

137 FERC ¶ 61,199
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket Nos. ER05-1065-011
OA07-32-008

ORDER ON COMPLIANCE FILING

(Issued December 15, 2011)

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1. On April 3, 2009, Entergy Services, Inc. (Entergy) submitted proposed revisions to Attachment C (Methodology To Assess Available Transfer Capability), Attachment D (Methodology For Completing A System Impact Study), and Attachment E (Transmission Service Request Criteria) (collectively known as the Criteria Attachments)

of its Open Access Transmission Tariff (OATT). Entergy states that the proposed revisions are made pursuant to section 206 of the Federal Power Act (FPA),¹ to comply with a requirement in the Commission's April 2006 Order Conditionally Accepting the Independent Coordinator of Transmission Proposal² and with requirements in Commission orders in Entergy's Order No. 890 compliance proceeding.³ Entergy also requests acceptance of certain revisions to Attachment T (Recovery of New Facilities Costs and Planning Redispatch Costs for Long-Term Services), previously submitted by Entergy in compliance with Order No. 890, on which the Commission has not yet made a determination. In addition to requesting acceptance of the proposed revisions, Entergy requests Commission guidance on two issues related to the proposed revisions.

2. As discussed below, the Commission accepts, with modifications, the proposed revisions. The Commission also addresses unresolved issues regarding (1) Entergy's modeling and curtailing practices relating to unscheduled Qualifying Facility (QF) energy, and (2) which of two options Entergy's Available Flowgate Capacity (AFC) process's Study Horizon should use to resolve shortfalls in a load-serving entity's resource designations.

I. Background

3. Entergy's proposed revisions to Attachments C, D, and E are to comply with requirements in two proceedings: first, the proceeding regarding the development and implementation of Entergy's Independent Coordinator of Transmission (ICT) arrangement (Docket No. ER05-1065-000, et al.); and second, Entergy's Order No. 890 compliance proceeding (Docket No. OA07-32-000, et al.). Entergy's previously proposed revisions to Attachment T address a requirement in Order No. 890 that

¹ 16 U.S.C. § 824e (2006). Entergy explains that certain requirements relating to Attachments C, D, and E were to be met through an FPA section 205 (16 U.S.C. § 824d (2006)) filing, while other requirements relating to the same attachments were to be met through an FPA section 206 filing, so for administrative convenience Entergy has submitted this filing pursuant to FPA sections 205 and 206. Entergy Transmittal Letter at 3.

² *Entergy Services, Inc.*, 115 FERC ¶ 61,095 (2006) (ICT Approval Order); *see also Entergy Services, Inc.*, 119 FERC ¶ 61,009 (2007) (April 2007 Order).

³ *See, e.g., Entergy Services, Inc.*, 124 FERC ¶ 61,148 (2008) (August 2008 Order).

transmission providers describe in their OATTs the pricing of planning redispatch for long-term transmission service.

4. The proposed revisions to the Criteria Attachments are intended to describe all the criteria developed by Entergy that the ICT uses in responding to transmission service requests, and to do so in a manner that is consistent with or superior to the Commission's Order No. 890 *pro forma* OATT. Specifically, Attachment C describes the criteria used by the ICT to respond to requests for transmission service within an 18-month horizon using the AFC process,⁴ Attachment D describes the criteria used by the ICT to respond to requests for long-term transmission service and other types of service that entail use of the system impact study process, and Attachment E describes the processes used for submitting and responding to transmission service requests.

A. ICT Proposal Proceeding

5. In April 2006, the Commission conditionally accepted Entergy's proposal to establish an ICT for the Entergy system.⁵ In conditionally accepting the proposed ICT arrangement, the Commission stated that in order to address concerns regarding Entergy's AFC process and the lack of transparency on Entergy's system, Entergy was required to file "any criteria developed by Entergy to be used by the ICT to grant or deny transmission service, including calculating AFC."⁶ The Commission specified that Entergy was to file the criteria under section 205 of the FPA and that the Commission

⁴ An AFC process is one of several processes transmission providers can use to evaluate short-term transmission service requests. As defined in proposed section 1.2 of Attachment C, Entergy's AFC process evaluates the amount of transfer capability remaining over a flowgate for additional transmission service above existing transmission commitments.

⁵ ICT Approval Order, 115 FERC ¶ 61,095 at P 3. We note that pursuant to the ICT Approval Order, 115 FERC ¶ 61,095 at P 96, the ICT arrangement was set to expire on November 17, 2010, unless Entergy filed to extend the initial term. On November 16, 2010, in *Entergy Services, Inc.*, 133 FERC ¶ 61,136 (2010), the Commission accepted Entergy's filing of a two-year extension of the ICT arrangement.

⁶ ICT Approval Order, 115 FERC ¶ 61,095 at P 64, 66.

would be the final judge of what criteria are necessary for a just, reasonable and not unduly discriminatory AFC process.⁷

6. In a September 2006 Order on Rehearing, the Commission clarified that Entergy's ICT proposal must comply with the OATT Reform Final Rule (which would subsequently be issued as Order No. 890 on February 16, 2007, as discussed below).⁸ The Commission specified that the Commission would judge whether any provision modified by both the ICT Approval Order and the OATT Reform Final Rule was consistent with or superior to the *pro forma* OATT as revised.⁹

7. On November 16, 2006, Entergy filed earlier versions of the language in Attachments C, D, and E filed in this docket, labeling them "Criteria Manuals," submitted as business practice manuals rather than as OATT attachments. At the time, Entergy explained that it filed the versions as business practice manuals so that if they needed to be changed, they could be changed without an FPA section 205 filing. In April 2007, the Commission accepted the filing subject to three main conditions: (1) Entergy refileing the manuals as OATT attachments; (2) Entergy modifying the language to clarify Entergy's role as well as the role of the ICT;¹⁰ and (3) Entergy consulting further with stakeholders to develop the transmission service criteria.¹¹ The Commission also repeated its statement in the September 2006 Rehearing Order that the Commission would judge whether any provision modified by both the ICT Approval Order and Order No. 890 is consistent with or superior to the Order No. 890 *pro forma* OATT. In May 2007, Entergy refiled the Criteria Manuals, revised to clarify the roles of Entergy and the ICT, but still in the form of business practice manuals rather than OATT

⁷ *Id.* P 66.

⁸ *Entergy Services, Inc.*, 116 FERC ¶ 61,275 at P 15 (2006) (September 2006 Rehearing Order).

⁹ *Id.* P 15.

¹⁰ April 2007 Order, 119 FERC ¶ 61,009 at P 26.

¹¹ *Id.* P 24. A fourth condition was that Entergy revise the language in the AFC manual to reinsert a specification that a 60 percent loading level would be used to remove a flowgate from the Master List. The 60 percent loading level had been accepted by the Commission in an order on an earlier version of the AFC Criteria Manual, but it was omitted from the November 16, 2006 version. *See id.* P 29.

attachments. Entergy explained that to avoid confusion, it would refile the language of the Criteria Manuals in the form of OATT attachments on July 13, 2007, in its Order No. 890 compliance filing (described below).

B. Order No. 890 Proceeding

8. On February 16, 2007, the Commission issued Order No. 890.¹² In Order No. 890, as relevant here, the Commission required transmission providers such as Entergy 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, to submit FPA section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the revised *pro forma* OATT, to be effective July 13, 2007, and to submit non-conforming OATT terms and provisions, if the terms and provisions are consistent with or superior to the *pro forma* OATT.¹³ On July 13, 2007, as amended on August 13, 2007, Entergy submitted its non-rate OATT terms and conditions (including the Criteria Manuals converted to OATT attachments in compliance with the April 2007 Order), in Docket Nos. OA07-32-000 and OA07-32-001. In that filing, Entergy asked the Commission to defer acting on Order No. 890 compliance issues associated with the Criteria Attachments and Attachment T pending completion of the ongoing stakeholder process and the subsequent filing of the proposed revisions to the Criteria Attachments and Attachment T resulting from that process.

9. On August 6, 2008, the Commission accepted Entergy's deferral request and accepted the July 13, 2007 proposed revisions subject to Entergy's refileing them with the Commission after the stakeholder process was completed.¹⁴ On September 5, 2008, Entergy requested rehearing or clarification of the August 2008 Order, asking the

¹² *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), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹³ Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 135 (After the submission of their FPA section 206 compliance filings, [non-ISO/RTO] transmission providers may submit . . . non-rate terms and conditions that differ from those set forth in the Final Rule if those provisions are "consistent with or superior to" the *pro forma* OATT.).

¹⁴ August 2008 Order, 124 FERC ¶ 61,148 at P 61.

Commission to find that revisions to specific sections of Attachment T that describe the method of participant funding for supplemental upgrades are not within the scope of Entergy's Order No. 890 compliance proceeding. On March 4, 2009, the Commission denied Entergy's request, citing Entergy's statement in the transmittal letter to the July 13, 2007 filing that the Attachment T revisions are "interwoven" with Attachments C, D, and E.¹⁵ Further, the Commission stated that parties should have an opportunity to comment on the revisions after Attachment T underwent the stakeholder process. The Commission stated that it would decide afterwards whether the Attachment T revisions and the comments thereon were within the scope of the Order No. 890 compliance proceeding.

10. In Order No. 890, the Commission also required transmission providers to file a revised Attachment C to incorporate any changes in North American Electric Reliability Corporation's (NERC) revised reliability standards and North American Energy Standards Board's (NAESB) business practices relevant to Attachment C, within 60 days of the completion of the NERC and NAESB processes.¹⁶

II. Notice of Filing and Responsive Pleadings

11. Notice of Entergy's April 3, 2009 filing was published in the Federal Register, 74 Fed. Reg. 17,847 (2009), with interventions, comments, and protests due on or before April 24, 2009. On April 21, 2009, the Commission issued a notice extending the due date for interventions, protests, and comments to May 4, 2009.

12. Timely motions to intervene were filed by NRG Companies, Brazos Electric Power Cooperative, Inc., Southeast Electricity Consumers Association, the Arkansas

¹⁵ *Entergy Services, Inc.*, 126 FERC ¶ 61,194, at P 7-8 (2009) (March 2009 Order).

¹⁶ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 325. On January 3, 2011, in Docket No. ER10-3357-000, Entergy filed a proposal to, among other things, revise the version of Attachment C filed on April 3, 2009, in compliance with Order No. 729, *Mandatory Reliability Standards for the Calculations of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, 129 FERC ¶ 61,155 (2009), *order on clarification*, Order No. 729-A, 131 FERC ¶ 61,109 (2010), *order on reh'g and reconsideration*, Order No. 729-B, 132 FERC ¶ 61,027 (2010). Entergy's filing is pending before the Commission.

Cities,¹⁷ East Texas Cooperatives,¹⁸ Union Power Partners, L.P. (Union Power), Cottonwood Energy Co., L.P. (Cottonwood), Occidental Chemical Corporation (Occidental), Southwest Power Pool, Inc. (SPP), and Arkansas Electric Cooperative Corporation, et al. (LMA Customers).¹⁹ Arkansas Cities, East Texas Cooperatives, Union Power, Cottonwood, Occidental, and LMA Customers filed comments and/or protests. Arkansas Cities, LMA Customers, Entergy, and SPP, in its capacity as the ICT, filed answers to the protests.

13. On February 21, 2011, Entergy filed its Transmission Service Request Business Practices (TSR Business Practices) in this proceeding, for informational purposes. Union Power filed a protest to the TSR Business Practices. Entergy and the ICT filed motions for leave to answer and answers to Union Power's protest, and Union Power subsequently filed a motion for leave to reply and reply.

III. Discussion

14. This order addresses the following: (1) procedural matters; (2) Entergy's two requests for guidance; and (3) Entergy's compliance with the ICT Approval Order and Order No. 890.

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011),

¹⁷ Arkansas Cities are Conway Corporation; West Memphis Utilities Commission; City of Osceola, Arkansas; City of Benton, Arkansas; and Hope, Water and Light Commission.

¹⁸ East Texas Cooperatives are East Texas Electric Cooperative, Inc.; Sam Rayburn G&T Electric Cooperative, Inc.; and Tex-La Electric Cooperative of Texas.

¹⁹ LMA Customers are Arkansas Electric Cooperative Corporation; Lafayette Utilities System; Louisiana Energy and Power Authority; Municipal Energy Agency of Mississippi; Mississippi Delta Energy Agency; Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi; and Public Service Commission of Yazoo City of the City of Yazoo City, Mississippi.

prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept all answers because they have provided information that assisted us in our decision-making process.

B. Requests for Commission Guidance

16. Entergy submitted as part of its filing two requests for Commission guidance. Entergy states that both requests involve the modeling of generation dispatch and “the inherent tension between modeling practices that reflect ‘physical’ transmission rights, on the one hand, and practices designed to reflect ‘real-time’ power flows, on the other.”²⁰ In an order²¹ in a subsequent proceeding, Docket No. ER10-794-000, et al., the Commission deferred to this proceeding issues involving the curtailment, under transmission loading relief procedures, of service for energy sold by a QF on an “as available” basis to Entergy pursuant to the Public Utility Regulatory Policy Act of 1978 (PURPA).²²

1. Unscheduled QF Energy Issues

a. Whether Entergy Should Model Unscheduled QF Energy

i. Entergy’s Request

17. Entergy’s first request for Commission guidance involves the modeling of energy sold by a QF to a utility pursuant to PURPA on an “as available” basis. PURPA and the Commission’s implementing regulations require electric utilities to purchase such unscheduled QF energy under all but two limited circumstances,²³ unless the purchasing

²⁰ Entergy Transmittal Letter at 30.

²¹ *Entergy Services, Inc.*, 131 FERC ¶ 61,067, at P 54 (2010) (TLR Proceeding Order).

²² 16 U.S.C. § 824a-3 (2006).

²³ 16 U.S.C. § 824a-3 (2006). 18 C.F.R. § 292.303 (2011). PURPA and the Commission regulations implementing PURPA establish the obligation of utilities to purchase energy and capacity made available by a QF; the required purchases may be discontinued only in the limited circumstances of a system emergency, 18 C.F.R. § 292.307(b), or in certain economic circumstances, 18 C.F.R. § 292.304(f).

utility has been relieved of that obligation pursuant to section 210(m) of PURPA.²⁴ Section 304(d) of our PURPA regulations, 18 C.F.R. § 292.304(d) (2011), gives each QF the option either to sell its energy on an as-available basis with no advance commitment, or to sell its capacity and/or energy pursuant to a legally enforceable obligation taken on in advance. Entergy asks whether it should include unscheduled QF energy in Entergy's transmission models, and, if so, (1) whether to include it in both short-term and long-term models; and (2) whether to include it using historical data modeled as firm or using non-binding QF schedules.²⁵

18. Entergy states that about 60 QFs are currently interconnected to its system, mostly large, industrial entities, totaling about 8,200 megawatts (MW). Entergy states that it is obligated under PURPA to purchase unscheduled QF energy, but QFs are not obligated to and do not reserve transmission service for the unscheduled QF energy sold to Entergy.²⁶ Entergy states that it has no notice of how much unscheduled QF energy will arrive on its system, and that the unscheduled QF energy typically ranges from 200 MW to 2,700 MW.

19. Entergy explains that it does not include unscheduled QF energy in any of its transmission availability models because it believes that doing so would conflict with the OATT's "physical rights" modeling approach, under which the models determine the level of physical rights to transmission that have been granted to decide if more rights should be granted. Entergy asserts that physical rights to transmission are established only by either firm reservations or network resource designations. Entergy maintains that a QF providing unscheduled energy does not meet the OATT's qualifications for a network resource, which include that a resource that is not owned by a network customer be under a power purchase agreement with the network customer and be able to be called on to meet the network customer's network load on a non-interruptible basis. Entergy explains that, because unscheduled QF energy does not have reserved firm transmission

²⁴ 16 U.S.C. § 824a-3(m) (2006). Broadly speaking, under section 210(m), a utility can be relieved of the purchase obligation by showing that the QF has nondiscriminatory access to markets with certain characteristics.

²⁵ Entergy Transmittal Letter at 30-35.

²⁶ Entergy notes that a QF can reserve transmission service for a specific transaction. Entergy states that for that type of QF sale, the transmission reservation is scheduled and included in the models. *See* Entergy Transmittal Letter at n.94.

service and does not qualify under the OATT as a network resource, the QF has not obtained physical rights to transmission, and therefore Entergy does not include the unscheduled QF energy in the models. Entergy cites an earlier instance in which the Commission rejected a request that Entergy be required to model uncommitted resources using historical data, even if doing so would make the models more reflective of operational conditions. The Commission rejected the request on the basis that uncommitted resources did not meet the OATT's definition of a network resource.²⁷

20. Entergy states that it has placed the issue of whether to model unscheduled QF energy before stakeholders several times but has not been able to reach a consensus.²⁸ Entergy states that it seeks Commission guidance now in part because of Order No. 890's requirement that transmission providers benchmark their models' results against "actual system events," which could be seen as overruling the OATT's physical-rights approach to modeling.²⁹

21. Entergy also asks if unscheduled QF energy is to be included in AFC models, whether it should be included only in the shorter-term AFC horizons, *i.e.*, the Operating and Planning Horizons, which cover 1-31 days ahead, or should it also be included in the AFC Study Horizon, which covers 31 days to 18 months ahead. Entergy asserts that in Order No. 890 the Commission requires consistency between the inputs used for short-term ATC (Available Transfer Capability) calculations and operational planning, and consistency between the inputs used for long-term ATC calculations and transmission planning.³⁰ Entergy states that if the Commission values consistency in inputs, then the Commission should allow Entergy to be consistent by not including unscheduled QF energy in any of its models.

²⁷ Entergy Transmittal Letter at 34 (citing *Entergy Services, Inc.*, 106 FERC ¶ 61,115, at P 52-53 (2004)).

²⁸ Entergy Transmittal Letter at 31-32.

²⁹ *Id.* at 34 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 279).

³⁰ *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 280). We note that, while Entergy describes Order No. 890 as referring to long-term "AFC" calculations, AFC calculations are associated with short-term requests, within the next 18 months. Order No. 890 actually referred to "ATC" calculations, and ATC does not have a time period associated with it, so we assume Entergy meant to refer to "ATC."

22. Entergy also asks for Commission guidance as to whether unscheduled QF energy should be included not only in Entergy's short-term models (evaluated by AFC software), but also in its long-term models, which evaluate the availability of transmission service through system impact studies and facilities studies and which include analysis of system planning to accommodate transmission requests. Entergy believes that unscheduled QF energy should not be included in the long-term models because the variable and voluntary nature of the QF energy is not a valid basis for system planning. Entergy states here, as with the relatively long-term AFC Study Horizon, if consistency between short-term and long-term modeling assumptions is required, then Entergy would prefer to continue to exclude unscheduled QF energy from both short-term and long-term models.

23. Entergy states that it has discussed with stakeholders two possible ways to represent unscheduled QF energy in the models: (1) historical data on unscheduled QF energy modeled as serving Entergy's native load; and (2) non-binding schedules provided by QFs. Entergy explains that QFs opposed providing non-binding schedules, and network customers opposed Entergy modeling historical QF energy as firm because they believed that doing so would provide preferential access to transmission capacity for Entergy, because unscheduled QF energy does not meet the network resource requirements. Entergy states that unscheduled QF energy may be so variable that including it, whether through non-binding schedules or historical estimates, would not improve AFC calculations. However, Entergy believes that including unscheduled QF energy in models is "worth exploring" if the OATT issue can be worked out.³¹

ii. Responsive Pleadings

24. The ICT supports including unscheduled QF energy in Entergy's short-term models to improve the extent to which the models reflect operating conditions. However, the ICT believes unscheduled QF energy should not be included in long-term models, because system planning should not be based on such a variable factor.³²

25. LMA Customers, Union Power, and Occidental comment in favor of Entergy including unscheduled QF energy in the models. LMA Customers state that Entergy's excluding unscheduled QF energy is unrealistic and may lead to incorrect AFC values.³³

³¹ *Id.* at 32.

³² ICT Comments at 8.

³³ LMA Customers Protest and Comments at 16.

LMA Customers urge the Commission to direct Entergy to modify Attachment C and the AFC process to incorporate reasonable assumptions with respect to unscheduled QF energy levels. LMA Customers state that Entergy should be able to forecast unscheduled QF put fairly accurately, because generators are required to provide Entergy with certain operations information,³⁴ and because Entergy is required to know the status of all generation resources available for use.³⁵

26. Union Power states that the Commission has already provided guidance on these issues. Union Power argues that, as indicated in Order No. 890-A, the Commission requires that the model used by the transmission provider be benchmarked, and it is the level of accuracy that is relevant, not the physical transmission rights. Union Power argues that Entergy's adherence to the physical transmission rights model means that Entergy's models could be inaccurate.³⁶

27. Union Power points to historical data of two Entergy Operating Companies' energy purchases from QFs during the summer of 2005-2007.³⁷ Union Power argues that these are significant energy purchases, and that the energy displaces Entergy's network resources, which significantly affects power flow patterns on Entergy's transmission system. Union Power contends that ignoring unscheduled QF energy not only

³⁴ *Id.* at 17 (citing NERC Reliability Standards TOP-002-2; TOP-003-0; and TOP-006-1).

³⁵ *Id.* (citing NERC Reliability Standard TOP-006-1).

³⁶ Union Power at 17-18 (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 99 ("The Commission clarifies in response to Entergy that the models used by the transmission provider to calculate ATC, and not actual ATC values, must be benchmarked. The Commission is concerned with the level of accuracy of the models and, therefore, directed in Order No. 890 that the models be updated and benchmarked to actual events. If models are not sufficiently accurate, then ATC/AFC calculations will not generate correct results, undermining the benefits of increased consistency and transparency of ATC calculations. With regard to discrepancies between actual and modeled ATC values, the Commission directed [NERC] in Order No. 693 to modify MOD-014-0 through the reliability standards development process to require that actual system events be simulated and, if the model output is not within the accuracy required, the model shall be modified to achieve the necessary accuracy.")).

³⁷ Union Power attaches the data as Exhibit 1 to its protest.

contributes to phantom congestion in the models, but also masks the actual expected conditions of the transmission system. Union Power argues that, as a result, in addition to the QF dispatch not being accurately modeled, Entergy's displaced network resources are not accurately modeled. Union Power asserts that not including unscheduled QF energy and the resulting network resource displacement in the models means that the models do not reflect actual operations on the system, which violates Order No. 890's benchmarking requirement as well as the broader requirement that Entergy provide non-discriminatory transmission access. Union Power argues that, in order for the models to be consistent with actual system conditions, Entergy must include unscheduled QF energy in its models at a level not to exceed the maximum discrepancy between the actual system performance and the models.

28. Entergy responds that, while Order No. 890 directed NERC to develop appropriate standards for the benchmarking of models to actual events, and while these standards would presumably require transmission providers to include such actual events as unscheduled QF energy in their models, the NERC standards are not yet final, so in the meantime Commission guidance is needed.³⁸

29. Entergy also responds that Order No. 890's use of the term "long-term" in an AFC context was ambiguous, as long-term could have meant anything longer than operational planning, or it could have meant system planning and, therefore, Commission guidance is needed.

b. How Entergy Should Curtail Unscheduled QF Energy

i. Entergy's TLR Filing

30. A separate proceeding raised the issue of the curtailment of service for unscheduled QF energy. In Docket No. ER10-794-000, Entergy proposed OATT revisions implementing certain curtailment procedures. One of the proposed procedures provided that Entergy would curtail unscheduled QF energy on the same basis as other non-firm, secondary transmission service, when necessary to relieve congestion³⁹ The

³⁸ We note that the NERC standards regarding benchmarking are still not yet final.

³⁹ The proposed provision stated:

In the event that Secondary Network Service schedules or unscheduled deliveries to Transmission Provider's Native Load Customers from a QF are curtailed under this Step 2, the QF must reduce its output to reflect such curtailments, provided

(continued...)

proposed procedure also provided that, instead of curtailing unscheduled deliveries from QFs to Entergy's native load customers, Entergy may relieve the constraint by redispatching Entergy network resources.

31. Entergy noted in its transmittal letter in Docket No. ER10-794-000 that, in a curtailment situation, Entergy treats unscheduled QF energy as "secondary or non-designated network resources under the OATT."⁴⁰ However, Entergy acknowledged that some stakeholders believe that curtailing unscheduled QF energy along with other secondary network resources is inconsistent with PURPA's purchase requirement.

ii. Responsive Pleadings

32. In response to Entergy's filing, several parties protested the procedures involving unscheduled QF energy, contending that Entergy's proposed treatment of unscheduled QF energy conflicts with the PURPA purchase requirement.

33. Electric Power Supply Association (EPSA), Southeast Electricity Consumers Association (SECA), and Occidental argue that the Commission's regulations implementing PURPA provide only narrow circumstances within which a utility can limit or cease purchases from a QF, and that Entergy's treatment of unscheduled QF energy as having curtailment priority of secondary network service is not justified by any of these circumstances.⁴¹

34. With respect to the QF purchase exemption provided in section 307(b) of the Commission's PURPA regulations, Occidental and Southeast Electricity Consumers Association stress that the section requires not only that there be a system emergency, but that the QF purchases interrupted must contribute to that emergency. Emergency, the parties explain, is defined in the regulations as a condition on a utility's system "which is

that such curtailments shall not require the QF output to go below the minimum run level necessary to maintain the QFs other industrial or commercial processes unrelated to the generation of electric energy.

⁴⁰ Entergy February 23, 2010 Docket No. ER10-794-000 Transmittal Letter at 7.

⁴¹ See EPSA March 16, 2010 Protest in Docket No. ER10-794-000 at 10; SECA March 16, 2010 Protest in Docket No. ER10-794-000 at 5-8; Occidental March 16, 2010 Protest in Docket No. ER10-794-000 at 3-7, 10-15.

likely to result in disruption of service to a significant number of customers or is likely to endanger life or property.”⁴²

35. Occidental states that the Commission imposed the various requirements that a purchasing utility must meet in order to take advantage of the exemption (prior notification, subsequent verification by the state regulatory authority, and exposure to reimbursement requirements for failure to provide prior notification) after receiving many comments reflecting a suspicion that electric utilities would abuse proposed section 304(f) to circumvent their obligation to purchase from QFs.

36. Occidental argues that Entergy’s proposed treatment of unscheduled QF energy is inconsistent with Entergy’s recognition in a previous proceeding that QFs selling unscheduled QF energy are to be treated differently than other generators when it comes to curtailment.⁴³

37. Occidental also argues that Entergy’s proposed treatment of unscheduled QF energy as secondary network transmission service does not take into account the fact that QFs do not take service under the OATT, and that such QFs have not been assigned such secondary service priority by NERC. Occidental argues, rather, that PURPA and the Commission’s implementing regulations are controlling with respect to QFs.

38. Occidental further states that Entergy has engaged in a pattern over many years of attempting, in a variety of ways, to preclude QFs from participating in the Entergy balancing authority area market. Occidental states that QFs currently face acute difficulties in trying to participate in the Entergy market because of the lack of available transmission service. As a direct consequence of the lack of transmission service, the only meaningful option QFs have to sell their power, Occidental contends, is through exercising their PURPA rights. Occidental protests that Entergy’s proposed OATT

⁴² *Id.* (citing 18 C.F.R. § 292.101(b)(4) (2011)); *see also Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978*, Order No. 69, FERC Stats. & Regs. ¶ 30,128 at 30,865 (1980), *order on reh’g*, Order No. 69-A, FERC Stats. & Regs. ¶ 30,160, *aff’d in part and vacated in part*, *American Electric Power Service Corp. v. FERC*, 675 F.2d 1226 (D.C. Cir. 1982), *rev’d in part*, *American Paper Institute, Inc. v. American Electric Power Service Corp.*, 461 U.S. 402 (1983).

⁴³ Occidental March 16, 2010 Protest at 12-13 (citing *Entergy Services, Inc.*, 102 FERC ¶ 61,281, at P 61 (2003) (*GOL Order*)).

amendments could be used by Entergy to effectively bar unscheduled deliveries from QFs.

39. NRG Companies, on the other hand, express concern that the limited exemptions to curtailments at the secondary network service priority level granted to QFs would shift the burden of curtailment from Entergy to other customers.⁴⁴ NRG Companies believe the proposal should be revised to ensure that the burden of curtailment stays with Entergy.

40. Entergy answers that the different positions of Entergy and the protesting parties reflect in part ambiguities among the QF regulations adopted in 1980, the open access requirements adopted in 1996, and the recently issued NERC reliability standards.⁴⁵

41. Entergy states that under its OATT it is required to treat unscheduled QF energy as eligible only for non-firm or secondary transmission, because unscheduled QF energy does not qualify for firm service under the OATT. Entergy argued that unscheduled QF energy does not qualify for firm service because under PURPA it does not use firm transmission service reservations and is not committed for sale to a particular party, so it does not meet the OATT's requirements for firm service or for designation as a network resource.

42. Entergy states that it does not believe that it is permitted to designate non-firm QF purchases as network resources, but to the extent the Commission clarifies otherwise, Entergy will do so. However, Entergy argues that Occidental contends that Entergy could not interrupt the QF purchases along with other firm point-to-point and network/native load service unless and until there is a system emergency. Entergy argues that Occidental is in essence advocating a "super-priority" for unscheduled QF energy.

43. Entergy argues that the NERC reliability standards and sections 307(b)(1) (system emergency exemption from QF purchases) and 292.304(f) (cost-related exemption from QF purchases) of the Commission's PURPA regulations allow Entergy to curtail unscheduled QF energy where pre- or post-contingent loading exceeds normal limits, provided that certain conditions are met. Entergy argues that section 304(f) of the Commission's PURPA regulations provides that Entergy is not obligated to purchase

⁴⁴ NRG Companies March 16, 2010 Protest in Docket No. ER10-794-000 at 33-34.

⁴⁵ Entergy April 2, 2010 Answer in Docket No. ER10-794-000 at 34.

unscheduled QF energy if, due to operational circumstances, Entergy's costs would increase. Thus, Entergy asserts, when Entergy has exhausted its cost-neutral redispatch options, Entergy is entitled to curtail the QF.

44. In response to Occidental's claims that Entergy must satisfy the notice and verification requirements in the regulations, Entergy states that it is unaware of any state in its service territory having promulgated rules or regulations addressing such matters. Entergy argues that because no state has promulgated such rules or regulations, Entergy intends to give QFs notice of any curtailment in the same manner as any other generator under the relevant curtailment procedures.

45. Entergy argues that section 307(b)(2) of the Commission PURPA regulations provides that Entergy is not obligated to purchase unscheduled QF energy if such purchases would contribute to a condition on a utility's system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property. Entergy disagrees with parties who suggest that such curtailments are not allowed, arguing that such parties do not acknowledge that, since promulgation of section 307(b), NERC reliability standards and OATT provisions have been adopted that provide for *pro rata* curtailments of transmission transactions to *prevent* system emergencies from occurring, rather than waiting for an actual system emergency to occur before including QF curtailments within the scope of available mitigation.

46. Entergy also argues that it is not obligated to curtail or redispatch the resources or transactions of other customers solely to avoid curtailing unscheduled QF energy. Entergy maintains that if a curtailment of unscheduled QF energy takes place, then under the OATT, that energy should be assigned the same curtailment priority as secondary network service. Entergy argues that unscheduled QF energy does not meet the requirements for network resources, or otherwise reserve firm (or non-firm) transmission service.

47. Entergy disagrees with Occidental's claim that the *GOL Order* established that QFs were in a separate curtailment category from other generators. Entergy argues that the *GOL Order* addressed transmission availability rather than curtailment, and stated that the PURPA purchase obligation applied as long as the reliability of the system is not "compromised" and the cost of accepting the energy is not greater than Entergy's avoided costs as defined by PURPA.⁴⁶ Entergy also argues that the Commission's use of the

⁴⁶ *Id.* at 47.

word “compromised” rather than the arguably higher standard of the system being in an emergency means QFs are not exempt from curtailment.

iii. Commission Order in TLR Proceeding

48. In an April 23, 2010 order in Docket No. ER10-794-000, the Commission noted that issues concerning the interplay of PURPA’s unscheduled QF energy purchase obligation and OATT obligations are pending before the Commission in this proceeding (*i.e.*, Docket Nos. ER05-1065 and OA07-32). Therefore, the Commission stated, it will take appropriate action on the issues raised regarding the curtailment of unscheduled QF energy when it acts in this proceeding.⁴⁷

c. Commission Determination

i. Unscheduled QF Energy in Short-Term, Medium-Term, and Long-Term Models

49. The Commission finds that the question of how unscheduled QF energy should be reflected in Entergy’s transmission availability models largely turns on the circumstances of the interconnection, ongoing planning, and subsequent transactions of the QFs on Entergy’s system. QFs that have paid for assessed network upgrades, if any, as part of Network Resource Interconnection Service (NRIS) or a comparable pre-Order No. 2003 interconnection service,⁴⁸ and which have sold unscheduled QF energy as allowed under PURPA on a regular basis since then (with reasonable allowances for maintenance, seasonal demand variations, thermal host replacement, etc.) should continue to be treated no worse than Entergy’s own network resources in assessing whether aggregate supply is sufficient to meet aggregate load within Entergy’s control area.⁴⁹ On the other hand,

⁴⁷ TLR Proceeding Order, 131 FERC ¶ 61,067 at P 54.

⁴⁸ Such QFs include QFs that were assessed no upgrade cost as part of their interconnection, due to investment lumpiness or similar considerations, even though they obtained an NRIS or comparable level of service.

⁴⁹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. and Regs., Regulations Preambles 2001-2005 ¶ 31,146, *order on reh’g*, Order No. 2003-A, FERC Stats. and Regs., Regulations Preambles 2001-2005, ¶ 31,160 (2003), *order on reh’g*, Order No. 2003-B, FERC Stats. and Regs., Regulations Preambles 2001-2005 ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C,

(continued...)

Entergy is not required to plan for the unscheduled energy from a QF that was offered NRIS or a comparable pre-Order No. 2003 interconnection service, but that instead elected to purchase an inferior interconnection service that did not obligate Entergy to plan for the QF. Between these extremes, determinations may need to be made depending on the facts associated with the interconnection. We find that the unscheduled energy of the QFs for which Entergy is not required to plan should be reflected in the medium and short-term models with Entergy's own generation redispatched to accommodate such energy, consistent with its obligations under PURPA.⁵⁰

50. We clarify that including unscheduled QF energy in Entergy's transmission availability models does not necessarily mean setting aside one-for-one transmission capacity reservations for every unit of unscheduled QF capacity on the system. Rather, some reasonable method should be used to include unscheduled QF energy purchases (taking into account the variability of such purchases), using whatever credible data are available to Entergy. Such data sources should certainly include historical data (with reasonable emphasis given to recent or seasonal historical data, as appropriate), but may also include reliability data, non-binding QF schedules,⁵¹ and/or other appropriate data that are available to Entergy.

FERC Stats. and Regs., Regulations Preambles 2001-2005 ¶ 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).

⁵⁰ We note that, even in cases where there is no specific requirement to plan for a particular QF's unscheduled energy, it may be appropriate and also in Entergy's interest for Entergy to consider that QF in its plans, particularly if there is a clear history of unscheduled QF energy purchases and strong indications that such purchases are likely to continue into the future. Such planning may minimize the total costs incurred by Entergy as a result of fulfilling its obligations under PURPA.

⁵¹ We agree that non-binding QF schedules are not required to be provided by QFs, and so Entergy may not compel QFs to provide such schedules. However, it may be in the interest of a QF to provide non-binding schedules, given that use of that information by Entergy may minimize the chance of curtailment to the QF, particularly when a QF plans to significantly deviate from its recent sales pattern. To the extent that non-binding schedules from a particular QF prove not to be credible, the weight given to such schedules within the transmission models could be discounted.

