

143 FERC ¶ 61,143
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket Nos. ER05-1065-013
OA07-32-012

Entergy Arkansas, Inc.

Docket No. ER12-1071-000

ORDER ON REHEARING AND COMPLIANCE

(Issued May 16, 2013)

1. In this order the Commission grants in part and denies in part a request for rehearing of the Commission's order conditionally accepting, subject to modification, Entergy Services, Inc.'s (Entergy) 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, the Criteria Attachments) of its Open Access Transmission Tariff (OATT).¹ We also conditionally accept in part, subject to modification, and reject in part Entergy's proposed OATT revisions submitted in compliance with the December 15 Order.

I. Background

2. On April 3, 2009, Entergy filed proposed revisions to the Criteria Attachments to comply with requirements in two proceedings: the proceeding regarding the development and implementation of Entergy's Independent Coordinator of Transmission (ICT) arrangement (Docket No. ER05-1065-000, *et al.*) and Entergy's Order No. 890 compliance proceeding (Docket No. OA07-32-000, *et al.*).² Through its proposed revisions, Entergy sought to describe the criteria that the ICT would use to respond to

¹ *Entergy Servs., Inc.*, 137 FERC ¶ 61,199 (2011) (December 15 Order).

² *Id.* P 3 (citing *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 (2006); *Entergy Servs., Inc.*, 119 FERC ¶ 61,009 (2007); *Entergy Servs., Inc.*, 124 FERC ¶ 61,148 (2008)).

transmission service requests in a manner that is consistent with or superior to the Commission's Order No. 890 *pro forma* OATT. Specifically, revised Attachment C described the criteria that would be used by the ICT to respond to requests for transmission service within an 18-month horizon using the Available Flowgate Capacity (AFC) process.³ Revised Attachment D described the criteria that would be 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. Revised Attachment E described the processes that would be used for submitting and responding to transmission service requests. In the December 15 Order in Docket Nos. ER05-1065-011 and OA07-32-008, the Commission conditionally accepted the proposed revisions, subject to modification. Union Power Partners, L.P. (Union Power) filed a request for rehearing.

3. Separately, on February 13, 2012, in Docket No. ER12-1071-000, Entergy submitted proposed revisions to the Criteria Attachments to comply with the directives of the December 15 Order (Compliance Filing).

II. Responsive Pleadings and Notice of Filing

4. In response to Union Power's request for rehearing, Entergy filed an answer, and Union Power responded to Entergy's answer.

5. Notice of the Compliance Filing was published in the *Federal Register*, 77 Fed. Reg. 10,738 (2012), with interventions and protests due on or before March 5, 2012. Union Power filed a timely motion to intervene and protest. Entergy filed an answer.

III. Procedural Matters

6. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2012), prohibits an answer to a request for rehearing. Accordingly, we will reject Entergy's answer to Union Power's rehearing request in Docket Nos. ER05-1065-013 and OA07-32-012. Because we reject Entergy's answer, we also reject, as moot, Union Power's answer to Entergy's answer to Union Power's rehearing request.

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), Union Power's timely, unopposed motion to intervene in the

³ An AFC process is one of several processes transmission providers can use to evaluate short-term transmission service requests. As defined in section 1.2 in Attachment C, Entergy's AFC process evaluates the amount of transfer capability remaining over a flowgate for additional transmission service above existing transmission commitments.

Compliance Filing proceeding in Docket No. ER12-1071-000 serves to make it a party to that proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's answer to Union Power's protest because it has provided information that assisted us in our decision-making process.

IV. Discussion

A. Request for Rehearing

1. Attachment C, Section 3.6 (Resynchronization of AFC Values)

8. In the December 15 Order, the Commission accepted proposed section 3.6 in Attachment C related to the resynchronization of AFC values.⁴ The Commission rejected Union Power's argument that section 3.6 should state that a posting with an explanation would be made on OASIS every time a resynchronization occurs.⁵ The Commission noted that it had previously determined that the Commission's regulations, North American Electric Reliability Corporation (NERC) standards, and Order No. 890's transparency principles do not require such postings.⁶ The Commission explained that, while it agreed with Union Power that a main goal of Order No. 890 is increased transparency of transmission providers' ATC methods,⁷ Order No. 890, including the passages cited by Union Power, did not require the posting of resynchronizations and the reason for the resynchronizations.⁸ The Commission added that Order No. 890 often

⁴ *But see* December 15 Order, 137 FERC ¶ 61,199 at P 133 (explaining that the Commission accepted the proposed revisions without modification subject to Entergy filing to further revise section 3.6 to reflect the amendments accepted in Docket No. ER09-1180-000).

⁵ *Id.* P 135.

⁶ *Id.* (citing *Entergy Servs., Inc.*, 129 FERC ¶ 61,260, at P 18 (2009) (OATi Order)).

⁷ *Id.* (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at PP 196, 323, *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)).

⁸ *Id.*

balanced the goal of transparency against the goal of avoiding excessive administrative burden.⁹ Given the frequency of resynchronizations under proposed section 3.6 (e.g., every hour in the Operating Horizon), the Commission found that it would impose an excessive administrative burden to require Entergy to post notice of and an explanation for every resynchronization.¹⁰ The Commission noted that a stakeholder with concerns about a particular resynchronization, or about a delay in a resynchronization, could raise that concern in the stakeholder process.¹¹

9. On rehearing, Union Power argues that the Commission erred in relying on the stakeholder process to resolve the problem of delayed resynchronizations.¹² Union Power again argues that, because Entergy has sole knowledge of these delays, a customer needs notice of the delay in order to raise the issue in the stakeholder process.¹³ Union Power contends that an OASIS posting is the most appropriate and efficient means for Entergy to provide such notice.¹⁴ Union Power states that it requests only that Entergy add to the resynchronized values that it currently reports on its OASIS a notation that a delay occurred and the reason for the delay.¹⁵ Union Power argues that it is more efficient and less burdensome for Entergy to share the information in its possession than for each customer to examine the time stamps for all resynchronizations in real-time.¹⁶ Union Power clarifies that, contrary to the Commission's assumption, it requests that Entergy post only the small subset of resynchronizations that are delayed, not every resynchronization.¹⁷ Union Power adds that there is no evidence in the record supporting

⁹ *Id.* (citing 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.”)).

¹⁰ *Id.*

¹¹ *Id.*

¹² Union Power January 17, 2012 Rehearing Request, Docket Nos. ER05-1065-013 and OA07-32-012, at 2, 4, 18-20 (Union Power Rehearing Request).

¹³ *Id.* at 19.

¹⁴ *Id.* at 19-20.

¹⁵ *Id.* at 20.

¹⁶ *Id.*

¹⁷ *Id.* (citing December 15 Order, 137 FERC ¶ 61,199 at P 135).

Entergy's claim that the postings would be administratively burdensome.¹⁸ Union Power states that Entergy's asserted administrative burden may indicate more serious problems with Entergy's administration of its transmission system.¹⁹

10. Union Power also asks the Commission to clarify that, although a customer may request information regarding delayed resynchronizations through the stakeholder process, a customer may also seek such information in connection with a transmission service request.²⁰

Commission Determination

11. We deny Union Power's clarification request that Entergy be required to post notice and explanation of delayed resynchronizations (rather than all resynchronizations, as the Commission assumed in the December 15 Order).²¹ In the OATi Order, on Entergy's proposal to revise Attachment C to reflect a transition to an OATi software platform, the Commission considered and rejected Union Power's request that Entergy post on OASIS when delays in resynchronizations occur and state the reasons for the delays.²² Therefore, we reject Union Power's request as a collateral attack on a prior Commission order. Specifically, we reject Union Power's assertions that the stakeholder process is not a meaningful avenue to resolve the problem of delayed resynchronizations because Entergy allegedly has sole knowledge of these delays and without notice a customer cannot raise the issue in the stakeholder process. In the OATi Order, the Commission found that "no transparency in the AFC process is lost if a posting is not required for delayed resynchronizations. Union Power and any other customer will still

¹⁸ *Id.* at 19-20.

¹⁹ *Id.* at 20.

²⁰ *Id.* at 2, 4, 20-21.

²¹ December 15 Order, 137 FERC ¶ 61,199 at P 135 (finding that requiring Entergy to post notice of and an explanation for every resynchronization would impose an excessive administrative burden).

