their Attachment Ks to include direct links to their business practices and the Guidance Document, including direct links to the relevant sub-regional and regional planning documents. These revisions detail the relationship between the local, sub-regional, and region planning processes and includes the critical timelines and milestones within and among those processes, along with identifying opportunities for stakeholder input.

50. Contrary to PPL Companies' assertions, we find that NorthWestern's revised Attachment K, as well as the revised Attachment Ks submitted by the other Transmission Providers satisfactorily describe the interrelationship between their respective local, sub-regional, and regional plans, as required in the NTTG and Portland General Planning Orders. The Transmission Providers' Attachment Ks provide that each Transmission Provider will collect customer data and consolidate load service requests during the creation of their respective local transmission plans.<sup>50</sup> At the beginning of the biennial sub-regional planning cycle, each Transmission Provider will provide to NTTG its respective local transmission plan incorporating all of the transmission service forecasts for its transmission system.<sup>51</sup> Additionally, the revised Attachment Ks describe, on a quarter-by-quarter basis, the activities that will occur both at the local and sub-regional

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<sup>48</sup> See Deseret Attachment K, Part B, section 2; Idaho Power Attachment K, Part B, section 13; NorthWestern Attachment K, section 3.2; PacifiCorp Attachment K, section 3.3; and Portland General Attachment K, Part B, section 12.3.

<sup>49</sup> See Deseret Attachment K, Part C, section 1; Idaho Power Attachment K, Part C, section 18; NorthWestern Attachment K, section 4.1.1; PacifiCorp Attachment K, section 4.2; and Portland General Attachment K, Part C, section 18.

<sup>50</sup> See Deseret Attachment K, Part B, section 1.1; Idaho Power Attachment K, Part B, section 12.1; NorthWestern Attachment K, section 3.1.1; PacifiCorp Attachment K, section 3.2.1; and Portland General Attachment K, Part B, section 12.1.

<sup>51</sup> See Deseret Attachment K, Part B, section 1.2; Idaho Power Attachment K, Part B, section 12.2; NorthWestern Attachment K, section 3.1.2; PacifiCorp Attachment K, section 3.2.2; and Portland General Attachment K, Part B, section 12.2.

levels, including opportunities for stakeholder input and comment, in the two-year sub-regional study cycle.<sup>52</sup>

51. We also find misplaced PPL Companies' concern that NorthWestern has not clearly explained how its Attachment K planning processes will affect junior- and senior-queued projects in the Large Generator Interconnection Procedures process. Section 2.1.9 of NorthWestern's Attachment K provides for NorthWestern to take the generation interconnect, transmission service and economic study results into consideration when preparing and conducting the local transmission plan studies.

52. Lastly, we find the Transmission Providers' proposal regarding membership in the NTTG Planning Committee to be unduly restrictive. The Transmission Providers state that Eligible Customers and stakeholders may participate in the NTTG sub-regional planning process pursuant to the requirements of NTTG. However, the proposed Attachment Ks provide that "NTTG's planning committee is open to membership by Transmission Providers, any providers of transmission services, any Eligible Customer, and any state regulatory commission."<sup>53</sup> The term "Eligible Customer," as defined in the Transmission Providers' OATTs does not include all stakeholders. Therefore, we find that the Transmission Providers' proposal to restrict membership in the NTTG Planning Committee to Transmission Providers, other providers of transmission services, Eligible Customers, and state regulatory commission members would inappropriately preclude stakeholders that do not fall into one of these categories from being members of the NTTG Planning Committee. Accordingly, the Transmission Providers must amend their respective Attachment Ks to clarify that membership in the NTTG Planning Committee is also open to other stakeholders who are members of NTTG. The Transmission Providers are directed to submit a compliance filing, within 60 days of the date of this order, revising their respective Attachment Ks to allow all stakeholders who are members of NTTG to join the NTTG Planning Committee.