51. In response to Entergy's statement that considering unscheduled QF energy in short-term transmission models may prohibit QFs from making sales to other parties, as permitted under PURPA, we find that such inclusion in short-term transmission models should not unreasonably restrict third-party sales from QFs. Certainly Entergy's operations will require that, after a reasonable minimum lead-time period has expired, a modeled transaction cannot be "backed out," as Entergy claims. However, such treatment should not put QFs at a disadvantage to any similarly situated transmission customer. In particular, the process Entergy would need to go through to "back-out" assumptions about a QF serving its load appears to be functionally equivalent to a process that utilities were directed in Order No. 890 to provide for network resources seeking to make third-party sales. The Commission established in Order No. 890 that a network customer is able to simultaneously request both a temporary undesignation of a network resource and transmission service for a related third-party sale, and that the two requests should be evaluated as a single request, and approved or disapproved as such.⁵² The Commission further directed transmission providers, working through NAESB, to develop business standards describing the procedures for submitting and processing such requests.⁵³ Entergy should be able to "back-out" unscheduled QF energy using similar procedures to those ordered in Order No. 890, and the relevant scheduling deadlines that Entergy imposes for "backing-out" unscheduled QF energy should be the same as they are in Entergy for network resources.

ii. **Curtailed Priority for Unscheduled QF Energy Deliveries**

52. Regarding which curtailment priority Entergy is to apply to deliveries of unscheduled QF energy, we find that Entergy's statutory obligation to purchase unscheduled QF energy is not subordinate to tariff considerations. Except in certain limited circumstances, Entergy is obligated under federal law to purchase unscheduled QF energy. Once that energy is purchased, it is Entergy's responsibility to deliver that energy to its load (or otherwise manage the energy). Curtailing unscheduled QF energy output along with non-firm, secondary network service is inconsistent with Entergy's obligations under PURPA.

⁵² Order No. 890, FERC Stats. and Regs. ¶ 31,241 at P 1541.

⁵³ *Id.*

53. Exceptions to the statutory QF purchase obligation are limited. First, a utility can be relieved of its QF purchase obligation under section 210(m) of PURPA, 16 U.S.C. § 824a-3(m) (2006). This provision is not at issue here, as Entergy has not claimed relief under section 210(m), nor filed a petition seeking relief.⁵⁴

54. Second, section 304(f)(1) of the Commission's PURPA regulations, 18 C.F.R. § 292.304(f)(1), provides, with certain limitations, that a utility is not required to purchase unscheduled QF energy "during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself." Entergy argues that this provision entitles it to curtail unscheduled QF energy purchases whenever Entergy has exhausted the cost-neutral redispatch options available to accommodate the purchase. However, section 292.304(f) provides for a far more limited exception to the PURPA purchase obligation than Entergy claims.

55. In Order No. 69, which implemented section 304(f), the Commission stated that that section was intended to deal with a certain condition which can occur during light loading periods, in which a utility operating only base load units would be forced to cut back output from the units in order to accommodate the unscheduled QF energy purchases.⁵⁵ The Commission stated that such base load units might not be able to later increase their output levels rapidly when the system demand later increased, resulting in the utility needing to rely upon less efficient, higher cost units.⁵⁶ Section 304(f), when read in conjunction with the relevant explanation in Order No. 69, applies only to such low loading scenarios, and cannot be relied upon to curtail purchases of unscheduled QF energy for general economic reasons.

56. Many avoided cost rates are calculated on an average or composite basis, and already reflect the variations in the value of the purchase in the lower overall rate. In

⁵⁴ Section 310 of the Commission's PURPA regulations, 18 C.F.R. § 292.310, implements section 210(m) of PURPA, setting out the process by which an electric utility seeking termination of its QF purchase obligation must file a petition and make a showing that it provides nondiscriminatory access to markets as described in section 210(m).

⁵⁵ Order No. 69, FERC Stats. & Regs. ¶ 30,128 at 30,870, 30,886 (1980).

⁵⁶ *Id.* at 30,886.

such circumstances, the utility is already compensated, through the lower rate it generally pays for unscheduled QF energy, for any periods during which it purchases unscheduled QF energy even though that energy's value is lower than the true avoided cost. On the other hand, for avoided cost rates that are determined in real-time, such avoided costs adjust to reflect the low (or zero or negative) value of the unscheduled QF energy, allowing the QF to make its own curtailment decisions. In neither case is the utility authorized to curtail the QF purchase unilaterally.

57. Third, section 307(b) of the Commission's PURPA regulations, 18 C.F.R. § 292.307(b), provides that a utility may, during a system emergency, discontinue purchases from a QF if such purchases would contribute to such emergency. Section 101(b)(4) of the Commission's PURPA regulations, 18 C.F.R. § 292.101(b)(4), defines "system emergency" as "a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property." Contrary to Entergy's claim, our acceptance in the *GOL Order* of Entergy's proposed use of the term "compromised" did not lower the standard or increase the scope of the definition of "system emergency" in section 101(b)(4). To the contrary, our intent was to affirm the existing PURPA regulations and definitions.⁵⁷

58. Accordingly, we find that Entergy's proposal to curtail unscheduled QF energy on the same basis as non-firm, secondary network service is not consistent with Entergy's obligations under PURPA.

⁵⁷ See *GOL Order*, 102 FERC ¶ 61,281 at P 61-62:

Entergy states that Attachment Q [governing the GOL system] will permit owners to "put" their power to Entergy without regard to the GOL applicable to the QF. Entergy's proposed GOL will not apply to PURPA puts of power from QFs interconnected with Entergy's transmission grid to Entergy and a QF will be permitted to put its output to Entergy for purchase at Entergy's avoided costs in excess of the QF's GOL as long as the reliability of the system is not compromised (*See* 18 C.F.R. §§ 292.304(f), 292.307(b), 292.308 (2002)) and the cost of accepting the energy is not greater than if Entergy had generated the energy itself. . . . We accept Entergy's clarification with the proviso that Entergy's obligation under PURPA is to take the energy at its avoided costs which is defined as: "The incremental costs . . . such utility would generate itself or purchase from another source."

2. Modeling Shortfalls in Load-Serving Entity Network Resource Designations in the AFC Study Horizon

a. Entergy's Request

59. The second unresolved topic involves how Entergy should resolve shortfalls in the AFC process's Study Horizon model, which assesses the availability of transmission 31 days to 18 months ahead.⁵⁸ Entergy states that at times in the AFC process Study Horizon model⁵⁹ a load-serving entity's designated network resources are insufficient to serve the load-serving entity's designated network loads.⁶⁰ Entergy states that the Study Horizon model cannot "solve" unless the shortfall is resolved, and resolving the shortfall requires the model to dispatch alternative resources to meet the load. Entergy states that Order No. 890 provides that base generation dispatch is to model "(1) all designated network resources and other resources that are committed or have the legal obligation to run, as they are expected to run and (2) uncommitted resources that are deliverable within the control area, economically dispatched as necessary to meet balancing requirements."⁶¹ Entergy states that the load-serving entity shortfalls in the Study Horizon represent a situation in which resources are inadequate even after the two types of resources described in Order No. 890 are modeled.

⁵⁸ See definition of "Study Horizon" in proposed section 1.2 of Attachment C.

⁵⁹ According to the definition in proposed section 1.2 of Attachment C, the AFC system's Study Horizon is 31 days to 18 months ahead. Entergy states that load-serving entity shortfalls do not occur in the first seven days of the AFC process in part because in the Operating Horizon (up to 2 days ahead) and most of the Planning Horizon (2 to 31 days ahead), the AFC process relies on scheduling data rather than reservation data. Entergy Transmittal Letter at 35.

⁶⁰ Entergy Transmittal Letter at 35. Entergy explains that the shortfalls are from network customers with relatively small amounts of network load, and are not from the Entergy Operating Companies. Entergy states that the load-serving entity shortfalls, while a modeling problem, are not a reliability problem, because the load-serving entity does designate sufficient resources as the service date approaches, i.e., in the Operating and Planning horizons.

⁶¹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 296.

60. Entergy states that as a stop-gap measure the AFC process is resolving such Study Horizon shortfalls by increasing the dispatch of Entergy-owned generating units that are already running in the base case model. Entergy explains that this prevents having to turn on a unit solely to make up the shortfall, which would have a disproportionate impact on power flows. However, Entergy states that it and the ICT agree that this practice of using Entergy-owned generating units is “not optimal.”

61. Entergy states that Entergy and the ICT have been exploring other options. Entergy asserts that a method that complies with Order No. 890’s statement that base generation dispatch is to model uncommitted resources is to have the AFC process increase the dispatch of network service resources in the Entergy control area. Entergy states that this method is set out in proposed section 7.1.2 of Attachment C. However, Entergy states that no network service resources are currently in the control area, so this method cannot currently be used to resolve the load-serving entity shortfalls.

62. Entergy states that two other options for resolving the load-serving entity shortfalls are under consideration, one of which is preferred by Entergy and the other preferred by the ICT. Entergy notes that Entergy and the ICT agree that neither option is optimal and are looking for others, but Entergy is requesting Commission guidance as to which option is preferred in case no other viable option is found. The first option, preferred by Entergy, is the “*pro rata* dispatch” option, under which the load-serving entity’s shortfall is resolved through *pro rata* increases in the dispatch of uncommitted resources that are currently running at some level in the base case model. Entergy states that this process is similar to the modeling of load-serving entity shortfalls in long-term base case models, in performing system impact studies under proposed section 2.3.4.1 of Attachment D.⁶² However, Entergy notes that in the system impact study process in proposed section 2.3.4.1, engineers manually intervene to mitigate the negative effects on the flowgates limiting the proposed transfer, whereas the AFC process’s frequent automatic resynchronizations mean that such manual intervention cannot be done under the *pro rata* dispatch option. Entergy believes that the *pro rata* dispatch option would

⁶² Entergy Transmittal Letter at 36-37. Section 2.3.4.1 of Attachment D (Seasonal Base Case Models) states, in relevant part:

With respect to short-falls in a LSE’s resource plan, NRIS and ERIS resources are dispatched on a *pro rata* basis subject to mitigating the negative effects of those resources on the elements/flowgates limiting the proposed transfer by removing the power flow impact of these resources on those elements/flowgates

meet Order No. 890's requirement to rely on "uncommitted" resources, in that the resources are running but have additional uncommitted capacity available to make up the shortfall. Entergy states that the drawback to this option is that the AFC process dispatches base generation only on a firm basis, but the uncommitted resources would not have firm reservations to serve the load-serving entity's load, so dispatching to make up the shortfall could reduce AFC values, leading to improper denials of subsequent transmission requests.

63. The second option, preferred by the ICT, is the "pseudo resources" option, under which the load is met by imaginary, or "pseudo," resources, located at the load, that are inserted into the model. Entergy states that the advantage of this option is that locating the resources at the load means that no transmission is needed, so AFC values are not affected, which in turn means that subsequent transmission requests would not be affected. Entergy states that the disadvantage of this option is that, because the pseudo resources are located at the load, the excess load's electrical impact is removed from the model, which in turn reduces the accuracy of the power flow models.

b. Responsive Pleadings

64. The ICT defends the pseudo resources option by noting that the shortfalls only happen in AFC models, which evaluate transmission in the short-term.⁶³ Because of the short-term nature, the accuracy of the power flow models is not paramount. The ICT also notes that the *pro rata* dispatch option in effect inserts imaginary transmission and therefore imaginary transmission reservations in the model. The ICT states that using imaginary transmission creates phantom congestion that may cause the improper denial of transmission requests. The ICT states that, in contrast, the pseudo resources option correctly reflects the absence of sufficient available resources, and the pseudo resource would merely be a placeholder, placed as the lowest priority and only reflected for a period in which there are insufficient resources. In the ICT's view, the pseudo resources option's removal of the electrical impact of the unreserved transmission used to make up the shortfall properly reflects the shortfall's impact on AFC values, which prevents the improper denial of subsequent transmission requests.

65. Cottonwood comments in favor of the pseudo resources option, because the *pro rata* dispatch option could cause the improper denial of transmission to a customer with

⁶³ ICT Comments at 9-11.

an actual transaction and with higher priority than the load-serving entity.⁶⁴ Cottonwood argues that the pseudo resources option at least ensures that the risk of obtaining transmission for any resources ultimately designated by the network customer remains with that customer.

66. Union Power comments that modeling shortfalls in load-serving entity network resource designations is an issue of modeling accuracy.⁶⁵ Union Power argues that evaluating the merits of the two modeling options cannot be done without reviewing actual data to determine which approach produces more accurate modeling.

67. Entergy answers that the *pro rata* dispatch option is superior to the pseudo resources option because modeling an increased dispatch of resources that have available transmission to serve the load-serving entity's excess load, even if the resources may not be the resources eventually designated by the load-serving entity, ensures that resources with interconnection service and the ability to inject power into the grid are used.⁶⁶ Entergy states that this produces more accurate modeling than "imagining away" the excess load, as the pseudo resources option does. Entergy argues that the pseudo resources option does not meet Order No. 890's requirement that, under Standard MOD-001, transmission providers model designated, committed resources or uncommitted resources deliverable within the control area. Entergy also states that implementing the pseudo resources option would be administratively burdensome.

c. **Commission Determination**

68. We find that of the two options presented, the pseudo resources option should be used. The pseudo resources option maintains the accuracy of AFC values by not inserting transmission in the model for which the load serving entity does not have a point-to-point transmission service reservation or designated network resources. For that reason, the pseudo resources option is consistent with the OATT provisions governing access to transmission. This approach provides Entergy's transmission customers, including load-serving entities, a fair opportunity to obtain transmission service on a first-come first-served basis. This approach also places the risk that transmission will not be

⁶⁴ Cottonwood at 21-22.

⁶⁵ Union Power at 18-20.

⁶⁶ Entergy Answer at 89.

available on the load-serving entity that does not have sufficient firm service reserved, rather than on other Entergy transmission customers.

69. In contrast, under the *pro rata* dispatch option, the dispatch of actual resources already running in the model is increased *pro rata* to resolve the shortfall, which requires the model to increase the transmission used for the resources. In effect, the *pro rata* dispatch option sets aside transmission service to meet the load-serving entity's shortfall, without the load-serving entity having arranged for that additional transmission, ahead of other Entergy transmission customers. This violates the OATT.

70. We disagree with Entergy's argument that the *pro rata* dispatch option conforms with Order No. 890's statement that base generation dispatch is to model designated resources or uncommitted resources deliverable within the control area. Order No. 890 states that base generation dispatch is to model "uncommitted resources that are deliverable within the control area, *economically* dispatched as necessary to meet balancing requirements."⁶⁷ [Italics added.] Increasing the already-running resources on a *pro rata* basis conflicts with Order No. 890's statement that the dispatch is to be increased economically, i.e., reflecting the costs of each resource.

71. In any event, we find that uncommitted resources should not be dispatched to make up for shortfalls in designated network resources to allow the AFC models to solve, if that would result in granting or denying transmission service in a manner inconsistent with the OATT's reservation priority requirements. As Entergy explains, it uses a method equivalent to the *pro rata* dispatch option modeling of load-serving entity shortfalls to solve long-term base case models, in performing system impact studies. However, in the system impact study process, engineers manually intervene to mitigate the negative effects on the flowgates limiting the proposed transfer, whereas the AFC process's frequent automatic resynchronizations mean that such manual intervention cannot be done under the *pro rata* dispatch option. Given this situation, dispatching uncommitted resources to address load-serving entity shortfalls to solve the AFC models would result in processing transmission service requests under the Entergy OATT inconsistent with the OATT reservation priorities. Instead, the use of pseudo resources to address such shortfalls and allow the models to solve prevents the models from including transmission that has not been reserved or designated when evaluating availability of capacity to grant new service requests, consistent with the OATT.

⁶⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 296.

72. Besides conforming with the OATT's transmission priorities, the pseudo resources option also encourages load-serving entities to designate sufficient resources to meet their loads in the Study Horizon. As Entergy notes, the load-serving entity shortfall issue does not occur in the Operating Horizon or the beginning of the Planning Horizon because load-serving entities tend to designate sufficient resources in those nearer horizons, as they come closer to the time of service. The pseudo resources option gives load-serving entities an incentive to designate enough resources to cover their loads in order to minimize the risk of being unable to reserve firm transmission service.

73. While we find the pseudo resources option to be consistent with the OATT reservation priorities, we acknowledge that Entergy and the ICT agree that the option is not optimal and are looking for other options, and we encourage Entergy and the ICT to continue to explore other options. Whichever option is eventually adopted, we direct Entergy to file it as a revision to Attachment C, such as to section 7.1.2 (discussed below), so that Entergy's Attachment C will reflect Entergy's AFC process.

C. Compliance with ICT Approval Order and Order No. 890

74. As noted above, in the April 2007 Order, the Commission accepted the language of Entergy's business practice manuals subject to Entergy refileing them as OATT attachments, modifying the language to clarify Entergy's role as well as the role of the ICT, and consulting further with stakeholders to develop the transmission service criteria.⁶⁸ As also noted above, Entergy filed the language of the business practice manuals as OATT attachments on July 13, 2007, revised to clarify the division of responsibilities between Entergy and the ICT, and consulted with stakeholders, filing the resulting revisions in this docket on April 3, 2009.

75. The Criteria Attachments filed on April 3, 2009 reflect extensive revisions to the business practice manuals that we conditionally accepted in the April 2007 Order.⁶⁹ These extensive revisions are an intended consequence of our requirement that Entergy subject the language to stakeholder review. Because of the extensive nature of the revisions, we review them under the standard in the ICT Approval Order, namely whether they describe all the criteria that Entergy has developed for the ICT to use in responding to requests for transmission, and whether they are just and reasonable and not

⁶⁸ April 2007 Order, 119 FERC ¶ 61,009 at P 24, 26.

⁶⁹ See, e.g., Entergy Transmittal Letter, Exhibits 12-17 (redline versions of the proposed attachments reflecting changes from various previous filings).

unduly discriminatory. In addition, because the proposed Criteria Attachments are modified by both the ICT Approval Order and Order No. 890, pursuant to the September 2006 Rehearing Order and April 2007 Order, the Commission is to judge whether they are consistent with or superior to the Order No. 890 *pro forma* OATT. This echoes the requirement in Order No. 890 itself that transmission providers' OATT provisions be consistent with or superior to the Order No. 890 *pro forma* OATT, and not violate any policy requirements set out in Order No. 890.

76. Thus, in this order, we assess whether the proposed Criteria Attachments are consistent with or superior to the Order No. 890 *pro forma* OATT, whether they are consistent with Order No. 890, whether they fully and accurately describe the transmission service request response criteria developed by Entergy for use by the ICT, and whether they are just and reasonable and not unduly discriminatory.

1. Compliance with the Order No. 890 Pro Forma OATT

a. Order No. 890 Pro Forma OATT Requirements

77. The *pro forma* OATT requires each transmission provider to include an Attachment C to its OATT, titled "Methodology To Assess Available Transfer Capability."⁷⁰ The *pro forma* OATT requires that a transmission provider include the following information in its Attachment C: details of how the transmission provider calculates ATC components including total transfer capability, existing transmission commitments, capacity benefit margin, and transmission reliability margin.⁷¹ The description of existing transmission commitments must include a description of the step-by-step modeling study methodology and criteria for adding or eliminating flowgates.⁷² The transmission provider must also include a detailed description of the mathematical algorithm used to calculate firm and non-firm ATC and AFC (if applicable) for the scheduling, operating, and planning horizons; a process flow diagram of the steps by which ATC/AFC is calculated; and a detailed explanation of how each of the ATC components is calculated for both the operating and planning horizons.⁷³

⁷⁰ *Pro forma* OATT, Original Sheet Nos. 157-158.

⁷¹ *Id.*

⁷² *Id.* at Original Sheet No. 158.

⁷³ *Id.* at Original Sheet No. 157.

78. For a transmission provider such as Entergy that uses an AFC methodology to calculate ATC, the *pro forma* OATT specifically requires subcomponents for the detailed explanation of how each of the ATC components is calculated for the operating and planning horizons:

[A transmission provider using an AFC methodology shall:] (i) explain its definition of AFC and (ii) explain its AFC calculation methodology; (iii) explain its process for converting AFC into ATC for OASIS posting; (iv) list the databases used in its AFC assessments; and (v) explain the assumptions used in its AFC assessments regarding load levels, generation dispatch, and modeling of planned and contingency outages.⁷⁴

The *pro forma* OATT also requires each transmission provider to include an Attachment D to its OATT, titled “Methodology for Completing a System Impact Study.” The *pro forma* OATT Attachment D indicates that it is “[t]o be filed by the Transmission Provider,” and sets out no requirements for its content.⁷⁵

79. There is no equivalent *pro forma* OATT attachment to Entergy’s proposed Attachment E, “Transmission Service Requests Criteria.” Entergy’s inclusion of Attachment E in this filing is based on the ICT Approval Order’s requirement that Entergy file the transmission service request response criteria. Similarly, Entergy’s proposed revisions to Attachment T at issue in this proceeding are not equivalent to a *pro forma* OATT Attachment provision, but instead incorporate language in Order No. 890 regarding implementation of section 27 of the *pro forma* OATT (Compensation for New Facilities and Redispatch Costs). Entergy’s proposed revisions to Attachment T are discussed on their merits below.

b. Entergy’s Filing

80. As relevant to the *pro forma* OATT requirements, proposed section 1.2 of Entergy’s Attachment C provides definitions for total transfer capability, existing transmission commitments (with separate definitions for firm and non-firm existing transmission commitments), capacity benefit margin, and transmission reliability margin. Proposed section 1.2’s step-by-step modeling study methodology contains Entergy’s

⁷⁴ *Id.*

⁷⁵ *Pro forma* OATT, Original Sheet No. 159. The *pro forma* OATT contains no equivalent to Entergy’s proposed Attachment E (Transmission Service Requests Criteria).

calculation of capacity benefit margin, and proposed section 2 sets out the criteria for adding or eliminating flowgates.

81. Proposed section 3 contains detailed descriptions of the mathematical algorithms used to calculate firm and non-firm ATC and AFC. Proposed Appendix 1 to Attachment C contains process flow diagrams for each of the AFC process's three horizons. Proposed section 1.2 provides a detailed explanation of how each of the ATC components is calculated for the operating and planning horizons, including an explanation of the definition of AFC. Proposed section 5 describes Entergy's calculation of transmission reliability margin and capacity benefit margin (Entergy sets both at zero). Proposed section 3 explains the formulas used in Entergy's AFC calculation methodology. Proposed section 7 describes the modeling of base flows in each of the three AFC horizons, including the assumptions used for service to network customers, Entergy's native load customers, and point-to-point customers. Proposed section 6.6, describes Entergy's AFC process's modeling of planned and contingency outages in each of the AFC process horizons.

82. As relevant here, Entergy's proposed Attachment D is titled "Methodology for Completing a System Impact Study" and contains a description of the methodology Entergy and the ICT use to complete a system impact study.

c. Commission Determination

83. We conclude that Entergy's proposed Attachments C and D, as described above, provide the information required in the *pro forma* OATT. Regarding the *pro forma* OATT's Attachment C, the required terms are defined in Entergy's proposed section 1.2, which also provides the required description of Entergy's calculation of capacity benefit margin. The required description of the criteria for adding or eliminating flowgates is in Entergy's proposed section 2. The required detailed descriptions of the mathematical algorithms used to calculate firm and non-firm ATC and AFC are in Entergy's proposed section 3, and the required process flow diagrams for each of the AFC process's three horizons are in Appendix 1. The required detailed explanation of how each of the ATC components is calculated for the operating and planning horizons, including an explanation of the definition of AFC, is provided in Entergy's proposed section 1.2. The required description of the calculation of transmission reliability margin and capacity benefit margin is in Entergy's proposed section 5. The required explanation of the formulas used in the AFC calculation methodology are in Entergy's proposed section 3, and the required description of the modeling of base flows in each of the three AFC horizons, including the assumptions used for service to network customers, native load customers, and point-to-point customers, are in Entergy's proposed section 7. The required description of the AFC process's modeling of planned and contingency outages in each of the AFC process horizons is in Entergy's proposed section 6.6.

84. Regarding the *pro forma* OATT's Attachment D, Entergy's proposed Attachment D has the required title: "Methodology for Completing a System Impact Study," and contains the required description of the methodology Entergy and the ICT use to complete a system impact study.

2. Analysis of the Proposed Provisions

85. While the proposed provisions generally comply with the specific Attachment C and Attachment D requirements of Order No. 890 and the *pro forma* OATT, certain of the proposed provisions, as discussed below, require modification because they are unclear or incomplete, are inconsistent with other Order No. 890 requirements or other provisions of the *pro forma* OATT, or are otherwise unjust or unreasonable.

2.1 Attachments C, D, and E Descriptions of the Division of Responsibilities Between Entergy and the ICT

86. The proposed attachments' descriptions of the division of responsibilities between Entergy and the ICT are in numerous provisions throughout Attachments C, D, and E, so we will address them first, before beginning a section-by-section analysis.

a. Entergy's Filing

87. Proposed Attachments C and E each begin with a provision stating that the division of responsibilities between Entergy and the ICT is controlled by Attachment S (Independent Coordinator of Transmission) to the OATT.⁷⁶ Attachment D begins with a provision stating that the division of responsibilities is governed by Attachment S and Attachment K (Transmission Planning Process) to the OATT.⁷⁷

⁷⁶ See proposed section 1.1 of Attachment C and proposed section 1 of Attachment E. Attachment S of the Entergy OATT contains a description of the ICT arrangement, as well as three protocols governing the ICT's actions regarding Transmission Service and Interconnection Service, and as Reliability Coordinator, respectively (ICT Protocols).

⁷⁷ See proposed section 1.1 of Attachment D. As relevant here, Attachment K provides that the ICT shall perform its functions in the planning processes "in an independent manner and, in all cases, shall use its independent judgment to ensure that transmission planning is conducted on a non-discriminatory basis." See section 1.2 of Attachment K.

88. Besides these general provisions, many proposed provisions governing a specific function describe Entergy's role and the ICT's role in that function. In such provisions, the ICT's role is often to "review and validate" Entergy's action. Some provisions also further define the ICT's "review and validate" role for purposes of that particular section. For example, proposed section 2.2 of Attachment C (Criteria for Adding/Removing Monitored Flowgates) states in relevant part:

The ICT reviews and validates all proposed changes to the Master List to ensure that such changes are consistent with the criteria outlined below. For purposes of this Section 2.2, the responsibility of the ICT to "review and validate" means that the ICT reviews the inputs and results of any study or analysis and confirms that the study results reasonably reflect the application and product of the criteria specified in this Section 2.2.

b. Responsive Pleadings

89. Union Power contends that, in proposed Attachments C, D, and E, Entergy did not adequately clarify its role or the role of the ICT.⁷⁸ Union Power asserts that the ICT's role as described in the proposed provisions does not conform to the ICT's role as approved by the Commission in the proceeding in which it approved the ICT proposal, or as described in Attachment S of Entergy's OATT. Union Power argues that the proposed revisions describe the ICT's role as weaker than it is in Attachment S and prior versions of the manuals. Union Power points to the November 2006 version of the proposed provisions, which stated that "[a]ny inconsistency between this manual and Attachments S or the ICT Protocols shall be resolved in favor of Attachment S and the ICT Protocols," but this statement has been omitted from the April 3, 2009 proposed revisions.

90. Union Power states that it is concerned that the ICT has made statements indicating an unduly narrow view of its role and suggesting that its role is governed by other provisions than those included in Attachment S.⁷⁹ Union Power argues that the ICT's limited interpretation of its role raises the very real possibility that the ICT has

⁷⁸ Union Power at 9-10.

⁷⁹ *Id.* at 10 (citing ICT "Answer of Southwest Power Pool, Inc. to Request for Technical Conference and Comments Concerning Quarterly Performance Report" at 3, Docket No. ER05-1065-000 (December 12, 2007) (referring to "the roles and responsibilities of the ICT, as memorialized in" the ICT Agreement and Attachment S, "as well as Commission orders approving the ICT arrangement.")).

abandoned the requirement to act independently in administering non-discriminatory transmission service on the Entergy system under the Commission's open access transmission policies when it views such actions as inconsistent with Entergy's OATT. Union Power states that, thus, it is unclear how the ICT reconciles these contradictions with provisions of the OATT that require the ICT to use its independent judgment in the provision of nondiscriminatory transmission service regardless of other terms and conditions of the OATT.⁸⁰ Union Power argues that the lack of a specific and accurate description of the ICT's role in the proposed revisions could result in the ICT ceasing to act independently in administering non-discriminatory transmission service when it views such actions as inconsistent with Entergy's OATT.

91. Union Power also contends that the burden to demonstrate that the proposed revisions are in compliance with the April 2007 Order rests with Entergy and has not been met, particularly in light of the fact that many proposed sections describe the ICT's role as merely to "review and validate" Entergy's actions. Union Power asserts that to correct this problem and to comply with the Commission's directive in the April 2007 Order, the proposed revisions must be modified to define the ICT's role in the OATT attachments rather than by reference to other filings or Commission orders.⁸¹

92. LMA Customers point to proposed section 4.1 of Attachment E, which states that Entergy will process and evaluate all service schedules, subject to the ICT's authority to direct changes to such schedules as the Reliability Coordinator. LMA Customers argue that this arrangement should be revised because it gives Entergy rather than the ICT control over the real-time operation of the transmission system, and with this control Entergy can undo any independent determinations made by the ICT.⁸²

93. Like Union Power, LMA Customers express concern that the ICT's role in many of the proposed revisions is merely to "review and validate."⁸³ While LMA Customers

⁸⁰ *Id.* at 11 (citing Attachment S section 4.1(b), Attachment S Transmission Service Protocol section 1.2, Attachment S Transmission Planning Protocol section 1.2).

⁸¹ *Id.* at 12.

⁸² LMA Customers Protest and Comments at 42-43. LMA Customers note that section 4.1 of Attachment E is consistent with section 3.2.3 of the ICT Transmission Service Protocol in Attachment S of Entergy's OATT.

⁸³ *Id.* at 10-12. LMA Customers list as examples: Attachment C sections 2.2, 3.1, 6.1, 8, and 9.2; and Attachment D sections 2.2, 4, and 6.

state that they do not oppose the “review and validate” description of the ICT’s role, they do oppose imposing an unduly limited definition of that role. According to LMA Customers, for the ICT to carry out its responsibilities in an effective manner, the OATT must state that the ICT can, for instance, confirm independently that what Entergy has done is correct, rather than merely review and then validate what Entergy has done. LMA Customers argue that sections 4.1 and 4.2 of the ICT Transmission Service Protocol (contained in Attachment S of the Entergy OATT) define the ICT’s authority as broader than a limited definition of “review and validate.” LMA Customers contend that a limited definition of the ICT’s authority reflected in the proposed revisions may have prevented the ICT from resolving AFC software errors.⁸⁴ In addition, LMA Customers argue that there is no support in the Commission’s previous orders for a limited definition of the ICT’s role. LMA Customers contend that Attachment C should be revised to make clear that if the ICT’s review concludes that Entergy’s AFC data or methods are not valid, the ICT’s validate function includes the authority to direct Entergy to correct its data or methods, and if Entergy and the ICT cannot agree upon an appropriate correction, then the ICT’s position controls pending a Commission determination or dispute resolution. LMA Customers add that, if the ICT is not given authority to direct Entergy to correct its errors, then the ICT’s role is meaningless.

94. East Texas Cooperatives state that the Criteria Attachments do not provide the necessary clarity on the respective roles of Entergy and the ICT. East Texas Cooperatives explain that they have raised this issue in earlier proceedings and the division of responsibilities continues to be vague and unclear. East Texas Cooperatives further comment that the Commission should carefully review whether the division of responsibilities between Entergy and the ICT in the proposed revisions is clear and proper.⁸⁵

95. Entergy answers that its proposed revisions clarifying the role of the ICT include provisions specifically developed by the ICT. Further, Entergy states that the proposed revisions also include catch-all provisions in each attachment that prevent any provisions in Attachment C, D, or E from displacing the division of rights and responsibilities

⁸⁴ *Id.* at 11. LMA Customers refer to Entergy’s reports of instances of mishandling of AFC data, which Entergy has filed in the ICT docket. To date, Entergy has filed reports of over 100 instances of mishandling of AFC data or AFC software errors.

⁸⁵ East Texas Cooperatives at 3.

between Entergy and the ICT that are set forth in Attachment S of Entergy's OATT.⁸⁶ Entergy states that both the ICT Approval Order and Attachment S of the OATT authorize the ICT to institute specific dispute resolution procedures when disputes arise between the ICT and Entergy over data or models. Entergy also states that in many of those provisions the ICT's position prevails pending resolution of the dispute. Entergy asserts that the Commission, in the ICT Approval Order, denied requests to allow the ICT to unilaterally implement its recommendations concerning the AFC process.

96. Entergy states that, in the ICT Approval Order, the Commission stated that if Entergy declines to follow an ICT recommendation, the appropriate recourse is for the ICT to submit a protest when Entergy files the revised process. Entergy also notes that in that order the Commission observed that, in terms of seeking a change in the transmission service criteria under the Entergy OATT, the ICT essentially stood in the same position as any other interested party, with the ability to pursue such change through formal complaint or protest procedures. Entergy argues that, because the Commission already determined the nature of the ICT's authority, the Commission should reject protesters' attempts to use this proceeding to relitigate those issues.

97. The ICT responds that the arguments calling for the ICT to have more expansive authority were considered and rejected in the ICT Approval Order. The ICT states that the Commission expressly stated that Entergy was to develop the AFC criteria and other terms and conditions of transmission service, while the ICT was to implement the process. The ICT contends that the Commission stated that the ICT (and other parties) could bring disagreements with Entergy regarding such criteria and provisions to the Commission, and "the Commission is the final judge as to what criteria are necessary for a just, reasonable and not unduly discriminatory AFC process."⁸⁷

98. The ICT argues that stakeholder misapprehensions of the scope of the ICT's authority, as originally approved by the Commission, have contributed to inflated stakeholder expectations for the ICT. The ICT asserts that it does not view itself as an advocate for stakeholders' interests or Entergy's interests. The ICT contends that arguments regarding the ICT's "review and validate" role under the Attachments, as well

⁸⁶ Entergy Answer at 32.

⁸⁷ ICT Answer at 5 (citing ICT Approval Order, 115 FERC ¶ 61,095 at P 66).

as the ICT's responses to those arguments, were presented to the Commission and rejected.⁸⁸

99. The ICT asserts that the "review and validate" definitions included in the proposed attachments reflect Entergy and the ICT's mutual understanding, and the negotiated terms of Attachment S of the Entergy OATT and the ICT Agreement, both of which were approved by the Commission. The ICT states that stakeholder comments about the ICT Agreement should not take precedence over the intent of the parties to the contract or the bargain struck between them.⁸⁹

c. Commission Determination

100. We accept the descriptions of the roles of Entergy and the ICT in the proposed attachments without modification. In compliance with the April 2007 Order, the proposed revisions to Attachments C, D, and E clarify Entergy's role and the ICT's role in the various processes, and clarify the interaction of these roles with Attachment S of Entergy's OATT. Each proposed attachment expressly states that Attachment S governs the division of responsibilities between Entergy and the ICT under that attachment. Further, the roles of Entergy and the ICT are delineated in the proposed sections that describe specific steps in the process. In addition, in several sections in which the ICT's role is to "review and validate" Entergy's action, the section includes details as to what "review and validate" means for the purpose of that section.

101. Parties' concerns that the ICT should have more authority over Entergy were previously addressed in the ICT Approval Order, and we will not revisit them here. Additionally, parties' arguments that the ICT Approval Order and the ICT Agreement give the ICT more independence from, and authority over, Entergy than are reflected in the proposed revisions are without merit. As Entergy and the ICT state, the proposed attachments' description of the division of responsibilities is accurate and reflects the arrangement reflected in the ICT protocols in Attachment S, and in the ICT Agreement, as approved by the Commission.⁹⁰

⁸⁸ ICT Answer at 6 (citing April 2007 Order, 119 FERC ¶ 61,009 at P 1).

⁸⁹ *Id.* at 7.

⁹⁰ *Entergy Services, Inc.*, 117 FERC ¶ 61,055 (2006) (accepting, among other things, the ICT Agreement between Entergy and the ICT).