²² *See* OATi Order, 129 FERC ¶ 61,260 at PP 9, 18 (accepting proposed tariff revisions to Attachment C to reflect Entergy's transition to OATi software to calculate AFC values and evaluate transmission service available for Entergy's operating, planning, and study horizons). As explained in the OATi Order, in its filing, Entergy informed the Commission that the software change may delay the transfer of AFC data inputs that, in turn, could delay a scheduled resynchronization. *See id.* PP 3, 10, 13, 14; *see also id.* P 17.

have access to the information used in the AFC process and will be able to evaluate the processing of all transmission service requests.”²³ This finding contradicts Union Power’s assertion that, without notice, a customer cannot determine that a delay in a given resynchronization occurred and cannot raise the issue in the stakeholder process. If Union Power disagreed with the Commission’s finding, it should have requested rehearing of the OATi Order. It failed to do so and is thus barred from challenging that finding here.

12. We also reject Union Power’s assessment of the burden of including a notation in OASIS indicating that a resynchronization was delayed and providing the reason for the delay. In the OATi Order, based upon the record (which included the estimated cost of the software changes needed to post the requested information on OASIS), the Commission concluded that Union Power’s requested relief was not warranted.²⁴ If Union Power disagreed with the Commission’s finding, it should have raised those arguments on rehearing of the OATi Order. As noted, Union Power did not request rehearing of the OATi Order and is barred from challenging that finding here. For these reasons, we deny Union Power’s request.

13. As for the requested clarification, Union Power is correct that, in the December 15 Order, the Commission stated that a stakeholder can raise concerns regarding delayed resynchronizations through the stakeholder process.²⁵ However, the Commission did not foreclose other available avenues for seeking information about delayed resynchronizations, including in connection with a transmission service request.

2. Attachment C, Section 4.2 (Transmission Facilities Ratings)

14. In the December 15 Order, the Commission accepted proposed section 4.2 in Attachment C that explains the process for determining the transmission facility ratings that are used in the calculation of Total Flowgate Capability.²⁶ The Commission found that the proposed provisions complied with reliability standards FAC-008 and FAC-009, as required.²⁷ The Commission rejected Union Power’s request that Entergy identify

²³ *Id.* P 18.

²⁴ *Id.* PP 12, 14.

²⁵ December 15 Order, 137 FERC ¶ 61,199 at P 135.

²⁶ *Id.* PP 137, 145.

²⁷ *Id.* P 145.

“vintage” transmission facilities²⁸ included as flowgates and re-evaluate those facilities with the current ratings standards.²⁹ After describing the requirements in reliability standards FAC-008 and FAC-009, Order No. 890 and section 37.6(e)(2) of the Commission’s regulations,³⁰ the Commission concluded that a separate re-evaluation of vintage facilities was not required.³¹ The Commission also disagreed that proposed section 4.2 should state that the ICT or a stakeholder can request a review of a specific vintage transmission facility’s rating if there were reasonable grounds to conclude a rating was no longer valid.³² The Commission found that proposed section 4.2 did not need to restate an obligation that was already set forth in Order No. 890 and section 37.6(e)(2) of the Commission’s regulations.³³ The Commission noted that Order No. 890 and section 37.6(e)(2) of the Commission’s regulations provide customers the opportunity to question and receive information about a specific facility’s rating.³⁴

15. On rehearing, Union Power asks whether the Commission’s determination means that Entergy is already required under Order No. 890 and the Commission’s regulations to provide information on whether a denial of service is due to the rating of a vintage line.³⁵ If so, Union Power requests that the Commission clarify that, under section 4.2 in Attachment C, when a request for transmission service is denied, Entergy must include in its denial of service any relevant documentation and information indicating whether a vintage line was the cause, in whole or in part, for the denial.³⁶ Union Power also requests that the Commission clarify that such information (provided by Entergy or

²⁸ In this proceeding, the term “vintage” refers to the transmission facilities that were installed prior to the 1991-1994 period when certain functions relating to transmission facilities were transferred from the Entergy Operating Companies to Entergy Services, Inc. *See id.* P 139, n.139.

²⁹ *Id.* PP 141, 146.

³⁰ 18 C.F.R. § 37.6(e)(2).

³¹ December 15 Order, 137 FERC ¶ 61,199 at P 146.

³² *Id.* P 145.

³³ *Id.*

³⁴ *Id.*

³⁵ Union Power Rehearing Request at 2, 4-5, 21-22.

³⁶ *Id.*

requested by the customer) constitutes reasonable grounds to conclude that the rating of the facility is no longer valid and must be re-rated.³⁷ Union Power explains that it does not seek Entergy to re-rate every vintage facility, only those involving a denial of service due to the facility's rating which provides reasonable grounds to conclude that the facility's rating is no longer valid.³⁸ Alternatively, Union Power requests rehearing because the scope of customers' rights in Order No. 890 and the Commission's regulations support such findings.³⁹

Commission Determination

16. We deny Union Power's requests. In the December 15 Order, the Commission found that it was unnecessary to include in section 4.2 in Attachment C a separate reporting requirement for vintage facilities included as flowgates because Order No. 890 and section 37.6(e)(2) of the Commission's regulations already require a transmission provider to provide information supporting a denial of service, including facility information.⁴⁰ The Commission also explained that Order No. 890 and section 37.6(e)(2) give customers the opportunity to question and receive information about a specific facility's rating; therefore, it was not necessary to state in section 4.2 that the ICT or a stakeholder could request to review a specific vintage facility's rating if there were reasonable grounds to conclude a rating is no longer valid.⁴¹

17. We deny Union Power's request that the Commission specify the information that Entergy must provide with a denial of service. If the circumstances described in Order No. 890 and/or section 37.6(e)(2) exist, then Order No. 890 and the provisions of section 37.6(e)(2) already specify the information that Entergy must provide. As we explained in the December 15 Order, under Order No. 890 and section 37.6(e)(2) of our regulations, customers can ask for information about vintage facilities that contributed to the denial of service. Because Order No. 890 and our regulations provide customers with the opportunity to ask for and receive such information, it is not necessary for section 4.2 of Attachment C to provide for that opportunity as well.

³⁷ *Id.* at 2, 4, 22.

³⁸ *Id.* at 22.

³⁹ *Id.*

⁴⁰ December 15 Order, 137 FERC ¶ 61,199 at P 146.

⁴¹ *Id.* P 145.

18. We also decline to address whether the information Entergy provides or the customer requests pursuant to Order No. 890 and/or section 37.6(e)(2) constitutes reasonable grounds to conclude that the rating of the facility is no longer valid and must be re-rated. The Commission cannot make such a finding in the abstract. Such a finding is a case-by-case determination. As for the re-rating of vintage facilities, neither the Commission nor reliability standards dictate how a transmission service provider must rate its facilities. As noted in the December 15 Order, reliability standards allow a transmission provider to choose its facility ratings method.⁴² However, transmission providers must develop and document facility ratings consistent with industry standards.⁴³ Section 4.2 indicates that Entergy's Transmission Service Request Business Practices (TSR Business Practices) set forth the basis for Entergy's facility ratings, as required by reliability standards. We find that Union Power has failed to demonstrate that Entergy's method of rating its vintage transmission facilities is inconsistent with industry standards; therefore, Union Power has not shown that the accepted section 4.2 in Attachment C is unjust, unreasonable, unduly discriminatory or preferential.⁴⁴ For these reasons, we deny the requested clarifications and rehearing.

⁴² *Id.* P 146.

⁴³ See *North American Elec. Reliability Corp.*, 137 FERC ¶ 61,123, at P 18 (2011) (approving new reliability standard FAC-008-3 to replace reliability standards FAC-008-1 and FAC-009-1 effective January 1, 2013); *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 742 (the facility ratings methodology chosen by a facility owner should be consistent with industry standards developed through an open process such as the Institute of Electrical and Electronics Engineers or the Council on Large Electric Systems or any other open process that has been technically validated for its provision of accurate, consistent ratings), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

⁴⁴ We note that under a stipulation and consent agreement (Agreement) between Entergy and the Commission's Office of Enforcement (Enforcement), approved by the Commission on March 28, 2013, Enforcement found, among other things, that Entergy lacked a documented methodology for determining facility ratings for its vintage lines, in violation of Requirement R1 of FAC-008-1 and Requirement R1 of FAC-009-1. In response to this finding, Entergy agreed to develop a facility ratings methodology for vintage lines. *Entergy Servs., Inc.*, 142 FERC ¶ 61,241, at PP 9, 21 (2013). Entergy's failure to have the required methodology does not affect our determinations as to the appropriateness of section 4.2 of Attachment C.