#### **4. Economic Planning Studies**

53. In their initial compliance filings, the Transmission Providers stated that economic studies will be performed locally by the transmission provider, sub-regionally by NTTG, and regionally by TEPPC. In the NTTG and Portland General Planning

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<sup>52</sup> See Deseret Attachment K, Part B, section 2; Idaho Power Attachment K, Part B, section 13; NorthWestern Attachment K, section 3.2; PacifiCorp Attachment K, section 3.3; and Portland General Attachment K, Part B, section 12.3.

<sup>53</sup> See *e.g.*, Deseret Attachment K, Part B, section 3.1.

Orders, the Commission found that the Transmission Providers' respective Attachment Ks partially complied with the economic planning studies principle described in Order No. 890.<sup>54</sup> The Commission found that the Transmission Providers included in their respective Attachment Ks, procedures for conducting economic planning studies and for stakeholders to request such studies. However, while the Transmission Providers all stated that they may cluster or batch requests to streamline processing, the Commission found that they had not described how such clustering or batching would be done.

54. The Commission also found that the Transmission Providers provided insufficient information in their Attachment Ks on the WECC TEPPC processes to prioritize and complete regional economic studies.<sup>55</sup> The Commission directed the Transmission Providers to submit compliance filings providing more detail on the WECC TEPPC processes or providing URLs to the appropriate documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed.

**a. Compliance Filing**

55. The Transmission Providers propose to modify portions of their local, sub-regional, and regional transmission planning processes to clarify how economic study requests will be considered and clustered or batched. The Transmission Providers state that their proposal relies on existing points of receipt and points of delivery on each Transmission Provider's transmission system such that economic study requests will be clustered if all of the points of receipt and points of delivery match one another, and are otherwise feasible to study. The Transmission Providers state that this methodology provides for an objective standard for determining how to prioritize economic study requests, avoids subjective case-by-case determinations, and creates a comprehensive process for clustering economic study requests to accommodate the maximum number of studies.

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<sup>54</sup> Portland General Planning Order, 125 FERC ¶ 61,067 at P 45; NTTG Planning Order, 124 FERC ¶ 61,053 at P 101.

<sup>55</sup> Portland General Planning Order, 125 FERC ¶ 61,067 at P 46; NTTG Planning Order, 124 FERC ¶ 61,053 at P 102.

56. Additionally, the proposed Attachment Ks provide that NTTG may submit requests for regional economic studies to WECC and provide URLs to their business practices, which provide links to the WECC planning documents.<sup>56</sup>

**b. Comments**

57. AWEA/RNP state that the Transmission Providers' proposal to cluster economic study requests based on point-of-receipt and point-of-delivery pairings is inconsistent with the Commission's intent in Order No. 890. AWEA/RNP encourage the Commission to require the Transmission Providers to consider clustering economic study requests that seek studies of areas of congestion on the grid and that propose transmission solutions allowing access to new generation resources in an area of the grid, even if the economic study requests do not include specific points of receipt and points of delivery. AWEA/RNP also request that the Commission require the Transmission Providers to provide a cluster study methodology that allows for requests to be aggregated on a regional basis.

**c. Answer**

58. The Transmission Providers state that their proposed methodology for clustering economic planning study requests provides an objective and transparent standard for determining how the Transmission Providers should cluster particular requests. The Transmission Providers further state that by utilizing points of delivery and points of receipt matches as a criterion for clustering, the Transmission Providers will avoid subjective case-by-case determinations. The Transmission Providers also commit to working with stakeholders, within the submission window set forth in each Transmission Provider's Attachment K, to structure appropriate points of delivery and points of receipt pairings for study requests.

**d. Commission Determination**

59. The Transmission Providers have partially complied with the directives of the NTTG and Portland General Planning Orders. The Transmission Providers' local and sub-regional clustering proposal, which matches points of delivery and points of receipt, should help to avoid subjective case-by-case determinations. However, the Transmission

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<sup>56</sup> Deseret Attachment K, Part A, section 6.3.3 and Part C; Idaho Power Attachment K, Part A, sections 7.3.3 and 18; NorthWestern Attachment K, section 2.7.5.3 and 4; PacifiCorp Attachment K, section 2.7.2.3 and 4; and Portland General Attachment K, Part A, section 7.3.3 and Part C.