102. We reject Union Power's assertions that the proposed attachments should be revised to provide greater detail on the ICT's role in order to guard against the ICT interpreting its role in an unduly narrow manner. As expressly stated at the beginning of each attachment, the division of responsibilities between Entergy and the ICT is governed by Attachment S.⁹¹ Attachment S states that the ICT is to maintain independence in its decision making process, and gives the ICT the authority to collect and analyze data and submit reports to government agencies to ensure such independence. Attachment S also provides for a dispute resolution mechanism in the event of a disagreement between the ICT and Entergy.⁹² The proposed attachments do not restrict or reduce the ICT's independence. Additionally, the proposed attachments provide sufficient detail with respect to the meaning of ICT's "review and validate" role such that further revision is not necessary.

103. Regarding LMA Customers' assertion that an overly narrow interpretation of the ICT's role may have prevented the ICT from resolving Entergy's numerous AFC data mishandling and AFC software errors, we note that this view has been seconded by the Commission's audit staff. Specifically, its October 29, 2010 report on its audit of Entergy's compliance with its OATT obligations and other Commission-approved practices, obligations and responsibilities, audit staff expressed concern as to the numerous AFC problems and stated its belief that if the ICT had more ability to administer Entergy's OATT, many of the AFC problems would have been handled more effectively and efficiently.⁹³ However, re-evaluating the ICT's role and level of authority as determined in the ICT Approval Order is beyond the scope of this compliance

⁹¹ As noted above, proposed Attachment D states that the roles of Entergy and the ICT are governed by Attachments K and S. As also noted above, Attachment K (Transmission Planning Process) provides that the ICT shall perform its functions in the planning processes "in an independent manner and, in all cases, shall use its independent judgment to ensure that transmission planning is conducted on a non-discriminatory basis." See section 1.2 of Attachment K. Proposed Attachment D's reference to Attachment K in addition to Attachment S bolsters and does not conflict with the reference to Attachment S.

⁹² See also ICT Approval Order, 115 FERC ¶ 61,095 at P 118 (discussing the dispute resolution process).

⁹³ See Audit Report of Audit of Entergy Services, Inc., at 1 (approved in *Entergy Services, Inc.*, Docket No. PA10-1-000 (Oct. 29, 2010) (unpublished letter order).

proceeding. The appropriate forum for changing the ICT's role would be a new FPA section 205 filing.

2.2 Attachment C (Methodology To Assess Available Transfer Capability)

104. Entergy's proposed Attachment C (Methodology To Assess Available Transfer Capability) describes in detail Entergy's AFC process, which calculates firm and non-firm AFC in the Scheduling, Operating, and Planning Horizons.

a. Section 1.2: Definitions

105. Proposed section 1.2 provides definitions for terms used solely in Attachment C. As relevant here, proposed section 1.2 defines the term "AFC Process" as the software, data inputs, assumptions and flow-based study methodology used to calculate AFC values and evaluate transmission service requests in the Operating, Planning and Study Horizons. Additionally, proposed section 1.2 defines the term "Most Limiting Flowgates" as the Flowgates used to evaluate a transmission service request pursuant to section 10.1 of Attachment C. Further, proposed section 1.2 defines the term "Significantly Impacted Flowgate" as any flowgate for which the transmission service request has a Response Factor equal to or greater than the three percent Response Factor threshold specified in section 9.2 of Attachment C.

i. Responsive Pleadings

106. Arkansas Cities state that the definitions in proposed section 1.2 should be further developed.⁹⁴ Specifically, Arkansas Cities assert that the definition of the term "AFC Process" should be clarified because it does not limit the AFC calculation period for evaluation of transmission service requests for Operating, Planning, and Study Horizons.⁹⁵ Arkansas Cities also contend that the definition of the term "Most Limiting Flowgates" should be clarified because the phrase "significantly impacted flowgate" is too broad and gives Entergy too much discretion.⁹⁶

⁹⁴ Arkansas Cities Comments at 2.

⁹⁵ *Id.* at 3.

⁹⁶ Arkansas Cities Comments at 3.

107. Entergy responds that Arkansas Cities' concerns with the definitions of the terms "AFC Process" and "Most Limited Flowgates" are either misplaced or have already been addressed.⁹⁷ Entergy asserts that, contrary to Arkansas Cities' assertion, the definition of the term "AFC Process" does limit the AFC calculation period to the Operating, Planning, and Study Horizons. Entergy also notes that it inserted reference to the three horizons into the definition pursuant to a request Arkansas Cities made during the stakeholder process. Similarly, Entergy states that, contrary to Arkansas Cities' assertion, the definition of the term "Most Limiting Flowgates" does not contain the phrase "significantly impacted flowgate."⁹⁸ Entergy explains section 1.2 of Attachment C defines "significantly impacted flowgate" as any flowgate for which the transmission service request has a Response Factor equal to or greater than the three percent (3%) Response Factor threshold specified in section 9.2 of Attachment C.

ii. Commission Determination

108. We accept proposed section 1.2 without modification. To the extent Arkansas Cities' concern with the definition of the term "AFC Process" is that the definition does not limit the evaluation period to the Operating, Planning, and Study Horizons, the concern is misplaced, because the definition does refer specifically to the Operating, Planning, and Study Horizons. To the extent Arkansas Cities' concern is that the definition does not limit the evaluation period for each horizon, its concern is addressed in the definitions of each horizon, which precisely state the evaluation period.⁹⁹ Regarding Arkansas Cities' concern that the definition of the term "Most Limited Flowgates" does not state what constitutes a significantly impacted flowgate, we agree with Entergy that the concern is misplaced for two reasons. First, the definition of "Most Limited Flowgates" does not include the phrase "significantly impacted flowgate." Second, Arkansas Cities' concern about the phrase "significantly impacted flowgate"

⁹⁷ Entergy Answer at 47.

⁹⁸ *Id.* at 47-48.

⁹⁹ *See, e.g.*, proposed section 1.2's definition of Operating Horizon: "The horizon for calculating AFC values that includes all hours of the current day (Day 1) and, after 12:00 p.m. of the current day, all hours of the next day (Day 2)."

being too vague is misplaced because proposed section 1.2 contains a definition for “significantly impacted flowgate.”¹⁰⁰ Therefore, this concern is sufficiently addressed.

b. Section 2.1: Criteria for Initial Selection of Monitored Flowgates

109. In general, the AFC process determines AFC by monitoring the impact of transmission service requests on certain specified flowgates. As noted above, Entergy’s flowgate Master List identifies approximately 300 flowgates on Entergy’s system that significantly limit the amount of power that can be transferred over Entergy’s transmission system under a variety of operating conditions. In selecting the initial set of monitored flowgates, Entergy performed a one-time historical analysis. Proposed section 2.1 describes the criteria by which the monitored flowgates were initially selected. One criterion is whether a given flowgate violated a 92 percent to 96 percent nominal voltage level for 230 kV and above facilities.

i. Responsive Pleadings

110. Arkansas Cities assert that proposed section 2.1 should be revised or clarified to more accurately depict the process by which flowgates were initially selected.¹⁰¹ Arkansas Cities state that proposed section 2.1’s 92 percent to 96 percent voltage level threshold for 230 kV and above facilities conflicts with the Local Planning Criteria,¹⁰² which do not contain a higher voltage level threshold for 230 kV and above facilities.

111. Entergy responds that Arkansas Cities’ concerns regarding the accuracy of proposed section 2.1 are misplaced because the process described in proposed section 2.1 was a one-time process performed in 2004 when Entergy adopted the AFC process.¹⁰³

¹⁰⁰ Proposed Section 1.2 defines significantly impacted flowgate as, for a given transmission service request, any flowgate for which the request has a response factor “equal to or greater than the three percent (3%) Response Factor threshold specified in Section 9.2.”

¹⁰¹ Arkansas Cities Comments at 3.

¹⁰² Local Planning Criteria are defined in proposed section 1.2 of Attachment C as Entergy’s local reliability criteria, as defined in Attachment K to the Entergy OATT.

¹⁰³ Entergy Answer at 48.

Entergy explains that the description of the 2004 process was included in the OATT at the direction of the Commission.¹⁰⁴ Entergy also maintains that Arkansas Cities' assertion that proposed section 2.1's voltage level threshold conflicts with the Local Planning Criteria is incorrect because proposed section 2.1 does not refer to the Local Planning Criteria.

ii. Commission Determination

112. We accept proposed section 2.1 without modification. We deny Arkansas Cities' request that the provision be modified or clarified, because the provision adequately describes the process that was followed at the beginning of the AFC process. As Entergy points out, the Commission required Entergy to include the initial flowgate selection process in its OATT.¹⁰⁵ Moreover, in a December 2004 order, the Commission accepted Entergy's proposed OATT provision describing the initial flowgate selection process, including the information that Arkansas Cities argue is inaccurate.¹⁰⁶ Therefore, we will not require Entergy to revise that provision.

c. Section 2.2: Criteria for Adding/Removing Monitored Flowgates

113. Proposed section 2.2 describes the process for including or excluding flowgates from the Master List of flowgates that are monitored in the AFC process. Proposed section 2.2.1, which sets out the criteria for inclusion of a new flowgate on the Master List, states that a flowgate will be included if it violates the voltage criteria as established in the Local Planning Criteria. It provides that flowgates outside Entergy's system may be included in the list of flowgates to be monitored, "consistent with applicable NERC

¹⁰⁴ *Id.* (citing Entergy compliance filing, Docket No. ER03-1272 (Aug. 13, 2004)); *see also Entergy Services, Inc.*, 106 FERC ¶ 61,115, at P 33 (2004); *Entergy Services, Inc.*, 108 FERC ¶ 61,046, at P 17-18 (2004) (orders on Entergy's proposed AFC process, requiring Entergy to file under FPA section 205 the criteria used to identify flowgates to monitor).

¹⁰⁵ *See Entergy Services, Inc.*, 106 FERC ¶ 61,115, at P 33; *Entergy Services, Inc.*, 108 FERC ¶ 61,046, at P 17-18.

¹⁰⁶ *See Entergy Services, Inc.*, 109 FERC ¶ 61,281, at P 41 (2004) (accepting compliance filing and instituting investigation and hearing procedures regarding Entergy's proposed AFC process).

Reliability Standards.” Proposed section 2.2.2 provides that Entergy will conduct an annual review to determine which flowgates on the Master List have not limited service on the system and can, therefore, be removed from the Master List. Proposed section 2.2.2.iv provides that if fewer flowgates are identified by the removal review process than were added during the review year, then Entergy will expand the total number of flowgates on the Master List “as necessary to maintain reliability” of Entergy’s transmission system.

i. Responsive Pleadings

114. Arkansas Cities argue that proposed section 2.2 does not give customers the ability to request a review for the addition or removal of a particular flowgate.¹⁰⁷ Further, Arkansas Cities and East Texas Cooperatives maintain that proposed section 2.2.1 should be revised to make clear that the process for adding new flowgates applies to transmission facilities added by entities other than Entergy, and that Entergy will coordinate the inclusion and rating of the flowgate with the owner of the impacted facility.¹⁰⁸ East Texas Cooperatives state that they and other owners and builders of transmission facilities that are or may be interconnected to Entergy’s system need to know how Entergy and the ICT will coordinate with other transmission owners.

115. Arkansas Cities also contend that proposed section 2.2.2.iv should be revised to define the phrase “as necessary to maintain reliability,” so customers will know which type of reliability standards apply to flowgate removal.¹⁰⁹ Arkansas Cities also assert that proposed section 2.2.1 provides for adding a flowgate if it violates a 96 percent voltage level for 230 kV and above facilities, and that this 96 percent voltage level is inconsistent with proposed section 2.1’s 92 percent to 96 percent voltage level for 230 kV and above facilities. Arkansas Cities also assert that the 96 percent voltage level in proposed section 2.2.1 may be inconsistent with the Local Planning Criteria, which they claim do not address a voltage level above 92 percent.¹¹⁰ Arkansas Cities further argue that the ICT

¹⁰⁷ Arkansas Cities Comments at 4.

¹⁰⁸ *Id.*; East Texas Cooperatives at 4.

¹⁰⁹ Arkansas Cities Comments at 4.

¹¹⁰ *Id.* (as corrected by Arkansas Cities’ May 11, 2009 Errata to Arkansas Cities Comments at 1).

should have the ultimate authority to add or remove flowgates from the Master List and determine the appropriate number of monitored flowgates.

116. Entergy responds that a NERC procedure requiring the addition of flowgates on other systems, MOD-030, is pending, and that Entergy will revise its Attachment C after the NERC procedure is finalized.¹¹¹ Entergy also notes that Arkansas Cities' assertions regarding a 96 percent voltage level for 230 kV and above facilities in proposed section 2.2.1 should be rejected because proposed section 2.2.1 contains no such 96 percent voltage level.

117. The ICT asserts that the stakeholder process allows for a customer to ask the ICT to review a flowgate for addition or removal.¹¹² The ICT also contends that waiting on the pending NERC procedure for adding external flowgates is reasonable, rather than establishing a process that may have to be changed after the NERC procedure is finalized. The ICT supports East Texas Cooperatives' request that proposed section 2.2.1 be clarified to state that the process for adding new flowgates applies to transmission facilities added by entities other than Entergy, and that Entergy will coordinate the inclusion and rating of the flowgate with the owner of the impacted facility, or to state that the details are in a business practice.¹¹³ The ICT also supports Arkansas Cities' request that Entergy be required to revise proposed section 2.2.2.iv to more clearly define the phrase "as necessary to maintain reliability."

ii. Commission Determination

118. We conditionally accept the proposed revisions subject to Entergy modifying sections 2.2.1 and 2.2.2.iv, as discussed below. We reject Arkansas Cities' assertions that a 96 percent voltage level in proposed section 2.2.1 conflicts with proposed section 2.1 and with the Local Planning Criteria. Proposed section 2.2.1 does not refer to a 96

¹¹¹ Entergy Answer at 49-50. We note that MOD-030 was approved by FERC on November 24, 2009, with a mandatory implementation date of April 1, 2011. *See* Order No. 729, 129 FERC ¶ 61,155 at P 247-269. On January 3, 2011, Entergy filed revisions to Attachment C to comply with the implementation date, in Docket No. ER10-3357-000, which is currently pending. Nothing in this order should be construed as a determination as to Entergy's compliance with MOD-030.

¹¹² ICT Answer at 12.

¹¹³ *Id.* at 31.

percent voltage level, and instead refers to the voltage criteria of the Local Planning Criteria. Therefore, there is no conflict. However, we agree with East Texas Cooperatives and the ICT that proposed section 2.2.1 is not clear as to whether the process for adding new flowgates applies to transmission facilities added by entities other than Entergy, and whether Entergy will coordinate the inclusion and rating of the flowgate with the owner of the impacted facility. Thus, we direct Entergy to clarify section 2.2.1 on that point. In addition, we agree with Arkansas Cities and the ICT that in proposed section 2.2.2.iv the phrase “as necessary to maintain reliability” needs to be clarified to add reference to a specific reliability standard. Accordingly, we direct Entergy to insert the phrase “in accordance with NERC standard MOD-030” after the phrase “as necessary to maintain reliability.” We direct Entergy to file these modifications within 60 days of the date of this order.

d. Sections 3.2 and 3.3: Non-Firm and Firm AFC Formulas

119. Proposed sections 3.2 and 3.3 provide the formulas for calculating non-firm AFC and firm AFC, respectively. Among other things, proposed sections 3.2 and 3.3 state that the AFC software may adjust the base flow to remove a percentage of the counterflow from existing transmission commitments, and will algebraically decrement AFC values to reflect the impact of any “remaining” existing transmission commitments as described in proposed section 7.¹¹⁴ Proposed sections 3.2 and 3.3 also refer to flowcharts of the AFC process.¹¹⁵ The flowcharts in Appendix 1 provide the formulas for the Operating, Planning, and Study Horizons of the AFC process.

¹¹⁴ Proposed section 1.2 of Attachment C defines “remaining existing transmission commitments” as existing transmission commitments that are algebraically decremented from AFC values as described in proposed section 7.3 of Attachment C. Proposed section 7.3 (Existing Transmission Commitments Not Modeled in Base Loads) (discussed further below) provides that requests that have been accepted or counter-offered but not yet confirmed by the customer are not modeled as discrete injections and withdrawals in base flows and are instead algebraically decremented.

¹¹⁵ The flow charts referenced are attached as Appendix 1 to Attachment C.

120. Entergy notes that Attachment C does not include the benchmarking of AFC models to actual events because NERC reliability standards and NAESB practices on benchmarking are not finalized.¹¹⁶

i. Responsive Pleadings

121. Union Power states that the proposed provisions should be modified to provide for benchmarking. Union Power asserts that during the stakeholder process it identified numerous provisions throughout Attachment C, including proposed sections 3.2 and 3.3, that illustrate that the AFC models do not capture actual events.¹¹⁷ Union Power asserts that, in this filing, Entergy inappropriately continues to defer adopting methods for benchmarking its models rather than recognizing that, to comply with Order No. 890, Entergy's models should already be benchmarked. Union Power asserts that under Order No. 890 transmission providers must develop a benchmarking methodology immediately, and then further revise their methodology once the Commission approves the relevant NERC standards and NAESB business practices, and that in no way did Order No. 890's referral of benchmarking to NERC and NAESB bar the implementation of benchmarking in the meantime. Union Power contends that modeling accuracy is of paramount importance on the Entergy system, and Entergy's unilateral decision to defer benchmarking until finalization of the relevant NERC standards is not appropriate.

122. Union Power also argues that Entergy's lack of action on benchmarking is inconsistent with the requirements of the ICT arrangement.¹¹⁸ Union Power states that in the ICT Approval Order the Commission clarified that Entergy is to work with the ICT and its stakeholders to develop the procedures by which the ICT will calculate AFC. Union Power also points to a September 2006 Guidance Order on the ICT proposal, in which the Commission stated that it intends for the AFC process to be enhanced with recommendations from stakeholders and the ICT.¹¹⁹ Union Power states that Entergy briefly discusses how it has improved the AFC process based on recommendations made by stakeholders and the ICT but fails to address why benchmarking would not qualify as

¹¹⁶ Entergy Transmittal Letter at 20. As noted above, the NERC development process is still underway, as is the NAESB development process.

¹¹⁷ Union Power at 20.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 22 (citing *Entergy Services, Inc.*, 116 FERC ¶ 61,269, at P 21 (2006)).

an enhancement under the stakeholder process ordered by the Commission. Union Power asserts that the Commission must order Entergy to revise Attachment C and its modeling practices to provide for benchmarking of the transmission models against actual operations.

123. Arkansas Cities state that the formulas in proposed section 3 are not clear as to whether “remaining existing transmission commitments” have any counterflow associated with them.¹²⁰

124. Entergy responds that the Commission should reject Union Power’s request that Entergy be required to implement a benchmarking methodology in the proposed attachments.¹²¹ Entergy argues that it is not required to benchmark the AFC models prior to NERC and NAESB finalizing their relevant standards. Further, Entergy states that, if required by the Commission, Entergy will make modifications to address Arkansas Cities’ concern that the formulas in proposed section 3 are unclear as to whether remaining existing transmission commitments have any associated counterflow.¹²²

125. The ICT asserts that it is reasonable for Entergy to wait until the relevant NERC standards are approved before revising Attachment C to implement benchmarking.¹²³ The ICT also notes that AFC modeling and accuracy have improved, and will continue to improve, from the efforts of the ICT working with Entergy and stakeholders, and from the efforts of a task force set up specifically to address AFC problems. Therefore, the ICT states that imposing benchmarking is not necessary at this time. The ICT supports Arkansas Cities’ request that the non-firm AFC formula be clarified as to whether remaining existing transmission commitments have any associated counterflows.¹²⁴

¹²⁰ Arkansas Cities Comments at 5.

¹²¹ Entergy Answer at 42.

¹²² *Id.* at 55-56.

¹²³ ICT Answer at 9.

¹²⁴ *Id.* at 31.

ii. Commission Determination

126. We will conditionally accept proposed sections 3.2 and 3.3, subject to Entergy filing, within 60 days of the date of this order, modifications to the formulas in proposed section 3.2 and 3.3 to clarify whether remaining existing transmission commitments have any associated counterflow.

127. We reject Union Power's assertions that Entergy must revise the proposed provisions to implement benchmarking. We find that the proposed provisions are in compliance with Order No. 890, in which the Commission directed utilities to work through NERC to implement benchmarking standards, and did not direct them to first implement benchmarking before the NERC and NAESB standards were final.¹²⁵ Union Power is correct that the Commission did not bar transmission providers from implementing benchmarking prior to finalization of the NERC and NAESB standards, but the Commission did not require such prior implementation. Many of the NERC and NAESB standards regarding benchmarking are still in development, and all are still subject to a transition period as determined by NERC or NAESB. We find it reasonable for Entergy to defer implementation of a given benchmarking standard until the standard is finalized and approved and the transition period ends. Therefore, we do not require Entergy to revise proposed sections 3.2 and 3.3 to provide for benchmarking. However, we encourage Entergy, the ICT, and stakeholders to continue to work to develop ways to improve AFC models to reflect operating conditions.

e. Section 3.6: Resynchronization of AFC Values

128. At regular intervals the AFC process resynchronizes various parts of the AFC software using updated data inputs. Proposed section 3.6 describes the minimum frequency of resynchronizations in each of the three AFC process horizons, specifying that AFC values will be resynchronized in the Operating Horizon every hour, in the Planning Horizon at least every week, and in the Study Horizon at least every month, but that more frequent resynchronizations may occur if necessary. In addition, proposed

¹²⁵ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 290 states, in relevant part:

The Commission directs public utilities, working through NERC, to modify the reliability standards MOD-010 through MOD-025 [citation omitted] to incorporate a requirement for the periodic review and modification of models . . . in order to ensure that they are up to date. This means that the models should be updated and benchmarked to actual events.

section 3.6 provides that resynchronizations may be delayed in certain circumstances, in which case the last valid resynchronization will be used to post AFC values and to evaluate transmission service requests. Proposed section 3.6 further provides that if Entergy agrees to more frequent resynchronizations on a regular basis, then the TSR (Transmission Service Request) Business Practices will describe the basis for that frequency.

129. Entergy explains that, in response to stakeholder requests, Entergy and the ICT are including transmission topology updates with each resynchronization and are experimenting with conducting Study Horizon resynchronizations twice a month rather than monthly. Entergy states that a posted business practice will state the current frequency of resynchronizations.¹²⁶ Entergy states that it rejected stakeholder requests to identify all circumstances that could trigger more frequent resynchronizations, because such circumstances are operational issues that occur infrequently, so listing them all would not be practical.

i. Responsive Pleadings

130. Cottonwood and Union Power argue that proposed section 3.6 should be modified to provide additional details regarding resynchronizations.¹²⁷ Cottonwood requests that the provision be modified to: (1) state all known triggers for resynchronizations; (2) define the criteria under which Entergy will act on those triggers; and (3) state that the criteria are subject to stakeholder comment and Commission review.¹²⁸ Cottonwood explains that taking away Entergy's discretion as to when resynchronizations occur is needed because in the past Entergy and the ICT have been reluctant to update the models more frequently than the standard schedules even when doing so would allow customers to obtain transmission service that is being denied by the non-updated models.

131. Union Power takes issue with the statement in proposed section 3.6 that resynchronizations may be delayed "in certain circumstances" because it does not identify the circumstances that could cause the delay. Union Power argues that not identifying the circumstances that could cause delay violates Order No. 890's

¹²⁶ Entergy Transmittal Letter, Exhibit 1 at 5.

¹²⁷ Cottonwood at 16-17; Union Power at 23-24.

¹²⁸ Cottonwood at 17.

requirements for transparency in ATC calculations.¹²⁹ Union Power states that instead of listing all the circumstances, proposed section 3.6 could state that when a resynchronization occurs a posting will be made on Entergy's OASIS stating that the resynchronization occurred and explaining why it occurred. Union Power states that Entergy rejected a similar proposal during the stakeholder process, claiming that the stakeholder process can address questions that might arise about specific resynchronizations. Union Power argues that the stakeholder process is inadequate because stakeholders will not know about the timing of resynchronizations unless information about them is posted, and the stakeholder process does not guarantee that the requested information will be provided.

132. Entergy answers that Union Power's proposal that an explanation for each resynchronization be posted on OASIS should be rejected, as there is no obligation for a transmission provider to post such information. Further, Entergy states that a stakeholder who believes a resynchronization has been delayed and wishes to know the reason can inquire about it through the stakeholder process.¹³⁰

ii. Commission Determination

133. We accept the proposed revisions without modification, subject to Entergy filing to further revise them to reflect the amendments accepted in a later proceeding in Docket No. ER09-1180-000, discussed below. We reject the requests of Cottonwood and Union Power that proposed section 3.6 be modified to provide additional details regarding the causes of resynchronizations.

134. Contrary to Cottonwood's assertions, it is not necessary under Order No. 890 or the *pro forma* OATT, or any Commission regulation or NERC standard, to state all known triggers for resynchronization or the criteria to be used in determining whether to act on them.¹³¹ The minimum frequencies stated in the proposed section ensure that

¹²⁹ Union Power at 23-24 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 193, 323).

¹³⁰ Entergy Answer at 50.

¹³¹ See *Entergy Services, Inc.*, 129 FERC ¶ 61,260, at P 18 (2009) (addressing Entergy's proposal in Docket No. ER09-1180-000 to amend the currently effective version of Attachment C to the Entergy OATT to reflect a change to an OATi software platform for the AFC process) (OATi Order).

resynchronizations will occur regularly. Using the TSR Business Practices to describe any greater frequency of resynchronizations, and the basis for the greater frequency, is appropriate. Moreover, we note that Entergy and the ICT are experimenting with more frequent regular resynchronizations than are listed in proposed section 3.6.

135. We deny Union Power's contention that the revisions should be modified to state that a posting will be made on OASIS every time a resynchronization occurs with information about why it occurred. The Commission addressed this contention in the OATi Order, which involved revisions to the currently effective version of proposed section 3.6.¹³² In that proceeding, Union Power raised similar issues regarding the frequency of resynchronizations and postings for each instance of resynchronization. The Commission concluded that such postings are not required under the Commission's regulations, NERC standards, or Order No. 890's transparency principles.¹³³ We agree with Union Power that a main goal of Order No. 890 is increased transparency of transmission providers' ATC methods,¹³⁴ but we note that Order No. 890, including the passages cited by Union Power, did not require the posting of resynchronizations and explanations of resynchronizations. Moreover, Order No. 890 often balanced the goal of transparency against the goal of avoiding excessive administrative burden.¹³⁵ Given the frequency of resynchronizations under proposed section 3.6 (e.g., every hour in the Operating Horizon), we find it would impose an excessive administrative burden to require Entergy to post notice of and an explanation for every resynchronization. As Entergy points out, a stakeholder with concerns about a particular resynchronization, or about a delay in a resynchronization, can raise that concern through the stakeholder process.

¹³² We note that Entergy stated in the Docket No. ER09-1180-000 proceeding that while it was filing to amend the currently effective Attachment C, it chose not to file to amend the pending April 3, 2009 version of Attachment C until after the Commission issues a determination on the April 3, 2009 version. Entergy May 5, 2009 Transmittal Letter in Docket No. ER09-1180-000 at 5.

¹³³ See OATi Order, 129 FERC ¶ 61,260 at P 18.

¹³⁴ See, e.g., Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 196, 323.

¹³⁵ See, e.g., Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1651 ("We believe that requiring transmission providers to file all of their rules, standards and practices in their OATTs would be impractical and potentially administratively burdensome.").

136. We direct Entergy to file, within 60 days of the date of this order, revisions to section 3.6 to reflect the amendments accepted in the OATi Order.

f. Section 4.2: Transmission Facility Ratings

137. Proposed section 4.2 describes the process by which transmission facility ratings used in the AFC calculations are established in accordance with NERC standards FAC-008 and FAC-009.¹³⁶ Proposed section 4.2 states that the “normal” facility rating is used for purposes of total transfer capability calculations.

138. Entergy explains that the AFC process uses a facility’s normal rating rather than a facility’s “emergency” rating, which would be higher than the normal rating.¹³⁷ Entergy argues that AFC calculations should be based on normal ratings rather than emergency ratings because using a higher, emergency rating would degrade reliability and reduce the life of the facilities. Entergy asserts that its use of a normal rating is consistent with the Multiregional Modeling Working Group Assessment Group’s (MMWG) Procedural Manual, which states that emergency ratings can be greater than or equal to the normal rating.¹³⁸ Entergy also states that other transmission providers in the SERC Reliability Corporation (SERC) region use a normal rating, and SERC has twice audited Entergy’s compliance with NERC standards FAC-008 and FAC-009 and found Entergy’s facility ratings to be compliant.

139. Entergy states that, during the stakeholder process, stakeholders argued that Entergy should re-rate all of its “vintage” transmission facilities (those facilities that were installed prior to 1991-1994).¹³⁹ Entergy argues that re-rating these facilities would be prohibitively expensive and time-consuming, and is not required by National Electric

¹³⁶ A facility rating considers the facility’s manufacturing data, design criteria, ambient conditions, operating limitations and other assumptions. *See, e.g.*, Requirement R1.3 of NERC Standard FAC-008-01.

¹³⁷ Entergy Transmittal Letter, Exhibit 1 at 8.

¹³⁸ *Id.* (citing Eastern Interconnection Reliability Assessment Group, MMWG Procedural Manual at App. V, 28 (Nov. 8, 2007)).

¹³⁹ *Id.* (noting that in 1994 the transmission facilities were transferred from the Entergy Operating Companies to Entergy Services, Inc.).

Safety Code (NESC) or NERC standards.¹⁴⁰ Entergy states that the ICT will identify any vintage facilities that limit granting transmission service requests. Entergy states that stakeholder concerns about rating a specific vintage facility will be governed by a Business Practice addressing Order No. 890's requirement that transmission providers allow stakeholders to raise concerns about a particular transmission facility associated with denial of a transmission service request.¹⁴¹

i. Responsive Pleadings

140. LMA Customers state that they support proposed section 4.2's use of normal rather than emergency ratings in responding to transmission service requests because using emergency ratings would degrade reliability of service to loads.¹⁴² LMA Customers further state that they do not challenge Entergy's conclusion that a complete review of all ratings for vintage facilities is not likely to be cost-justified, but they do believe that such a conclusion should not preclude the opportunity for targeted review of the ratings for specific vintage facilities if there is reason to believe that the ratings should be modified. LMA Customers contend that section 4.2 of Attachment C should include a mechanism for a stakeholder or the ICT to request a review of the ratings for specific vintage transmission facilities if there are reasonable grounds to conclude that the current ratings are no longer valid. LMA Customers propose that review of the facilities ratings could be part of the flowgate identification process.

¹⁴⁰ *Id.* (citing Entergy Transmittal Letter, Exhibit 3, Comments 162, 163, 218).

¹⁴¹ *Id.* (citing 18 C.F.R. § 37.6(e)(2) (2009); Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 148 ("Specifically, we expect transmission providers to make available, upon request . . . the following modeling data: . . . flowgate and interface limits including limit category (thermal, steady state or transient, voltage or angular))). Section 37.6(e)(2) of the Commission's regulations states:

Posting when a request for transmission service is denied. (i) When a request for service is denied, the Responsible Party must provide the reason for that denial as part of any response to the request. (ii) Information to support the reason for the denial, including the operating status of relevant facilities, must be . . . provided, upon request, to the potential Transmission Customer

¹⁴² LMA Customers Protest and Comments at 12-13.

141. Union Power argues that if vintage facilities are included as a flowgate, the flowgate should be identified as a vintage facility and re-evaluated using the current ratings standard.¹⁴³ Union Power asserts that a provision to that effect was in the version of Attachment C in the July 13, 2007 filing, but Entergy has replaced it in the April 3, 2009 filing with references to NERC reliability standards FAC-008 and FAC-009, which do not require such re-rating. Union Power states that the importance of accurate ratings overrides Entergy's assertions that re-rating facilities is not required and would be expensive and time-consuming.

142. Union Power further argues that, while the NERC standards FAC-008 and FAC-009 let Entergy choose what ratings method it will use, Entergy's chosen method is inconsistent with Order No. 890's policy of establishing valid transfer capability values.¹⁴⁴ Union Power contends that, in the Notice of Proposed Rulemaking that led to Order No. 890, the Commission stated that using pre-1994 total transfer capability values "may result in total transfer capability values that are incorrectly based on stale assumptions and criteria."¹⁴⁵ Union Power argues that, like the use of pre-1994 total transfer capability values, use of old ratings for older vintage lines has the potential to cause transfer capability values that are inconsistent with actual operating conditions.¹⁴⁶ Union Power asserts that, under the flowgate approach where older vintage lines are identified or otherwise included in a flowgate, re-evaluation of such facilities is critical not only to the impact that such facilities may have on the granting of transmission service, but also in connection with the potential for curtailment of transmission service over such facilities.

143. Cottonwood states that proposed section 4.2's use of normal line ratings to evaluate transmission service requests contrasts with the practice of most other transmission providers. Cottonwood states that most other transmission providers,

¹⁴³ Union Power at 24-25.

¹⁴⁴ *Id.* at 26 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 290).

¹⁴⁵ *Id.* (citing *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,641, at P 114 (2009)).

¹⁴⁶ *Id.* at 26-27.

including SPP in its own territory, use the normal rating only for *pre*-contingency conditions and use the emergency rating for *post*-contingency (N – 1) conditions. Cottonwood states that, while one other transmission provider in the SERC region does not use the emergency ratings, Entergy’s practice is not typical of the industry. Cottonwood argues that NERC does not prohibit the use of long-term emergency ratings. Cottonwood adds that Entergy’s expression of concern about reduced service life does not take into account that long-term emergency ratings are only applied under temporary post-contingency conditions, i.e., they are steps taken to reduce excessive loading on lines when a contingency occurs. Cottonwood asserts that the Commission should, at a minimum, direct Entergy to revise proposed section 4.2 to describe its line rating methodology and its reasoning for deviating from this industry-standard practice of using emergency ratings so that the methodology can be evaluated by stakeholders and reviewed by the Commission.

144. Entergy reiterates that the re-rating of vintage facilities is not required under NESC rules,¹⁴⁷ is expensive, and could require Entergy to re-rate facilities continually, with no sure benefit.¹⁴⁸ Further, Entergy explains that customers, as required by Order No. 890, have the opportunity to request specific information about the rating of any facility involved in a denial or counter-offer of a transmission service request.¹⁴⁹

ii. Commission Determination

145. The Commission accepts the proposed revisions without modification. The provisions comply with NERC standards FAC-008 and FAC-009,¹⁵⁰ which govern

¹⁴⁷ Entergy Transmittal Letter, Exhibit 1 at n.42 and Entergy Answer at n.124 (both stating that NESC Rule 13B2 specifies that older facilities need not be modified or updated to comply with current safety rules if they comply with the rules in effect at the time they were installed).

¹⁴⁸ Entergy Answer at 51-52.

¹⁴⁹ *Id.* at 52.

¹⁵⁰ We note that in an order issued November 17, 2011, the Commission approved NERC Standard FAC-008-3 (Facilities Ratings), which combines FAC-008 and FAC-009 into a single standard, and retires FAC-008-1 and FAC-009-1. *See North American Electric Reliability Corp.*, 137 FERC ¶ 61,123 (2011). The effective date for FAC-008-3 and the retirement date for FAC-008-1 and FAC-009-1 will be January 1, 2013. The changes reflected in the new standard do not affect our determinations in this order.

facility ratings. We reject LMA Customers' assertion that proposed section 4.2 should provide for the ICT or a stakeholder to request a review of a specific vintage facility's rating if there are reasonable grounds to conclude a rating is no longer valid. Customers already have the opportunity to question and receive information about a specific facility's rating under Order No. 890 and section 37.6(e)(2) of the Commission's regulations,¹⁵¹ and proposed section 4.2 does not need to restate Entergy's obligations.