3. **Attachment C, Sections 3.2 and 3.3 (Non-Firm and Firm AFC Formulas) and Section 7.1.2 (Study Horizon)**

19. In the December 15 Order, the Commission conditionally accepted proposed sections 3.2 and 3.3 in Attachment C, subject to modification.⁴⁵ Sections 3.2 and 3.3 provide the formulas for calculating non-firm AFC and firm AFC, respectively.⁴⁶ The Commission also accepted proposed section 7.1.2 in Attachment C.⁴⁷ 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.⁴⁸

20. In the December 15 Order, the Commission rejected Union Power's assertions that Entergy must revise proposed sections 3.2 and 3.3 to implement benchmarking.⁴⁹ The Commission found that proposed sections 3.2 and 3.3 complied with Order No. 890, which directed public utilities to work through NERC to implement benchmarking standards.⁵⁰ The Commission noted that Order No. 890 did not direct public utilities to implement benchmarking before the NERC and North American Energy Standards Board (NAESB) standards were final.⁵¹ Although the Commission agreed with Union Power that the Commission did not bar transmission providers from implementing benchmarking prior to finalization of the NERC and NAESB standards, the Commission emphasized that it did not require such prior implementation.⁵² The Commission noted that many of the NERC and NAESB benchmarking standards were still under development and all were subject to a transition period determined by NERC or NAESB.⁵³ The Commission found that it was reasonable for Entergy to defer

⁴⁵ December 15 Order, 137 FERC ¶ 61,199 at P 126.

⁴⁶ *Id.* P 119.

⁴⁷ *Id.* P 177.

⁴⁸ *Id.* P 170.

⁴⁹ *Id.* P 127.

⁵⁰ *Id.*

⁵¹ *Id.* P 127, n.125 (quoting Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 290).

⁵² *Id.*

⁵³ *Id.*

implementation of a given benchmarking standard until the standard was finalized and approved and the transition period ended.⁵⁴ Therefore, the Commission did not require Entergy to revise proposed sections 3.2 and 3.3 to provide for benchmarking.⁵⁵ However, the Commission encouraged Entergy, the ICT, and stakeholders to continue to work to develop ways to improve AFC models to reflect operating conditions.⁵⁶

21. The Commission also rejected Union Power's request that section 7.1.2 state that thermal limits will be enforced in the development of base case models.⁵⁷ The Commission explained that Order No. 890 does not require the enforcement of thermal limits in the development of base case models and that requiring Entergy to insert a thermal limits enforcement provision in proposed section 7.1.2 was beyond the scope of this proceeding.⁵⁸ The Commission noted that Union Power's request would be best handled through the stakeholder process.⁵⁹

22. On rehearing, Union Power requests that the Commission clarify that, notwithstanding the development of benchmarking standards by NERC and NAESB and any evaluation of thermal limits in those contexts, stakeholders are not precluded from addressing the enforcement of thermal limits in Entergy's base case models through the stakeholder process.⁶⁰

Commission Determination

23. We grant Union Power's request. Although the Commission pointed to the NERC and NAESB benchmarking processes as an avenue in which Union Power could raise its concern with the enforcement of thermal limits in Entergy's base case models, the Commission did not intend to exclude the stakeholder process as another possible avenue through which to address this issue. However, we emphasize that Commission-approved

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* P 180.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Union Power Rehearing Request at 2-3, 22-23.

Reliability Standards developed by NERC,⁶¹ and NAESB standards incorporated by reference into the Commission's regulations,⁶² are authoritative. As such, if the enforcement of thermal limits in Entergy's base case models is addressed in a stakeholder process, the results of the stakeholder process cannot conflict with Commission-approved Reliability Standards and/or NAESB standards incorporated by reference into the Commission's regulations that address this issue.

4. Attachment C, Section 14 (TSR Business Practices Related to AFC Process)

24. In the December 15 Order, the Commission accepted proposed section 14 in Attachment C.⁶³ Section 14 is an index of the 13 procedures related to AFC data inputs and technical/software aspects of the AFC process.⁶⁴ Section 14 references the Attachment C section associated with each procedure; each of those sections directs customers to the TSR Business Practices for further details.⁶⁵

25. In the December 15 Order, the Commission rejected Union Power's protest of the TSR Business Practices and Entergy's processes regarding redirect requests.⁶⁶ The Commission rejected Union Power's claim that sections V.2.2 and V.2.3 of the TSR Business Practices violated Commission policy, as set forth in *Dynegy Power Marketing*,

⁶¹ See Sections 215(b) and (d) of the Federal Power Act (FPA), 16 U.S.C. § 824o(b),(d) (2006); *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 27 (all users, owners and operators of the Bulk Power System must comply with Commission-approved reliability standards), *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁶² See 18 C.F.R. § 38.2 (Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards).

⁶³ December 15 Order, 137 FERC ¶ 61,199 at P 216.

⁶⁴ *Id.* P 198, n.204 (listing the 13 topics).

⁶⁵ *Id.* P 198. In the December 15 Order, the Commission found that the TSR Business Practices submitted by Entergy on February 1, 2011 contained details of each topic. *Id.* P 216.

⁶⁶ *Id.* P 220.

*Inc.*⁶⁷ In *Dynegy*, the Commission held that a transmission customer receiving firm transmission service does not lose its rights to its original path until the redirect request satisfies all of the following criteria: (1) it is accepted by the transmission provider; (2) it is confirmed by the transmission customer; and (3) it passes the conditional reservation deadline under OATT section 13.2.⁶⁸

26. In the December 15 Order, the Commission stated that 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.⁶⁹ The Commission noted that, 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 rights to the original receipt and delivery points”⁷⁰ The Commission also pointed out that 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.”⁷¹ The Commission explained that, while in those orders the Commission did not expressly

⁶⁷ *Id.* (discussing *Dynegy Power Marketing, Inc.*, 99 FERC ¶ 61,054 (2002) (*Dynegy*)).

⁶⁸ *See Dynegy*, 99 FERC ¶ 61,054 at P 9. Section 13.2 of the OATT governs the reservation priority for firm point-to-point transmission service. Section 13.2.iii provides the conditional reservation deadlines, as follows:

- iii. If the Transmission System becomes oversubscribed, requests for service may preempt competing reservations up to the following conditional reservation deadlines: one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service.

⁶⁹ December 15 Order, 137 FERC ¶ 61,199 at P 220 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285).

⁷⁰ *Id.* (quoting Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285; citing *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)).

⁷¹ *Id.* (quoting Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 708).

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.⁷² The Commission found that 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 the conditional reservation deadlines in OATT section 13.2, 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.⁷³

27. On rehearing, Union Power argues that the Commission's finding is arbitrary and capricious because its stated rationales for accepting the Entergy proposal (i.e., that under Union Power's proposal a customer could reserve capacity on the original and redirect paths simultaneously, and that Order Nos. 890, 890-A, and 676 implicitly overruled *Dynegy*) are without merit.⁷⁴ First, Union Power claims that the Commission departs, without adequate explanation, from the Commission policy expressly set forth in *Dynegy* that a transmission customer does not lose its rights to the original path until the redirect request has been accepted by the transmission provider, confirmed by the customer, and is no longer conditional under section 13.2 of the OATT. Union Power argues that, under the redirect request procedures approved in the December 15 Order, such a customer risks losing its rights on both the original and redirect paths. Union Power contends that such a result is unjust and unreasonable on its face and unduly discriminates against customers seeking to redirect service.

28. Second, Union Power asserts that the *Dynegy* precedent is consistent with the requirement in Order Nos. 890 and 890-A that transmission providers treat a redirect request as a request for new service.⁷⁵ According to Union Power, Entergy could comply with the requirements of both Order No. 890 and *Dynegy*, and preserve the redirect customer's rights, while also preventing the customer from reserving capacity on both paths, by: (1) selling transmission on the original path on a firm basis subject to the redirecting customer's priority rights on its original path, or (2) selling transmission on the original path on a non-firm basis until the redirected firm service becomes

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Union Power Rehearing Request at 3, 5, 23-26.