Providers' clustering proposal is too limited. We are concerned that the proposal would not "allow the transmission provider and stakeholders to cluster or batch requests for economic planning studies so that the transmission provider may perform the studies in the most efficient manner."<sup>57</sup> The Transmission Providers' methodology for determining when to cluster study requests must be more flexible in order to consider clustering of economic study requests even where specific points of delivery and points of receipt are not provided.<sup>58</sup>

60. Accordingly, we direct the Transmission Providers to submit a compliance filing within 60 days of the date of issuance of this order, revising their method for clustering economic study requests to allow for alternatives to points of delivery/points of receipt pairings.

61. Lastly, in order to comply with the Commission's directive that they provide more detail on the WECC TEPPC processes or provide URLs to the appropriate documents on the WECC website where the processes to prioritize and complete regional economic studies are discussed, the Transmission Providers have provided URLs to their business practices, which provide links to the WECC planning documents.<sup>59</sup>

## 5. Cost Allocation

62. In the NTTG and the Portland General Planning Orders, the Commission found that the Transmission Providers' respective Attachment Ks generally complied with the cost allocation principle provided in Order No. 890, but required further refinements. Specifically, the Commission found that although the Transmission Providers'

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<sup>57</sup> See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 549.

<sup>58</sup> For instance, in orders issued concurrently with this order the Commission approves clustering of economic study requests "on reasonable grounds, including, without limitation, upon its determination that the proposed cluster studies are significantly similar, from an electrical perspective, to be feasibly and meaningfully studied as a group." See *Xcel Energy Servs., Inc. – Public Serv. Co. of Colorado*, 128 FERC ¶ 61,061, at P 33 (2009); *El Paso Electric Co.*, 128 FERC ¶ 61,063, at P 30 (2009).

<sup>59</sup> Deseret Attachment K, Part A, section 6.3.3 and Part C; Idaho Power Attachment K, Part A, sections 7.3.3 and 18; NorthWestern Attachment K, section 2.7.5.3 and 4; PacifiCorp Attachment K, section 2.7.2.3 and 4; and Portland General Attachment K, Part A, section 7.3.3 and Part C.

Attachment Ks provided 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 clearly defined and reflected up front in the Attachment K, rather than considered on a case-by-case basis.<sup>60</sup> The Commission directed the Transmission Providers participating 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.<sup>61</sup>

63. The Commission also stated that while the Attachment Ks filed by Idaho Power, Deseret, PacifiCorp, and Portland General identified the types of new local projects that are not covered under existing cost allocation rules, these proposed Attachment Ks did not address how costs will be fairly assigned among participants because they only referred to unspecified Commission decisions and pronouncements on cost allocation, as well as the NTTG cost allocation principles. The Commission stated that this process appeared to envision a case-by-case approach to cost allocation that is inconsistent 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.<sup>62</sup>

64. With regard to NorthWestern's Attachment K, the Commission stated that NorthWestern points to its "Local Cost Allocation Methodology Projects Outside the OATT" business practice to be used to allocate costs for new local projects that do not fit into its OATT cost allocation principles. The Commission found, however, that NorthWestern did not incorporate the relevant provisions of this business practice into its Attachment K. The Commission also found that NorthWestern did not provide any details in its Attachment K 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.<sup>63</sup> The Commission stated that while NorthWestern may provide additional details on its cost allocation approach in its business practices, it must nevertheless include sufficient detail in its Attachment K for planning participants to understand the NorthWestern cost allocation methodology.

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

<sup>61</sup> Portland General Planning Order, 125 FERC ¶ 61,067 at P 54; NTTG Planning Order, 124 FERC ¶ 61,053 at P 118.

<sup>62</sup> *Id.* P 115.

<sup>63</sup> *Id.* P 116.