146. We also deny Union Power's request that proposed section 4.2 be revised to require that if a vintage facility is included as a flowgate then it must be identified as a vintage facility and its rating must be re-evaluated. This requirement would amount to requiring Entergy to re-rate its vintage facilities, because the existing rating would not be valid if it were used. NERC standards FAC-008 and FAC-009 allow a transmission provider to choose its facility ratings method, and as noted above, Order No. 890 and section 37.6(e)(2) of the Commission's regulations require a transmission provider to provide information supporting a denial of service, including facility information. A separate requirement on vintage facilities is not required.

147. We deny Cottonwood's request that we require Entergy to use emergency ratings rather than normal ratings, or at a minimum require that proposed section 4.2 be revised to state Entergy's facilities rating methodology and explain why normal ratings are used rather than the "industry standard" emergency ratings. NERC standards FAC-008 and FAC-009 allow the transmission provider to choose its facility ratings methodology. Entergy's use of normal ratings is within its discretion and is based on a reasonable judgment that using emergency ratings would result in degradation of its transmission facilities.

g. Section 5: Margins

148. Proposed section 5 describes the calculation of transmission reliability margin¹⁵² and capacity benefit margin¹⁵³ in Entergy's AFC process. Proposed section 5 states that

¹⁵¹ 18 C.F.R. § 37.6(e)(2) (2011).

¹⁵² As noted above, transmission reliability margin is defined in proposed section 1.2 as:

The amount of transmission transfer capability needed to provide a reasonable level of assurance that the system will remain reliable. TRM [transmission reliability margin] accounts for the inherent uncertainty in system conditions and

(continued...)

in Entergy's AFC process the transmission reliability margin and capacity benefit margin are set at zero, unless Entergy makes an FPA section 205 filing for higher values.

149. Entergy explains that it does not anticipate filing to modify its capacity benefit margin setting, but it does anticipate filing to modify its transmission reliability margin setting once the NERC and NAESB transmission reliability margin processes required by Order No. 890 are complete.¹⁵⁴

i. Responsive Pleadings

150. East Texas Cooperatives argue that a new transmission reliability margin method that is not set at zero will enable Entergy to increase facility ratings. Therefore, East Texas Cooperatives assert that proposed section 5 should be revised to state that if Entergy does implement a non-zero transmission reliability margin method, Entergy will pair this with corresponding adjustments to the facility ratings.¹⁵⁵

151. The ICT partially agrees with East Texas Cooperatives' suggestion that these provisions be clarified to make clear that Entergy's adjustments to the transmission reliability margin values would also consider corresponding adjustments to facility ratings as applicable.¹⁵⁶

its associated effects on transfer capability evaluations and the need for operating flexibility to ensure reliable system operation as system conditions change.

¹⁵³ Capacity benefit margin is defined in proposed section 1.2 as: "The amount of Firm transmission transfer capability reserved by the Transmission Provider for LSEs [load-serving entities], whose loads are located on the Transmission System, to enable access by those entities to generation from interconnected systems to meet generation reliability requirements."

¹⁵⁴ Entergy Transmittal Letter, Exhibit 1 at 10.

¹⁵⁵ East Texas Cooperatives at 5.

¹⁵⁶ ICT Answer at 31.

ii. Commission Determination

152. We accept proposed section 5 without modification. We deny East Texas Cooperatives' request that section 5 be revised to state that if Entergy implements a non-zero transmission reliability margin method, Entergy will pair this with corresponding adjustments to the facility ratings. As Entergy explains, once the NERC and NAESB processes are complete and the requirements applicable to transmission reliability margin calculations are fully known, Entergy and the ICT will develop a draft proposal for the new transmission reliability margin methodology and will present that proposal to stakeholders for review and comments. If the transmission reliability margin value is to be changed from zero, Entergy will submit a filing under section 205 of the FPA, at which time parties can raise the issue of whether facilities ratings should also be modified.

h. Section 6: Data Inputs for Base Case Models

153. Proposed section 6 describes the data inputs used in developing the AFC base case models¹⁵⁷ and in calculating AFC values. Additionally, proposed section 6 describes the data that load-serving entities are required to provide to Entergy or the ICT for use in the AFC process. Proposed section 6.1 describes the division of responsibilities between Entergy and the ICT when supplying or collecting the aforementioned data. The remainder of proposed section 6 is separated into subsections describing each data input.

i. Responsive Pleadings

154. East Texas Cooperatives assert that certain provisions in proposed section 6 concerning actions required by load-serving entities should be revised to include the phrase "or their designated agents" to reflect the fact that some load-serving entities have agents that provide the required data.¹⁵⁸

¹⁵⁷ The Base Case Model is a power flow model representing Entergy's transmission system. The Base Case Model is used for reliability assessments, transmission service request studies, and economic studies.

¹⁵⁸ East Texas Cooperatives at 5-6.

155. Entergy states that it will revise proposed section 6, as well as proposed section 7, to insert “or their designated agents,” if the Commission requires it.¹⁵⁹

ii. Commission Determination

156. We require Entergy to revise proposed section 6, as well as proposed section 7, to include the phrase “or their designated agents,” as agreed to by Entergy, within 60 days of the date of this order.

i. Section 6.3.2: Study Horizon

157. Proposed section 6.3.2 describes how Entergy’s AFC process performs dispatch of generation and load in the Study Horizon (from 2 to 18 months ahead). Proposed section 6.3.2 states, among other things, that load-serving entities are required to submit a “priority dispatch file” containing their preferred priority stack dispatch for their network resources. Proposed section 6.3.2 also states that the process and format for submitting the priority dispatch file are described in the TSR Business Practices.

158. In addition, proposed section 6.3.2 states that any network resource that is scheduled to be offline for at least two weeks during the month is treated as out-of-service in the peak-hour model used for the entire month. Additionally, proposed section 6.3.2 states that if two network resources in the same transmission planning region are out-of-service at non-overlapping intervals during the month, only the network resource that has the largest facility rating will be modeled as offline, unless the other network resource has a “more significant reliability impact.”

159. Entergy states that in the stakeholder process, load-serving entities asked for the ability to include short-term network resources in their priority dispatch files.¹⁶⁰ Entergy explains that because the inclusion of short-term network resources in the priority dispatch file will require software modifications, proposed section 6.3.2 does not provide for it but instead states that the content of the priority dispatch file is governed by business practices. Entergy states that once the software modifications are complete, then the business practices will be revised to allow for the inclusion of short-term network resources.

¹⁵⁹ Entergy Answer at 55-56.

¹⁶⁰ Entergy Transmittal Letter, Exhibit 1 at 14.

i. Responsive Pleadings

160. LMA Customers complain that while Entergy states that it will make the software modifications necessary to allow load-serving entities to include short-term network resources in their priority dispatch files, Entergy has not specified when the software modifications will be completed.¹⁶¹ LMA Customers state that the Commission should specify an appropriate deadline for completion of the software modifications. LMA Customers state that in the meantime network customers should have the option to direct Entergy to utilize the “default approach” described in proposed section 7.1.2 of Attachment C, under which Entergy includes in the models designated network resources or resources for which secondary network service has been obtained.¹⁶² LMA Customers note that allowing customers to use this default approach would allow the customer to include resources that the network customer is not allowed to include in the priority dispatch file. LMA Customers also argue that the ICT should have the authority to review the reasonableness of assumptions regarding the dispatch of network resources, in order to be able to correct customer-directed dispatch assumptions used to affect competitors’ access to AFC.¹⁶³

161. Regarding the modeling of offline resources, Union Power states that, while proposed section 6.3.2’s description of how the resource to be modeled offline would be identified is an improvement over the previous proposed version, it needs to be clarified

¹⁶¹ LMA Customers Protest and Comments at 17-18.

¹⁶² *Id.* Under proposed section 7.1.2 of Attachment C (as discussed below), in the Study Horizon, if a load-serving entity fails to provide the priority dispatch file, service to the load-serving entity’s load is represented by modeling power purchase contracts for which secondary network service has been obtained and meeting any remaining shortfall by dispatching owned generating facilities that are network resources for that load-serving entity. *See also* our discussion above of Entergy’s second request for guidance, regarding the method the AFC process should use to model shortfalls in the AFC Study Horizon between a load-serving entity’s designated network resources and designated load if there are insufficient network service resources in the control area that can be dispatched to resolve the shortfall.

¹⁶³ *Id.*

to state the criteria to be used in determining whether a resource has “a more significant reliability impact.”¹⁶⁴

162. The ICT states that it agrees with LMA Customers that Entergy should allow network customers to incorporate short-term resources in their dispatch file.¹⁶⁵ The ICT explains that the delay in software completion is related to the development of Entergy’s Weekly Procurement Process¹⁶⁶ and Entergy’s transition to OATi software for its OASIS.¹⁶⁷ The ICT states that it is confident that the addition of short-term resources to network customers’ dispatch files will markedly improve the accuracy of the AFC models.

ii. Commission Determination

163. We accept the proposed revisions concerning section 6.3.2 without modification. Entergy has committed to modify the software to allow the inclusion of short-term network resources in the priority dispatch file. In this regard, we require Entergy to submit, as part of the compliance filing Entergy is required to file within 60 days of the date of this order, a status report stating whether the software upgrades have been completed and, if not, stating the expected timeline for completion. Regarding LMA Customers’ request that Entergy be required to allow customers to direct Entergy to use the “default approach” Entergy uses under proposed section 7.1.2, we find that this is a temporary concern that will be alleviated once the software modifications allowing the inclusion of short-term network resources are complete. Therefore, we will not require Entergy to make such a change at this time.

¹⁶⁴ Union Power at 27.

¹⁶⁵ ICT Answer at 24.

¹⁶⁶ Entergy’s Weekly Procurement Process, governed by Attachment V to the Entergy OATT, is a weekly bid-based optimization process designed to provide wholesale suppliers a greater opportunity to be integrated into the procurement processes that Entergy and other network customers use to serve their native load customers. *See Entergy Services, Inc.*, 126 FERC ¶ 61,227, at P 2 (2009) (Weekly Procurement Process Order).

¹⁶⁷ *Id.* at 24 & n.68. OATi is the software used by Entergy to maintain its OASIS.

164. We deny LMA Customers' request that proposed section 6.3.2 be modified to give the ICT review authority over dispatch assumptions. The ICT's authority is governed by the ICT Protocols included in Attachment S to Entergy's OATT. If the ICT or a stakeholder believes that customer-directed dispatch assumptions are being used to affect competitors' access to AFC, the ICT has ample authority under Attachment S to act to remedy the situation, including the ability to file a complaint with the Commission.

165. We deny Union Power's request that the proposed provision be modified to state the criteria to be used in determining whether one resource has "a more significant reliability impact" than another. If a stakeholder is concerned that an unreasonable or arbitrary determination has been made as to which of two resources to model offline, the stakeholder can bring that concern to the ICT or the Commission.

j. **Section 7.1.1.4: Service to Network/Transmission Provider's Native Load Customers/Default Format**

166. Proposed section 7.1.1.4 describes the default format the AFC process will use if a load-serving entity does not provide certain load and resource data required under proposed sections 6.2.1 and 6.3.1 (which describe the data load-serving entities are required to submit for the Operating and Planning Horizons).

i. **Responsive Pleadings**

167. Union Power argues that proposed section 7.1.1.4 could be read to imply that Entergy is not a load-serving entity subject to proposed sections 6.2.1, 6.3.1, and 7.1.1.4, especially when combined with statements in Entergy's transmittal letter distinguishing the Entergy Operating Companies from other load-serving entities.¹⁶⁸ Union Power states that the Commission should direct Entergy to clarify proposed section 7.1.1.4 to specify that Entergy can be a load-serving entity subject to the requirements of proposed sections 6.2.1, 6.3.1, and 7.1.1.4.¹⁶⁹

¹⁶⁸ Union Power at 28 (citing Entergy Transmittal Letter n.109, which states that the shortfalls for load-serving entities "involve Network Customers with smaller amounts of Network Load," and "Entergy's System Planning and Operations organizations ensures that sufficient resources are always available to serve native load of the Entergy Operating Companies.").

¹⁶⁹ *Id.* at 28-29.

168. Entergy responds that if the Commission requires it, Entergy will revise proposed section 7.1.1.4 to state that when Entergy serves as a load-serving entity, Entergy is subject to proposed sections 6.2.1, 6.3.1, and 7.1.1.4.¹⁷⁰ Entergy also clarifies that proposed section 7.1.1.4 does not apply to the issue of load-serving entity shortfalls (the subject of Entergy's second request for guidance, discussed in section III.B.2) because those shortfalls generally occur only in the Study Horizon, whereas proposed sections 6.2.1 and 6.3.1 (and thus section 7.1.1.4) apply only to the Operating and Planning Horizons.¹⁷¹

ii. Commission Determination

169. We accept Entergy's proposed section 7.1.1.4, subject to Entergy, within 60 days of the date of this order, modifying proposed section 7.1.1.4, as it agrees to do, to specify that when Entergy serves as a load-serving entity it will be subject to proposed sections 6.2.1, 6.3.1, and 7.1.1.4.

k. Section 7.1.2: Service to Network/Transmission Provider's Native Load Customers/Study Horizon

170. Proposed section 7.1.2 states that in the Study Horizon, base case models may be dispatched by specific zones rather than control area-wide when necessary to enforce zonal import limits, subject to Entergy's business practice for enforcing zonal import limits.¹⁷² Proposed section 7.1.2 also states that in the Study Horizon, if a load-serving entity's designated resources or secondary network service is insufficient to meet its load and losses, the transmission provider will resolve the shortfall by dispatching, *pro rata*, uncommitted generation facilities that are deliverable within the control area.¹⁷³

¹⁷⁰ Entergy Answer at 55-56.

¹⁷¹ *Id.* at 89 and n.214.

¹⁷² According to proposed section 14 of Attachment C (TSR Business Practices Related to AFC Process) (discussed below) the "business practice" referred to in proposed section 7.1.2 is the Transmission Service Relief [TSR] Business Practices.

¹⁷³ This provision is the subject of Entergy's second request for Commission guidance, addressed above. As noted there, we require Entergy to file to revise Attachment C when it adopts a method by which the AFC process will resolve a shortfall

(continued...)

i. Responsive Pleadings

171. Union Power contends that, while proposed section 7.1.2 refers to zonal import limits, it fails to provide relevant information about zonal import limits, instead referring to a business practice on enforcing zonal limits.¹⁷⁴ Union Power argues that proposed section 7.1.2 should be revised to include such relevant information as how zonal import limits are determined, where they are posted, how often they are updated, and the conditions under which they are used. Union Power states that under the Commission's "rule of reason" test, such zonal import limit information should be in the OATT rather than in a business practice because zonal import limits can affect whether transmission service is available. Union Power also argues that proposed section 7.1.2 should state that in developing base case models, thermal limits will be enforced, because enforcing thermal limits more accurately represents how a transmission provider expects the system to operate and not enforcing thermal limits can lead to unexpected congestion in the models, including base case overloads, and can lead to an improper denial of transmission service.

172. LMA Customers argue that proposed section 7.1.2 should be modified to include an explanation of how the planning redispatch needed to allow a point-to-point service reservation will be reflected in the dispatch modeling.¹⁷⁵

173. Arkansas Cities assert that proposed section 7.1.2 should be modified to describe the process for handling firm network resource reservations in the Study Horizon, because the process is too important to customers to be in a future, undefined business practice.¹⁷⁶ Arkansas Cities also assert that proposed section 7.1.2 should be revised to provide more details on such issues as capacity benefit margin, transmission reliability margin, base flow calculations, and AFC calculations, because such details should not be in business practices, let alone business practices that have not yet been developed. Arkansas Cities also maintain that proposed section 7.1.2 should be revised to describe the process for selecting "other resources" to meet the deficiency between firm network

when insufficient uncommitted network service resources are available within the control area to resolve the shortfall.

¹⁷⁴ Union Power at 29-30.

¹⁷⁵ LMA Customers Protest and Comments at 18.

¹⁷⁶ Arkansas Cities Comments at 6-7.

resources and forecasted load. Arkansas Cities state that net interchange calculations for embedded control areas need to be further evaluated, more specifically as to whether there is a material disparity between the total firm network reservations and the forecasted load in a given hour.

174. East Texas Cooperatives argue that proposed section 7.1.2 should be modified to clarify the use of zonal dispatch rather than control area-wide dispatch, to enforce zonal import limits.¹⁷⁷ Specifically, East Texas Cooperatives state that proposed section 7.1.2 should describe the conditions under which zonal dispatch will be used, how non-Entergy-owned generation will be treated, and the coordination process between Entergy and the load-serving entity regarding any Entergy-mandated dispatch for non-Entergy-owned generation.

175. Entergy urges rejection of Arkansas Cities' assertion that proposed section 7.1.2 should include details on the handling of firm network resource reservations in the Study Horizon and guidance on how other resources are selected to meet the shortfall between firm network resources and forecasted load.¹⁷⁸ Entergy argues that it is not clear what further detail Arkansas Cities seek, because proposed section 7.1.2 provides sufficient detail, including a description of the treatment of network resources when a load-serving entity does not provide a dispatch priority for designated resources.¹⁷⁹

176. The ICT answers that the requests that additional information on zonal import limits be included in proposed section 7.1.2 should be denied.¹⁸⁰ The ICT argues that such requests should be addressed through the stakeholder process. The ICT states that in the stakeholder process a stakeholder can address these types of issues through various task forces and working groups or through a formal request made through the Stakeholder Communication Protocol.

¹⁷⁷ East Texas Cooperatives at 6.

¹⁷⁸ Entergy Answer at 52.

¹⁷⁹ *Id.*

¹⁸⁰ ICT Answer at 18-19.

ii. **Commission Determination**

177. We accept proposed section 7.1.2 without modification. As noted above in our discussion of Entergy's second request for guidance, Entergy must file to revise Attachment C to describe whatever method is adopted for the AFC process to resolve a shortfall between designated network resources and forecast network load in the Study Horizon in the event that there are insufficient network service resources in the control area that can be dispatched to resolve the shortfall. This filing will address Arkansas Cities' request that Entergy provide information on how "other resources" are selected to meet a shortfall between firm network resources and forecasted load in the Study Horizon.

178. We deny Arkansas Cities' and Union Power's requests that information on the enforcement of zonal import limits be included in proposed section 7.1.2 rather than in a business practice. Practices that significantly affect rates and services are required to be in the OATT, and determinations as to whether a practice significantly affects rates and services are made under a "rule of reason."¹⁸¹ As applied here, we find that the detail that Arkansas Cities and Union Power request is suitably placed in Entergy's TSR Business Practices.¹⁸²

179. In addition, we deny Arkansas Cities' request that proposed section 7.1.2 be modified to provide details about the treatment of network resource reservations in the Study Horizon. We find that proposed section 7.1.2 provides adequate information about the treatment of network reservations, including information on Entergy's modeling of network resources when a customer does not provide a dispatch priority. Any additional details are appropriately addressed in business practices. Similarly, we reject LMA Customers' request that proposed section 7.1.2 be modified to describe how the planning redispatch needed to allow a point-to-point service reservation will be reflected in the dispatch modeling. Proposed section 7.1.2 provides satisfactory detail on the dispatch modeling. This request is best handled through the stakeholder process, as such detail is not necessary for OATT attachments.

¹⁸¹ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-1651.

¹⁸² See section VIII.7 of the TSR Business Practices, filed by Entergy as an information filing in this docket on February 1, 2011. Section VIII.7 describes different zonal import limits and processes for the "Amite South" and "WOTAB" load pockets.

180. We also deny Union Power's request that proposed section 7.1.2 be modified to state that thermal limits will be enforced in the development of base case models. Enforcement of thermal limits in the development of base case models is not required by Order No. 890, and requiring Entergy to insert a thermal limits enforcement provision in proposed section 7.1.2 is beyond the scope of this proceeding. Likewise, this request is best handled through the stakeholder process.

I. Section 8: Counterflows

181. Proposed section 8 states that the AFC software may adjust the base flow associated with a particular flowgate by removing the percentage of counterflow impacts in the calculation of AFC values. Proposed section 8 also states that the formula used for such base flow adjustments is set out in Attachment C's section 3 (Calculation of AFC Values) (described above). Proposed section 8 further states that certain information on the treatment of counterflows will be identified in the TSR Business Practices.¹⁸³

182. Entergy states that the Commission previously approved Entergy's placing the specified counterflow treatment information in a business practice.¹⁸⁴ Entergy also states that proposed section 8 reflects Entergy's rejection of a stakeholder request that the AFC software include counterflows associated with accepted or counter-offered requests that have not yet been confirmed (referred to as "remaining existing transmission commitments" in our above discussion of proposed sections 3.2 and 3.3). Entergy explains that, in accordance with proposed section 7.3.1 of Attachment C and the revised redispatch process accepted by the Commission in Docket No. ER07-935 (discussed below), accepted or counter-offered requests that are not yet confirmed are algebraically decremented from certain flowgates, but the AFC software cannot account for such counterflows until the requests are confirmed.¹⁸⁵

¹⁸³ Specifically, proposed section 8 states that the TSR Business Practices will identify the amount of counterflow impacts removed from the base flow, the actual counterflow calculations, the frequency of reviews of counterflows, and the data review process for responding to reasonable inquiries.

¹⁸⁴ Entergy Transmittal Letter, Exhibit 1 at 17 (citing 2004 AFC Order, 108 FERC ¶ 61,046 at P 21).

¹⁸⁵ *Id.* at 17-18 and n.80; *see also* Entergy Transmittal Letter, Exhibit 5 at 54:

Because of the large volume and short response times associated with short-term

(continued...)

i. Responsive Pleadings

183. LMA Customers argue that the Commission should require Entergy to promptly post the information concerning the treatment of counterflows in the AFC calculations and eliminate the restrictions on the ICT's authority to review counterflow calculations.¹⁸⁶ In addition, LMA Customers object to proposed section 8 not including counterflows for requests that are accepted or counter-offered but not confirmed. LMA Customers argue that not including such counterflows is inconsistent with Entergy's statement that it algebraically decrements the positive flow of requests that have been accepted or counter-offered but not-confirmed.¹⁸⁷ LMA Customers state that this inconsistency results in unduly conservative AFC values, and therefore the AFC process should be revised to include such counterflows in the AFC models.

184. Entergy disagrees with LMA Customers' argument that the AFC models should include counterflow for accepted or counter-offered but not confirmed requests.¹⁸⁸ Entergy reiterates its assertion that it stopped including such counterflows as part of the revised generation and load dispatch process approved by stakeholders and accepted by the Commission in July 2007.¹⁸⁹ Entergy states that, as it explained at the time, including accepted but not yet unconfirmed requests in the AFC base case models placed additional loading on the impacted transmission facilities, even though many accepted but unconfirmed requests are never ultimately confirmed by customers. Therefore, Entergy explains, the process was changed to algebraically decrement the unconfirmed reservations against a limited number of flowgates rather than include them in the models.¹⁹⁰ Entergy states that the treatment of counterflows has not changed from what

service requests, the AFC software was designed to monitor a limited number of flowgates and to allow for algebraic decrementing as a means of balancing the challenges with the need to prevent overselling of the transmission system.

¹⁸⁶ LMA Customers Protest and Comments at 15.

¹⁸⁷ *Id.* at 15-16.

¹⁸⁸ Entergy Answer at 54.

¹⁸⁹ *Id.* (referring to *Entergy Services, Inc.*, Docket No. ER07-935-000 (Jul. 13, 2007) (delegated letter order)).

¹⁹⁰ *Id.* at 55.

Entergy filed in July 2007. Entergy argues that LMA Customers should have disputed the treatment of counterflows then but did not and should not now be allowed to attack it collaterally.

185. The ICT states that it does not support adding counterflows to the AFC calculations and explains that these values are currently decremented from AFC values to account for the request's positive impact on flowgates in order to prevent overselling service.¹⁹¹ Additionally, the ICT states that once the request is confirmed, that service is added to the base flows and the counterflows associated with that request are also considered. The ICT states that in contrast, modeling the negative impact on non-confirmed counterflow requests could result in overselling service because there is no guarantee that the request will ultimately be confirmed.

ii. Commission Determination

186. We accept proposed section 8 without modification, but we direct Entergy to post the counterflow treatment information in the TSR Business Practices. As discussed above with regard to the AFC formulas in proposed sections 3.2 and 3.3, we direct Entergy to revise those formulas to indicate whether remaining existing transmission commitments (which are the accepted or counter-offered but not yet confirmed requests at issue in LMA Customers' protest) have any associated counterflow. We deny LMA Customers' request that Entergy be required to revise the AFC process to include the counterflows associated with accepted or counter-offered but unconfirmed requests in the models. Entergy's explanation that it does not include such counterflows because unconfirmed requests are often ultimately not confirmed is reasonable, especially in light of the ICT's assertion that adding counterflows to the AFC process before the requests are confirmed could result in the improper overselling of service.

m. Section 9.1: Response Factors For Directly Interconnected Generating Facilities

187. Proposed section 9.1 describes how Entergy's AFC process calculates response factors. It states that response factors are evaluations of whether a transmission service request uses all, some, or none of the AFC for a particular flowgate. It also states that the AFC software calculates response factors for each generating facility that is directly interconnected with Entergy's transmission system. Proposed section 9.1 states that State Estimator models are used to calculate response factors in the Operating and Planning

¹⁹¹ ICT Answer at 7.

Horizons, while monthly base case models and off-line power flow applications are used to calculate response factors in the Study Horizon.

188. Entergy describes a request in the stakeholder process for more information about the response factor process, including information about differences in the calculations for each of the AFC process's three horizons.¹⁹² Entergy's response in the stakeholder process was that the response factor process's assumptions and evaluations in each horizon are generally the same, but differences in the data inputs and software used for each horizon can lead to differences in the calculations.¹⁹³ Entergy's response also stated that the differences do not negatively impact transmission service requests because the differences are inherent to each horizon.

i. Responsive Pleadings

189. Union Power maintains that proposed section 9.1 does not adequately describe how the AFC process calculates response factors, particularly how the AFC process's calculations differ for each of the three horizons.¹⁹⁴ Union Power states that proposed section 9.1 should be modified to explain and describe in detail: (1) the ways in which the assumptions and evaluations in each horizon differ; and (2) the difference between the AFC process for evaluating requests and the off-line process to include confirmed requests in AFC monthly models. Additionally, Union Power states that proposed section 9.1 should state whether the response factors in the different horizons are benchmarked against actual dispatch/operation of the transmission system, provide justification for Entergy's conclusion that the different response factors calculations for each horizon have no negative impact on transmission service requests, and provide all other information supporting Entergy's conclusion that the differences in the horizons are reasonable.

190. Entergy argues that neither Order No. 890 nor any NERC standards require that Union Power's requested information be included in Attachment C.¹⁹⁵ Entergy claims

¹⁹² Entergy Transmittal Letter, Exhibit 3 at 52.

¹⁹³ *Id.*

¹⁹⁴ Union Power at 32.

¹⁹⁵ Entergy Answer at 53.

that Union Power's request goes beyond the requirements established not only in Order No. 890 but also in the Commission's orders in the original AFC proceeding.¹⁹⁶

ii. Commission Determination

191. We accept proposed section 9.1 without modification. We deny Union Power's requests regarding the response factors. As Entergy notes, Order No. 890 does not require transmission providers to include the requested information in their OATTs, and the Commission did not require it in its orders on Entergy's AFC process. Entergy explains that the only differences among the response factor calculations in the three AFC horizons are differences in the data inputs and software used in each horizon. We agree with Entergy that these differences in the data inputs and software used in each horizon are inherent to each horizon, and therefore the differences are reasonable.

n. Section 12: Scenario Analyzer

192. Entergy's AFC process includes a Scenario Analyzer, which, as defined in proposed section 1.2, is software that posts approximate AFC values and allows customers to evaluate ATC without actually submitting a request. Proposed section 12 states that the Scenario Analyzer responds to a customer's proxy request by identifying the applicable AFC value for any Source/Sink path for which AFC values are calculated.¹⁹⁷ Proposed section 12 also states that because the requests are not actual requests, the Scenario Analyzer does not decrement Flowgate AFC or guarantee that AFC will be available when an actual request is submitted.

193. Entergy states that the data underlying the Scenario Analyzer results will not be posted and will not be given out on request because providing underlying data is only required for actual requests, and the proxy request is not an actual request.¹⁹⁸

¹⁹⁶ *Id.* (citing the Commission's February 11, 2004 Order in the original AFC proceeding in Docket No. ER03-1272-000, *Entergy Services, Inc.*, 106 FERC ¶ 61,115, at P 33 (2004)).

¹⁹⁷ Proposed section 12 states that if the Scenario Analyzer determines that sufficient AFC does not exist for the request, the customer is provided with the hours when the constraints exist and the amount of flowgate capacity available.

¹⁹⁸ Entergy Transmittal Letter, Exhibit 1 at 25.

i. Responsive Pleadings

194. LMA Customers argue that Entergy should make available the data underlying the Scenario Analyzer results because Entergy has obtained Commission permission to rely on its AFC methodology with the Scenario Analyzer to satisfy Commission requirements for the posting of ATC.¹⁹⁹ LMA Customers contend that stakeholders should have access to the data necessary to evaluate the validity of all AFC calculations, including hypothetical ones, in order to be able to verify the calculations, especially given the large number of AFC data mishandling and software errors that Entergy has reported.²⁰⁰

195. Entergy reiterates that the data underlying the Scenario Analyzer should not be given out upon request or posted because the Commission regulation requiring that underlying data be made available applies only to actual requests.²⁰¹ Entergy asserts that the Commission's statements that Entergy's Scenario Analyzer results satisfy the Commission's requirement that transmission providers post ATC do not create a requirement that Entergy provide the data underlying the Scenario Analyzer results. Entergy states that it already voluntarily posts ATC values and underlying models, so customers have numerous tools with which to evaluate the availability of AFC.²⁰²

¹⁹⁹ LMA Customers Protest and Comments at 14-15 (citing Entergy Transmittal Letter, Exhibit 9 at 2). *See also Entergy Services, Inc.*, 116 FERC ¶ 61,115 at P 50; Order No. 890-B, 123 FERC ¶ 61,299 at P 17 (“We grant the clarification requested by Entergy regarding the Commission’s February 11, 2004 determination that Entergy’s AFC methodology meets the minimum posting requirements for transmission capability set forth in Order No. 889. The Commission did not amend in Order Nos. 890 or 890-A the obligation for transmission providers to post ATC values associated with a particular path instead of AFC values associated with a flowgate. Prior determinations by the Commission that a particular practice satisfies that obligation, or waiving that obligation altogether, therefore remain intact.”).

²⁰⁰ *Id.* at 15. Entergy has reported over 100 instances of AFC data mishandling since November 2006, under the ICT Approval Order’s requirement, most of which are AFC software problems. Entergy’s reports can be found in Docket No. ER05-1065.

²⁰¹ Entergy Answer at 39.

²⁰² *Id.* at 40.

196. The ICT states that the data underlying the Scenario Analyzer results should not be posted or given out on request because some of the data are provided by load-serving entities and could be proprietary.²⁰³ The ICT explains that although some of the underlying data are in fact posted, sharing the underlying data with any querying customer might lead the load-serving entities to resist providing the data, which in turn would reduce the accuracy of the AFC process. The ICT also argues that the stakeholder process is a better avenue for requesting changes in data availability.

ii. Commission Determination

197. We accept the proposed revisions without modification and we will not require that the data underlying Scenario Analyzer results be made available. While the data underlying the Scenario Analyzer's results could be useful in verifying the accuracy of Scenario Analyzer results, which is especially important in light of the many instances of AFC data mishandling and software errors, we are also concerned with the need to protect the confidentiality of proprietary information where possible. We agree with Entergy and the ICT that they already make sufficient data available, either voluntarily or as required under our regulations, with which to verify the AFC system's responses to actual requests. Additionally, as asserted by the ICT, data availability issues can be addressed through the stakeholder process. Therefore, we deny LMA Customers' request that the data underlying the Scenario Analyzer's results be made available.

o. Section 14: Transmission Service Request Business Practices Related to the AFC Process

198. Proposed section 14 states that additional detail regarding the AFC process is available in the TSR Business Practices posted on OASIS. Proposed section 14 lists 13 topics that will be included in the TSR Business Practices. The 13 topics are procedures by which customers will supply AFC data inputs and technical/software aspects of the AFC process.²⁰⁴ Each of the 13 topics lists in parentheses an associated section of

²⁰³ ICT Answer at 9-10.

²⁰⁴ The 13 topics are: (i) Software Applications Used in the AFC Process, (ii) Frequency of Resynchronizations, (iii) Facility Ratings, (iv) Load Data Submissions, (v) Generation Dispatch Data Submission – Operating/Planning Horizons, (vi) Generation Dispatch Data Submission – Study Horizon, (vii) Generating Facility Operating Characteristics, (viii) Transmission Construction Projects Not Currently In-

(continued...)

proposed Attachment C. Each associated section of Attachment C states that further details of the process described in that section are in the TSR Business Practices.

199. Entergy explains that putting details of the AFC process in business practices is consistent with the ICT Approval Order, as well as Order No. 890, which only require that Attachment C state the criteria of the AFC process for granting or denying transmission requests.²⁰⁵ In addition, Entergy states that more generally Order No. 890 provides that transmission providers are only required to include in their OATTs rules, standards, and practices that significantly affect their rates and services.²⁰⁶ Entergy states that it and the ICT agree that putting details of these 13 topics in business practices rather than in the OATT is appropriate because these are details of the AFC process and are not criteria the AFC process uses to grant or deny transmission requests. Furthermore, Entergy states that certain of the 13 topics are appropriate as business practices rather than OATT provisions because Order No. 890 directed that that specific topic's process is to be developed by NERC or NAESB and is not yet finalized; and in the future the data or process may need to be modified more quickly than an OATT provision can be modified. Entergy further states that the September 2006 Order specified that changes arrived at through the stakeholder process could be incorporated into the OATT or be business practices.²⁰⁷ Entergy also notes that the business practices will be vetted through the stakeholder process, with the ICT's involvement, but not through FPA section 205 filings.

200. On February 1, 2011, Entergy filed the TSR Business Practices as an information filing in this proceeding. Sections VIII and IX of the TSR Business Practices describe details of the 13 topics listed in section 14 of Attachment C.

Service, (ix) Zonal Import Limits, (x) Counterflows, (xi) Adding New Sources and Sinks, (xii) Calculation of Response Factors, and (xiii) Data Regarding the AFC Process.

²⁰⁵ Entergy Transmittal Letter, Exhibit 1 at 26.

²⁰⁶ *Id.* at 27 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1633).

²⁰⁷ *Id.* (citing *Entergy Services, Inc.*, 116 ¶ 61,275, at P 34-35 (2006) (ICT Rehearing Order)).

i. Responsive Pleadings

201. Union Power states that the Criteria Attachments filed in November 2006 contained the provisions and information proposed section 14 lists as topics to be addressed in business practices.²⁰⁸ Union Power claims that Entergy's announcement that these provisions would be moved to business practices came late in the stakeholder process, and was reached only with the ICT, with no other stakeholder input.

202. Union Power argues that because the proposed business practices have not been offered for review, it is not possible to apply the Commission's "rule of reason" standard for bifurcation between inclusion in an OATT and inclusion in business practices.²⁰⁹ Union Power asserts that while Entergy does address categories of what it and the ICT propose to be in the business practices, it is only upon application of the Commission's rule of reason test to the actual business practices that a determination can be made that content included in the business practices does not otherwise belong in the OATT. Union Power and LMA Customers assert that requiring Commission and stakeholder review of the business practices is essential.²¹⁰ Union Power asks that the Commission require Entergy to file its proposed business practices with the Commission under FPA section 205.²¹¹ Union Power also argues that, given that Entergy has requested an effective date for the proposed revisions of 30 days after acceptance by the Commission, the Commission should direct Entergy to submit the business practices as an informational filing as quickly as possible so that the review process does not delay the effectiveness of the proposed revised attachments.

203. LMA Customers claim that an Entergy proposal to move the topics into business practices was "emphatically rejected" by stakeholders.²¹² In addition, LMA Customers

²⁰⁸ Union Power at 12.

²⁰⁹ *Id.* at 12-13.

²¹⁰ *Id.* at 13; LMA Customers Protest and Comments at 5.