⁷⁵ *Id.* at 3, 25-26.

unconditional, at which time the transmission provider could sell the transmission service on the original path on a firm basis.⁷⁶

29. Union Power also seeks clarification that, under the OATT sections 13.2 (firm transmission service) and 14.2 (non-firm transmission service), a request for redirect service will have the same duration as the underlying service.⁷⁷

Commission Determination

30. We grant rehearing and clarification. In *Dynegy*, the Commission was addressing the precise issue we are addressing here, namely at what point in the process does the customer requesting a redirect lose rights to the original path, in light of the conditional reservation deadlines in section 13.2 of the OATT. In contrast, in Order Nos. 676 and 890-A the Commission was not addressing the loss of rights on the original path in light of the conditional reservation deadlines. Specifically, in the section of Order No. 676 relied upon in the December 15 Order, the issue was what rollover rights continue on which path after a redirect request is no longer pending, i.e., is final.⁷⁸ Thus when the Commission stated in Order No. 676 that “once the new [redirect] request is *accepted and confirmed*, the transmission customer loses all rights to the original receipt and delivery points,” the Commission used the phrase “accepted and confirmed” to convey finality.⁷⁹ Similarly, in the section of Order No. 890-A relied upon in the December 15

⁷⁶ *Id.* at 3, 5, 23-26.

⁷⁷ *Id.* at 26-27.

⁷⁸ December 15 Order, 137 FERC ¶ 61,199 at P 220 (citing Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 55).

⁷⁹ *See* Order No. 676, FERC Stats. & Regs. ¶ 31,216 at P 55 (emphasis added). *See also* Order No. 676 at P 57:

Section 22.2 [of the *pro forma* OATT] provides that, while a transmission customer’s request for new service on a firm basis is pending, the transmission customer retains its priority for service on its existing path, including rollover rights on its existing path. However, once a transmission customer’s request for firm transmission service at new receipt and delivery points is *accepted and confirmed*, the new reservation governs the rights at the new receipt and delivery points and the transmission customer can obtain rollover rights with respect to the redirected capacity. In addition, at the time the transmission customer’s request for the redirected capacity is *accepted and confirmed*, the transmission customer

(continued...)

Order, the issue was whether rights to an original transmission path might be lost as a result of a mere *request* for a redirect.⁸⁰ Thus in Order No. 890-A, the Commission used the phrase “*acceptance of and confirmation of the redirect*”⁸¹ to convey finality.⁸² In neither of those matters was the Commission addressing the distinction between confirmation and conditional reservation deadlines.

31. Therefore, we agree that *Dynegy* is the guiding precedent on the issue before us. Consistent with *Dynegy*, a customer receiving firm transmission service, who requests to redirect that firm transmission service, should not lose its right to its original transmission path for the period of the redirect request when the customer confirms the transmission provider’s acceptance of the redirect request. That customer’s rights to the original path do not terminate until the redirect request becomes unconditional pursuant to the conditional reservation deadline in OATT section 13.2.

32. We also agree with Union Power that requiring a customer to give up rights to the original path after the redirect request has been accepted and confirmed but before the request has become unconditional would subject the customer to the risk of losing the rights to both the original path and the redirect path. This result could occur if the customer does not wish to match the price or term of a competing request of equal or longer duration. This outcome would create a strong disincentive for transmission service customers to request redirect service. While the holding in *Dynegy* may tie up some transmission capacity on both the original and the newly requested path in the period after the confirmation of the redirect request but before the passing of the conditional reservation deadline, we find that this drawback does not outweigh the negative effect of putting a transmission customer requesting a redirect at risk of losing all of its transmission service rights for the period of the requested redirect. For these reasons, we find that the TSR Business Practices related to requests for redirect service

loses all rights to the original receipt and delivery points, including rollover rights associated with the original path. [Emphases added.]

⁸⁰ December 15 Order, 137 FERC ¶ 61,199 at P 220 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285).

⁸¹ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285 (emphasis added).

⁸² NAESB WEQ Standard 001-9.5 also uses the term “confirmation” when addressing when a customer loses its rights to its original path upon a redirect request, and our clarification here applies to that standard as well. We note that NAESB is currently preparing revisions to its business practice standards addressing preemption and competition on OASIS. *See* http://www.naesb.org/weq/weq_oasis.asp.

are not consistent with Commission policy and thus are unjust and unreasonable. Accordingly, Entergy must align its transmission service redirect practices and sections V.2.2 and V.2.3 of the TSR Business Practices consistent with this finding.⁸³

33. We also clarify that, for the purposes of reservation priority under OATT sections 13.2 (firm transmission service) and 14.2 (non-firm transmission service), Entergy must give the same reservation priority to a request for redirect service as the underlying service if the requested redirect is for the full remaining term of the underlying service. If the requested redirect is not for the full remaining term of the underlying service, then Entergy must give the redirect the same priority as any other request of equal duration. As the Commission stated in Order No. 890, a redirect right does not grant the customer access to queue position different from other customers submitting new requests for service.⁸⁴ Treating requests for redirect service in this manner is just and reasonable because it preserves the priority of the underlying service without enhancing the priority of an associated request for redirect service.

5. Attachment D, Sections 6.2 (Evaluating the Scope of Necessary Upgrades) and 6.3 (Provisional Upgrades)

34. In the December 15 Order, the Commission accepted proposed sections 6.2 and 6.3 in Attachment D.⁸⁵ Proposed Attachment D describes the procedures for conducting system impact studies and facilities studies to evaluate requests for point-to-point or network integration transmission service.⁸⁶ The Commission explained that sections 6.2

⁸³ While business practices are not required to be filed with the Commission, nonetheless they must be consistent with Commission policy. On February 1, 2011, Entergy submitted its TSR Business Practices as an informational filing in Docket Nos. ER05-1065-000 and OA07-32-000. Entergy explained that it made the filing pursuant to its commitment in its April 3, 2009 compliance filing in Docket Nos. ER05-1065-011 and OA07-32-008; its commitment to stakeholders in Stakeholder Policy Committee forums; and its agreement with the ICT. *See* Entergy February 1, 2011 Transmittal Letter, Docket Nos. ER05-1065-000 and OA07-32-000, at 1.

⁸⁴ *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1285.

⁸⁵ December 15 Order, 137 FERC ¶ 61,199 at P 252.

⁸⁶ *Id.* P 229.

and 6.3 relate, in part, to base case overloads.⁸⁷ Proposed section 6.2 states in relevant part that “[t]o 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.”⁸⁸ Proposed section 6.3 states that customers may request a facilities study to confirm the need for “provisional” upgrades⁸⁹ or evaluate alternative upgrades in the event the provisional upgrades are delayed or cancelled.⁹⁰

35. In the December 15 Order, the Commission found that many of the arguments raised regarding base case overloads were beyond the scope of the compliance proceeding.⁹¹ The Commission stated that requests to re-open the participant funding methodology in Attachment T were not the subject of the compliance filing, which was intended to determine whether Entergy had complied with the Commission’s directives in Docket Nos. ER05-1065-000, *et al.* (the ICT proceeding) and OA07-32-000, *et al.* (Entergy’s Order No. 890 proceeding).⁹² With respect to the provisions in Entergy’s

⁸⁷ *Id.* P 231. Base case overloads are facilities or flowgates at which the transmission system has negative ATC or an applicable thermal limit is exceeded prior to simulating a transmission service request. *Id.*

⁸⁸ *Id.* P 232.

⁸⁹ Section 1.2 of Attachment D defines Provisional Upgrade as “a transmission construction project that is not currently in-service and that meets one of the three criteria specified [*sic*] Section 2.3.1.1.” The “three criteria” in section 2.3.1.1 (Transmission Construction Projects Not Currently In-Service) are: (1) the upgrade has been determined in a facilities study to be necessary to accommodate a network resource or point-to-point service reservation, and either the customer has executed a service agreement or the Commission has allowed an unexecuted service agreement to become effective; (2) the upgrade has been determined in a facilities study to be necessary to accommodate a request to interconnect a generating facility, and either the generating facility has executed an interconnection agreement or the Commission has allowed an unexecuted interconnection agreement to become effective; (3) the upgrade has been included in Entergy’s Construction Plan and Entergy has approved funding for its construction.

⁹⁰ December 15 Order, 137 FERC ¶ 61,199 at P 232.

⁹¹ *Id.* P 252.