**a. Compliance Filing**

65. The Transmission Providers state that their cost allocation proposals are based, in large part, on El Paso Electric Company's (El Paso) Attachment K cost allocation language, which the Transmission Providers state the Commission has found to be in compliance with Order No. 890.<sup>64</sup>

66. For example the Transmission Providers state that the sub-regional section of their respective Attachment Ks provides an approach for reliability and economic projects that may involve an open season solicitation of interest for additional participants. Specifically, for any project identified in an NTTG Planning Study for which the Transmission Provider is the project sponsor, the Transmission Provider may elect to have an open season solicitation of interest to secure additional project participants.<sup>65</sup> The Transmission Providers state that in the case of a project with more than one participant resulting from a solicitation of interest, the project costs and associated transmission rights will be allocated to the project participants in proportion to investment or based on a commitment to transmission rights, unless the project participants otherwise agree to an alternative mechanism for allocating project costs.<sup>66</sup> If an open season process results in a single participant, the full cost and transmission rights will be allocated to that participant.

67. Under the revised sub-regional cost allocation provision, the Transmission Providers may opt to proceed with a project without an open season solicitation of interest. Under these circumstances, the project costs and associated transmission rights will be allocated on a negotiated basis among prospective project participants, consistent

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<sup>64</sup> Attachment K Compliance Filing at 20 (*citing El Paso Electric Company et. al.*, 124 FERC ¶ 61,051 (2008)) (*El Paso*).

<sup>65</sup> *See* Deseret Attachment K, Part B, section 6.1; Idaho Power Attachment K, Part B, section 17.1; NorthWestern Attachment K, section 3.6.1; PacifiCorp Attachment K, section 3.7.1; and Portland General Attachment K, Part B, section 17.1.

<sup>66</sup> *See* Deseret Attachment K, Part B, section 6.4.1; Idaho Power Attachment K, Part B, section 17.4.1; NorthWestern Attachment K, section 3.6.4.1; PacifiCorp Attachment K, section 3.7.4.1; and Portland General Attachment K, Part B, section 17.4.1.

with NTTG's cost allocation principles and subject to the review of the NTTG's Cost Allocation and Steering Committees.<sup>67</sup>

68. Additionally, the Transmission Providers are not incorporating into the sub-regional section of their respective Attachment Ks language El Paso included under "Rate Recovery" in its Attachment K. The Transmission Providers state that such language appears to be more generally applicable so they have added language to the local cost allocation sections of their respective Attachment Ks providing that the Transmission Provider will not assume cost responsibility for any project if the cost of the project is not reasonably expected to be recoverable in its retail and/or wholesale rates. The Transmission Providers also state that the new provision makes clear that the costs of projects undertaken in connection with requests for interconnection or transmission service on the transmission system of a Transmission Provider will be governed by the existing cost allocation methods under that Transmission Provider's OATT.

69. Idaho Power, Deseret, PacifiCorp, and Portland General have revised the local cost allocation section of their respective Attachment Ks to replace references to the "NTTG Cost Allocation Principles" with the section numbers in which the specifics of their sub-regional cost allocation provisions, as revised in the instant proceeding, are contained.<sup>68</sup> NorthWestern has revised section 2.6.2 of its Attachment K to describe the types of local projects covered under its Attachment K (i.e., projects that are not covered under existing OATT allocation rules) and to provide a URL to its "Local Cost Allocation Project Outside OATT Methodology" business practice available on NorthWestern's OASIS.

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<sup>67</sup> See Deseret Attachment K, Part B, section 6.4.2; Idaho Power Attachment K, Part B, section 17.4.2; NorthWestern Attachment K, section 3.6.4.2; PacifiCorp Attachment K, section 3.7.4.2; and Portland General Attachment K, Part B, section 17.4.2.

<sup>68</sup> See Deseret Attachment K, Part A, section 5.4.2; Idaho Power Attachment K, Part A, section 6.4.2; PacifiCorp Attachment K, section 2.6.4.2; and Portland General Attachment K, Part A, section 6.3.2.