²¹¹ Union Power at 13 (citing *Midwest Independent Transmission System Operator, Inc.*, 98 FERC ¶ 61,137, at 61,401 (2002) (transmission provider submitted protocols to the Commission as an information filing; the Commission issued a notice, accepted comments, and determined that the protocols should be included in the OATT) (*Midwest ISO*)).

²¹² LMA Customers Protest and Comments at 7.

object to Entergy's proposal to adopt interim business practices until certain NERC and NAESB development processes are completed.²¹³ LMA Customers argue that if Entergy proposes business practices that stakeholders oppose, Entergy can adopt them anyway and stakeholders will have no recourse except the "often fruitless" process of seeking relief under the FPA's complaint provisions.²¹⁴ LMA Customers state that the types of information listed in proposed section 14 need to be in OATT provisions, even if the process of filing or revising OATT provisions at the Commission takes time.

204. Cottonwood asserts that in determining whether topics are required to be in the OATT, the two main considerations should be the potential impact each topic's practice has on the AFC process and the potential risks of having Entergy develop the practice without Commission review.²¹⁵ Cottonwood identifies five of the 13 topics that it believes should be in the OATT rather than business practices: frequency of resynchronizations, facility ratings, construction projects not currently-in service, zonal import limits, and counterflows.²¹⁶ East Texas Cooperatives state that given the broad topics in the proposed list of business practices, the Commission should set a timeline by which Entergy must file the business practices.²¹⁷

205. Entergy reiterates its argument that putting the topics listed in proposed section 14 into business practices complies with Order No. 890 and ICT Approval Order provisions as to what is required to be in the OATT.²¹⁸

²¹³ *Id.* at 6.

²¹⁴ *Id.* at 8 (citing FPA sections 206 and 306).

²¹⁵ Cottonwood at 16.

²¹⁶ *Id.* at 7, 16-21. Cottonwood's specific arguments regarding each topic are addressed above in the discussions of the associated proposed sections of Attachment C: frequency of resynchronizations in proposed section 3.6; facility ratings in proposed section 4.2; construction projects not currently in-service in proposed section 6.6; zonal import limits in proposed section 7.1.2; and counterflows in proposed section 8.

²¹⁷ East Texas Cooperatives at 7.

²¹⁸ Entergy Answer at 34-36 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1633 and September 2006 Rehearing Order, 116 FERC ¶ 61,275 at 34-35).

206. The ICT answers that the 13 topics are appropriately relegated to business practices because they are details of the AFC process that may need to be modified quickly and, in some cases, the processes they describe have not yet been finalized by NERC or NAESB.²¹⁹ The ICT states that the decisions as to what to put in business practices were made after extensive stakeholder input. The ICT also states that it will review all proposed business practices and changes thereto to ensure they are appropriate for business practices. Further, the ICT asserts that Entergy cannot unilaterally modify business practices, as the ICT has authority to recommend modifications, and if Entergy and the ICT disagree about a business practice then the dispute can be brought to the Commission.

207. LMA Customers answer that they share the ICT's view that a concurrent and transparent review of the OATT revisions and proposed business practices is essential. However, LMA Customers argue against the ICT's proposal that the Commission condition approval of the Criteria Attachments on the posting of Entergy's business practices, because it would do nothing to ensure that the practices are reasonable or that their treatment as exempt from FPA section 205 requirements is appropriate.²²⁰ LMA Customers state that the ICT's proposal reflects excessive faith in the efficiency and value of the stakeholder process and a dismissive view of the importance of the Commission's FPA section 205 procedures. LMA Customers assert that this is especially true given that experience shows that ICT-led stakeholder processes are neither efficient nor especially fair; and that the burdens and delays attendant to FPA section 205 review represent the operation of safeguards crafted by Congress to protect consumers from predation by more powerful interests. LMA Customers contend that by relegating various matters to business practices not reviewed by the Commission, Entergy would exempt from FPA safeguards a large number of practices and procedures that, by the ICT's own admission, have direct and substantial impacts on the grant or denial of transmission service.²²¹ LMA Customers maintain that, contrary to the ICT's assumption, pushing procedures out of the OATT and into business practices does not eliminate the likelihood of burdensome litigation, because it leaves adversely affected parties with no choice but to seek reformation of the procedure through an FPA section 206 complaint.

²¹⁹ ICT Answer at 9-10.

²²⁰ LMA Customers Answer at 3.

²²¹ *Id.* at 5 (citing ICT Comments at 7-8).

208. On February 22, 2011, Union Power filed a protest to the TSR Business Practices filed for information purposes by Entergy on February 1, 2011.²²² Union Power renews its contention that the contents of the TSR Business Practices should be filed formally with the Commission under section 205 of the FPA as OATT provisions.

209. Union Power also objects to section V.2.3(iii) of the TSR Business Practices, which implements section 22.1 of the Entergy OATT. Union Power alleges that when a customer attempts to redirect its service, section V.2.3(iii) does not require Entergy to maintain ATC on the original path until the redirected service request has passed the conditional periods for firm service set out in section 13.2 of the Entergy OATT. Union Power claims that it is Commission policy that a customer requesting a redirect does not lose rights to its original path until the redirect request passes the relevant conditional reservation deadline in section 13.2 of the OATT.²²³ Union Power claims the Commission should direct Entergy to revise section V.2.3(iii) to comport with *Dynegy*.

210. Entergy answers that Union Power is incorrect. Entergy argues that the TSR Business Practices reflect details of the procedures needed to implement the proposed revised OATT Attachments filed on April 3, 2009, and are therefore appropriately formatted as business practices not filed with the Commission under section 205 of the FPA.

211. Regarding Union Power's objections to section V.2.3(iii) of the TSR Business Practices, Entergy answers that Union Power incorrectly believes that section V.2.3(iii) applies to requests to redirect firm transmission service on a *firm* basis, whereas section V.2.3(iii) applies to requests for redirect firm transmission service on a *non-firm* basis. Entergy states that because Union Power's protest is mistaken, it should be rejected.

212. Entergy also asserts that to the extent Union Power is protesting Entergy's practices regarding requests to redirect firm transmission service on a firm basis (even though that is not what is addressed in section V.2.3(iii)), Union Power is still wrong, because requests to redirect firm transmission service on a firm basis are governed not by *Dynegy*, but by the Order No. 890 series of orders. Entergy quotes Order No. 890-A's statement that redirect requests must be treated using "the same assumptions and analysis applicable to any other new request for service," and that it would be "inappropriate, and

²²² Union Power February 22, 2011 Protest.

²²³ *Id.* at 4 (citing *Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc.*, 99 FERC ¶ 61,054, at P 9 (2002) (*Dynegy*)).

contrary to the *pro forma* OATT, to grant redirects special queue treatment.”²²⁴ Entergy adds that Order No. 890-A states elsewhere that “any increase in ATC along the original path is contingent upon the acceptance of and confirmation of the redirect.”²²⁵ Entergy also claims that Order No. 890 states that ATC that was once reserved for the redirecting customer on the original path is released to the market once the customer confirms its redirect request. Entergy also asserts that the relevant NAESB WEQ Standard, WEQ Standard 001-9.5, does not provide for a redirecting customer to retain rights to its original path while its redirect request is conditional.

213. Entergy also notes that it has revised section V.2.3(iii) of the TSR Business Practices to reflect that for requests for redirection on a non-firm basis, the customer retains rights to the original path but may only schedule on the original path if the capacity on the secondary path is relinquished by the customer or lost through preemption. Entergy included the revised page of the TSR Business Practices as an appendix to its Answer.

214. The ICT also answers Union Power’s protest, stating that the provisions in the TSR Business Practices are appropriately formatted as business practices rather than OATT provisions because they reflect technical and administrative procedures.²²⁶ The ICT also argues against Union Power’s claims that section V.2.3(iii) violates Commission policy on redirect requests. The ICT asserts that the Commission’s statements in *Dynegy* can be interpreted many ways. The ICT also asserts that the Order No. 890 series of orders discussed redirect requests and did not specify that ATC is to be withheld pending unconditional confirmation of the redirect request. The ICT notes that Entergy’s current software does not permit such treatment of redirect requests, and a manual procedure would be impossible in light of the large number of redirect requests the ICT must process, so if the Commission decides to accept Union Power’s argument, then the Commission should allow the current practice to remain in effect until the software can be revised.²²⁷

²²⁴ Entergy March 11, 2011 Answer at 10 (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 1285).

²²⁵ *Id.* at 10-11 (citing Order No. 890-A at P 708).

²²⁶ ICT March 11, 2011 Answer at 3.

²²⁷ *Id.* at 4-5.

215. Union Power replied to Entergy and the ICT, stating that the Commission's statements in *Dynegy* are clear and are the Commission's "final statement on the issue." Union Power argues that, therefore, Entergy should be required to allow customers requesting a redirection on a firm or non-firm basis to retain rights to their original path until the redirect request is unconditional under section 13.2 of the OATT (for requests for redirection on a firm basis) or under section 14.2 of the OATT (for requests for redirection on a non-firm basis).²²⁸ Union Power adds that the NAESB WEQ Standard does not bind the Commission or overrule Commission policy as stated in *Dynegy*.

ii. Commission Determination

216. We will accept proposed section 14 without modification. Each of the 13 topics listed in proposed section 14 is associated with a separate section of Attachment C. The list of topics in proposed section 14 is simply an "index" of the proposed sections of Attachment C that state that additional details are in the TSR Business Practices. In addition, the TSR Business Practices submitted by Entergy on February 1, 2011 contain details of each topic's associated Attachment C section.²²⁹ Therefore, we find that proposed section 14 is acceptable as filed.

217. We reject Cottonwood's argument that five of the 13 topics belong in Entergy's OATT.²³⁰ These topics are already in the OATT, in that each topic on the list has an associated proposed section in Attachment C given in parentheses. As noted above, the

²²⁸ Union Power March 24, 2011 Reply at 4-6.

²²⁹ For example, the Frequency of Resynchronizations topic is associated with proposed section 3.6 of Attachment C (Resynchronization of AFC Values), which states, "To the extent the Transmission Provider agrees to more frequent resynchronizations on a regular basis, the TSR Business Practices will describe the basis for that frequency." Section VIII.2 of the TSR Business Practices (Frequency of Resynchronizations) states in relevant part, "Currently, the only more frequent resynchronizations being conducted on a regular basis are those in the Planning Horizon and Study Horizon. Planning Horizon AFC values are currently resynchronized four times every day. Study Horizon AFC values are currently resynchronized twice per month."

²³⁰ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649 ("The Commission will . . . continue to require only those rules, standards, and practices that *significantly* affect transmission service be incorporated into a transmission provider's OATT." (Emphasis added.)

TSR Business Practices contain details of the 13 listed topics. To the extent that Cottonwood is arguing that all details of the AFC process must be in the OATT, we disagree. As we stated in Order No. 890, requiring all practices to be in the OATT would be “impractical and potentially administratively burdensome.”²³¹

218. We also reject Union Power’s argument that the provisions were moved from the Criteria Attachments to business practices without adequate stakeholder consultation, with the decision arrived at only by Entergy and the ICT. Entergy did make the proposal to stakeholders, and even if, as LMA Customers states, stakeholders responded negatively, we do not require a transmission provider to adopt every stakeholder request.

219. We also reject parties’ request that we impose a timeline by which Entergy must develop the business practices after a relevant NERC standard or NAESB practice is finalized and approved by the Commission. Each NERC standard or NAESB practice comes with a timeline for transmission provider implementation.²³² In addition, as noted above, Entergy filed the TSR Business Practices on February 1, 2011, in this proceeding and has filed revisions to Attachment C to comply with the MOD-030 mandatory implementation date of April 1, 2011 in Docket No. ER10-3357-000.

220. We also reject Union Power’s protest of the TSR Business Practices and Entergy’s processes regarding redirect requests. We reject Union Power’s claim that sections V.2.2 and V.2.3 of the TSR Business Practices violate Commission policy. Order No. 890 confirms that a redirect request must be evaluated using the same system assumptions and analysis applicable to any other new request for service, and that it would be inappropriate, and contrary to the *pro forma* OATT, to grant redirects special queue treatment.²³³ As Order No. 890-A and Order No. 676 state, when a customer requests redirection on a firm basis, the customer retains rights to the original path until the redirect request is accepted by the transmission provider and confirmed by the customer: “Once the new request is accepted and confirmed, the transmission customer loses all

²³¹ *Id.* P 1651.

²³² See section 39.5(d) of the Commission’s regulations, 18 C.F.R. § 39.5(d) (2011) (“An approved Reliability Standard . . . shall take effect as approved by the Commission.” See, e.g., Order No. 729, 129 FERC ¶ 61,155 at P 95 (“[T]he Reliability Standards [approved in this order] shall become effective on the first day of the first quarter occurring 365 days after approval by all applicable regulatory authorities.”)).

²³³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285.

rights to the original receipt and delivery points”²³⁴ Order No. 890-A states that “any increase in ATC along the original path is contingent upon the acceptance of and confirmation of the redirect.”²³⁵ While the Commission did not expressly overrule *Dynegy*, the Commission did make clear that it believes the customer requesting redirect on a firm basis does not retain rights to the original path once the redirect request is confirmed. Allowing the customer to retain rights to the original path after the redirect request (for redirection on a firm basis) is confirmed, until the redirect request becomes unconditional under section 13.2 of the OATT, would mean the customer would have simultaneous rights to the original path and the redirect path, which would amount to superior queue priority and would tie up two transmission paths rather than make the original path available to the market.

221. Regarding requests for redirection on a non-firm basis, we agree with Entergy that the customer retains rights to the original path until the time of actual service, since the non-firm request does not tie up any transmission paths. Therefore, we reject Union Power’s request to direct Entergy to revise the TSR Business Practices.

222. In addition, we reject Union Power’s protest against NAESB WEQ Standard 001-95, and we affirm that the standard reflects Commission policy. Moreover, we reject Union Power’s claim that the standard represents an unauthorized overruling of Commission policy. The standard was submitted along with others to the Commission and incorporated by reference in Order No. 676.²³⁶

p. Section 15: Regional Coordination

223. Proposed section 15 describes the regional coordination process by which Entergy obtains transmission information from operators of external control areas for AFC coordination. Proposed section 15 also describes the relationship between this regional coordination process and a Regional Transmission Planning input collection process described in Entergy’s Attachment K.

²³⁴ *Id.*; *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 55, *reh’g denied*, Order No. 676-A, 116 FERC ¶ 61,255 (2006).

²³⁵ *Id.* at 10-11 (citing Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 708).

²³⁶ Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 19.

224. Entergy notes that while Order No. 890 requires transmission providers to adopt processes for obtaining external control area data, Entergy has not provided for such processes in its proposed Attachment C because Order No. 890 specified that such processes are to be developed through NERC and NAESB, and these entities have not completed their development processes. Entergy states that adopting anything now would be wasteful in that it would require the adoption of software or other modeling practices before knowing what the final NERC and NAESB regional coordination processes will be.²³⁷

i. Responsive Pleadings

225. Cottonwood argues that the regional coordination provisions in proposed section 15 are inadequate because Entergy engages in no coordination with adjoining utilities as to AFC calculations.²³⁸ Cottonwood argues that this lack of coordination creates phantom congestion in the Operating and Planning Horizons of Entergy's AFC process. In addition, Cottonwood states that improperly-modeled loop flows from adjoining areas lead to transmission loading relief events (i.e., curtailments). Cottonwood asks the Commission to direct Entergy to establish a process for the frequent exchange of AFC models and data for the AFC Operating and Planning Horizons with neighboring control areas, and to modify the AFC models to reflect the models and data of external control areas.

226. Entergy answers that it does coordinate with neighboring utilities either directly or through the NERC System Data Exchange. Entergy also reasserts that data exchange processes are still subject to finalization by NERC.²³⁹

227. The ICT explains that Entergy has arranged to share its AFC models with adjacent transmission provider Tennessee Valley Authority (TVA) and is working toward data and model sharing agreements with SPP and other adjoining utilities.²⁴⁰ The ICT notes that it

²³⁷ Entergy Transmittal Letter, Exhibit 1 at 28 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 301, 310; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 52-56; Order No. 890-B, 123 FERC ¶ 61,299 at P 16).

²³⁸ Cottonwood at 13-15.

²³⁹ Entergy Answer at 45-46.

²⁴⁰ ICT Answer at 10-11.

is working closely with Entergy to facilitate the completion of these sharing agreements.²⁴¹

ii. Commission Determination

228. We accept the proposed revisions without modification. Entergy has taken steps to coordinate transmission information with external control areas including TVA and SPP.²⁴² The ICT will continue to work closely with Entergy to facilitate the completion of such agreements. We strongly encourage Entergy to continue these efforts, but will not require Entergy to include further data gathering provisions in proposed section 15. Entergy will be required to comply with the data gathering processes being developed by NERC and NAESB.

2.3 Attachment D (Methodology for Completing A System Impact Study)

229. Proposed Attachment D describes the procedures for conducting system impact studies and facilities studies to evaluate requests for point-to-point service or network integration transmission service. Under proposed section 1.3, a system impact study determines whether a request can be accommodated without constructing transmission facility upgrades. If the request cannot be so accommodated, the system impact study then provides a preliminary estimate of the possible costs of the required upgrades. If the customer requests, the system impact study also evaluates, as alternatives to upgrades, the availability of planning redispatch and conditional firm service. Under proposed section 1.4, if upgrades are required, then a facilities study is conducted, providing a “more in-

²⁴¹ *Id.* at 11.

²⁴² The Commission has conditionally accepted the SPP-Entergy Agreement on Regional Planning required under Order No. 890. *See Entergy Services, Inc.*, 124 FERC ¶ 61,268 (2008), *order on compliance filing*, 127 FERC ¶ 61,272 (2009), *order on compliance filing*, 130 FERC ¶ 61,264 (2010), *order on compliance filing*, 133 FERC ¶ 61,130 (2010) (SPP-Entergy regional planning agreement in Entergy’s Attachment K); *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,032 (2009) (SPP-Entergy regional planning agreement as SPP rate schedule). The Commission has accepted the SPP-Entergy Comprehensive Seams Agreement. *See Southwest Power Pool, Inc.*, 131 FERC ¶ 61,236 (2010), *order on reh’g and compliance*, 134 FERC ¶ 61,268 (2011), letter order accepting compliance filing (Docket No. ER11-3490-000) (Jul. 26, 2011) (unpublished delegated letter order).

depth” study of the upgrades required to accommodate the requested service. The facilities study includes a good-faith estimate of the costs and time required to construct the upgrades, and analysis of the cost allocation for the upgrades.

230. One issue central to the system impact study and facilities study processes is base case overloads. Because base case overloads affect numerous provisions of proposed Attachment D, we will address that issue first.

a. Base Case Overloads

231. Base case overloads are facilities or flowgates at which the transmission system is overloaded (i.e., has negative ATC or an applicable thermal limit is exceeded) prior to simulating a transmission service request. Proposed sections 3.3, 4, 6.2, and 6.3²⁴³ of Attachment D relate, at least in part, to base case overloads.

232. Proposed section 3.3 (Evaluating Thermal Limits on the Proposed Transfer) states in relevant part:

The DC contingency analysis identifies any monitored transmission facility that exceeds the thermal limits. An Outage Transfer Distribution Factor (OTDF)²⁴⁴ cutoff of 3% is used to determine whether a facility identified in the System Impact Study is considered a valid limit To the extent an overloaded facility had already exceeded the applicable thermal limit prior to simulating the proposed transfer, the overload is not considered a valid limit unless the proposed transfer increases the level/severity of the overload by an OTDF of 3% or greater.

Proposed section 4 (Developing Mitigation Plans) states in relevant part:

To the extent the System Impact Study identifies violations of the thermal limits specified in Section 3.3, the study also considers mitigation options that may eliminate the violations and may allow for the TSR [transmission service request] to be Accepted. . . To the extent the applicable thermal limit was exceeded prior to

²⁴³ To the extent these proposed sections are contested for other reasons than their implication to base case overloads, they are discussed again in the section-by-section analysis.

²⁴⁴ OTDF is the flow on the limited element, facility, or flowgate with a given contingency expressed as a percent of power transferred.

simulating the TSR, the scope of any necessary mitigation plans . . . for that TSR is determined without taking into account the amount of loading in excess for the applicable thermal limit that existed prior to simulating the proposed transfer.

Proposed section 6.2 (Evaluating the Scope of Necessary Upgrades) states in relevant part:

To the extent that the applicable thermal limit was exceeded prior to simulating the transmission service request, the scope of any necessary upgrades for that transmission service request is determined without taking into account the amount of loading in excess of the applicable thermal limit that existed prior to simulating the proposed transfer.

Proposed section 6.3 (Provisional Upgrades) states that customers may request a facilities study to confirm the need for provisional upgrades or evaluate alternative upgrades in the event the provisional upgrades are delayed or cancelled.

233. Entergy explains that it inserted the sentences beginning “To the extent” in each of the above provisions in response to a stakeholder comment about base case overloads.²⁴⁵ Entergy states that the inserted language clarifies that the upgrades necessary to accommodate a given request “should not include facilities more extensive than required for the TSR itself.”²⁴⁶ Entergy notes that the inserted language does not change the cost allocation methodology in Entergy’s Attachment T.

234. Entergy further explains that it revised the November 2006 versions of sections 6.2. and 6.3 (which were filed in business practice manuals format) in response to stakeholder claims that the November 2006 versions adopted a different cost allocation methodology than the cost allocation methodology in Attachment T (Recovery of New Facilities Costs and Planning Redispatch Costs for Long-term Services).²⁴⁷ Entergy states that when it filed the business practice manuals language as OATT attachments in its Order No. 890 compliance filing on July 13, 2007, Entergy revised sections 6.2 and 6.3 to clarify that Attachment T alone governs cost allocation for transmission upgrades. Entergy also states that at the request of stakeholders, the ICT issued a formal opinion in

²⁴⁵ Entergy Transmittal Letter, Exhibit 1 at 38-39.

²⁴⁶ *Id.* at 39.

²⁴⁷ *Id.* at 47-48.

March 2008, agreeing with Entergy that Attachment T and not Attachment D governs cost allocation. Entergy also notes that, in the ICT formal opinion, the ICT disagreed with Entergy's filing the revised language in the July 2007 Order No. 890 compliance filing, because the revisions were not required by Order No. 890. However, Entergy defends its revisions as a necessary clarification.

i. Responsive Pleadings

235. Numerous parties argue that the Commission should require the elimination of base case overloads from Entergy's models, such that any point on the Entergy transmission system at which an applicable thermal limit is currently exceeded in the base case should be upgraded to relieve the overload. Without the elimination of base case overloads on Entergy's system, the parties argue, the study processes proposed in Attachment D will result in customers paying for the facilities necessary not only to accommodate their transmission service requests but also to relieve a base case overload. Many of the parties note that base case overloads have been a long-standing issue on the Entergy system, and that the proposed provisions in Attachment D do not remedy the issue.

236. Union Power and LMA Customers complain that Entergy unilaterally revised the November 2006 version of section 6.2 and otherwise retained the July 2007 version of section 6.3, to remove a fairer treatment of base case overloads.²⁴⁸ Union Power and LMA Customers argue that the Commission's April 2007 Order accepted the November 2006 version of sections 6.2 and 6.3, effective November 17, 2006. Union Power also contends that failure to include the November 2006 versions of sections 6.2 and 6.3 in the April 3, 2009 filing is a direct violation of a Commission-accepted rate schedule. Union Power and LMA Customers state that Entergy has operated as if compliance with the provisions conditionally accepted in the April 2007 Order was not necessary and that Entergy was free to conclude unilaterally that the allocation method in the November 2006 version was in error and revise it at will. Union Power and LMA Customers assert that to the extent Entergy did not want to follow a Commission-accepted OATT provision, Entergy was required to file under FPA section 205 to change it.

237. Union Power also argues that, although the proposed revisions are an improvement over the July 2007 version, which deleted the key provision in the November 2006 version of section 6.2, they continue to fall short of the Commission's

²⁴⁸ Union Power at 32-44; LMA Customers Protest and Comments at 27-30.

cost allocation principles in Order No. 890, the just and reasonable standard, and the “consistent with or superior to” standard. Union Power contends that current proposed sections 6.2 and 6.3 shift costs associated with existing base case overloads to the next increment of transmission service. Union Power states that the November 2006 versions of sections 6.2 and 6.3 contained the additional statement that only the portion of the cost of the upgrade attributable to the new request is allocated under Attachment T’s participant funding method, while the cost of the upgrade attributable to resolving the overload is allocated under the Construction Plan and Base Plan in Attachment D. Union Power states that the current proposed section 6.2 focuses on the scope of any necessary upgrades for the request without separating out the amount of the pre-existing overload.²⁴⁹

238. Union Power states that by ignoring the pre-existing overload in identifying necessary upgrades, the entire cost of an upgrade could be allocated to a request even though the upgrade also eliminated the pre-existing base case overload.²⁵⁰ Union Power reasons that the revisions do not go far enough to avoid such cost shifting.

239. Union Power argues that the proposed provisions do not comply with Order No. 890’s three factor test for whether a cost allocation method is satisfactory: (1) whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them; (2) whether a cost allocation proposal provides adequate incentives to construct new transmission; and (3) whether the proposal is generally supported by state authorities and participants across the region.²⁵¹

240. LMA Customers assert that Entergy’s current treatment of existing base case overloads, reflected in proposed section 6.2, is the principal factor underlying the failure of Entergy’s participant funding method to result in investment in new transmission facilities.²⁵² LMA Customers argue that the Commission has stated that pricing and cost

²⁴⁹ Union Power at 38.

²⁵⁰ *Id.* at 33.

²⁵¹ *Id.* at 41-42 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 559).

²⁵² LMA Customers Protest and Comments at 35 (quoting the ICT’s Second Annual Performance Report at 15 (“[The ICT] agrees . . . that *funding arrangements currently in place have not been effective thus far in promoting investment in new transmission.*”) (emphasis added)).

allocation approaches found to deter needed infrastructure improvements are unjust and unreasonable under the FPA. LMA Customers also argue that the Commission has previously implied that pre-existing overloads on a transmission system must be eliminated in a network model before the transmission provider evaluates the effect of a new service request.²⁵³ LMA Customers maintain that applying that view here by requiring modification of Attachment D would correct the funding problems that have hindered the construction of new facilities, including those to integrate renewable resources, on Entergy's system. LMA Customers also acknowledge that their arguments concern matters decided in the ICT Approval Order, but LMA Customers state that the Commission nevertheless has a duty to revisit earlier decisions that may have relied on faulty premises.²⁵⁴

241. Occidental points to the base case overload problem as “symptomatic” of Entergy's overall transmission access policies, which Occidental claims are designed to discriminate against competitors in the wholesale market. Occidental alleges that base case overloads allow Entergy to disadvantage its competitors in the wholesale markets and disadvantage Entergy's retail customers by shielding system costs from the benefits of competition. Occidental cites Commission statements in the Notice of Proposed Rulemaking that led to Order No. 890, that vertically integrated utilities do not have an incentive to expand the grid to accommodate new entry or to facilitate the dispatch of more efficient competitors, because the ability and incentive to discriminate increases as the transmission system becomes more congested, and increased congestion also presents additional opportunities for undue discrimination.²⁵⁵

²⁵³ *Id.* at 36 (quoting *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,113 (2008) (“According to the Midwest ISO, its procedures for screening the base case ‘prevented Summit Wind from being assigned responsibility for any of the pre-existing study overloads.’ However, we are concerned that all pre-existing system overloads in the base case may not have been resolved in computer modeling before considering the network upgrades needed to interconnect Summit's generation facility.”)).

²⁵⁴ *Id.* at 21.

²⁵⁵ Occidental at 7 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,603, at P 31 (2006)).

242. Occidental asserts that Entergy's only excuse for not eliminating base case overloads on its system is that reliability does not require it. Occidental states that Entergy's excuse is invalid because transmission access provisions do not merely need to meet reliability requirements but also must be just, reasonable, and not unduly discriminatory or preferential or otherwise lawful. Occidental requests the Commission to institute an evidentiary hearing to investigate the adequacy of Entergy's transmission system and direct Entergy to make all necessary upgrades to ensure that Entergy's customers are able to obtain meaningful access to the transmission system. Occidental argues that while the advent of the ICT arrangement led the Commission to cancel two proceedings instituted to investigate Entergy's transmission access practices, the Commission noted at the time that after the ICT has been in place for a reasonable time, if transmission access is still an issue, then issues of transmission access could be revisited.²⁵⁶

243. Occidental argues that the proposed provisions should be rejected as not just and reasonable because they fail to immunize customers from the effects of base case overloads. Occidental asserts that the proposed 3 percent limit on an impact of a request in section 3.3 fails to require the separating out of the portion of the impact that pre-exists the request. Occidental argues that not all upgrades that alleviate base case overloads are Base Plan Upgrades needed for reliability (i.e., that will be paid for by everyone). Occidental argues that customers must not be made to pay for the portion of the upgrade needed to relieve the base case overload.²⁵⁷

244. Cottonwood notes that transmission customers' complaints regarding the ongoing inclusion of preventable base case overloads in the long-term models are well-documented. Cottonwood argues that proposed section 6.2 does not go far enough to fix the issue.²⁵⁸

245. Cottonwood asserts that the customer will still be required to fund an upgrade for the overloaded facility to alleviate its incremental impact on the facility, but, because the upgrades are "lumpy," the customer nonetheless will fund upgrades that are used to

²⁵⁶ Occidental at 12. One proceeding concerned whether Entergy's AFC process was just and reasonable (Docket No. EL05-22) and the other concerned whether Entergy had transmission market power (Docket No. EL05-105).

²⁵⁷ *Id.* at 12-13.

²⁵⁸ Cottonwood at 30-31.

remedy the pre-existing base case overload.²⁵⁹ Cottonwood states that the net result can be that the customer mitigates more capacity on the system than was needed to grant the request. Therefore, Cottonwood argues, the additional mitigated capacity is in essence a donation to Entergy, as the OATT does not provide for compensating customers whose upgrades create spare capacity that is consumed by the base case overloads.

246. Arkansas Cities state that there should be provisions to cover a situation where a customer is being required to fund costly upgrades that have already been identified in other studies as needed for reliability purposes. Arkansas Cities add that if certain upgrades are being consistently identified in multiple transmission service requests as being required for funding by customers, this should be evidence that these facilities are in fact needed for reliability. Arkansas Cities contend that some type of threshold should be established, such that if an upgrade is flagged frequently enough it will be classified as needed for reliability.²⁶⁰ Arkansas Cities further note that if upgrades are needed for reliability, they should not have to be funded by customers pursuant to particular transmission service requests.

247. Lastly, Union Power seeks to clarify that its arguments regarding base case overloads are separate from Attachment T issues, or cost allocation issues. Specifically, Union Power asserts that it is challenging the step in the Attachment D process to which Attachment T's participant funding methodology is applied. Union Power asserts that proposed Attachment D does nothing to revise Attachment T, and that proposed Attachment D merely identifies when in the process Attachment T would apply to the request. Union Power states that the relevant provisions of Attachment T do not discuss base case overloads. Union Power states that while Attachment T governs Entergy's pricing of transmission upgrades, proposed Attachment D must be clarified to state that proposed sections 6.2 and 6.3 apply to the upgrade necessary to relieve the overload, and Attachment T's participant funding methodology does not apply to it.²⁶¹

248. Entergy answers that eliminating base case overloads is not required by NERC or the Commission's open access principles. Further, Entergy argues that its system has been audited twice by SERC and found compliant.²⁶² Entergy states that base case

²⁵⁹ *Id.*

²⁶⁰ Arkansas Cities Comments at 13.

²⁶¹ Union Power at 39-40.

²⁶² Entergy Answer at 8-10.

overloads do not reflect a failure on Entergy's part to maintain its system, but rather reflect an industry-wide issue identified as a policy question by the Commission in Order No. 693.²⁶³ Entergy argues that base case overloads do not affect responses to transmission service requests any more than non-overloads do. Entergy states that it uses some of the same mitigation tools for transmission service request evaluation as for transmission planning. Entergy notes that manual operating guides are not used in evaluating transmission service requests, because the ICT uses manual guides only for real-time emergencies, but planning redispatch and conditional firm service are used. Entergy states that under Attachment T, if an upgrade cures an overload but is not necessarily required for reliability and is only needed to serve the request, then the customer pays for it.²⁶⁴ Entergy states that the ICT ensures that reliability-related upgrades are not directly assigned to individual customers.

249. Entergy disputes parties' claim that the previously-proposed versions of sections 6.2 and 6.3 are Commission-approved provisions and therefore that Entergy cannot propose to revise them. Entergy asserts that the previously-proposed versions of the provisions were erroneous and were never approved, and therefore, Entergy can revise them.

250. Entergy argues that attacks on base case overloads are, at heart, attacks on prior orders accepting the participant funding method in Attachment T. Entergy states that the participant funding method is not at issue here and was fundamental to the ICT proposal and firmly established in the ICT Approval Order. Entergy also submits that Attachment T, not Attachment D, governs cost allocation.²⁶⁵ Entergy adds that the ICT recognized this point when the ICT rejected a portion of the Stakeholder Policy Committee's July 11, 2007 recommendation that dealt with base case overloads.²⁶⁶

²⁶³ *Id.* at 11 (citing *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 4 and n.6 (2007), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007)).

²⁶⁴ *Id.* at 13-16.

²⁶⁵ *Id.* at 20-31.

²⁶⁶ *Id.* at 14-15, 25 (citing "ICT Opinion on LTTIWG Base Case Contingency Overloads Task Force Recommendation" at 3, 4 (included as Entergy Transmittal Letter, Exhibit 11)).

251. The ICT answers that eliminating base case overloads is not possible for numerous aspects of the AFC models, including: (1) the AFC models do not account for planning redispatch; (2) the AFC models perform continuous resynchronizations; (3) system conditions change due to transmission outages and Weekly Procurement Process reservations; (4) the evaluation of transmission service requests cuts off at 3 percent; and (5) the AFC models have phantom congestion from the use of unreserved and unconfirmed resources to meet the load of load-serving entities.²⁶⁷ The ICT states that base case overloads do not necessarily mean improper assessment of reliability upgrade costs. The ICT explains that under proposed sections 6.2 and 6.3, the ICT identifies the portion of the upgrade costs that is attributable to the request, as determined by the ICT's classification under Attachment T of the upgrade as Supplemental or Base Plan, and that under Attachment T, only the costs associated with the request are assigned to the customer. The ICT further explains that the process ensures that the customer receives a higher financial payment for future use of the upgrade, to account for any pre-existing base case overload.²⁶⁸ The ICT states that for some base case overloads mitigation tools are used to prevent the need for a reliability upgrade.

ii. Commission Determination

252. We accept proposed sections 3.3, 4, 6.2, and 6.3's treatment of base case overloads without modification, and we deny requests to revise the proposed sections to require the elimination of base case overloads on Entergy's system. Many of the arguments raised regarding base case overloads are beyond the scope of this compliance proceeding. Namely, requests to re-open the participant funding methodology in Attachment T or require Entergy to build sufficient transmission to alleviate base case overloads are not the subject of this compliance filing, which is intended to determine whether Entergy has complied with the Commission's directives in Docket Nos. ER05-1065-000 (the ICT proceeding) and OA07-32-000 (Entergy's Order No. 890 proceeding). With respect to the provisions in Entergy's proposed section 6 dealing with base case overloads, we find that Entergy has complied with the Commission's relevant requirements. Moreover, as Entergy points out, base case overloads are permitted under NERC standards and SERC reliability criteria. As the ICT points out, eliminating base case overloads may be infeasible and inadvisable at this time because the AFC process's modeling will not accommodate it. We note, though, that this was the most controversial

²⁶⁷ ICT Answer at 25.

²⁶⁸ *Id.* at 28-29.

issue among stakeholders and, as such, we encourage efforts to resolve the issue at the ICT working group level through transmission planning, real-time operating procedures, and cost allocation discussions.