⁹² *Id.*

proposed section 6 dealing with base case overloads, the Commission found that Entergy had complied with the Commission's relevant requirements.⁹³ The Commission noted that base case overloads are permitted under reliability standards and SERC reliability criteria.⁹⁴ The Commission added that eliminating base case overloads may be infeasible and inadvisable at that time because the AFC process's modeling would not accommodate it.⁹⁵ The Commission noted that this was the most controversial issue among stakeholders and encouraged efforts to resolve the issue at the ICT working group level through transmission planning, real-time operating procedures, and cost allocation discussions.⁹⁶

36. The Commission also stated that:

[t]o 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 T,⁹⁷ 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.⁹⁸

37. On rehearing, Union Power argues that the Commission did not provide details or guidance on how the ICT should allocate the costs attributable to relieving the base case

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Attachment T of the Entergy OATT (Cost Recovery of New Facilities and Planning Redispatch), section 3.2.2 (Determination of Base Plan and Supplemental Upgrades) states that "[i]f 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." *See id.* n.269.

⁹⁸ *Id.* P 253.

overload or when in the ICT study process the ICT should identify the upgrade costs attributable to based case overload versus the transmission request.⁹⁹ Union Power requests that the Commission provide guidance on the methodology the ICT should use to allocate upgrade costs that are needed both to resolve existing base case overloads and to provide incremental transmission service.¹⁰⁰ In particular, Union Power seeks guidance with respect to cases in which the least-cost upgrade would create capacity in excess of that required for the above purposes.¹⁰¹ Union Power asks the Commission to direct the ICT to allocate the costs of the remaining capacity created by the least-cost upgrade to Entergy and the customer in proportion to the amount of the base case overload and the amount of the increase due to the new service request, respectively.¹⁰²

38. Union Power also asks the Commission to clarify when in the ICT's planning and study process the ICT will provide the cost allocation for such upgrades.¹⁰³ Union Power claims that this clarification is needed with respect to the various aspects of the planning and study process described in different sections of the Entergy OATT including Attachment D (System Impact Studies and Facilities Studies), Attachment K (Transmission Planning), and Attachment T (Cost Recovery of New Facilities).¹⁰⁴ Union Power contends that these clarifications are necessary to give the ICT, Entergy, customers and other stakeholders greater certainty of how and when the "pressing and long-standing problem" of base case overloads on the Entergy system may be resolved.¹⁰⁵

Commission Determination

39. We deny Union Power's requests. Union Power's requests regarding how the ICT should allocate the costs attributable to relieving the base case overload and when in the ICT study process the ICT should identify the upgrade costs attributable to base case overload versus the transmission request both concern the cost allocation methodology set forth in Attachment T. We reiterate our statements in the December 15 Order that

⁹⁹ Union Power Rehearing Request at 3-4, 5-6, 27.

¹⁰⁰ *Id.* at 27-28.

¹⁰¹ *Id.*

¹⁰² *Id.* at 28.

¹⁰³ *Id.* at 28-29.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 29.

concerns with the cost allocation methodology set forth in Attachment T are outside the scope of this proceeding, which is Entergy's compliance with the Commission's directives in Docket Nos. ER05-1065-000, *et al.* (the ICT proceeding) and OA07-32-000, *et al.* (Entergy's Order No. 890 proceeding).¹⁰⁶ Accordingly, we deny Union Power's requested clarifications.

B. Compliance Filing

40. In Docket No. ER12-1071-000, Entergy filed proposed OATT revisions in response to the Commission's directives in the December 15 Order. Except for those discussed below, we find that Entergy's proposed revisions comply with the December 15 Order, and we accept them.

1. Unscheduled QF Energy Issues

41. In the December 15 Order, the Commission responded to Entergy's request for guidance on whether Entergy should model unscheduled qualifying facility (QF) energy.¹⁰⁷ With regard to modeling, the Commission explained how to determine if unscheduled QF energy should be reflected in Entergy's transmission availability models.¹⁰⁸ The Commission clarified that including unscheduled QF energy in Entergy's transmission availability models did not necessarily mean setting aside one-for-one transmission capacity reservations for every unit of unscheduled QF capacity on the system.¹⁰⁹ The Commission explained that some reasonable method should be used to include unscheduled QF energy purchases (taking into account the variability of such

¹⁰⁶ December 15 Order, 137 FERC ¶ 61,199 at P 252.

¹⁰⁷ *Id.* PP 16-29, 49-51. In this proceeding, unscheduled QF energy refers to energy sold by a QF on an "as available" basis to Entergy pursuant to the Public Utility Regulatory Policy Act of 1978 (PURPA), 16 U.S.C. § 824-a-3. We note that, in the December 15 Order, the Commission also provided guidance on how Entergy should curtail unscheduled QF energy. *See id.* PP 16, 30-48, 52-58 (finding that Entergy's statutory obligation to purchase unscheduled QF energy is not subordinate to tariff considerations and that Entergy's proposal to curtail unscheduled QF energy on the same basis as non-firm, secondary network service was not consistent with Entergy's obligations under PURPA). We note that these curtailment issues have not been raised on rehearing and, therefore, are not discussed here.

¹⁰⁸ *Id.* P 49.

¹⁰⁹ *Id.* P 50.

purchases), using whatever credible data were available to Entergy.¹¹⁰ The Commission pointed out that 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, and/or other appropriate data that are available to Entergy.¹¹¹ The Commission also responded 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.¹¹²

42. In the Compliance Filing, Entergy states that no revisions to Attachments C, D or E are necessary at this time with respect to the Commission's guidance on unscheduled QF energy issues in the December 15 Order.¹¹³ Entergy explains that, as the Commission recognized, it must conduct a case-by-case evaluation of the interconnection service provided by Entergy to QFs and the identification and gathering of credible data before it can model QF energy in a reliable and accurate manner. Entergy states that it will undertake discussions with the various QFs interconnected to Entergy's transmission system about the best way to implement the Commission's guidance. Entergy believes that such discussions may benefit both Entergy and its QF customers by producing an approach that may minimize the costs Entergy incurs to fulfill its obligations under PURPA and the chance that a QF's output is curtailed, particularly when that QF plans to significantly deviate from its recent sales pattern. Entergy states that, to the extent that revisions to Attachments C, D or E are required to reflect the incorporation of QF output in its models, it will file those revisions so that its AFC process is accurately reflected in its OATT.

Protest and Answer

43. Union Power protests Entergy's failure to file OATT revisions regarding its treatment of unscheduled QF energy.¹¹⁴ Union Power requests that the Commission direct Entergy to comply with the December 15 Order. While Union Power does not

¹¹⁰ *Id.*

¹¹¹ *Id.* P 50, n.51.

¹¹² *Id.* P 51.

¹¹³ Entergy February 13, 2012 Compliance Filing Transmittal Letter, Docket No. ER12-1071-000, at 6 (Compliance Filing Transmittal Letter).

¹¹⁴ Union Power March 5, 2012 Protect, Docket No. ER12-1071-000, at 7-8 (Union Power Protest).

object to Entergy revising its treatment after its discussions with interconnected QFs, Union Power argues that in the interim there must be a mechanism in place in the OATT. Union Power notes that Entergy has not specified when it will make a subsequent filing.

44. Entergy responds that the Commission did not require Entergy to revise Attachments C, D or E in order to comply with the Commission's guidance on unscheduled QF energy.¹¹⁵ Entergy contends that, because no existing OATT provision explicitly excludes unscheduled QF energy from the models, no provision requires revision. Entergy restates that discussions with QFs are required before the Commission's guidance can be implemented.

Commission Determination

45. Entergy must comply with PURPA and our open access rules. In the December 15 Order, the Commission explained that some reasonable method should be used to include unscheduled QF energy purchases (taking into account the variability of such purchases) in Entergy's transmission availability models, using whatever credible data were available to Entergy.¹¹⁶ The Commission provided a description of credible data sources that Entergy could rely upon for its modeling that do not rely upon the completion of its discussions with interconnected QFs. As the Commission explained, "[s]uch 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, and/or other appropriate data that are available to Entergy."¹¹⁷ Therefore, Entergy should revise its OATT to reflect a reasonable method to model unscheduled QF energy with historical data or other similar credible data sources. Once Entergy completes its discussions with its interconnected QFs, it may propose further OATT revisions to reflect any necessary refinements in its modeling process. Accordingly, we direct Entergy to file, within 30 days of the date of this order, revisions to section 6.4 in Attachment C, and any other relevant OATT provisions, to reflect unscheduled QF energy in Entergy's relevant transmission availability models.

46. We emphasize that, whether or not unscheduled QF energy is currently included in Entergy's models, Entergy has, as described in the December 15 Order,¹¹⁸ an obligation

¹¹⁵ Entergy March 20, 2012 Answer, Docket No. ER12-1071-000, at 2-4 (Entergy Answer).