**b. Comments/Protest**

70. AWEA/RNP state that the Transmission Providers' proposed cost allocation methodology is inconsistent with the Commission's directive to define a cost allocation methodology up front, rather than on a case-by-case basis. AWEA/RNP state that an open season solicitation of interest with a proportionally allocated cost allocation mechanism is an appropriate methodology, but the Transmission Providers have not committed to use that particular methodology under specified circumstances. Therefore, AWEA/RNP state, the Transmission Providers have not provided clear guidelines with respect to which process must be followed in particular circumstances.

71. AWEA/RNP disagree with the Transmission Providers that the proposed sub-regional cost allocation methodology is consistent with the methodology accepted in *El Paso*. AWEA/RNP note that although *El Paso* stated that its cost allocation mechanism will use a case-by-case approach to allocate costs for new projects, a fair reading of the relevant tariff language shows that the proposal did not seek to have different cost allocation methodologies be used to determine the cost burdens for similarly-situated projects, as is the case with the Transmission Providers' proposal.

72. According to AWEA/RNP, *El Paso*'s tariff provides a detailed, up-front cost allocation methodology as follows:

[F]or any project entered into where an open season solicitation process has been used, project costs and associated transmission rights [will] be allocated proportionally to project participants. . . . [F]or projects wholly on the *El Paso* system [i.e., without an open season solicitation of interest] that are undertaken for economic reasons or congestion relief in response to a request, the project costs will be allocated to that requestor.<sup>69</sup>

73. Accordingly, AWEA/RNP reason that under its Attachment K, *El Paso* may elect to proceed without an open season in defined circumstances—i.e., with respect to small and/or reliability projects that are wholly within *El Paso*'s balancing area authority.

74. AWEA/RNP also state that the current structure of NTTG does not grant it the authority to bind any of its members to a cost allocation methodology and that NTTG's institutional limitations make it difficult for the Transmission Providers to revise their Attachment Ks to provide an up-front cost allocation mechanism. AWEA/RNP note that this situation also exists in other sub-regional planning groups.

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<sup>69</sup> AWEA/RNP Comments at 6.

75. AWEA/RNP add that there is no West-wide regional cost allocation methodology, thereby requiring that regional transmission projects be addressed on a case-by-case basis and this creates a dilemma regarding the jurisdiction for the relevant sub-regional and regional transmission planning organizations. AWEA/RNP encourage the Commission to address how such regions, which have planning groups with limited authority to adopt binding cost allocation mechanisms, can provide the benefits of an up-front cost allocation mechanism. AWEA/RNP state that this issue should be addressed at the technical conferences the Commission plans to hold in 2009 to evaluate the progress transmission providers have made in implementing their Attachment Ks. AWEA/RNP state that if the Commission does not deem that to be an appropriate venue for this issue, the Commission should convene a technical conference as soon as possible to fully consider this issue.

76. AWEA/RNP request that, in light of NTTG's lack of authority to adopt an up-front cost allocation mechanism, the Commission require the Transmission Providers to file with the Commission annual status reports detailing how the Transmission Providers' cost allocation processes are functioning, including whether the Transmission Providers' cost allocation processes are effective in moving projects from planning to construction. AWEA/RNP request that if the Commission approves the compliance filing, the Commission should reconsider any such approval of the Transmission Providers' cost allocation methodology if actual experience, demonstrated by the status reports and/or a technical conference, reveals that the Transmission Providers' cost allocation methodology does not meet the goals of Order No. 890.

77. PPL Companies state that it is unclear how NorthWestern will allocate costs between and among all of its planning processes, including those under other parts of the OATT and the Attachment K Local Transmission Plan. PPL Companies state that unlike the Transmission Providers, including NorthWestern, El Paso Electric is a small, isolated transmitting utility that does not have a significant transmission system; therefore, the El Paso plan is not a good model for the Transmission Providers' transmission systems.

78. PPL Companies also state that it is unclear what NorthWestern intends by the addition of new section 2.6.4.3 of NorthWestern's Attachment K, which provides that NorthWestern will "not assume cost responsibility for any project if the cost of the project is not reasonably expected to be recovered in its retail and/or wholesale rates." PPL Companies request that the above provision be deleted absent further clarification by NorthWestern that the provision is necessary and appropriate.