253. To the extent the proposed revisions could be construed to require the customer to pay for the upgrade needed to relieve a pre-existing overload, as Entergy and the ICT state in their answers, under proposed section 6.2, as well as under Attachment T²⁶⁹ the ICT will separately identify the portions of the upgrade costs that are attributable to the base case overload versus the portions of the upgrade costs that are attributable to the transmission request, so the customer will not be responsible for costs attributable to relieving the base case overload.

254. Furthermore, contrary to Union Power's and LMA Customers' claim, Entergy's changes to earlier versions of proposed sections 6.2 and 6.3 do not violate the Commission's conditional acceptance of the earlier versions of those provisions in the April 2007 Order. As discussed above in the Background section, in the April 2007 Order the Commission accepted the proposed provisions subject to Entergy submitting them for stakeholder review. The current proposed provisions emerged from stakeholder review in significantly revised form.²⁷⁰ If Entergy or the ICT saw something that needed

²⁶⁹ As noted above, proposed section 6.2 (Evaluating the Scope of Necessary Upgrades) states in relevant part:

To the extent that the applicable thermal limit was exceeded prior to simulating the transmission service request, the scope of any necessary upgrades for that transmission service request is determined without taking into account the amount of loading in excess of the applicable thermal limit that existed prior to simulating the proposed transfer.

Attachment T (Cost Recovery of New Facilities and Planning Redispatch), section 3.2.2 (Determination of Base Plan and Supplemental Upgrades), states:

If the ICT determines that a proposed upgrade will materially decrease the cost of a Base Plan Upgrade, then the amount by which the Base Plan cost is decreased will be recovered under Section 2.1 above, and the remainder of the cost of the proposed upgrades will be recovered as a Supplemental Upgrade under Section 2.2 above.

²⁷⁰ See, e.g., Entergy Transmittal Letter, Exhibits 12-17 (redline versions of the proposed attachments reflecting changes from various previous filings).

to be revised, they were allowed to revise it without violating the conditional acceptance in the April 2007 Order, as long as it was presented to stakeholders.

255. We also deny Occidental's request that the Commission institute an evidentiary hearing to investigate the adequacy of Entergy's transmission system and direct Entergy to make all necessary upgrades to ensure that Entergy's customers are able to obtain meaningful access to the transmission system. We note that, since this proceeding began, a development has occurred that may address Occidental's concerns regarding the construction of facilities on Entergy's system. At the time of the initial filings in this proceeding, Entergy and the ICT interpreted Note B of Table 1 in NERC Reliability Standard TPL-001-1 differently, resulting in many differences between their respective transmission plans. Specifically, the different interpretations of Note B meant Entergy's Construction Plan excluded numerous projects that were included in the ICT Base Plan.²⁷¹ However, Entergy has since aligned its interpretation with the ICT's.²⁷² Because of this change in interpretation, there are now no differences between Entergy's and the

²⁷¹ Entergy Answer at 9-10. "Note B" is footnote (b) to Table 1 in NERC Reliability Standard TPL-001-1. *See also Transmission Planning Reliability Standards, Notice of Proposed Rulemaking*, 76 Fed. Reg. 66,229 (Oct. 26, 2011), FERC Stats. & Regs. ¶ 32,683 (2011) (proposing to remand NERC's proposed revisions to Note B); *Mandatory Reliability Standards for the Bulk Power System*, 130 FERC ¶ 61,200 (2010) (setting deadline for NERC to submit proposed revisions to Note B). Other factors caused differences between the two reports, but a majority of the differences were due to the different Note B interpretation. *See, e.g.*, ICT May 8, 2009, Docket No. ER05-1065-000, "SPP Report on the Differences Between the 2009 ICT Base Plan and the 2009-2011 Entergy Construction Plan" (showing 13 projects in the ICT's Base Plan were not in Entergy's Construction Plan due to the different interpretation of Note B).

²⁷² *See, e.g., Entergy Services, Inc.*, 129 FERC ¶ 61,204, at n.16 (2009) (referring to September 4, 2009 ICT Third Quarterly Performance Report in which the ICT reported that Entergy revised its Construction Plan to comport with the ICT's Base Plan with regards to interpreting Note B); Entergy August 4, 2009 Answer, Docket Nos. OA08-59-003 and OA08-59-004, at 5 (in Entergy's Order No. 890 Attachment K proceeding, Entergy announced that it is revising its draft Construction Plan for 2010-2012, which would "substantially eliminate" any differences between Entergy's Construction Plan and the ICT's Base Plan).

ICT's transmission plans attributable to the different interpretation of Note B.²⁷³ Therefore, additional reliability-based upgrades will be funded and constructed that may resolve some existing overloads on the system.

b. Section 1.3: When a System Impact Study is Required

256. Proposed section 1.3 describes the conditions under which a system impact study is required. It provides that the system impact study evaluates whether planning redispatch and conditional firm service options are available in place of the construction of transmission upgrades. Proposed section 1.3 also states that planning redispatch and conditional firm service are not available if providing the service would “degrade or impair” the reliability of service to existing firm service customers or native load customers.

i. Responsive Pleadings

257. LMA Customers argue that proposed section 1.3's statement about the availability of planning redispatch and conditional firm service lacks specificity as to whether Entergy or the ICT would determine the effect on other customers, and what standard would be used. LMA Customers also argue that the term “degrade or impair” is unduly subjective, and therefore these determinations should not be made by Entergy but should instead be made by an independent party, i.e., the ICT. In addition, LMA Customers contend that “degrade or impair” should be defined in more detail.²⁷⁴

²⁷³ Compare the 2009 and 2010 Differences Reports filed by the ICT in Docket No. ER05-1065-000: the May 8, 2009 Difference Reports shows 13 differences were due to a difference in interpretation of Note B, while the February 17, 2010 Difference Report (“SPP Report on the Differences Between the 2010 ICT Base Plan and the 2010-2012 Entergy Construction Plan”) shows no differences were due to a difference in interpretation of Note B. The 2011 Differences Report, filed on February 28, 2011, shows that the 2011 ICT Base Plan and 2011-2013 Entergy Construction Plan also have no differences due to a difference in interpretation of Note B, with the only differences being different “in service” dates.

²⁷⁴ LMA Customers Protest and Comments at 38.

ii. Commission Determination

258. We conditionally accept proposed section 1.3 subject to modification. We agree with LMA Customers that the proposed provision does not state which entity will decide whether the requested service would degrade or impair service to existing firm customers or native load customers. Therefore, we direct Entergy to submit a compliance filing, within 60 days of the date of this order, revising this provision to specify which entity will make that determination. In addition, if the specified entity is Entergy, then Entergy must explain in its compliance filing why Entergy rather than the ICT is the appropriate entity, and what means the ICT will use to verify Entergy's decisions.

259. However, we reject LMA Customers' request that the phrase "degrade or impair" be further defined. In Order Nos. 890 and 890-A the Commission used the terms "impair" or "degrade or impair" to describe the standard the transmission provider is to use to determine whether or not to offer the redispatch service.²⁷⁵ Moreover, the phrase "impair or degrade" is used in numerous sections of the *pro forma* OATT.²⁷⁶ Inclusion of the phrase "degrade or impair" is sufficient, and therefore we will not require Entergy to further define the phrase in proposed section 1.3.

²⁷⁵ See, e.g., Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 941 ("[W]e make clear that transmission providers are not required to offer planning redispatch or conditional firm service if doing so would *impair* system reliability." [Emphasis added]); Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 539 ("As the Commission explained in Order No. 890, there is no obligation to offer planning redispatch if it . . . *degrades or impairs* the reliability of service to native load customers, network customers and other transmission customers taking firm point-to-point service." [Emphasis added]).

²⁷⁶ See, e.g., section 15.5 of the *pro forma* OATT:

Deferral of Service

The Transmission Provider may defer providing service until it completes construction of new transmission facilities or upgrades needed to provide Firm Point-To-Point Transmission Service whenever the Transmission Provider determines that providing the requested service would, without such new facilities or upgrades, impair or degrade reliability to any existing firm services.

c. **Section 2.1: NERC and SERC Regional Models**

260. Proposed section 2.1 provides that the base case models are based on the updated regional models developed pursuant to the NERC and SERC model development processes. As relevant here, it provides that the ICT participates with Entergy in the regional model development process for the SERC region.

i. **Responsive Pleadings**

261. Union Power asserts that section 2.1 should be clarified as to whether the regional model development process for the SERC region is the same as the regional coordination process with SPP, described in Entergy's Attachment K.²⁷⁷

262. In its answer, Entergy states that the SERC regional model development process is described in Attachment K to the Entergy OATT, but that it is not necessarily the same as the regional coordination process with SPP. Entergy states that to eliminate confusion Entergy will revise the provision to state that the ICT participates in the regional model development process as set forth in Attachment K.²⁷⁸

ii. **Commission Determination**

263. We agree with Union Power that proposed section 2.1 needs to be clarified, as Entergy commits to in its answer. Accordingly, we direct Entergy, within 60 days of the date of this order, to clarify proposed section 2.1 to state that the ICT participates in the regional model development process as set forth in Attachment K.

d. **Section 2.2: Development of Seasonal and Monthly Base Case Models**

264. Proposed section 2.2 states that the ICT will ensure that AFC and/or ATC values are reasonably consistent with the "current topology" of the Entergy transmission system.

²⁷⁷ Union Power at 45.

²⁷⁸ Entergy Answer at 60-61.

i. Responsive Pleadings

265. LMA Customers assert that proposed section 2.2's reference to "current topology" is in error. LMA Customers argue that topology, as defined in proposed section 2.3.1, is based on the SERC regional models and considers both current and projected system conditions and known changes to system topology in future periods. Therefore, LMA Customers argue that proposed section 2.2 should be revised to replace the phrase "current topology" with the phrase "the topology of the Transmission System as reflected in the applicable SERC regional model(s)."²⁷⁹

ii. Commission Determination

266. We agree with LMA Customers that proposed section 2.2's reference to "current topology" is in error in light of proposed section 2.3.1's provision that SERC regional models include projected and future events. Therefore, we direct Entergy, within 60 days of the date of this order, to revise proposed section 2.2, to use the phrase "the topology of the Transmission System as reflected in the applicable SERC regional model(s)," as requested by LMA Customers.

e. Section 2.2.2: Monthly Base Case Models

267. Proposed section 2.2.2 of Attachment D describes Entergy's process for obtaining transfer capability values from operators of external control areas. Proposed section 2.2.2 states, in part, that the Transmission Provider coordinates with Southern Company and TVA on a monthly basis to update certain models and develop other models. Entergy notes that the process of coordinating with external control areas is subject to change as the relevant NERC and NAESB processes are finalized.²⁸⁰

i. Responsive Pleadings

268. Cottonwood and Union Power argue that proposed section 2.2.2 should be revised to require Entergy to coordinate with SPP and other external control areas.²⁸¹

²⁷⁹ LMA Customers Protest and Comments at 39.

²⁸⁰ Entergy Transmittal Letter at 20.

²⁸¹ Cottonwood at 13; Union Power at 46.

269. Entergy responds that the requests of Cottonwood and Union Power should be rejected because Entergy's coordination with external control areas is either already reflected in Attachment K and the SPP-Entergy Letter Agreement on Regional Planning or is being developed in ongoing discussions between Entergy and SPP on seams and coordination issues.

ii. Commission Determination

270. We accept proposed section 2.2.2 without modification. As Entergy explains, the Letter Agreement on Regional Planning between Entergy and SPP and corresponding language in Attachment K to Entergy's OATT sufficiently detail the planning responsibilities between the two parties, as required by Order No. 890.²⁸² Also, as noted above, Entergy and SPP have filed an enhanced seams agreement, which has been accepted by the Commission.²⁸³ This agreement was accepted by the Commission as a significant step in the right direction, with encouragement to continue to negotiate remaining issues, including issues relating to one party's customers' rights under the other party's OATT and issues relating to cost allocation.²⁸⁴ Entergy also participates in regional planning mechanisms, including the Southeast Inter-Regional Participation Process (SIRRP), whose other participants include such external control areas as Southern Company and TVA.²⁸⁵ We find that these efforts are evidence that Entergy is adequately engaging in coordination with SPP and other external control areas. Therefore we will not impose additional coordination requirements in this proceeding.

f. Section 2.3.1.1: Data Included in Seasonal and Monthly Base Case Models/Transmission Construction Projects Not Currently In-Service

271. Proposed section 2.3.1.1 provides that transmission facility upgrade construction projects that are not currently in-service are not included in annual, seasonal, and

²⁸² *Entergy Services, Inc.*, 130 FERC ¶ 61,264 (2010); *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,032 (2009).

²⁸³ *Southwest Power Pool, Inc.*, 131 FERC ¶ 61,236 (2010).

²⁸⁴ *Id.* P 24, 50.

²⁸⁵ *See, e.g., Entergy Services, Inc.*, 127 FERC ¶ 61,272 (2009) (conditionally accepting SIRPP-related provisions of Attachment K to the Entergy OATT).

monthly base case models, unless they qualify as provisional upgrades. An upgrade qualifies as provisional if it falls into one of the following categories:

- (1) Upgrades determined in a facilities study to be necessary to accommodate a transmission service reservation, if there is a service agreement for the upgrade's cost allocation;
- (2) Upgrades determined in a facilities study to be necessary to accommodate interconnection of a generating facility, if there is a Large Generator Interconnection Agreement; and
- (3) Upgrades in the Entergy Construction Plan, if Entergy has approved funding.

272. A provisional upgrade is included in the annual, seasonal and monthly base case models starting in the season or month of its projected in-service date. If a provisional upgrade is cancelled, it is removed from the models. If it is delayed, it is included in the models starting in the month or season of its new projected in-service date. An upgrade that does not qualify as provisional under the three categories will be included in the base case models once construction is completed and the upgrade is placed into service.

i. Responsive Pleadings

273. Union Power contends that proposed section 2.3.1.1 fails to address when upgrades associated with network load for all network service customers and upgrades associated with generation facilities not under large generator interconnection agreements (e.g., small generation facilities) will be included in the base case models.²⁸⁶ In addition, Union Power alleges that proposed section 2.3.1.1 is unduly discriminatory because it includes in the base case models the upgrades of other customers prior to their actual in-service date, but allows certain Entergy upgrades not to be included in the models prior to their actual in-service date. Union Power argues that by not including these Entergy upgrades in the models until their in-service date, they will not be considered in evaluating transmission service requests, while the upgrades of OATT customers will be considered.

274. Union Power argues that upgrades for Entergy's native load appear to qualify as provisional under the third category (upgrades in the Construction Plan) rather than the first and second categories (upgrades with reservations and upgrades with interconnection

²⁸⁶ Union Power at 46-47.

agreements) because the first and second categories require a service agreement for the upgrade's cost allocation or an interconnection agreement, but Union Power asserts that it was unable to locate any such agreements between Entergy as the transmission provider and Entergy as a network customer or generation owner.²⁸⁷

275. Union Power states that because the Construction Plan has a three-year horizon, any upgrades required beyond the Construction Plan are not included in the base case models even though they will be needed to serve Entergy's native load. Union Power contends that, as a result, Entergy's required upgrades beyond the three-year term of the Construction Plan will not be considered in evaluating transmission service, while the upgrades of other customers for the period beyond the three-year term of the Construction Plan will, and this amounts to undue discrimination.²⁸⁸

276. Union Power also objects to proposed section 2.3.1.1 because it does not explain why upgrades that do not qualify as provisional are not included in base case models until their actual in-service date.²⁸⁹ Union Power argues that this is unduly discriminatory because deferring inclusion of upgrades in the base case models eliminates "consideration of system benefits to granting transmission service."

277. Union Power states that a partial solution would be to change the three-year horizon of the Construction Plan. Union Power states that proposed section 1.2 of Attachment D defines the term "Construction Plan" as the plan developed under section 6 of Attachment K, which provides no restriction on the Construction Plan's planning horizon.²⁹⁰ Union Power argues that the three-year horizon is a construct adopted by Entergy under which Entergy links the term to the three-year horizon for Base Plans found in section 3.2 of Attachment T's reference to the Base Plan's use in cost allocation between Base Plan upgrades and supplemental upgrades. Union Power states that under section 7.1 of Attachment K, the ICT may rely on the Construction Plan in the development of the Base Plan. Union Power argues that, like the Construction Plan, the Base Plan is subject to the Planning Criteria, which includes planning horizons from the NERC reliability standards. Union Power states that, accordingly, while the Base Plan is

²⁸⁷ *Id.* at 46-48.

²⁸⁸ *Id.* at 46-50.

²⁸⁹ *Id.* at 50.

²⁹⁰ *Id.* at 52.

to cover short-term and longer-term planning horizons, within the Base Plan there is a three-year limitation for cost allocation purposes under Attachment T. Union Power contends that, because the cost allocation limitation of Attachment T is limited to a subset of the full planning horizon in the Base Plan, there is no basis for limiting the Construction Plan to a three-year horizon. Union Power states that, as demonstrated, such an approach is unduly discriminatory.

278. Union Power argues that with the three-year cost allocation trigger in Attachment T, Entergy has created a mechanism that permeates and drives not only the cost allocation process but the entire process for transmission planning and the granting of transmission service. Union Power states that the importance of the three-year horizon came to light when Attachment T was approved by the Commission, and the importance has continued to be demonstrated as Entergy has continued to revise its OATT after Order No. 890, including Entergy's proposed use of the three-year horizon in this section of Attachment D. Union Power argues that applying a cost allocation mechanism to transmission planning and the provision of transmission service violates the Commission's open access transmission service policies of Order No. 890. Union Power argues that Entergy has failed to demonstrate, as required, that its approach to developing base case models for evaluating the availability of transmission service complies with the requirements of Order No. 890.²⁹¹

279. Union Power continues that changing the Construction Plan's three-year horizon would also comply with the statement in Entergy's Attachment K that NERC reliability standards are an integral part of the Planning Criteria.²⁹² Union Power explains that the relevant NERC transmission planning standard clearly states that reliability assessments will be conducted for both the near-term planning horizon, specified as years one through five, and the longer-term planning horizon, specified as years six through ten.²⁹³

²⁹¹ *Id.* at 53.

²⁹² *Id.* at 50-51 (citing Entergy's Attachment K, section 2.11).

²⁹³ *Id.* at 51 (citing NERC standard TPL-002-0a (System Performance Following Loss of a Single Bulk Electric System Element), R1.2).

280. Union Power adds that in addition to changing the Construction Plan's three-year horizon, proposed section 2.3.1.1 should be modified to place a burden on Entergy to demonstrate which upgrades should be excluded from the models.²⁹⁴

281. Like Union Power, Cottonwood argues that the Construction Plan should have a ten-year rather than three-year horizon because of the NERC standard's reference to using a longer-term planning horizon, years six to ten. Additionally, Cottonwood asserts that the Construction Plan's three-year horizon unfairly shifts the upgrade costs to customers requesting transmission or designating new network resources beyond the three-year horizon. Cottonwood also argues that when evaluating transmission service requests, Entergy and the ICT do not use all available constraint-mitigation tools (such as redispatch and load shedding), so the customer's costs for upgrades are unreasonably high. Cottonwood claims that Entergy should adopt a "make whole" mechanism to compensate customers for system-driven reductions in the value of supplemental upgrades they fund.²⁹⁵

282. The ICT, in its initial comments, expresses support for proposed section 2.3.1.1.²⁹⁶ The ICT says it will track any requests granted based on the projected in-service date of a provisional upgrade, in case the projected in-service date is delayed or cancelled. The ICT also states that any provisional upgrades to serve Entergy's network/native load will qualify as a provisional upgrade through the first or second categories (having a service agreement or interconnection agreement) rather than through the third category (being included in the Construction Plan). The ICT believes that having agreements memorializing the upgrade requirements for Entergy's network/native load will increase the transparency of the modeling process and will allow all customers to benefit as soon as possible from the increased transmission capacity provided by the upgrades.

283. Entergy answers that Union Power's and Cottonwood's concerns should be rejected.²⁹⁷ Entergy explains that the criteria in section 2.3.1.1 for designating upgrades as provisional upgrades are intended to capture circumstances where the upgrades have become sufficiently certain that transmission service can be reasonably granted and

²⁹⁴ *Id.* at 51-52.

²⁹⁵ Cottonwood at 26-27.

²⁹⁶ ICT Comments at 17-19.

²⁹⁷ Entergy Answer at 62.

where disruption is minimized if a construction project is delayed or cancelled.²⁹⁸ Entergy notes that sections 1.4 and 2.3.1.1 address customer options for confirming service that is dependent on future construction projects and obtaining new studies when such provisional upgrades are delayed or cancelled. Entergy disagrees with Union Power's claim that Entergy's required upgrades beyond the three-year horizon will not be considered when evaluating long-term transmission service even though the upgrades of OATT customers for the period beyond the three-year horizon will be considered. Entergy states that the provisions apply to Entergy as they apply to any other transmission customer. Entergy states that any transmission or interconnection service granted to serve Entergy's native load customers that requires a transmission upgrade will be documented in the form of a service agreement that will be filed with the Commission, and therefore will be included in the base case model upon execution of that agreement, regardless of the funding status of the upgrade in Entergy's Construction Plan.

284. Regarding arguments that the Construction Plan's three-year horizon be changed, Entergy answers that doing so would require solving several software problems. Additionally, Entergy argues that modeling upgrades so many years out would be impractical, creating the problem of how to deal with requests granted on the basis of models using the obsolete in-service date.²⁹⁹

285. Entergy also asserts that Union Power's and Cottonwood's arguments against the Construction Plan's three-year horizon are attacks on the funding of upgrades as governed by provisions of Attachment T of its OATT that are not at issue here. Entergy states that the Construction Plan's three-year horizon was approved in the ICT Approval proceeding, and complies with all NERC requirements.³⁰⁰

286. The ICT answers that that the three-year horizon of the Construction Plan is reasonable because the Construction Plan is strictly a list of shorter-term projects that Entergy has committed to fund and/or decided to build.³⁰¹ The ICT states that the Construction Plan's three-year horizon allows Entergy to make necessary funding

²⁹⁸ *Id.*

²⁹⁹ *Id.* at 56.

³⁰⁰ *Id.* at 56-57 (citing ICT Order, 115 FERC ¶ 61,095 at P 159-168).

³⁰¹ ICT Answer at 18-20.

decisions. The ICT notes that longer-term planning, including the five-year and ten-year horizons required under the NERC standards, is covered by other plans.

ii. Commission Determination

287. We conditionally accept proposed section 2.3.1.1 subject to modification and clarification. Regarding Union Power's request that proposed section 2.3.1.1 be modified to address upgrades associated with generation facilities not under Large Generator Interconnection Agreements, we agree. Specifically, in proposed section 2.3.1.1, the second category of provisional upgrades to be included in the base case models refers only to upgrades with an "LGIA," i.e., a Large Generator Interconnection Agreement.³⁰² We see no reason that the category should be restricted to upgrades associated with Large Generator Interconnection Agreements and not Small Generator Interconnection Agreements. Therefore, we direct Entergy to file, within 60 days of the date this order issues, a revised provision that refers to Generator Interconnection Agreements in place of Large Generator Interconnection Agreements.

288. We reject Union Power's allegation that proposed section 2.3.1.1 is unduly discriminatory because upgrades for Entergy's native load will qualify as provisional only by being in the Construction Plan, which has a three-year horizon, so any Entergy upgrades with projected in-service dates beyond three years will not be included in the base case models. The ICT and Entergy state that upgrades for Entergy's native load will have agreements filed with the Commission and therefore will qualify to be included in the base case models under the first and second categories of provisional upgrades (upgrades with a service agreement or interconnection agreement), regardless of whether they also would be included under the third category (upgrades in the Construction Plan). Assuming upgrades for Entergy's native load are documented in the form of network transmission service agreements, these upgrades would not be treated any differently than customers' upgrades, under the first and second categories. As the ICT states, having agreements on file for upgrades for Entergy's native load will increase modeling transparency and will allow customers to benefit from the increase in transmission capacity in the models as soon as possible. However, the tariff language is unclear as to when the native load upgrades are documented in the form of service agreements, and

³⁰² Proposed section 2.3.1.1 (ii) refers to a generating facility that "has executed an LGIA [Large Generator Interconnection Agreement] or an unexecuted LGIA [Large Generator Interconnection Agreement] has been filed with, and allowed to become effective by, the Commission."

therefore when they would be included in the base case models. Accordingly, we direct Entergy to file, within 60 days of the date this order issues, an explanation describing the timing of the inclusion of these upgrades in the base case models. In addition, Entergy must include in its explanation a description of the process for documenting network service agreements, and the subsequent inclusion of upgrades in the base case models, associated with network load for its network service customers.

289. We also find that proposed section 2.3.1.1 is unclear as to which upgrades will qualify under the third category (upgrades in the Construction Plan) that would not qualify under the first or second categories. Additionally, proposed section 2.3.1.1 provides that upgrades that do not qualify as provisional upgrades will be included in the base case models once construction is completed and they are placed into service. We find that this provision is unclear. Entergy has failed to explain how an upgrade that has been completed and placed into service would not otherwise have qualified as a provisional upgrade under the provision's three categories, and thus been included in the base case models earlier. Therefore, we direct Entergy, within 60 days of the date this order issues, to explain which upgrades qualify under the third category and what type of upgrades do not qualify as provisional upgrades but would be included in the base case models once completed and put into service.

290. We reject Union Power's and Cottonwood's assertions that the Construction Plan's three-year horizon must be modified. This request is beyond the scope of this proceeding, as proposed section 2.3.1.1 merely refers to the Construction Plan. The Construction Plan and its horizon are not governed by the attachments at issue in this proceeding and are therefore not subject to modification here.³⁰³

³⁰³ Likewise, we note that parties' arguments that the Construction Plan's three-year horizon causes unfair cost shifting are beyond the scope of this proceeding, because cost allocation determinations are made based on the Base Plan, not the Construction Plan. We note that the horizon of the Base Plan was recently extended from three years to five years. *See Entergy Services, Inc.*, 137 FERC ¶ 61,040 (2011). We also note that under Attachment T, if an upgrade is determined by the ICT to be a Supplemental Upgrade, the customer will fund the upgrade but will also receive financial transmission rights on that facility. In addition, if the upgrade is later determined by the ICT to be needed for reliability, the customer will be relieved of its obligation to pay for the upgrade.

g. **Section 2.3.1.2: Data Included in Seasonal and Monthly Base Case Models/Transmission Facility Ratings**

291. Proposed section 2.3.1.2 states that facility ratings used in system impact studies and facilities studies are established in accordance with NERC reliability standards FAC-008 and FAC-009 and the basis for the ratings is described in the TSR Business Practices.

i. **Responsive Pleadings**

292. LMA Customers argue that if the basis for the facility ratings is to be in a business practice, which is not filed with or reviewed by the Commission, then the OATT will not protect customers from problems with the facility rating methodology.³⁰⁴ Therefore, LMA Customers argue, proposed section 2.3.1.2 should be revised to provide some customer protection such as a statement that the ICT or another independent entity will verify that the ratings method described in the TSR Business Practices is identical to the ratings method used to demonstrate compliance with NERC standards FAC-008 and FAC-009, and verify that the method has been properly implemented.

293. Entergy answers that inserting a provision for ICT verification of Entergy's facility ratings method is not appropriate. Entergy states that NERC standards govern facility rating methods, and the relevant NERC standards do not require verification by an entity such as the ICT.³⁰⁵

ii. **Commission Determination**

294. We conditionally accept proposed section 2.3.1.2 subject to modification. The NERC standards referred to in the proposed section, FAC-008 and FAC-009, govern facility ratings methods and implementation. FAC-008 (Facility Ratings Methodology) requires that the transmission owner document its facility ratings methodology, make the methodology available on request to reliability coordinators, transmission operators, transmission planners, and planning authorities, and respond to any written comments. FAC-009 (Establish and Communicate Facility Ratings) requires that the transmission owner establish ratings consistent with its facility ratings methodology and provide the ratings to reliability coordinators, transmission operators, transmission planners, and planning authorities. As Entergy explains, the NERC standards do not require

³⁰⁴ LMA Customers Protest and Comments at 39-40.

³⁰⁵ Entergy Answer at 36.

verification by an entity such as the ICT. At the same time, under the ICT arrangement, described in Attachment S of the Entergy OATT, the ICT is to review and independently validate any Entergy-provided transmission service evaluation data, which would include facilities ratings.³⁰⁶ Because a reviewing role for the ICT is provided for in Attachment S, we direct Entergy to revise proposed section 2.3.1.2 within 60 days of the date of this order, to reflect a reviewing role for the ICT.

h. Section 2.3.4.1: Data Included in Seasonal and Monthly Base Case Models/Resource Forecasts and Generation Dispatch/Seasonal Base Case Models

295. Proposed section 2.3.4.1 provides that in the event a load-serving entity fails to submit a resource plan that provides sufficient generation resources to meet forecasted load, the forecasted load is met by dispatching uncommitted resources, including network resource interconnection service resources.³⁰⁷ Proposed section 2.3.4.1 states that such resources are dispatched on a *pro rata* basis, as long as the proposed transfer does not limit the ability of a network resource interconnection service resource to deliver its full capacity “to the local area” during peak load conditions.

i. Responsive Pleadings

296. Union Power asserts that in addressing the dispatch of network resource interconnection service resources in the context of short-falls in a load-serving entity’s resource plan, proposed section 2.3.4.1 does not indicate the criteria to be used in determining what constitutes the resource’s “local area.”³⁰⁸ Union Power argues that

³⁰⁶ See, e.g., section 3.1.9 of the ICT Transmission Service Protocol, in Attachment S of the Entergy OATT, which states that the ICT’s responsibilities in processing and evaluating transmission service requests include “[i]ndependently reviewing and validating data, information and analyses, including Facilities Studies, provided or performed by the Transmission Provider.”

³⁰⁷ Proposed section 2.3.4.1 was discussed above in the section on Entergy’s second request for guidance. As noted in that discussion, proposed section 2.3.4.1 uses the equivalent of the *pro rata* dispatch option, except that engineers manually intervene to mitigate the negative effects on the flowgates limiting the proposed transfer, whereas the AFC process’s frequent automatic resynchronizations mean that such manual intervention cannot be done.

³⁰⁸ Union Power at 53-54.

proposed section 2.3.4.1 should be revised to provide the criteria used to determine that “local area.”

ii. Commission Determination

297. We accept proposed section 2.3.4.1 without modification. The clarification that Union Power requests is not required by Order No. 890.³⁰⁹ Development of a detailed definition of a resource’s “local area” can be pursued at the stakeholder working group level. If Union Power believes that improper criteria are being used to define “local area,” then Union Power can bring that concern to the ICT or the Commission at that time. We also note that, as discussed in the section on Entergy’s second request for guidance, proposed section 2.3.4.1 uses a method equivalent to the *pro rata* dispatch option, which we did not prefer for use in the Study Horizon because it was inconsistent with the modeling priorities set out in the *pro forma* OATT. Here, as also noted above, under proposed section 2.3.4.1, the longer timeframe permits engineers to manually intervene to mitigate the negative effects on the flowgates limiting the proposed transfer, which could not be done under the AFC process’s frequent automatic resynchronizations. These manual interventions prevent the modeling of transmission in a manner inconsistent with the *pro forma* OATT, and therefore proposed section 2.3.4.1 is acceptable.

i. Section 3.2.1: Simulating the Proposed Transfer/Requests for PTP [Point-to-Point] Service

298. Proposed section 3.2.1 describes how load flow simulations are performed for point-to-point transmission service. One aspect of the load flow simulation is the scaling up or down of generation to reflect whether the source is located in an external control area, and other factors. In referring to the scaling of generation, proposed section 3.2.1 uses several similar terms: “*pro rata*,” “proportionally,” and “proportional.” Proposed section 3.2.1 also states that if no generating facility is specified then the transfer is simulated by proportionally increasing all generation in that control area. Proposed section 3.2.1 further provides that for exports (requests that sink in an external control area), if a designated network resource is modeled at a level that exceeds its maximum rating, the network resource is scaled down and the other facilities in the source control

³⁰⁹ The undefined term “local area” is used elsewhere in Entergy’s OATT. See Attachment N, Standard Large Generator Interconnection Procedures, section 3.2.2, Network Resource Interconnection Service.

area are scaled up economically to compensate for the scaling down of the network resource, if economic data are available.

i. Responsive Pleadings

299. Union Power contends that proposed section 3.2.1's use of the terms "*pro rata*," "proportionally," and "proportional" is unclear.³¹⁰ Union Power argues that if the terms are being used interchangeably, then proposed section 3.2.1 should be revised to use only the term "*pro rata*." Union Power argues that if the terms are not being used interchangeably, then section 3.2.1 should be revised to clarify the different meanings. East Texas Cooperatives state that during the stakeholder process, customers had requested "*pro rata*" scaling of all generation in the load flow simulations.³¹¹ East Texas Cooperatives request that Entergy clarify whether the term "proportional" in proposed section 3.2.1 is the same as the term "*pro rata*" requested in the stakeholder process.

300. Union Power also takes issue with proposed section 3.2.1's economic scaling for exports. Union Power states that while both imports and exports provide for scaling generation on a *pro rata* basis, scaling for exports can be done on an economic basis to the extent economic data are available.³¹² Union Power asserts that, to the extent economic data are available for imports, section 3.2.1 should be revised to provide for economic scaling regarding imports.

301. Entergy responds to Union Power's and East Texas Cooperatives' request for clarification of the terms "*pro rata*" and "proportional," stating that proposed section 3.2.1's term "proportional" is not interchangeable with "*pro rata*." Entergy states that this is because the term "proportional" is describing an increase in dispatch not relative to the current level of dispatch (which would be a *pro rata* increase), but relative to "a calculated reserve capacity within the external control area."³¹³

302. Entergy also answers Union Power's request that proposed section 3.2.1 allow for the economic scaling of generation for imports, stating that the ICT will use customer-

³¹⁰ Union Power at 54.

³¹¹ East Texas Cooperatives at 7-8.

³¹² Union Power at 54.

³¹³ Entergy Answer at 64.

provided economic dispatch data to determine if a dispatch is feasible and, if it is not feasible, the ICT will request additional clarification from the customer.

ii. Commission Determination

303. We conditionally accept proposed section 3.2.1. We find that Entergy's explanation that the terms *pro rata*, proportional, and proportionally are not used interchangeably addresses Union Power's and East Texas Cooperatives' request for clarification. However, a description of the differences in the use of the three terms should be in the proposed section. Therefore, we direct Entergy, in a compliance filing to be submitted within 60 days of the date of this order, to clarify the proposed section's use of those terms. In addition, regarding Entergy's explanation that the ICT will use customer-provided economic dispatch data, it is not clear where this is in proposed section 3.2.1. Therefore, we direct Entergy to file, within 60 days of the date of this order, revised language providing that for imports the ICT will use customer-provided economic dispatch data if such data are provided, and, if it is not feasible, the ICT will request additional clarification from the customer.

j. Section 3.2.2.1: Simulating the Proposed Transfer/Requests to Designate New Network Resources/Network Resource (No Simultaneous Undesignation)

304. Proposed section 3.2.2.1 states that a request to designate a new network resource can be studied either individually or along with a simultaneous request to undesignate an existing network resource. Proposed section 3.2.2.1 addresses the load flow simulation process for studying a new network resource without a simultaneous request to undesignate an existing network resource. The proposed provision states that in order to differentiate between constraints used to serve the load and constraints caused by the resource being studied, the analysis simulates the transfer in terms of both generation-to-generation (from the network resource being studied to the customer's existing designated network resources) and generation-to-load (by reducing the network customer's load by the requested amount and economically dispatching the existing network resources to the new load level).

i. Responsive Pleadings

305. Union Power asserts that proposed section 3.2.2.1 is not clear as to how the results of the generation-to-generation and generation-to-load analyses are used in granting,

counter-offering, or denying service. Union Power argues that proposed section 3.2.2.1 should be revised to describe how the results for each analysis are used.³¹⁴

306. Entergy responds that proposed section 3.2.2.1 does not need to be revised because the system impact study information that Union Power refers to is in the system impact study report, the contents of which are governed by proposed section 5 of Attachment D.³¹⁵

ii. Commission Determination

307. We agree with Union Power that proposed section 3.2.2.1 should be revised to describe how the two analyses are used in responding to the request. While Entergy argues that the requested information is addressed in proposed section 5 of Attachment D, in the form of the list of information to be included in the system impact study report,³¹⁶ this does not meet the requirement we set out in the ICT Approval Order, that Entergy is to file all the criteria used to respond to transmission service requests. Filing a statement that the criteria will be included in the system impact study report does not comply with the requirement that all the criteria be filed. Therefore, we direct Entergy, within 60 days of the date of this order, to file a revised section 3.2.2.1 that describes how the two analyses are used in responding to transmission service requests.

k. Section 3.2.2.2: Network Resource (Simultaneous Designation)

308. Proposed section 3.2.2.2 addresses the load flow simulation process for studying a new network resource along with one or more simultaneous requests to undesignate an existing network resource. Proposed section 3.2.2.2 states that the newly designated network resource is studied individually and then, if upgrades are necessary to accommodate it, the requests are evaluated in a cluster. Proposed section 3.2.2.2 further provides that this allows the new network resource to be designated only to the extent that sufficient capacity rights associated with the undesignated network resource are surrendered on either a temporary or permanent basis. The proposed provision also sets

³¹⁴ Union Power at 55.