¹¹⁶ December 15 Order, 137 FERC ¶ 61,199 at P 51.

¹¹⁷ *Id.* P 50.

¹¹⁸ *Id.* P 52.

under federal law to purchase unscheduled QF energy and to assume the responsibility for delivering that energy to its load or otherwise managing the energy.

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

47. In the December 15 Order, the Commission provided guidance to Entergy on resolving shortfalls in load-serving entities' resources in the AFC Study Horizon. In its request for guidance, Entergy had explained that according to section 7.1.2 of Attachment C, 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.¹¹⁹ Entergy had explained that this provision did not resolve shortfalls because no generation facilities are deliverable within the control area. Entergy requested Commission guidance on which of two proposed options for resolving the load-serving entity shortfalls the Commission prefers: the "*pro rata* dispatch" option or the "pseudo resources" option.¹²⁰

48. Entergy explained that, under the *pro rata* dispatch option, 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.¹²¹ Entergy explained that, under the pseudo resources option, the load is met by imaginary, or "pseudo," resources located at the load that are inserted into the model.¹²² In the December 15 Order, the Commission found that the pseudo resources option was preferable to the *pro rata* dispatch option because it was consistent with the OATT reservation priorities.¹²³ However, the Commission acknowledged that Entergy and the ICT agreed that the option was not optimal and were looking for other options.¹²⁴ The Commission encouraged Entergy and the ICT to continue to explore other options and directed Entergy to file whichever option was eventually adopted as a revision to

¹¹⁹ *Id.*

¹²⁰ *Id.* PP 62-63.

¹²¹ *Id.* P 62.

¹²² *Id.* P 63.

¹²³ *Id.* PP 68-72.

¹²⁴ *Id.* P 73.

Attachment C, such as to section 7.1.2, so that the attachment would reflect Entergy's AFC process.¹²⁵

49. In the Compliance Filing, Entergy states that it has not revised section 7.1.2 to reflect the Commission's guidance.¹²⁶ Entergy explains that Entergy and the ICT continue to explore potential options to resolving the shortfall in network resource designations in the Study Horizon. Entergy states that it will file revisions to section 7.1.2 upon choosing and implementing the option eventually adopted.

Protest and Answer

50. Union Power protests Entergy's failure to provide OATT revisions to reflect the Commission's guidance.¹²⁷ Union Power argues that, although the Commission gave Entergy and the ICT leave to consider other options, it did not grant Entergy leave to keep in place a methodology that the Commission determined was not consistent with the OATT. Union Power asks the Commission to direct Entergy to implement the pseudo resources option on an interim basis. Union Power asserts that, like the treatment of unscheduled QF energy, modeling that does not run afoul of the OATT is critical when Entergy does not have a deadline for filing another approach. Union Power adds that, once the pseudo resources option is in place, Entergy and the ICT may find that an alternative approach is unnecessary.

51. Entergy answers that it is impractical to implement the pseudo resources approach on an interim basis, as Union Power requests.¹²⁸ Entergy explains that implementing any modeling method, including the pseudo resources option, requires significant software modifications, which is a time-intensive commitment for Entergy and its software vendor. Entergy states that, because an interim approach is impractical, it continues to explore an optimal and long-term solution with ICT.

¹²⁵ *Id.*

¹²⁶ Compliance Filing Transmittal Letter at 7. We note that Entergy incorrectly refers to section 7.1.2 in Attachment D. The pertinent provision is section 7.1.2 in Attachment C. *See* December 15 Order, 137 FERC ¶ 61,199 at P 73.

¹²⁷ Union Power Protest at 8-9.

¹²⁸ Entergy Answer at 4-5.

Commission Determination

52. We clarify that the Commission's statement in the December 15 Order that Entergy and the ICT¹²⁹ may develop superior alternatives to the two options presented was not intended to delay modification of the OATT. From the outset, Entergy has acknowledged that the method set out in proposed section 7.1.2 in Attachment C cannot currently resolve the load-serving entity shortfalls, because no uncommitted generators are deliverable within the control area.¹³⁰ We find that it is unjust and unreasonable to maintain an OATT provision that cannot be implemented in practice, and that reflects the *pro rata* option rejected by the Commission in the December 15 Order. Therefore, we require Entergy to revise section 7.1.2 consistent with the Commission's guidance in the December 15 Order. We understand that the implementation of the pseudo resources option or a superior alternative will require software changes. Additionally, we note that the Entergy Operating Companies have been approved to join MISO as transmission owning members, with the integration planned for December 19, 2013, which may obviate the need for modification to the OATT. Accordingly, we direct Entergy to make a compliance filing within 30 days of the date of this order addressing whether the need for revisions to Entergy's OATT to address the shortfalls issue is obviated by Entergy's joining MISO. If Entergy concludes that the need is obviated, then Entergy must explain why. If Entergy concludes the need is not obviated, then Entergy must provide a timeline for the adoption of revisions that set forth either the pseudo resources option or a superior alternative for modeling shortfalls in load-serving entity network resource designations in the AFC process' Study Horizon, consistent with the Commission's guidance in the December 15 Order.

3. Attachment D, Section 2.3.1.1 (Transmission Construction Projects Not Currently In-Service)

a. Native Load Upgrades Documentation Process

53. In the December 15 Order, the Commission conditionally accepted proposed section 2.3.1.1 in Attachment D, subject to modification and clarification.¹³¹ Proposed

¹²⁹ We note that on October 2, 2012, the Commission approved Entergy's proposal to transfer ICT functions from Southwest Power Pool, Inc. to the Midwest Independent Transmission Service Operator, Inc. (MISO), effective December 1, 2012. *See Entergy Arkansas, Inc.*, 141 FERC ¶ 61,011 (2012).

¹³⁰ December 15 Order, 137 FERC ¶ 61,199 at P 59.

¹³¹ *Id.* P 287.

section 2.3.1.1 discusses the inclusion of transmission facility upgrade construction projects that are not currently in-service in base case models.¹³² As noted above, one criteria for an upgrade to be included in the base case models is the execution (or Commission-allowed effectiveness) of a service agreement regarding the upgrade. In the December 15 Order, the Commission found that proposed section 2.3.1.1 was unclear as to when upgrades for Entergy's native load are documented in service agreements and, therefore, when they would be included in the base case models.¹³³ The Commission directed Entergy to file an explanation describing the timing of the inclusion of these upgrades in the base case models.¹³⁴ The Commission stated that, in its explanation, Entergy must include a description of the process for documenting network service agreements and the subsequent inclusion of upgrades in the base case models associated with service for native load.¹³⁵

54. In the Compliance Filing, in response to the Commission's concern, Entergy clarifies in section 2.3.1.1 that native load upgrades are included in base case models upon execution of a service agreement for the provision of the transmission and interconnection service that created the need for a native load upgrade.¹³⁶ Specifically, Entergy proposes to revise section 2.3.1.1 to state that "[t]ransmission construction projects necessary to provide transmission or interconnection service to the Transmission Provider's native load customers are included in the Base Case Models upon execution of a Service Agreement for the provision of such transmission or interconnection service."

Protest and Answer

55. Union Power argues that, while Entergy addressed the timing of including upgrades in the models, it did not address when native load upgrades are documented in service agreements or provide a description of the process for documenting service agreements.¹³⁷

¹³² *Id.* P 271.

¹³³ *Id.* P 288.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Compliance Filing Transmittal Letter at 10.

¹³⁷ Union Power Protest at 9-10.

56. Entergy explains that it did not include an explanation of the native load upgrade documentation process because the timing and process governing the execution of a service agreement may vary, which prevents a description of a detailed “one size fits all” process.¹³⁸ Entergy adds that, in some cases, native load upgrades could be reflected in the base case models before a service agreement is executed.¹³⁹ Entergy provides as an example a native load upgrade that has been placed in Entergy’s Construction Plan and approved for funding.

Commission Determination

57. We accept Entergy’s proposed revision to section 2.3.1.1 in Attachment D stating that upgrades for native load are included in the base case models upon execution of a service agreement, because it complies with the Commission’s directive to describe the timing of the inclusion of native load upgrades in the base case models. However, Entergy has not described the process for documenting the native load upgrades in service agreements, including when it provides this documentation and the timeline for executing them. Entergy explains that it has not provided a description of the documentation process because the process may vary. We find this explanation unavailing. Regardless of whether the process for documenting service agreements may vary, Entergy must provide a description of the process, including a timeline for drafting and executing them. Accordingly, we direct Entergy to file, within 30 days of the date of this order, a description of the process for documenting native load upgrades in service agreements.