79. PPL Companies request that NorthWestern's Attachment K set out the framework in greater specificity so market participants can understand how costs for projects will be allocated in a just and reasonable and non-discriminatory manner, including to non-participating beneficiaries.

**c. Answer**

80. In response to the AWEA/RNP comments, the Transmission Providers state that the proposed methodology contains a "default proportional allocation of costs" in instances where an open season is used. The Transmission Providers add that transmission providers and stakeholders have ample opportunity to engage and provide input into the processes that affect and determine the ultimate cost allocation in instances where the open season is not used. The Transmission Providers also state that the Attachment Ks make clear that for projects that are undertaken for economic reasons or congestion relief in response to a request project costs will be allocated to that requestor. The Transmission Providers argue that as proposed the cost allocation methodology improves the openness and transparency of the Attachment K process, provides greater certainty surrounding the individual cost burdens before long-term investments are made, is consistent with, if not superior to, El Paso's methodology, and complies with the Commission's orders.

81. The Transmission Providers also argue that additional reporting and/or conditional acceptance of the Attachment K is not warranted because the Commission retains authority under section 206 of the FPA to initiate an investigation into the just and reasonableness of any of the jurisdictional transmission provider's provisions. In addition, Transmission Providers state that affected stakeholders will be provided relevant information as part of the Attachment K planning processes and will be afforded input into the processes that affect cost allocation.

82. NorthWestern disagrees with PPL Companies' statement that it is unclear how it will allocate costs between all of its planning processes. NorthWestern states that in the NTTG Planning Order, the Commission did not find that NorthWestern's cost allocation method was deficient but required NorthWestern to include details on the cost allocation methodology set forth in its "Local Cost Allocation Methodology Projects Outside the OATT" business practices. NorthWestern states that it made substantive revisions and additions in sections 2.6.2 and 2.6.4 of its Attachment K to address the Commission's directive. Regarding new section 2.6.4.3 (Cost Allocation Principle) of its Attachment K, NorthWestern states that its intent is to ensure that NorthWestern will not have to assume responsibility for any project that becomes uneconomic. For example, NorthWestern states that if costs are allocated pursuant to its Attachment K and the sponsors of the project terminate their interest, then NorthWestern cannot be held responsible for completing the project for which cost recovery is uncertain.

**d. Commission Determination**

83. The Commission finds the Transmission Providers' proposed revisions to the cost allocation sections of their respective Attachments Ks to be in partial compliance with the Commission's directives in the NTTG and Portland General Planning Order. Under the open season process, all costs of transmission facilities will be assigned to a single participant if only one respondent demonstrates interest during an open season. Alternatively, if the open season process results in multiple participants the project costs and associated transmission rights will be allocated to the project participants in proportion to investment or based on a commitment to transmission rights, unless the participants agree to an alternative cost allocation mechanism. We agree with the Transmission Providers that unless the participants agree otherwise, the proposed cost allocation provisions provide for default proportional cost allocation when an open season results in multiple participants. Accordingly, we find that the open season provision of the Transmission Providers' proposal adequately addresses cost allocation up front as required by Order No. 890.

84. However, the Transmission Providers' proposal does not clearly identify any circumstances under which an open season may not be initiated or provide an up-front cost allocation methodology so that participants seeking to support new transmission investment will have some degree of certainty regarding cost allocation. Accordingly, we direct the Transmission Providers to submit a further compliance filing, within 60 days, revising their respective Attachment Ks to clarify when the open season solicitation process may not be used.<sup>70</sup>

85. With regard to cost allocation for local projects, we find that by referring to the sub-regional cost allocation provisions in the respective Attachment Ks, Idaho Power, Deseret, PacifiCorp, and Portland General have provided specific information on the principles that will guide cost allocation for local projects. Accordingly, we find that the revisions Idaho Power, Deseret, PacifiCorp, and Portland General have made to their local cost allocation provisions comply with the NTTG and Portland General Planning Orders, subject to the outcome, as discussed above, of the Transmission Providers' revised sub-regional cost allocation provisions, which are subject to a further compliance filing.