³¹⁵ Entergy Answer at 67.

³¹⁶ For example, proposed section 5.i states that the system impact study report will contain “the method used to simulate the transfer.”

forth that the interim procedures for processing undesignation requests and making any resulting capacity available to the market will be addressed in the TSR Business Practices, until implementation of a NAESB standard addressing such matters.

i. Responsive Pleadings

309. LMA Customers state that proposed section 3.2.2.2 should be modified to equalize the treatment of any difference in capacity resulting from the substitution of the new resource for the resource being undesignated.³¹⁷ LMA Customers argue that the proposed provision forces the customer to bear the risk of a shortfall when the designation and undesignation are evaluated together, but if the undesignation creates more available capacity than is required to designate the new resource, then Entergy is free to sell the extra capacity for its own account. LMA Customers argue that such a one-sided assignment of risks and benefits is patently unfair, but it is even more unfair if the customer had previously funded upgrades for the resource it now seeks to undesignate.

310. Arkansas Cities argue that a network customer should not lose any capacity rights when it undesignates one network resource and designates another network resource, because it is not changing anything except the supplier.³¹⁸ Arkansas Cities also argue that the provision should be revised to allow the customer to retain rights to any excess capacity to use with an additional new network resource, because a provision about modeling should not result in permanent effects on customers' transmission rights. Arkansas Cities also assert that proposed section 3.2.2.2 should be modified because it allows only one designation, whereas a customer should be able to submit multiple designations at the same time.³¹⁹

311. Entergy responds that proposed section 3.2.2.2's process for studying simultaneously submitted requests to designate one network resource and undesignate another network resource, and specifically the releasing of excess capacity to competing requests of higher priority, is required under Order No. 890.³²⁰ Entergy adds that the

³¹⁷ LMA Customers Protest and Comments at 40-41.

³¹⁸ Arkansas Cities Comments at 8-10.

³¹⁹ *Id.* at 10.

³²⁰ Entergy Answer at 65-67 & n.165 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1541; Order No. 890-B, 123 FERC ¶ 61,299 at P 207, 241; Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1041).

process is subject to standards being developed by NAESB.³²¹ However, Entergy asserts that LMA Customers are incorrect to claim that Entergy benefits from the proposed provision, because Entergy is indifferent as to which customer receives the capacity. Entergy states that the next customer in line, and not Entergy, benefits when transmission is freed up by a simultaneous designation and undesignation.³²²

ii. Commission Determination

312. We accept proposed section 3.2.2.2 without modification, except we direct Entergy to revise two references to section 30.2 of the Entergy OATT to instead refer to section 30.3 of the Entergy OATT. Proposed section 3.2.2.2 refers twice to section 30.2 of the Entergy OATT as requiring that the evaluation of concurrent designation and undesignation requests take into account requests of higher priority. However, the language referred to is actually in section 30.3 of the Entergy OATT.³²³

313. As for the substance of proposed section 3.2.2.2, we reject LMA Customers' and Arkansas Cities' arguments against it. Regarding LMA Customers' argument that the proposed process is unfair in that the "risk" of the cluster study results is all on the customer and no risk is on Entergy, and Entergy is free to sell the capacity for its own account, we find that this mischaracterizes the situation. We agree with Entergy that it is the next customer in the queue that benefits from the capacity made available by an undesignation; Entergy does not retain the extra capacity for its own account.

314. We also disagree with LMA Customers' and Arkansas Cities' assertions that the customer should have the chance to retain any surplus capacity produced by the simultaneous designation and undesignation. The surplus capacity is not released to the market until the customer "confirms" the undesignation. Allowing the customer to retain

³²¹ *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1543).

³²² *Id.*

³²³ Section 30.3 of the Entergy OATT (Termination of Network Resources) states in relevant part:

The evaluation of these related transmission service requests must take into account the termination of the network resources identified in (iii) above, as well as all competing transmission service requests of higher priority.

rights to the capacity without designation would be an inefficient means of allocating capacity.

315. Order No. 890 states that transmission providers considering designations and undesignations simultaneously must take into account “all competing requests of higher priority.”³²⁴ Likewise, Order No. 890-B states that a transmission provider’s consideration of concomitant designation and undesignation requests “will not alter the priority of the network customer . . . with regard to any ATC that may be made available by undesignating the network resource.”³²⁵ Under this principle, any capacity rights resulting from a simultaneous designation and undesignation can be released to the market, i.e., to the customer with the next highest priority, and not retained by the original customer once the customer confirms the undesignation.

316. Regarding LMA Customers’ claim that the release of the surplus capacity to higher priority customers is especially unfair to a customer who paid for the upgrade that created the capacity, we find that the capacity rights and financial rights of customers who paid for supplemental upgrades are governed by Attachment T to the Entergy OATT³²⁶ and are therefore beyond the scope of this proceeding. Nothing in proposed section 3.2.2.2 affects those rights. Therefore we find that the release to the market described in proposed section 3.2.2.2 is reasonable. Moreover, as Entergy states, the process is subject to the finalization of NAESB standards.

I. Section 3.2.4: Rollover Requests

317. Proposed section 3.2.4 provides the guidelines for transmission customers that are requesting their existing network (section 3.2.4.1), grandfathered (section 3.2.4.2), or point-to-point (section 3.2.4.3) transmission service to be rolled over. Specifically, proposed section 3.2.4 provides that in the situation of a rollover request or conversion of grandfathered service, undesignating a network resource and simultaneously designating a new network resource can require a new system impact study if the change substantially changes power flows. A study is performed to determine if the change causes a

³²⁴ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1541.

³²⁵ Order No. 890-B, 123 FERC ¶ 61,299 at P 189.

³²⁶ See, e.g., Attachment T (Recovery of New Facilities Costs And Planning Redispatch Costs For Long-Term Services), section 4 (Rights Associated With Supplemental Upgrades).

constraint on the system or an increase in power flows over a previously-identified constrained facility, and the change is at least a three percent transfer distribution factor over the constrained facility.

i. Responsive Pleadings

318. With respect to network service rollovers under proposed section 3.2.4.1, Union Power argues that focusing on the designation of additional or different resources or load other than that under an existing contract for service, although appropriate, is not enough. Union Power explains that there could be other scenarios that can cause the dispatch of generation to change.³²⁷ To eliminate the possibility that a system impact study may be skipped where otherwise needed, Union Power contends that proposed section 3.2.4.1 must be revised to provide for consideration of a change in operations that could result in a substantial change in power flows in connection with the rollover notwithstanding the other conditions are met that would waive the system impact study. Alternatively, Union Power states that proposed section 3.2.4.1 could be clarified to state that the trigger applies only where the same customers remain parties to a new Network Service Agreement with no change in resources, load, and operations.

319. Second, Union Power states that, in looking at whether changes in resources and/or load result in a substantial change in power flows, the system impact study is used to determine whether the change causes a constraint on the transmission system or an increase in power flows (relative to the power flows without the changed receipt of delivery point) over a “previously-identified constrained facility.” Union Power states

³²⁷ Union Power at 55-56. For example, Union Power explains that under a hypothetical scenario, if two entities are under a joint operating agreement and a single Network Service Agreement, and that joint operating agreement ends, each entity can individually seek to roll over service based on the same load and same resources. Union Power further explains that under proposed section 3.2.4.1, each of the entities may assert they are a customer seeking to roll over a Network Service Agreement and each would be designating a mutually exclusive subset of resources and separate load. Union Power asserts that the significant difference between the before and after is that after the rollover, the joint operating arrangements have been eliminated. Union Power states that with the elimination, the dispatch of the generation changes and as a result, proposed section 3.2.4.1 is overbroad in not requiring a system impact study because it relies on the designation of additional or different resources and loads where the focus should be on whether with the rollover there is a substantial change in power flows.

that proposed section 3.2.4.1 should be clarified to state the time frame in which a constrained facility was identified and the criteria used for determining whether a facility was constrained. Union Power, for example, asks if a facility is considered constrained if it is subject to a base case overload.

320. With respect to rollover requests for grandfathered service under proposed section 3.2.4.2, Union Power argues that a literal reading would create the same concern as is present with section 3.2.4.1: the transmission service post-rollover is very different operationally from the transmission service pre-rollover. Thus, Union Power maintains that like proposed section 3.2.4.1, proposed section 3.2.4.2 must be revised to consider whether there will be operational differences after the rollover that require a system impact study.

321. Arkansas Cities argue that the proposed provision should make clear that no additional study or upgrades are needed for a rollover of grandfathered service if designated resources and loads remain the same.³²⁸ Arkansas Cities maintain that the customer's current capacity should be "credited" to the customer as long as the customer's capacity requirements are not increasing, because the only change is from the customer's point of view, and there is no operational change to the transmission system. Arkansas Cities also takes issue with proposed section 3.2.4.2's provision that when a customer changes resources or loads, the customer's right to continue taking service may be affected if the change "substantially changes power flows." Arkansas Cities argues that the phrase "substantially changes power flows" must be further defined and narrowly construed.³²⁹

322. Entergy answers that the undesignation and designation process described in the proposed section complies with Order No. 890. Entergy also points to statements in Order No. 888, Order No. 888-A, and Order No. 890-B that if a rollover request contains new or additional resources or loads, then the customer's transmission rights may be affected.³³⁰ Entergy asserts that the propriety of this undesignation and designation

³²⁸ Arkansas Cities Comments at 11-12.

³²⁹ *Id.* at 12-13.

³³⁰ Entergy Answer at 68 (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs., Regulations Preambles January 1991-June 1996 ¶ 31,036, at 31,665 n.176

(continued...)

process was confirmed by the Commission in an order on a settlement agreement, in which the Commission addressed whether the system impact study process applied to renewal by a network customer, and required a change to the settlement based on the renewal modifying power flows.³³¹ Also, Entergy does not agree with Arkansas Cities' contention that proposed section 3.2.4.2 should be modified to allow grandfathered customers the ability to designate new or additional resources or loads without any study, if the change is only from the customer's point of view and does not increase the customer's capacity. Entergy argues that the new resources or loads, or new supplier, require study because the changes could produce substantial changes to power flows including the possibility of transmission constraints that could affect the customer's rights to continue taking service.

323. In response to Union Power's first issue with proposed section 3.2.4.1, i.e., the hypothetical situation whereby a joint operating agreement ends, Entergy states that it would be willing to amend proposed section 3.2.4.1 to address the specific situation that Union Power presents. Entergy does not respond to Union Power's second issue with proposed section 3.2.4.1 regarding the identification of a previously-identified constrained facility.

324. The ICT answers that a network customer's change to its load or its resources can produce a different impact on the system, so a new system impact study is needed to determine if upgrades are required.³³² The ICT states that, like any other request for new service, a system impact study must be performed to determine whether any system upgrades are necessary in order to grant the service.

(1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,198 n.52 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002); Order No. 890-B, 123 FERC ¶ 61,299 at P 148, 150).

³³¹ *Id.* at 69 (citing *Entergy Services, Inc.*, 122 FERC ¶ 61,232 (2008) (approving a settlement based on the rollover request being for identical service)).

³³² ICT Answer at 13.

ii. **Commission Determination**

325. We accept proposed sections 3.2.4.1 and 3.2.4.2 with two modifications, as discussed below. Despite Arkansas Cities' assertions, we find that changing a designated network resource can produce different impacts on the system, so it is reasonable to require a new system impact study to determine whether the change substantially changes power flows. As Entergy notes, we stated in Order Nos. 888,³³³ 888-A,³³⁴ and 890-B,³³⁵ that the change in a designated network resource is part of a renewal of service does not remove the possibility that an upgrade could be required. This reasoning also applies to requests to roll over grandfathered transmission service. We find it reasonable that a grandfathered agreement switching to network service in which the resources and load remain the same does not require a new system impact study, but if the resources or load change, or any other factor changes that could produce substantial changes to power flows, then a system impact study may be necessary.

326. Also, we reject Arkansas Cities' claim that the phrase "substantially change power flows" needs to be defined. We find that proposed sections 3.2.4.1 and 3.2.4.2 provide specific guidance as to the criteria by which Entergy will determine if a power flow change is substantial, including if the study finds the transfer distribution factor changes by at least three percent.

327. The first modification we require follows from Entergy's commitment to revise section 3.2.4.1 to reflect Union Power's concerns regarding the termination of a joint operating agreement that results in two separate entities seeking to become network customers with a subset of the previously designated resources and load. We note that this concern also pertains to grandfathered service under proposed section 3.2.4.2. Accordingly, we direct Entergy, within 60 days of the date of this order, to revise proposed sections 3.2.4.1 and 3.2.4.2 to address the scenario that Union Power presents, and any similar scenarios that may cause substantial changes in operations or power flows but that are not addressed by the proposed provision.

328. The second modification we require is based on Union Power's concern that proposed section 3.2.4.1 is not clear regarding when a "previously-identified" facility is

³³³ Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,665 n.176.

³³⁴ Order No. 890-A, FERC Stats. & Regs. ¶ 31,241 at P 666, n.264

³³⁵ Order No. 890-B, 123 FERC ¶ 61,299 at P 148, 150.

identified as constrained and what the criteria are for determining whether a facility is constrained. We agree that clarification is needed and, accordingly, direct Entergy, within 60 days of the date of this order, to revise proposed sections 3.2.4.1 and 3.2.4.2.

m. **Section 3.3: Evaluating Thermal Limits on the Proposed Transfer**

329. Proposed section 3.3 states that system impact studies will use a “bus-to-bus” method³³⁶ to evaluate thermal limits on a customer’s proposed transfer. Entergy explains that the bus-to-bus method is appropriate for system impact studies even though the bus-to-bus method is less refined and detailed than the breaker-to-breaker method³³⁷ used in reliability studies and facilities studies.³³⁸

i. **Responsive Pleadings**

330. Union Power argues that proposed section 3.3 should be revised to provide that the breaker-to-breaker method rather than the bus-to-bus method will be used in both system impact studies and facilities studies.³³⁹ Union Power states that the bus-to-bus method is likely to identify more constraints, giving “anomalous results” that will not be corrected until the facilities study.

331. Entergy answers that the bus-to-bus method, while less refined, is sufficient for the purposes of the system impact study. Entergy explains that the goal of the bus-to-bus method is to provide a higher-level analysis of the upgrades needed and their cost, so the customer can then decide whether to proceed to the facilities study, where a more detailed, extensive breaker-to-breaker method is used. Entergy also states that breaker-to-breaker analysis is too detailed for system impact studies.³⁴⁰

³³⁶ The bus-to-bus method evaluates thermal limits without taking into account the status (open or closed) of the breakers that are part of each bus.

³³⁷ The breaker-to-breaker method evaluates thermal limits in light of whether the breakers are open or closed.

³³⁸ Entergy Transmittal Letter, Exhibit 5 at 79, Response to Comment 330.

³³⁹ Union Power at 45.

³⁴⁰ Entergy Answer at 58.

332. The ICT agrees that a breaker-to-breaker analysis is too detailed for system impact studies, which are intended only to provide an initial analysis of the request's impact and which must be completed under the Commission-mandated deadlines.³⁴¹ The ICT states that a bus-to-bus analysis considers only the thermal limits on the system and provides a high level estimate of the costs of any required upgrades, which is enough information for the customer to decide whether to pursue the request. The ICT asserts that breaker-to-breaker analysis considers thermal and voltage violations and provides detailed cost estimates.

ii. Commission Determination

333. We accept proposed section 3.3 without modification. A bus-to-bus analysis is adequate for system impact studies and allows the system impact study process to be completed quickly. Union Power provides no support for its claim that a bus-to-bus analysis produces “more constraints” and “anomalous” results. Therefore, we will not direct that the proposal be modified to provide for breaker-to-breaker analysis in system impact studies.

n. Section 4.2.2: Evaluating Conditional Firm Service Options/Conditional Firm Service Without Upgrades

334. Proposed section 4.2 describes the system impact study process for evaluating requests for conditional firm service, under which long-term point-to-point service is provided subject to curtailment conditions during a certain number of hours each year. Proposed section 4.2.2 states that Entergy, in conjunction with the ICT, has the periodic right to reassess the conditions or hours under which a conditional service can be curtailed. Proposed section 4.2.2 states that the reassessment can occur every two years during the term of service or during the evaluation of a request to roll over the service, and that the reassessment may not occur during intervening periods.

i. Responsive Pleadings

335. LMA Customers argue that proposed section 4.2.2 should be modified to delete the statement that the reassessment of the conditions or hours of curtailment can occur

³⁴¹ ICT Answer at 21-22.

during the evaluation of a rollover request, because Order No. 890 expressly prohibits reassessments during intervening periods other than every two years.³⁴²

ii. Commission Determination

336. We accept proposed provision section 4.2.2 without modification. Order No. 890 states that the transmission provider shall have the “periodic right” to reassess the conditions or hours under which the customer’s conditional service can be curtailed, and that this reassessment “may occur every two years during the term of the service.” Order No. 890 further states that the reassessment cannot occur in intervening periods.³⁴³ Order No. 890 does not specify whether a reassessment can occur for a rollover request at the end of an original term of service. However, applying our underlying reasoning in Order No. 890 to the rollover request situation, we conclude that the end of the original term of service is not an “intervening period” because it is at the end of the original term. Rather, the end of the original term fits under the transmission provider’s right to reassess on a “periodic” basis.³⁴⁴ Thus the proposed provision does not give Entergy any right to reassess, beyond that provided by Order No. 890.

o. Section 4.3: Evaluating Redispatch Options

337. Proposed section 4.3 provides that at the request of the customer, the system impact study for a request for long-term firm point-to-point transmission service can contain an evaluation of redispatch options for alleviating thermal overloads associated with the proposed transfer.

³⁴² LMA Customers Protest and Comments at 42 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 959).

³⁴³ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 959.

³⁴⁴ In addition, we note a typographical error: there are two proposed sections 4.2.1, the second of which (titled Service Agreements) is located after proposed section 4.2.2. We assume that the second should instead be numbered section 4.2.3. We direct Entergy to correct this error in the filing to be made within 60 days of the date of this order.

i. Responsive Pleadings

338. East Texas Cooperatives argue that proposed section 4.3 should be revised to state that for redispatch options, the system impact study can consider voltage limits along with thermal limits.³⁴⁵ East Texas Cooperatives argue that voltage issues should be able to be considered in the system impact study because they can cause denials of transmission service requests, and because they can be addressed through redispatch.

339. Entergy argues that East Texas Cooperatives' request should be rejected.³⁴⁶ Entergy explains that proposed section 3.3 of Attachment D (Evaluating Thermal Limits on the Proposed Transfer) clearly states that in evaluating a request a system impact study evaluates the proposed transfer to determine whether it is consistent with the thermal limits established in the relevant reliability criteria, including NERC standards and SERC reliability criteria, and that voltage issues are analyzed as part of the facilities study process.

ii. Commission Determination

340. We accept proposed section 4.3 without modification. We reject East Texas Cooperatives' request that the proposed section be revised to provide for voltage issues along with thermal limits. It is reasonable to wait until the facilities study stage to evaluate redispatch options to address voltage issues. As Entergy and the ICT stated above in defense of the system impact study only using a bus-to-bus analysis, the system impact study provides a high-level analysis and must be completed according to set timelines. We find it reasonable to leave more extensive analyses, including redispatch to address voltage issues, for the facilities study.

p. Section 4.4: Operating Guides and Automatic Devices

341. Proposed section 4.4 states that manual operating guides are not used in the evaluation of requests, and that only automatic operating guides that have been evaluated for reliability impact, level of risk and effectiveness are used.

³⁴⁵ East Texas Cooperatives at 9.

³⁴⁶ Entergy Answer at 70.

i. Responsive Pleadings

342. East Texas Cooperatives argue that proposed section 4.4 should be revised to allow for requests to be granted based on manual operating guides, because not allowing requests to be granted on the basis of manual operating guides is arbitrary and unjust and unreasonable. East Texas Cooperatives assert that other transmission providers in the Eastern Interconnection grant service using manual operating guides, and there is no good reason that similar transmission operating directives cannot be developed for Entergy's system.³⁴⁷

343. Entergy answers that East Texas Cooperatives' argument should be denied because the ICT rejected the use of manual operating guides in evaluating requests, on the basis that manual operating guides should be used only to maintain reliability during a real-time emergency. Entergy states that it agrees with the ICT's decision.³⁴⁸

ii. Commission Determination

344. We accept the proposed revisions without modification. We reject East Texas Cooperatives' request that the proposed section be modified to allow for the granting of requests based on the use of manual operating guides. As Entergy points out, the ICT made the determination not to use manual operating guides under the principle that manual operating guides should be used only to maintain reliability in real-time emergencies and not as a basis for granting transmission service. In the ICT Opinion cited by Entergy, the ICT states:

Operating guides, switching schemes, and other reliability measures that are incorporated into the Base Plan should not be used to sell new transmission service because the reliability assessment is necessarily limited to determining system needs to maintain reliability of the current system not create new access to the transmission system. . . .

The ICT agrees that it is reasonable to incorporate automatic switching operating guides that require no manual intervention into the Base Case model that is used to

³⁴⁷ East Texas Cooperatives at 9-10.

³⁴⁸ Entergy Answer at 71 (quoting from Transmittal Letter, Exhibit 11 (ICT Opinion on LTTIWG Base Case Contingency Overloads Task Force Recommendation) at 3 (ICT Opinion)).

evaluate transmission service. However, the ICT disagrees with the use of manual switching operating guides to sell long term transmission service and generator interconnection service. The base case model used to sell transmission service should not include mitigation plans that are strictly intended for reliability purposes and that require some amount of manual intervention.³⁴⁹

345. We find the ICT's reasoning to be reasonable.

q. Section 5: The System Impact Study Report

346. Proposed section 5 describes the content of the system impact study report. Proposed section 5 provides that the report will state, among other things, the method used to simulate the proposed transfer, whether there was sufficient ATC to accept the request without upgrades, planning redispatch or conditional firm service, and how much ATC was available. In addition, proposed section 5 states that if the system impact study identifies the need for additional upgrades, or the customer requests that conditional firm and planning redispatch be evaluated, the report will provide the types of information required under Entergy's OATT, sections 19.3 and 32.3, which set out the system impact study procedures for point-to-point service requests and network service requests, respectively.

347. Entergy explains that in the stakeholder process certain stakeholders requested that additional information be included in the system impact study report.³⁵⁰ Entergy states that it rejected most such requests because much of the requested information is available outside of the system impact study report, and because including the information in the report would make it difficult to meet the study deadline of 60 days. Entergy adds that the availability of information outside of the system impact study report is addressed in proposed section 8 of Attachment D.³⁵¹

i. Responsive Pleadings

348. Union Power argues that the system impact study report should also include a high level planning cost estimate associated with any required upgrades, to help the customer

³⁴⁹ ICT Opinion at 3-4.

³⁵⁰ Entergy Transmittal Letter, Exhibit 1 at 40-41.

³⁵¹ *Id.*

determine whether to proceed with a facilities study.³⁵² Union Power also argues that the system impact study report should identify ATC values in positive and negative amounts. Union Power states that where the system impact study determines that the full amount of the request cannot be accommodated, the system impact study report should also set forth the: (1) pre-transfer flow on the limiting element; (2) post-transfer flow on the limiting element; (3) response factor on the limiting element; and (4) rating on the limiting element. Union Power argues that this information is particularly appropriate to be in the report because it is the type of information relevant to determining whether a base case overload exists. Union Power points to proposed section 6.2 (Evaluating the Scope of Necessary Upgrades) which states that necessary upgrades are determined “without taking into account the amount of loading in excess of the applicable thermal limit that existed prior to simulating the proposed transfer.”

349. Arkansas Cities argue that the customer should receive all the information used to evaluate its long-term service request, and that Entergy has not provided sufficient guidance or detail for Arkansas Cities to be able to find where this issue has been addressed in either Attachment D or Entergy’s business practices.

350. The ICT answers that Union Power’s request that more types of information be included in the system impact study report than are provided for in proposed section 5 should be rejected.³⁵³ The ICT argues that certain of the requested data are available to customers upon request, and the other types of requested data are not useful enough to customers to justify the resource burden associated with having to provide them. More generally, the ICT states that the system impact study is designed to give the customer enough information to decide whether to pursue a request without the time or costs of the more detailed facilities study. The ICT notes that the validity of the system impact study approach is demonstrated by the fact that the current volume of system impact studies being conducted by the ICT is twice the current volume of facilities studies.³⁵⁴ The ICT also asserts that the stakeholder process is the appropriate setting for addressing issues of data availability.

³⁵² Union Power at 57.

³⁵³ ICT Answer at 21-22.

³⁵⁴ *Id.* (citing ICT’s First Quarterly Performance Report for 2009, Docket No. ER05-1065, at 36 (filed Mar. 31, 2009)).

ii. **Commission Determination**

351. We accept proposed section 5 without modification. Entergy's OATT section 19.3 and 32.3 govern the information that is to be included in system impact studies.³⁵⁵ Proposed section 5 complies with these requirements in that it states that if the system impact study identifies that upgrades are needed or at the customer's request, the system impact study will provide the types of information required in OATT sections 19.3 and 32.3. We decline to impose any requirements for the system impact study beyond the detailed requirements in Entergy's OATT, particularly in light of the administrative burdens that would potentially prevent the system impact studies from being completed within the deadlines.

r. **Section 6.2: Facilities Studies/Evaluating the Scope of Necessary Upgrades**

352. Proposed section 6 describes facilities studies, which are done at the request of a customer if the system impact study finds that additional upgrades are necessary to accommodate the customer's request. Proposed section 6.2 provides that a facilities study will evaluate the scope of the upgrades necessary to accommodate the request by examining such factors as thermal limits and voltage limits.

i. **Responsive Pleadings**

353. Union Power argues that proposed section 6.2 should be modified to address a situation in which a system impact study and a facilities study identify different upgrades for the same request.³⁵⁶ Union Power states that to the extent a facilities study results in a material change in the transmission upgrades identified in the system impact study, the facilities study should address the basis for the change. Union Power quotes Entergy's

³⁵⁵ Section 19.3 of Entergy's OATT governs system impact studies for point-to-point service requests, and section 32.3 governs system impact studies for network service requests. Sections 19.3 and 32.3 both require that the system impact study must identify: (1) any system constraints, with specificity by transmission element or flowgate, if requested by the customer; (2) redispatch options including an estimate of the cost of redispatch; (3) conditional curtailment options (under section 19.3) or automatic curtailment devices (under section 32.3); and (4) additional direct assignment facilities or network upgrades needed to provide the requested service.

³⁵⁶ Union Power at 58-59.

response to this issue when Union Power raised it in the stakeholder process, which was that a facilities study need not address differences with the system impact study because the two studies have different purposes and use different information, and a concerned customer can ask the ICT for information on the differences.³⁵⁷ Union Power disagrees with Entergy's response, arguing that while the facilities study is a refinement of the system impact study, there should be consistency between the two, as the system impact study serves as the basis upon which a customer commits to a facilities study. Union Power asserts that addressing the basis for any change in the scope of upgrades is necessary to confirm the relative accuracy of the underlying system impact study. Union Power states that if material changes are the norm, these comparisons can be used to evaluate the need for modifications in the procedure used for system impact studies.³⁵⁸

354. As noted above regarding the system impact study report, Arkansas Cities believe that the customer should receive all the information used to evaluate long-term service requests.³⁵⁹

355. Regarding Union Power's claim that comparing the results of the two studies is needed in order to find any needed changes to system impact study procedures, Entergy states that Entergy is subject to a performance metric related to its studies. Entergy states that it must balance customers' need for information with the requirements to complete studies within identified timeframes. Entergy also points out that the Commission has not required other transmission providers to provide the type of requested information.

356. The ICT answers that these requests should be rejected because the specified information to be in the facilities study report is sufficient in itself and customers can extract additional information from the data inputs and models used to perform the studies, which customers can request from the ICT.³⁶⁰ The ICT maintains that certain requested data are not useful enough to customers to justify the resource burden

³⁵⁷ *Id.* (quoting Entergy Transmittal Letter, Exhibit 5 at 77, Entergy's Response to Comment 325).

³⁵⁸ *Id.*

³⁵⁹ Arkansas Cities Comments at 7-8.

³⁶⁰ Entergy Answer at 71-72.

associated with having to provide them.³⁶¹ The ICT also maintains that the stakeholder process is an appropriate setting for addressing issues of data availability.

ii. Commission Determination

357. We accept the proposed revisions without modification. We reject Union Power's request that the facilities study explain any differences between the upgrades identified in the system impact study and the facilities study. As Entergy explained in its response during the stakeholder process, the two types of studies have different purposes and use different information, so differences will occur. As the ICT states, the customer receives the information that underlies both the facilities study and the system impact study, and the customer can conduct its own comparison. Requiring Entergy (or the ICT) to provide a comparison and explanation as part of the facilities study would slow the facilities study process unduly. If a customer finds flaws in the performance of a system impact study, then the customer can bring the flaws to the attention of Entergy, the ICT, and/or the Commission.

s. Section 8: System Impact and Facilities Study Data

358. Proposed section 8 describes the types of system impact study and facilities study data that are either posted on OASIS or supplied upon request. Proposed section 8 states that the TSR Business Practices list the types of data that are available, the method by which each type is available (i.e., posted on OASIS or available on request), and any procedural or confidentiality requirements. Entergy notes that some of the data underlying the studies and the processes will not be available to customers.³⁶²

i. Responsive Pleadings

359. Union Power argues that although Entergy indicated during the stakeholder process that power flow study models used for system impact studies and facilities studies can be requested, it is not clear from proposed section 8 that power flow models are available. Union Power contends that proposed section 8 should be revised to specify

³⁶¹ ICT Answer at 30.

³⁶² Entergy Transmittal Letter, Exhibit 1 at 41.

that power flow models used in system impact studies and facilities studies are available.³⁶³

360. Entergy and the ICT both answer that power flow models used in system impact studies and facilities studies are provided on request.³⁶⁴ Entergy states that the full power flow models are provided pursuant to section 37.6(b)(2)(iii) of the Commission's regulations, so no additional provision is needed in proposed section 8.³⁶⁵ The ICT states that the Commission should decline stakeholders' requests for additional data and reporting associated with system impact studies and facilities studies. The ICT adds that power flow models are available upon request by the customer.

ii. Commission Determination

361. The Commission will accept proposed section 8 without modification. Entergy and the ICT both state that the full power flow models underlying the studies are provided on request, and, as Entergy states, the power flow models are provided pursuant to section 37.6(b)(2)(iii) of the Commission's regulations, 18 C.F.R. § 37.6(b)(2)(iii). Therefore, no additional revisions to section 8 are required.

2.4 Attachment E (Transmission Service Request Criteria)

362. Attachment E includes the transmission service criteria used to process transmission service requests such as the procedures used for the designation of network resources as well as other commercial practices that are not used to evaluate transmission

³⁶³ Union Power at 59-60 (citing Entergy Transmittal Letter, Exhibit 5 at 75, Entergy's Response to Comment 322).

³⁶⁴ Entergy Answer at 41, ICT Answer at 30.

³⁶⁵ Entergy Answer at 41. Section 37.6(b)(2)(iii), 18 CFR § 37.6(b)(2)(iii) (2011), provides in relevant part:

37.6 Information to be posted on the OASIS

(2) *Calculation methods, availability of information, and requests.*

(iii) System planning studies, facilities studies, and specific network impact studies performed for customers . . . are to be made publicly available in electronic form on request.

service requests such as creditworthiness. The *pro forma* OATT contains no equivalent to Entergy's proposed Attachment E.

a. **Section 3: Procedures for Loss Compensation Service**

363. Proposed section 3 states that capacity and energy losses occur when electricity is delivered across transmission facilities, and customers are required to arrange to compensate for the losses. Proposed section 3 states that the "loss factor" that is used to calculate the amount of capacity and energy that the customer must compensate for is 1.03 (i.e., a customer must submit 103 megawatts for a 100 megawatt delivery). Under proposed section 3.iv, the amount of loss for which a point-to-point transmission service customer is responsible is calculated by taking the amount of energy (in megawatts) scheduled for delivery, multiplying it by the loss factor, and rounding it up to the next whole megawatt.

i. **Responsive Pleadings**

364. Arkansas Cities argue that proposed section 3 should be modified so that the loss amount is not always rounded up to the next whole megawatt, but instead follows basic arithmetic rounding principles to determine whether to round up or down in each case.³⁶⁶

365. Entergy asserts that rounding up sometimes and down other times would prevent Entergy from collecting the total appropriate loss amount, because any time Entergy rounded down, Entergy would collect less than the required loss amount.³⁶⁷ In addition, Entergy argues that the proposal could allow customers to avoid providing loss compensation by submitting multiple identical tags such that they would not be required to provide losses.³⁶⁸ Entergy also states that losses can only be provided in whole megawatts.

³⁶⁶ Arkansas Cities Comments at 13-14.

³⁶⁷ Entergy Answer at 84-85.

³⁶⁸ Entergy gives the example of a customer who would otherwise submit one 103 megawatt tag with 100 megawatts delivered (i.e., providing 3 megawatts of loss compensation), instead submitting six 16 megawatt tags and one 4 megawatt tag (totaling 100 megawatts). The loss factor calculation for each of the six 16 megawatt tags would be 16.48 (16 x 1.03), and for the 4 megawatt tag would be 4.12, so when rounded down to the nearest megawatt, no loss compensation would be required.

ii. **Commission Determination**

366. We find that Entergy's rounding methodology will result in an over-collection of losses. Thus, we direct Entergy, within 60 days of the date of this order, to revise section 3 of Attachment E to provide for: (1) the exact amount of transmission losses, (2) rounding up and down of transmission losses, following basic arithmetic rounding principles, or (3) some other true-up mechanism that addresses the problem.

b. **Section 7.4 Deadlines for Submitting Network Resource Information and Attestations**

367. Proposed section 7.4 implements the requirements regarding network resource designations in sections 29.2 and 30.2 of the Entergy OATT. Section 29.2(viii) of the Entergy OATT requires network customers to submit an attestation that the network resources designated by the customer are either committed by executed contract to supply the energy, or are committed by an unexecuted contract where execution of the contract is contingent on transmission being available. Proposed section 7.4 states that the customer is to submit the resource designation or undesignation information and attestation required under sections 29.2(v) and (viii) and section 30.2 of the Entergy OATT at the time the customer submits its transmission service request.