58. In addition, we find contradictory Entergy’s statement in its Answer that in some cases a native load upgrade could be included in the base case models before a service agreement is executed. The example Entergy provides is an upgrade that is in the Entergy Construction Plan and approved for funding (this example is the third category of Provisional Upgrades, discussed in the next section), but Entergy does not explain how such an upgrade would have gotten to the point of being included in the Construction Plan and approved for funding yet not have been documented in the form of an executed service agreement. Therefore, Entergy must provide, within 30 days of the date of this order, an explanation of the circumstances under which an upgrade could be included in the base case models before a service agreement is executed, and how this complies with the statement in section 2.3.1.1 that upgrades are included in the base case models upon execution of a service agreement. Lastly, if Entergy believes that including a native load upgrade in the base case models prior to execution of a service agreement is justified,

¹³⁸ Entergy Answer at 5.

¹³⁹ *Id.* at 5.

then Entergy must file, within 30 days of the date of this order, appropriate revisions to section 2.3.1.1.

b. Explanation of Third Category of Provisional Upgrades

59. In the December 15 Order, the Commission found that the three categories of provisional upgrades listed in proposed section 2.3.1.1 in Attachment D were unclear.¹⁴⁰ Specifically, the Commission found the provision unclear as to which upgrades would qualify under the third category (i.e., as upgrades in the Construction Plan approved for funding) rather than under the first or second category of provisional upgrades.¹⁴¹ The Commission also found that proposed section 2.3.1.1's statement that upgrades that do not qualify as provisional upgrades under one of the three categories will be included in the base case models once construction is completed and they are placed into service, was unclear.¹⁴² The Commission stated that Entergy had 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.¹⁴³ Therefore, the Commission directed Entergy 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.¹⁴⁴

¹⁴⁰ Under section 2.3.1.1, an upgrade qualifies as provisional if it falls into one of the following three 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.

¹⁴¹ December 15 Order, 137 FERC ¶ 61,199 at P 289.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

60. In the Compliance Filing, Entergy proposes revisions to section 2.3.1.1 in response to the Commission's directives. The proposed language states that the third category of provisional upgrades includes upgrades that are "necessary to maintain firm service and meet reliability criteria." Entergy explains that these upgrades would not qualify under categories one and two (which specify executed service agreements), but would qualify under the third category, and therefore the third category is necessary.¹⁴⁵ The proposed language also states that upgrades that do not qualify as provisional under any of the three categories include "maintenance and infrastructure-related upgrades that are limited in scope and have a fluid in-service date (i.e., breaker replacements)."

Protest and Answer

61. Union Power protests Entergy's proposed revisions, arguing that further clarification is needed.¹⁴⁶ Union Power asserts that Entergy must clarify whether Entergy will treat third category upgrades that are needed in connection with the first or second category as category one or two upgrades for modeling purposes. Union Power also asks Entergy to explain how maintenance and infrastructure-related upgrades are distinct from other upgrades that qualify as provisional upgrades. Union Power argues that Entergy's terminology creates difficulties because maintenance (upkeep of existing equipment) should not impact modeling while infrastructure-related upgrades (improvements to or increasing capacity in the transmission system) could significantly impact modeling. Union Power also asks Entergy to clarify whether non-provisional upgrades will fall within the third category of provisional upgrades when the non-provisional upgrades are funded.

62. Entergy disagrees with Union Power.¹⁴⁷ Entergy argues that, in the December 15 Order, the Commission directed Entergy to explain what types of upgrades would qualify under the third category but not under the first or second category, but did not require Entergy to clarify the modeling treatment for such upgrades. Therefore, Entergy argues that the Commission should reject Union Power's request that Entergy clarify how such upgrades are modeled because it is outside the scope of the December 15 Order. Entergy adds that the request is superfluous because an upgrade that is needed in connection with a category one or two upgrade would be a component of the category one or two upgrade and would be documented in the relevant service or interconnection agreement.

¹⁴⁵ Compliance Filing Transmittal Letter at 10.

¹⁴⁶ Union Power Protest at 10-12.

¹⁴⁷ Entergy Answer at 6-7.

63. Entergy notes that the Commission also did not direct Entergy to clarify how the funding of upgrades impacts their characterization and, therefore, should reject Union Power's request to clarify the impact of funding of non-provisional upgrades because it is outside the scope of the December 15 Order. Entergy adds that Commission-accepted OATT Attachments D, K and T already address the development of upgrades, their inclusion in the Construction Plan, and the treatment of their costs.

64. Entergy argues that the Commission should reject Union Power's request to clarify the maintenance and infrastructure-related upgrades that would not qualify as provisional because it would unnecessarily require Entergy to list every type of upgrade that could be included in a base case model that would not qualify as a provisional upgrade. Entergy explains that, in its Compliance Filing, it explained that non-provisional upgrades are those that are limited in scope and have a fluid in-service date. Entergy adds that, in the Compliance Filing, it stated that: (1) "limited scope" means that they do not have a service or interconnection agreement (the first and second categories of provisional upgrades) and are not included in the Construction Plan (the third category of provisional upgrades); and (2) "fluid in-service date" means it is not practical to include them in the base case models.

Commission Determination

65. We find that Entergy's proposed revisions to section 2.3.1.1 regarding provisional upgrades comply with the December 15 Order, and we accept them. We also reject Union Power's request that Entergy clarify: (1) the modeling treatment of upgrades in the third category of provisional upgrades; and (2) the characterization of a non-provisional upgrade that is subsequently funded. We find that those clarifications go beyond the scope of the Commission's directive in the December 15 Order. However, we find (as noted in the previous section) that Entergy has not provided an adequate explanation of the circumstances under which a native load upgrade would qualify under the third category of provisional upgrades (i.e., be in the Entergy Construction Plan and approved for funding) but not have an executed service agreement. Entergy's explanation, in the Compliance Filing transmittal letter and the proposed revisions to section 2.3.1.1, is that such upgrades are those "necessary to maintain firm service and meet reliability criteria." This explanation does not explain why such upgrades would not have been documented in the form of an executed service agreement and thus qualify under the other two categories of provisional upgrades. Therefore, as noted in the previous section, Entergy must file, within 30 days of the date of this order, an explanation of which upgrades would qualify under the third category.

66. We find that Entergy's explanation that upgrades that fall outside the third category of provisional upgrades are maintenance and infrastructure-related upgrades that are limited in scope and have a fluid in-service date is just and reasonable. We do not find it necessary for Entergy to clarify further the types of upgrades that do not qualify as provisional, as Union Power requests.

4. Attachment D, Section 3.2.1 (Requests for PTP Service)

67. In the December 15 Order, the Commission conditionally accepted section 3.2.1 in Attachment D that describes how load flow simulations are performed for point-to-point transmission service.¹⁴⁸ 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.¹⁴⁹ In referring to the scaling of generation, proposed section 3.2.1 used several similar terms: “*pro rata*,” “proportionally,” and “proportional.”¹⁵⁰ In the December 15 Order, the Commission directed Entergy to clarify the use of those terms.¹⁵¹ The Commission also directed Entergy to revise proposed section 3.2.1 to indicate that the ICT will use customer-provided economic dispatch data for imports if such data are provided, and, if it is not feasible, the ICT will request additional clarification from the customer.¹⁵²

68. In the Compliance Filing, Entergy proposes revisions to section 3.2.1 to define “proportionally” and “*pro rata*” through parenthetical definitions inserted in the sentences.¹⁵³ Entergy also proposes to revise section 3.2.1 to indicate that the ICT will use customer-provided economic dispatch data for imports to the extent economic data are available.

Protest and Answer

69. Union Power protests that Entergy did not comply with the Commission’s directive to define the term “proportional.”¹⁵⁴ In addition, Union Power asks the Commission to direct Entergy to revise its proposed definition of “proportionally” (an increase “not relative to the current level of dispatch”) to state what it is proportional to

¹⁴⁸ December 15 Order, 137 FERC ¶ 61,199 at P 298.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.* P 303.

¹⁵² *Id.*

¹⁵³ Compliance Filing Transmittal Letter at 11. Proportionally is defined as “(*i.e.*, an increase in dispatch not relative to the current level of dispatch);” *pro rata* is defined as “(*i.e.*, a decrease in dispatch that is relative to the current level of dispatch).”