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<sup>70</sup> See *e.g.*, *El Paso*, 124 FERC ¶ 61,051 at P 44 (El Paso provides that it "may elect to proceed with small and/or reliability projects without an open season solicitation of interest.").

86. With regard to NorthWestern's local cost allocation provision, we disagree with PPL Companies. NorthWestern has provided sufficient information to detail how costs are allocated among the planning processes contained in other sections of its OATT and the Attachment K planning process. For example, section 2.6.2 of NorthWestern's Attachment K provides that the types of projects covered under the cost allocation provision are projects that are not covered under existing OATT allocation rules. We also find that section 2.6.3 of NorthWestern's Attachment K clearly provides that nothing shall relieve or modify NorthWestern's obligations contained in other sections of its OATT.

87. Further, contrary to PPL Companies' assertion, the Commission finds the intent of new section 2.6.4.3 of NorthWestern's Attachment K to be clear—i.e., in the event that a proposed transmission project developed pursuant to its Attachment K planning process becomes uneconomical, NorthWestern will not be responsible for the further development of the project.

88. Finally, with regard to the AWEA/RNP request for additional reporting and/or a technical conference on the progress of the implementation of the Transmission Providers' transmission planning processes, the Commission finds it unnecessary to initiate such reporting or convene a separate technical conference. As discussed above, the Commission is committed to convening regional technical conferences later this year in order to discuss whether refinements to the approved planning processes are required. We envision that the regional technical conference will afford opportunity for issues unique to each region to be discussed.

The Commission orders:

(A) The tariff revisions filed Idaho Power, Deseret, NorthWestern, PacifiCorp and Portland General in Docket Nos. OA08-23-001, OA08-28-002, OA08-31-002, OA08-40-001 and OA08-45-002, respectively, are each hereby accepted for filing, subject to further compliance filings as discussed in the body of this order.

(B) The revised rate schedule sheets filed by Deseret, Idaho Power, NorthWestern, PacifiCorp, Black Hills, and Portland General in Docket Nos. OA08-54-004, OA08-55-004, OA08-56-004, OA08-57-004, OA08-99-002, and OA08-118-001, respectively, are each hereby accepted for filing, on the effective dates listed in the Appendix A to this Order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**APPENDIX A**

**Deseret Generation & Transmission Co-operative, Inc.**

**Filing Date: October 29, 2008**

**Docket No. OA08-54-004**

<b><u>Designation</u></b>	<b><u>Description</u></b>	<b><u>Effective</u></b>
Rate Schedule FERC No. 23, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	12/7/07

**Idaho Power Company**

**Filing Date: October 29, 2008**

**Docket No. OA08-55-004**

<b><u>Designation</u></b>	<b><u>Description</u></b>	<b><u>Effective</u></b>
Rate Schedule FERC No. 150, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	12/7/07

**NorthWestern Corporation**

**Filing Date: October 29, 2008**

**Docket No. OA08-56-004**

<b><u>Designation</u></b>	<b><u>Description</u></b>	<b><u>Effective</u></b>
Rate Schedule FERC No. 251, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	12/7/07

**PacifiCorp**

**Filing Date: October 29, 2008**

**Docket No. OA08-57-004**

<b><u>Designation</u></b>	<b><u>Description</u></b>	<b><u>Effective</u></b>
Rate Schedule FERC No. 610, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	12/7/07

**Black Hills Power, Inc.**  
**Filing Date: October 29, 2008**  
**Docket No. OA08-99-002**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 35, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	04/3/2008

**Portland General Electric Company**  
**Filing Date: October 29, 2008**  
**Docket No. OA08-118-001**

<u>Designation</u>	<u>Description</u>	<u>Effective</u>
Rate Schedule FERC No. 16, Substitute Original Sheet Nos. 7, 7A	Group Planning Agreement	05/22/2008