368. Entergy explains that requiring the customer to submit its attestation at the time the customer submits its request is required under sections 29.2(viii) and 30.2 of the OATT, and under Order No. 890-B.³⁶⁹ Entergy notes that requiring the attestation at the

³⁶⁹ Entergy Transmittal Letter, Exhibit 1 at 52 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1531, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 909, Order No. 890-B, 123 FERC ¶ 61,299 at P 182). Entergy asserts that Order No. 890-B "created some ambiguity on this issue," but that Entergy is interpreting it as requiring the attestation at the time of the request. Order No. 890-B, 123 FERC ¶ 61,299 at P 182 states:

The Commission grants rehearing to more accurately state the requirement to provide an attestation supporting the designation of network resources pursuant to sections 29.2(viii) and 30.2 of the pro forma OATT. . . . In Order No. 890, the Commission adopted the attestation requirement We affirm this requirement, consistent with the network customer's obligations under section 30.7, and grant rehearing of the Commission's statements in this proceeding indicating that the

(continued...)

time of the initial request is justified because, first, sections 29.2 and 30.2 of the OATT include the attestation as a requirement for a request to be considered complete. Second, pre-emption of requests occurs at the time the request is submitted, so requiring the attestation to be submitted at the time of the request could prevent point-to-point transmission customers' requests being pre-empted by requests that ultimately do not satisfy the attestation requirement or ultimately are not confirmed.³⁷⁰ Entergy adds that while requiring network customers to submit the attestation at the time of the request could limit network customers' supply choices and give them insufficient time to complete their supply deals, these concerns are addressed by proposed sections 7.5.3 and 7.6, which define what qualifies as an executed contract more broadly than previous versions of the provision, and which give a customer additional time to execute a contract after the customer confirms the request.³⁷¹

i. Responsive Pleadings

369. Union Power supports proposed section 7.4's attestation requirement because it can prevent short-term firm point-to-point transmission service reservations from being pre-empted by speculative network resources that are later withdrawn.³⁷²

370. LMA Customers argue that having to submit an attestation at the time of the request places an unreasonable burden on network customers, because to satisfy the requirement, network customers must commit to purchasing a particular resource before transmission to that resource has been studied by Entergy.³⁷³ LMA Customers argue that this puts network customers in an untenable bargaining position when attempting to find new power supplies. LMA Customers argue that customers must not be forced to lock into particular supply arrangements before they have full knowledge not only as to the availability of transmission service but also as to whether they will be assigned the costs of required upgrades and, if so, the magnitude of those costs.

attestation can instead be submitted at the time a resource designation is confirmed, rather than requested.

³⁷⁰ *Id.* at 53.

³⁷¹ *Id.* at 54-55 (citing proposed sections 7.5.3 and 7.6 of Attachment E).

³⁷² Union Power at 61.

³⁷³ LMA Customers Protest and Comments at 43-44.

371. The ICT responds that it supports proposed section 7's overall approach to designating network resources, including proposed section 7.4's attestation requirement timeline. The ICT notes that the tariff modifications in this proceeding ultimately proposed by Entergy, on balance, resulted in significantly improved transparency and processes for AFC calculations, study procedures, and transmission service request evaluation. The ICT states that while the approach may not strictly follow the Commission's guidance in Order No. 890, it produces a reasonable balancing of customers' interests, and it is operationally feasible, and should therefore be accepted under the "comparable or superior to" standard of Order No. 890.³⁷⁴

ii. Commission Determination

372. We accept proposed section 7.4 without modification. While we acknowledge LMA Customers' concern that having to submit an attestation at the time of the request could force network customers to lock into a supply arrangement before it has been studied for availability and/or the need for upgrades, we concluded in Order No. 890-B that the requirement in sections 29.2 and 30.2 of the OATT that the attestation be submitted as part of the application/request was appropriate.³⁷⁵ We found that requests need to be submitted with some demonstration of intent to use the requested service. We find here that proposed section 7.4, with its allowance for an unexecuted contract where execution of the contract is contingent on transmission being available, strikes a reasonable balance between the contracting flexibility desired by network customers and the prevention of "speculative" requests as desired by short-term point-to-point customers. Specifically, the concern that a network customer will have to commit to a contract before it knows if it can obtain the necessary transmission is balanced by proposed section 7.4 referring to section 29.2(viii) of the Entergy OATT, which is consistent with the Order No. 890 OATT in providing that the customer can attest based on a purchase contract that is contingent on the availability of transmission. Therefore, we accept the proposed section without modification.

c. Section 7.5: Transmission Arrangements for Off-System Resources

373. Proposed section 7.5 implements the requirement in section 29.2(v) of the Entergy OATT that a customer designating an off-system resource as a network resource provide

³⁷⁴ ICT Answer at 13-15.

³⁷⁵ Order No. 890-B, 123 FERC ¶ 61,299 at P 169-171.

a description of the customer's transmission arrangements on the external transmission systems. Proposed section 7.5.1 and 7.5.2 provide that to describe the transmission arrangements on the external system the customer must submit OASIS numbers corresponding to the relevant transmission service requests pending on the external transmission system. Proposed section 7.5.3 provides that at the time the customer submits or confirms the designation request, the OASIS numbers need not correspond to firm service reservations, but prior to the commencement of service the customer must have reservations sufficient to support the request. Proposed section 7.5.5 states that if the OASIS numbers provided by the customer do not result in reservations sufficient to create a firm service path on the external transmission systems, the customer must notify the ICT by the earlier of one day prior to the commencement of service or the next business day following: (1) the customer's receipt of notice that any of the off-system requests have been rejected; or (2) the customer's failure to confirm any of the off-system requests by the applicable confirmation deadline.

374. Entergy explains that proposed section 7.5 provides network customers additional flexibility when securing off-system transmission arrangements necessary for off-system designated network resources by providing that OASIS numbers that do not necessarily correspond to reservations meet the requirement in section 29.2 of Entergy's OATT for what must be submitted at the time the customer submits its request to designate the off-system resource.³⁷⁶ Entergy states that the request for transmission on an external system may be in "accepted," "counter-offered," or "study" mode. Entergy states, as regarding proposed section 7.4 above, that the added flexibility for network customers in proposed section 7.5 is meant to offset the flexibility taken away by proposed section 7.4's requirement that network customers submit the attestation at the time of the request rather than at the time of confirmation of the request.

i. Responsive Pleadings

375. Union Power argues that proposed section 7.5 gives network customers more flexibility than is allowed under Order No. 890 and could significantly disrupt access to transmission service.³⁷⁷ Union Power states that proposed section 7.5.3's provision that a customer can submit OASIS numbers that do not necessarily correspond to firm reservations violates Order No. 890's requirement that a network customer provide a

³⁷⁶ Entergy Transmittal Letter, Exhibit 1 at 55.

³⁷⁷ Union Power at 60-65.

description of the transmission arrangements on the external systems for each off-system network resource at the time of the designation request. Union Power asserts that under section 29.2(v) of Entergy's OATT, once the attestation is submitted, an unexecuted contract may be contingent only on the grant of network service for the network resource. Union Power contends that, in contrast, Entergy's proposal not only has added off-system transmission as an allowable contingency to execution of a required contract, but it also allows the network customer to withdraw its service as late as the day prior to service commencing. Union Power notes that under the proposed provisions the network customer can withdraw its request with no consequences, but the conditional short-term firm point-to-point transmission customer's service that was displaced by the network customer's resource designation request is not reinstated and may be taken up by subsequent requests.³⁷⁸

376. Union Power argues that by giving network customers this greater flexibility than is allowed under Order No. 890, Entergy has created the opportunity for more speculative network resource designations than existed when the attestation was required to be provided at the time of confirmation.

377. Union Power argues that the proposed provisions should not allow the attestation requirement to be met by a request for transmission on an external system that is in counter-offered or study mode. Union Power states that under the attestation requirement in section 29.2(viii) of the Entergy OATT, the only condition upon which execution of a contract can be contingent is the availability of network service on Entergy's system. Union Power thus argues that only a request to an external system that is accepted or confirmed can qualify as transmission service sufficient to make the required attestation. Union Power also argues that proposed section 7.5.3 violates the attestation requirement in section 29.2(viii) by stating that the OASIS numbers submitted at the point of the request need not correspond to the reservations used to serve the resource.

378. LMA Customers object to proposed section 7.5.5's requirement that a customer notify the ICT of a change in circumstances (i.e., if the OASIS numbers do not result in a confirmed firm path) no later than the earlier of one day prior to the commencement of service, or the next business day after learning of the changed circumstance.³⁷⁹ LMA Customers argue that one business day may be insufficient time to investigate the

³⁷⁸ *Id.* at 63, n.216.

³⁷⁹ LMA Customers Protest and Comments at 44.

problem with the reservation. LMA Customers therefore assert that the proposed section should be revised to give network customers three business days. LMA Customers take issue with Entergy's response in the stakeholder process that requiring network customers to provide notice of a change in circumstances within one business day quickly frees up capacity for other customers, thereby balancing the interests of network customers and point-to-point transmission customers.³⁸⁰ LMA Customers contend that allowing network customers three days to provide such notice produces a better balance because it gives network customers a more realistic timeframe in which to provide the required notice.

379. Entergy responds that Union Power's arguments are in error.³⁸¹ Entergy states that proposed section 7.5's provisions are not intended to match Order No. 890's requirements but rather are meant to be consistent with or superior to them. Entergy argues that proposed section 7.5, when taken together with proposed sections 7.4 and 7.6, balance customers' interests, "more closely reflect the commercial practices of buying and selling capacity in energy markets," and "provide added flexibility, speed, and security" to network customers' and load-serving entities' wholesale power transactions.

380. As noted above, the ICT supports proposed section 7's overall approach, including proposed section 7.5, because the approach is a reasonable balance of customers' interests and is operationally feasible, and thus should be accepted as consistent with or superior to the Commission's guidance in Order No. 890.³⁸²

ii. Commission Determination

381. We accept proposed section 7.5 without modification and reject Union Power's and LMA Customers' requests that the proposed provision be modified. Proposed section 7.5 describes the information that satisfies the attestation requirement in section 29.2(v) of Entergy's OATT. Section 29.2 of Entergy's OATT states that a completed application for network service shall include a description of network resources, and section 29.2(v) of the Entergy OATT specifies that for each off-system network resource, such description "shall include: . . . Transmission arrangements on the external

³⁸⁰ *Id.* (citing Entergy Transmittal Letter, Exhibit 7 at 14 (Comment No. 345)).

³⁸¹ Entergy Answer at 76-82.

³⁸² ICT Answer at 13-15.

transmission system(s).” Section 29.2(v) imposes no further requirements on the transmission arrangements on the external system.

382. Proposed sections 7.5.1 and 7.5.2 of Attachment E implement section 29.2(v)’s requirement that the customer provide a description of transmission arrangements on the external system, stating that the requirement is satisfied by OASIS numbers that represent sufficient transmission to serve the resource. Proposed section 7.5.3 states that these OASIS numbers need not correspond to reservations at the time the request is submitted. Union Power contends that the proposed provisions violate the requirement in section 29.2(viii) that the attestation must be based on executed contracts or contracts for which the execution is contingent on the availability of transmission service under Entergy’s OATT.

383. We disagree with Union Power’s argument regarding the attestation requirements in section 29.2(v) and section 29.2(viii) of the Entergy OATT. Section 29.2(v) merely requires that the customer describe transmission arrangements on external systems. Section 29.2(viii) provides that the power purchase contract must be executed, or executed contingent on the availability of network service on Entergy’s system. A customer could have an executed power contract, and thus satisfy section 29.2(viii) of the Entergy OATT, and describe transmission arrangements using OASIS numbers and thus satisfy section 29.2(v). Therefore, the proposed attestation requirement does not violate section 29.2 of the Entergy OATT.

384. Order No. 890 did not impose requirements on the arrangements on the external system beyond that the customer describe them, and Order No. 890 expressly allowed for the use of OASIS numbers in describing them.³⁸³ Thus the proposed provisions do not conflict with Order No. 890 or with sections 29.2(v) and 29.2(viii) of the Entergy OATT. Proposed sections 7.5.1 and 7.5.2 are accepted because they balance customers’ varying interests and reflect the reality customers face in the energy market, and are consistent with Order No. 890 and the *pro forma* OATT.

385. We also reject LMA Customers’ request to extend the notice period required of network customers in the event of a change in circumstances. We agree with Entergy that because confirmed network resource reservations tie up transmission capacity,

³⁸³ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1527 (“The confirmation or lack thereof of service on the third-party’s system should be readily available on OASIS.”).

network customers should provide the required notice within one business day to free up that capacity for other customers.

d. Section 7.6 Power Purchase Contracts

386. Proposed section 7.6 sets forth the deadlines and procedures by which the contracts designated as network resources must be executed. Proposed section 7.6 states that binding contracts memorialized in electronic format qualify as executed, written contracts. Proposed section 7.6.2.1 states that three types of power purchase arrangements meet the requirement in section 29.2(viii) of the Entergy OATT that the “execution of a power purchase contract is contingent on the availability of transmission service.” The three types are: (1) the buyer and seller have electronically recorded the terms and conditions for the purchase; (2) the buyer and seller have developed a written, unexecuted contract for the purchase; and (3) the buyer has developed a draft contract or term sheet for one or more potential purchases being evaluated as part of a formal Request for Proposals process and has received one or more offers in the Request for Proposal.

387. Proposed section 7.6.2.2 sets forth the deadlines by which a customer that submitted an attestation based on a contract that is not yet executed must execute the contract. For a request to designate a network resource on a daily or weekly basis, the contract must be executed no later than the deadline to confirm the request. For a request to designate a resource on a monthly basis, a written contract must be executed at least five days prior to the service commencement date or 15 days after the request is confirmed, whichever is earlier. For a request to designate on an annual basis, the contract must be executed at least 30 days prior to the service commencement date or 45 days after the request is confirmed, whichever is earlier.

388. Proposed section 7.6.3 provides the procedure and timing by which the customer must notify the ICT if the customer fails to execute the contract by the deadline specified in proposed section 7.6.2.2: For requests on a daily or weekly basis, the customer notifies the ICT by not confirming the request, and the request will then be considered withdrawn. For requests on a monthly or annual basis, once the request is confirmed the customer must provide written notification to the ICT by the next business day following the deadline, and the ICT will then terminate the reservation.

389. Entergy explains that the procedures in proposed section 7.6 differ in certain ways from the network designation requirements in the *pro forma* OATT. Proposed section

7.6.2.1 allows more types of transactions to qualify as executed contracts than are allowed under the *pro forma* OATT, and proposed section 7.6.2.2 allows more time for the customer to execute unexecuted contracts than is allowed under the relevant NAESB standard (NAESB OASIS standard WEQ-0001-4.1.2 (Table 4-2)).³⁸⁴ However, Entergy asserts that when taken together with proposed sections 7.4 and 7.5 (discussed above), the proposed provisions are consistent with or superior to the requirements in the *pro forma* OATT, because the proposed provisions balance the interests of customers, more closely reflect commercial practices in energy markets, and facilitate customers' wholesale power transactions.

i. Responsive Pleadings

390. Union Power argues that proposed section 7.6.2.1's three types of arrangements that qualify for attestation purposes as executed contracts contingent on network service for attestation purposes conflict with the attestation requirement in section 29.2(viii) of the OATT, which the proposed section is supposed to be implementing.³⁸⁵ Union Power alleges that under section 29.2(viii) of the OATT, the only unexecuted contracts that can be used for attestation purposes are unexecuted contracts for which execution is contingent on the availability of network service as determined under Part III of the Entergy OATT. Union Power states that electronically recorded terms and conditions, unexecuted contracts, and draft contracts or term sheets that are part of a Request for Proposal do not satisfy the requirements of section 29.2(viii) of the OATT. Union Power asserts that of the three types, the Request for Proposal category furthest exceeds the bounds of section 29.2(viii) because only one of the Request for Proposal documents would end up being executed, while the rest would be discarded. Union Power argues that allowing such broad categories of arrangements to meet the attestation requirement not only violates the Commission's attestation requirement but also could lead to displacement of conditional short-term firm point-to-point transmission service, and would impact the processing of subsequent requests, particularly if the Request for Proposal negotiations are drawn out. Union Power states that section 7.6.2.1 "opens the floodgates" for speculative designations.

391. Union Power also argues that proposed section 7.6.2.2's deadlines by which unexecuted contracts used for attestation purposes must be executed eliminates any

³⁸⁴ Entergy Transmittal Letter, Exhibit 1 at 52-55.

³⁸⁵ Union Power at 66-68.

benefit to non-network service that could otherwise be gained with requiring attestation at the time the request is submitted. Union Power asserts that proposed section 7.6.2.2's deadlines for monthly and annual network resources extend well past what would otherwise be required for submittal of the attestation under Order No. 890. Union Power gives as an example proposed section 7.6.2.2's deadline for execution of a contract for a network resource designated on a monthly basis that must be executed the earlier of at least five days prior to commencement of service or 15 days after the service is confirmed. Union Power states that this is at least 15 days more than the customer would have under Order No. 890.

392. Union Power further argues that proposed section 7.6.3's procedures for notifying the ICT that an unexecuted contract will not be executed allow network customers to walk away from the designation of a network resource with "no questions asked" and no negative consequences. Union Power argues that while Entergy has packaged its approach as a compromise between point-to-point transmission customers wanting to reduce speculative designations of network resources so as to reduce the chance that their service will be displaced, and network customers wanting additional flexibility, Entergy's approach does not prevent speculative network resource designations that tie up transmission.³⁸⁶

393. LMA Customers argue that the Commission should accord significant weight to network customer concerns about the need for attestation flexibility, given the realities of power supply contracting. LMA Customers state that the Entergy region has few power supply options, so customers must have flexibility to use the limited supply options. LMA Customers argue that the proposed provisions would give network customers at least a little of the flexibility they need to operate in those markets while still guarding against purely speculative resource designations.

394. Entergy answers Union Power's protests, arguing that in allowing the three types of transactions to be the basis for the attestation and in allowing the extended deadlines, the proposed provisions are not intended to match the requirements of Order No. 890 but instead are intended to be consistent with or superior to those requirements. Entergy repeats that proposed section 7.6, together with proposed sections 7.4 and 7.5, is consistent with or superior to the *pro forma* OATT because it balances customers'

³⁸⁶ *Id.* at 68.

interests, reflects the reality of transacting in the energy market, and facilitates customers' transactions.³⁸⁷

395. Entergy argues that Union Power is wrong to read section 29.2(viii) as limited to unexecuted contracts only for which execution is contingent on the availability of network service. Entergy argues that section 29.2(viii) should instead be read as allowing unexecuted contracts with other contingencies. Entergy points to examples of other contingencies that qualify as designated resources but are not listed in section 29.2(viii): satisfaction of a regulatory approval clause, the completion of a system impact study or facilities study, or acquisition of rights of way. Entergy states that the broader reading of section 29.2(viii) is justified because the Commission will attribute general usage to tariff language and will decline to read limiting language into a tariff where such language does not exist.³⁸⁸ Entergy asserts that Union Power's fundamental complaint is that point-to-point transmission requests can be pre-empted by designated network resource requests, but such pre-emption is allowed under the *pro forma* OATT and will not be stopped by modifying proposed section 7.6.

396. As noted above, the ICT supports proposed section 7's overall approach to designating network resources as a reasonable balance of customers' interests and is operationally feasible.³⁸⁹

397. LMA Customers oppose Union Power's protests to section 7.6.³⁹⁰ LMA Customers believe that the proposed provisions recognize the realities of contracting for new network resources while still protecting the interests of point-to-point transmission service customers. LMA Customers argue that while short-term point-to-point service customers like Union Power would prefer stricter requirements for network resource designations, such stricter requirements would conflict with the practical reality faced by load-serving entities when contracting for power supply. LMA Customers express

³⁸⁷ Entergy Answer at 76-82.

³⁸⁸ *Id.* at 80 (citing *Columbia Gas Transmission Corp.*, 27 FERC ¶ 61,089 at 61,166 (1984) (*Columbia*); *Northwest Pipeline Corp.*, 65 FERC ¶ 61,046, at 61,430 (1993) (*Northwest*)).

³⁸⁹ ICT Answer at 13-15.

³⁹⁰ LMA Customers Answer at 8-9 (citing Entergy Transmittal Letter, Exhibit 1 at 52-53).

concern that requiring designated resource contracts to be executed at the point the designation request is submitted severely limits load-serving entities' access to power products and provides insufficient time to complete power supply deals.

398. Arkansas Cities oppose Union Power's protest to the proposed provision allowing a draft contract or term sheet under a Request for Proposal to satisfy the attestation requirement.³⁹¹ Arkansas Cities assert that allowing Request for Proposal-related documents to satisfy the attestation requirement is important to small entities such as Arkansas Cities, because Requests for Proposal are typically the only way that they can procure future base load power sources, and they must be able to factor in the necessary transmission service during the Request for Proposal process. Arkansas Cities state that removing the proposed provision would render the Request for Proposal process generally impractical. Arkansas Cities argue that limiting the Request for Proposal process would negatively affect the small entities posting the Requests for Proposals and also negatively affect independent power producers, by limiting what they could offer in Request for Proposal bids.

ii. Commission Determination

399. We reject proposed section 7.6 as filed. Specifically, we reject the three types of arrangements listed in proposed section 7.6.2.1 because they conflict with the attestation requirements in section 29.2 of the Entergy OATT, and we reject the extended deadlines in proposed section 7.6.2.2 because they conflict with the deadlines in the relevant NAESB standard. Regarding the types of arrangements that qualify for attestation purposes, section 29.2(viii) of the Entergy OATT, which is consistent with the *pro forma* OATT in relevant part, states that the customer must submit:

A statement . . . attesting that all of the network resources . . . satisfy the following conditions: (1) the Network Customer owns the resource, has committed to purchase generation pursuant to an executed contract, or has committed to purchase generation where execution of a contract is contingent upon the availability of transmission service under Part III of the Tariff. . . .

400. In Order No. 890-B the Commission affirmed section 29.2(viii) of the *pro forma* OATT, stating that network customers' concerns that the provision was too restrictive

³⁹¹ Arkansas Cities Answer at 1-3.

were addressed by the exception for unexecuted contracts for which execution is contingent on the availability of network service.³⁹²

401. Thus, under section 29.2(viii), if the attestation is based on a contract, either the contract must already be executed or its execution must be contingent on the availability of network service under the Entergy OATT.³⁹³ The three types of arrangements described in proposed section 7.6.2.1 (electronically recorded terms and conditions, mutually developed contracts that are not yet executed, and draft contracts or term sheets that are part of a Request for Proposal) are not yet executed, and their execution is contingent on other factors than the availability of network service. Because the three types of arrangements are not executed contracts or unexecuted contracts whose execution is contingent on the availability of transmission, they do not satisfy the attestation requirement in section 29.2(viii).

402. Entergy's and the ICT's argument that proposed section 7.6.2.1 is acceptable as consistent with or superior to the *pro forma* OATT is unavailing. The issue is not whether the proposed provision is consistent with or superior to the *pro forma* OATT, the issue is whether the proposed provision is consistent with an existing provision of Entergy's OATT, namely section 29.2(viii). If Entergy wishes to make a case that the approach in proposed section 7.6.2.1 is consistent with or superior to the approach in the *pro forma* OATT, Entergy must first change section 29.2(viii) of its OATT. Proposed section 7.6.2.1 conflicts with section 29.2(viii). Section 29.2(viii) states two options: executed contracts or unexecuted contracts for which execution is contingent on the availability of network service. Entergy is correct that the Commission will attribute general usage to tariff language and will decline to read limiting language into a tariff

³⁹² Order No. 890-B, 123 FERC ¶ 61,299 at P 182-183, which states, in relevant part:

We affirm [the attestation requirement of sections 29.2 and 30.2], and we disagree with NRECA and TDU Systems that a customer submitting an attestation pursuant to section 29.2(viii) or 30.2 must commit to purchase the resources for which designation is requested irrespective of the outcome of the network service request. Consistent with section 30.7, a network customer may attest that execution of a contract is contingent upon the availability of transmission service. . . . Network customers are therefore not required to commit to purchasing a resource prior to submitting a request to designate that resource.

³⁹³ *Id.* at P 169.

where such language does not exist.³⁹⁴ However, where limiting language does exist, we will follow it. Section 29.2(viii) does contain limiting language, and that language limits unexecuted contracts to those that are contingent on the availability of network service. The limiting nature of the language in 29.2(viii) is also reflected in the Commission's discussion in Order No. 890-B, in which the only contingency discussed is the availability of network service.³⁹⁵

403. Because section 29.2(viii) limits unexecuted contracts to those that are contingent on the availability of network service, we cannot accept a proposed approach that accepts other types of unexecuted transactions. Therefore, we reject the three types of arrangements in proposed section 7.6.2.1. We require Entergy to file, within 60 days of the date of this order, revisions to the proposed provision removing the three types of arrangements in proposed section 7.6.2.1, and the references to the three arrangements in proposed section 7.6.2.2.

404. We likewise reject the deadlines in proposed section 7.6.2.2 that exceed the deadlines established in NAESB standards. We reject Entergy's claim that the extended deadlines are consistent with or superior to established deadlines including NAESB OASIS standard WEQ-0001-4.1.2 (Table 4-2) because they better reflect the time parties need to complete power purchase contracts. If Entergy believes its proposed deadlines are consistent with or superior to the NAESB deadlines it should either formally request a waiver of the NAESB deadlines or raise its argument at NAESB.

405. We also reject Union Power's argument that proposed section 7.6.3's procedures for notifying the ICT of the failure to execute a contract violate Order No. 890's notification procedures. Proposed section 7.6.3 lets network customers who fail to execute the relevant contracts withdraw their requests without negative consequences. Order No. 890, and proposed section 29.2(viii) of the OATT, do not provide for penalties for withdrawing requests if the contract contingent on the availability of network service is not subsequently executed. Rather, they provide for penalties if the attestation was

³⁹⁴ See, e.g., *Columbia*, 27 FERC ¶ 61,089 at 61,166; *Northwest*, 65 FERC ¶ 61,046 at 61,430.

³⁹⁵ Order No. 890-B, 123 FERC ¶ 61,299 at P 183.

improperly made.³⁹⁶ We will not impose additional requirements or penalties on network customers here.

e. **Section 7.9 Rollover Rights for Network Service**

406. Proposed section 7.9 describes the rollover rights for network service. Proposed section 7.9.1 states that network service agreements that are at least five years in duration are entitled to rollover rights under section 2.2³⁹⁷ of the Entergy OATT, and that those network resources that are designated at the time the service agreement expires are entitled to rollover rights based on expiration of the service agreement. Proposed section 7.9.2 states that rollover rights may also be available for network resources that are not designated at the time the service agreement expires, if the resource is designated for a period of five years or more during the term of the service agreement, based on the term of the network resource rather than expiration of the service agreement.

407. Entergy explains that proposed section 7.9.2's extension of rollover rights to network resources that are not designated at the time of the service agreement's expiration/rollover is not provided for in the *pro forma* OATT, which only provides for rollover rights for resources designated at the expiration of the service agreement.³⁹⁸ However, Entergy asserts that extending rollover rights to resources not designated at the time of the rollover is consistent with or superior to the *pro forma* OATT because it makes network service more comparable to point-to-point transmission service, which can receive rollover rights for any resource designated for five years, and because it provides greater commercial flexibility to network service customers.

³⁹⁶ Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 920 (“We believe that the new attestation requirement, coupled with the prospect of significant civil penalties for improper attestations, will prove effective at providing the proper incentives for network customers to not designate ineligible network resources.”).

³⁹⁷ Section 2.2 of the OATT, titled “Reservation Priority for Existing Firm Service Customers,” sets out the conditions under which customers can roll over their service.

³⁹⁸ Entergy Transmittal Letter, Exhibit 1 at 56-57 (citing Order No. 890-B, 123 FERC ¶ 61,299 at P 148-152).

i. Responsive Pleadings

408. Union Power argues that proposed section 7.9.2 conflicts with Order No. 890-B's requirements regarding rollover rights for undesignated resources.³⁹⁹ Union Power argues that the Commission has expressly rejected the arguments Entergy presents on the issue of rollover rights for undesignated resources.⁴⁰⁰ Union Power argues that Entergy should have but did not pursue the issue in the Order No. 890 rulemaking proceeding and instead is simply ignoring the Commission's finding in Order No. 890-B here. Further, Union Power argues that Entergy presents no new arguments supporting its position.

409. Union Power argues that rather than equalize the rights of point-to-point transmission customers and network customers, proposed section 7.9.2 gives network customers greater rights, because proposed section 7.9.2 allows network customers to roll over service taken previously, which point-to-point transmission customers cannot do. Union Power argues that the OATT already provides network customers sufficient flexibility with respect to the designation of network resources, in that a network customer can undesignate a network resource on a temporary basis without forfeiting the rights to use the capacity when the request to undesignate the network resource is paired with a request to redesignate the network resource at a predetermined time. Therefore, Union Power argues that the Commission should reject the proposed rollover rights for network service beyond what is permitted by Order No. 890. Union Power asks the Commission to require Entergy to revise the proposed provision to limit network service rollover rights to what is equal to point-to-point transmission service rollover rights.

410. Entergy responds that proposed section 7.9.2's extension of rollover rights to resources not designated at the time of the service agreement's expiration/rollover exceeds the *pro forma* OATT, but is justified because it provides more commercial certainty to network customers and to Entergy as the transmission provider, and it makes network service more comparable to point-to-point transmission service.⁴⁰¹

411. Entergy argues that Union Power's assertion that proposed section 7.9.2 gives greater rights to network customers than point-to-point transmission customers is incorrect. Specifically, Entergy states that proposed section 7.9.2 does not allow network

³⁹⁹ Union Power at 69.

⁴⁰⁰ *Id.* at 70.

⁴⁰¹ Entergy Answer at 82-84.

customers to roll over service based on an undesignated resource, which point-to-point customers cannot do. Instead, Entergy avers, proposed section 7.9.2 allows network customers to roll over service based on a resource that has been designated for five years or longer that terminated prior to the expiration of the service agreement. Entergy states that proposed section 7.9.2 merely allows a network customer that seeks to designate a network resource for five years to have the ability to study the resource for rollover rights, so that at the end of the five years it may redesignate the network resource and maintain the resource's status without further study.

ii. Commission Determination

412. We reject proposed section 7.9.2's allowing rollover rights for a resource that is not designated at the time the service agreement expires/is rolled over. Union Power is correct that in Order No. 890-B the Commission considered and rejected Entergy's arguments for extending rollover rights to network resources that are not designated at the time of the rollover.⁴⁰² In Order No. 890-B, in response to Entergy's arguments for basing rollover rights on the term of the resource, not merely the term of the service agreement, the Commission stated:

The Commission affirms the determination in Order No. 890-A that the length of a network customer's network service agreement, not the length of a power contract supporting a network service agreement, determines whether the network customer is eligible for rollover rights. [Citing Order No. 890-A at P 645.] A network customer's eligibility for rollover rights is distinct from its ability to rollover a particular resource designation. In order for a network customer to qualify for rollover rights, it must have a network service agreement that satisfies the minimum term necessary for rollover rights. The network customer may then continue to designate and undesignate resources pursuant to that service agreement, subject to the availability of adequate transmission capability to accommodate the request.⁴⁰³

413. Entergy's arguments do not persuade us to change our determination affirmed in Order No. 890-B that rollover rights are to be linked to the service agreement, not the network resource. Therefore, we require Entergy to file, within 60 days of the date of this order, revisions to proposed section 7.9.2 (and a reference in proposed section 7.9.3)

⁴⁰² Order No. 890-B, 123 FERC ¶ 61,299 at P 148-150.

⁴⁰³ *Id.* P 148.

to remove rollover rights for resources not designated at the time of the service agreement expiration/rollover.

2.5 Attachment T (Recovery of New Facilities Costs and Planning Redispatch Costs for Long-Term Services)

414. The revisions to Attachment T that are before the Commission in this proceeding are two administrative clarifications and one substantive change. The administrative changes are in the heading of section 2 Cost Recovery, inserting “for Upgrade Costs,” and inserting a heading for section 4, “Rights Associated with Supplemental Upgrades.”

415. The substantive change is to add a new section 6 titled “Planning Redispatch,” describing the methods by which charges for planning redispatch service will be determined and the methods by which payments for planning redispatch service will be made.⁴⁰⁴ Under proposed section 6, the planning redispatch service customer can pay either (1) the higher of either the incremental costs for the redispatch or the applicable embedded cost transmission charge on file with the Commission, or (2) a fixed charge negotiated with Entergy, subject to a cap of the total fixed and variable costs of the resources expected to provide the service.

416. Entergy explains that the proposed revisions to Attachment T were not changed from the July 13, 2007 filing, except that proposed planning redispatch rates for the Weekly Procurement Process were deleted in the Weekly Procurement Process proceeding in Docket No. ER09-555-000, as approved by the Commission in early 2009.⁴⁰⁵ Entergy asserts that the proposed revisions to Attachment T at issue in this

⁴⁰⁴ As described in Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 901, planning redispatch service is offered by transmission providers as a way to accommodate point-to-point transmission service requests without expanding or upgrading their systems. Under planning redispatch, the transmission provider will redispatch its resources so as to accommodate the point-to-point request, as long as doing so does not impair the reliability of other firm service or interfere with the transmission providers’ ability to meet other prior firm commitments. The transmission provider identifies planning redispatch options in the system impact study.

⁴⁰⁵ Entergy Transmittal Letter at 11-12, n. 43 (citing Weekly Procurement Process Order, 127 FERC ¶ 61,227).

proceeding are consistent with Order No. 890's requirements for transmission providers' pricing of planning redispatch service.⁴⁰⁶

a. Responsive Pleadings

417. LMA Customers argue for changing the provisions of Attachment T that govern participant funding. LMA Customers contend that, while the Commission may have previously accepted the participant funding provisions, the Commission has a duty to review decisions that "relied on faulty premises" or that "failed to produce the intended results."⁴⁰⁷ LMA Customers assert that the Commission should examine whether the participant funding methodology "experiment" worked and should either convene an ICT-led investigation of alternatives or institute other formal procedures.⁴⁰⁸ LMA Customers also argue that the Commission can decline to accept provisions in Attachments C, D, and E that would "further embed" the participant funding methodology.

b. Commission Determination

418. We accept the proposed revisions to Attachment T without modification. We accept the non-substantive revisions to Attachment T, and we accept the insertion of proposed section 6, describing the pricing of planning redispatch.

419. In Order No. 890 we adopted the following planning redispatch pricing methodology:

Under this pricing methodology, customers will have the option of paying (1) the higher of (a) actual incremental costs of redispatch or (b) the applicable embedded cost transmission rate on files with the Commission or (2) a fixed rate for redispatch to be negotiated by the transmission provider and customer and subject

⁴⁰⁶ *Id.*, Exhibit 1 at 29 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1024).

⁴⁰⁷ LMA Customers Protest and Comments at 21.

⁴⁰⁸ *Id.* at 36.

to a cap representing the total fixed and variable costs of the resources expected to provide the service.⁴⁰⁹

420. Entergy's proposed section 6 complies with Order No. 890's described methodology nearly word-for-word, providing that a point-to-point transmission customer can pay either (1) the higher of either the incremental costs for the redispatch or the applicable embedded cost transmission charge on file with the Commission, or (2) a fixed charge negotiated with Entergy, subject to a cap of the total fixed and variable costs of the resources expected to provide the service. Because proposed section 6 complies with Order No. 890's requirements regarding the pricing of planning redispatch, we accept the proposed provision without modification.

421. We reject LMA Customers' protest to Attachment T. LMA Customers' protest only addresses the participant funding provisions of Attachment T. LMA Customers' protest does not involve the planning redispatch pricing methodology in proposed section 6, which is the only proposed substantive revision to Attachment T that is at issue in this proceeding. While the Commission stated in the March 2009 Order that, because of the interwoven nature of Attachment T and Attachments C, D, and E, parties may comment on Attachment T in this proceeding,⁴¹⁰ it also stated that it would not allow issues regarding the ICT arrangement or participant funding to be re-litigated.⁴¹¹

The Commission orders:

Entergy's proposed revisions to Attachments C, D, E, and T to the Entergy OATT are hereby accepted, subject to Entergy filing, within 60 days of the date of this order,

⁴⁰⁹ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1024.

⁴¹⁰ March 2009 Order, 126 FERC ¶ 61,194, at P 7-8 (addressing Entergy's request for rehearing or clarification of the August 2008 Order, as to whether Attachment T's participant funding provisions were within the scope of this proceeding).

⁴¹¹ *Id.* P 9.

certain revisions to Attachments C, D, and E, and a status report on software upgrades, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.