¹⁵⁴ Union Power Protest at 12-13.

rather than what it is not proportional to. Union Power also asks the Commission to direct Entergy to revise section 3.2.1 to indicate that the ICT will request additional clarification from the customer if it is not feasible to use customer-provided economic dispatch data for imports, as directed in the December 15 Order.

70. Entergy responds that the proposed definitions of “*pro rata*” and “proportionally” reflect the clarifications Entergy provided in an answer filed in May 2009 in this proceeding (May 2009 Answer), and that in the December 15 Order the Commission found them satisfactory.¹⁵⁵ As for revising section 3.2.1 to indicate that the ICT will request clarification from the customer, Entergy explains that the ICT’s right to request clarification is set forth in OATT Attachments K and S. However, Entergy states that it will insert explicit language to that effect in section 3.2.1 if the Commission directs it to do so.

Commission Determination

71. We find that Entergy’s proposed revisions to section 3.2.1 only partially comply with the Commission’s directives in the December 15 Order. In the December 15 Order, the Commission directed Entergy to revise section 3.2.1 to clarify the meaning of “*pro rata*,” “proportionally,” and “proportional.” In the Compliance Filing, Entergy has only provided proposed revisions related to “*pro rata*” and “proportionally.” Therefore, Entergy must, within 30 days of the date of this order, file proposed revisions to insert a definition of “proportional.” In addition, contrary to Entergy’s assertion, the Commission did not find in the December 15 Order that Entergy’s explanation of the terms “*pro rata*” and “proportionally” in the May 2009 Answer were satisfactory. In the December 15 Order, the Commission merely noted that, in response to parties’ questions about the interchangeability of the terms, in the May 2009 Answer, Entergy confirmed that the terms were not interchangeable.¹⁵⁶ We find that Entergy’s clarification of “*pro rata*” complies with the directive in the December 15 Order, and we accept that revision to section 3.2.1. However, we agree with Union Power that the proposed clarification of “proportionally” is inadequate because it does not explain what the increase is relative to. Accordingly, we direct Entergy to file, within 30 days of the date of this order, revisions to section 3.2.1 clarify the definition of “proportionally.”

72. While Entergy complied with the Commission’s directive to revise section 3.2.1 to indicate that the ICT will use customer-provided economic dispatch data for imports to the extent economic data are available, it has not revised that section to indicate that the

¹⁵⁵ Entergy Answer at 8-9.

¹⁵⁶ December 15 Order, 137 FERC ¶ 61,199 at PP 301, 303.

ICT will request additional clarification from the customer, if the use of economic data is not feasible, as directed in the December 15 Order. Although Entergy maintains that the ICT's right to request clarification from a customer is set out in OATT Attachments K and S, in the December 15 Order, the Commission directed Entergy to insert explicit language to that effect in section 3.2.1. Entergy has agreed to file such revisions if we direct it to. Accordingly, we direct Entergy to file, within 30 days of the date of this order, revisions to section 3.2.1 that indicate that the ICT will request additional clarification from the customer, if the use of economic data is not feasible.

5. **Attachment D, Section 3.2.2.1 (Network Resource (No Simultaneous Undesignation))**

73. In the December 15 Order, the Commission conditionally accepted proposed section 3.2.2.1 in Attachment D, subject to modification.¹⁵⁷ Proposed section 3.2.2.1 explains how a request to designate a new network resource can be studied and addresses the load flow simulation process for studying a new network resource without a simultaneous request to undesignate an existing network resource.¹⁵⁸ Proposed section 3.2.2.1 states that the process uses two types of analyses: generation-to-generation simulations and generation-to-load simulations. In the December 15 Order, the Commission directed Entergy to revise proposed section 3.2.2.1 to describe how the two types of analyses (generation-to-generation and generation-to-load) are used to respond to transmission service requests.¹⁵⁹

74. In the Compliance Filing, Entergy responds to the Commission's directive by revising section 3.2.2.1 to state that "transfer case models resulting from both the generation-to-generation analysis and the generation-to-load analysis are compared with the base case model to determine whether a valid limit is impacted and whether any constraints result from the request to designate the new network resource that may require network upgrades in order to be alleviated." Entergy explains that the two types of analyses are used to differentiate between constraints used to serve load and constraints caused by the resource being studied.¹⁶⁰ Entergy states that the two types of analyses start with the same base case model. The generation-to-generation analysis scales up the new network resource and scales down the customer's existing network

¹⁵⁷ *Id.* P 307.

¹⁵⁸ *Id.* P 304.

¹⁵⁹ *Id.* P 307.

¹⁶⁰ Compliance Filing Transmittal Letter at 11-12.

resources, and compares the results to the original base case model. The generation-to-load analysis reduces the network load by the requested amount and redispatches existing network resources to the new load level, and compares the results to the original base case model. Entergy states that the base case models used are the same, “both studies would yield the same results, which are then used to determine whether any upgrades would be necessary due to the new request.”¹⁶¹

Protest and Answer

75. Union Power argues that the proposed revision explains that the results would be compared to base case models but does not explain how the results of each type of analysis is considered relative to the other and relative to the base case models.¹⁶²

76. Entergy responds that if a constraint is identified in both the generation-to-generation and generation-to-load analyses, then the constraint will be deemed to require upgrades.¹⁶³ Entergy further states that, if a constraint is identified in only one of the analyses, then the constraint will not be considered a valid constraint that requires the construction of upgrades.

Commission Determination

77. Although Entergy has explained, in the transmittal letter accompanying the Compliance Filing and in its Answer, how it uses the generation-to-generation simulation versus how it uses the generation-to-load analyses, it has not incorporated that explanation in proposed section 3.2.2.1, as directed. The proposed revision only states that the results of the analyses will be compared to base case models. Accordingly, we find that the proposed revision to section 3.2.2.1 does not comply with the December 15 Order. We direct Entergy to file, within 30 days of the date of this order, revisions to section 3.2.2.1 in Attachment D that reflect the explanation provided in the Compliance Filing and in the Answer.

¹⁶¹ *Id.* at 12.

¹⁶² Union Power Protest at 13-14.

¹⁶³ Entergy Answer at 9.

6. **Attachment D, Sections 3.2.4.1 (Network Service) and 3.2.4.2 (Grandfathered Service)**

78. In the December 15 Order, the Commission conditionally accepted proposed sections 3.2.4.1 and 3.2.4.2 in Attachment D, subject to modification.¹⁶⁴ Those sections provide guidelines for transmission customers that are requesting the rollover of their network or grandfathered transmission service.¹⁶⁵ The Commission directed Entergy 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.¹⁶⁶ The Commission noted that this concern also pertained to grandfathered service discussed in proposed section 3.2.4.2.¹⁶⁷ Therefore, the Commission directed Entergy to revise proposed sections 3.2.4.1 and 3.2.4.2 to address Union Power's scenario and any similar scenarios that may cause substantial changes in operations or power flows but that are not addressed by the proposed provision.¹⁶⁸

79. In the Compliance Filing, Entergy proposes to revise sections 3.2.4.1 and 3.2.4.2 to explain that, when an existing joint operating agreement terminates and the parties to that agreement seek to each rollover a subset of previously designated resources and load, each party is entitled to rollover the portion of the previously designated resources owned by that party.¹⁶⁹ The proposed revisions also state that the provision of such rollover rights may result in a change in generation dispatch but does not result in the resources being dispatched at a level exceeding their dispatch levels under the joint operating agreement. The proposed revisions also explain that ; (1) generation dispatch may be changed without requiring a new system impact study; (2) each transmission customer is permitted to change its generation dispatch up to the designated network resource level;

¹⁶⁴ December 15 Order, 137 FERC ¶ 61,199 at PP 325, 327-328.

¹⁶⁵ *Id.* P 317. In a rollover, a customer exercises its right to continue to take transmission service from the transmission provider when the customer's contract expires. *See, e.g.*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1214.

¹⁶⁶ December 15 Order, 137 FERC ¶ 61,199 at P 327.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ Compliance Filing Transmittal Letter at 12.

and (3) changes in generation dispatch are reflected in the transmission provider's subsequent base plan.

Protest and Answer

80. Union Power protests Entergy's proposed revisions because they reflect the termination of the joint operating scenario but negate the need for a system impact study.¹⁷⁰ Union Power claims that, by eliminating the need for these studies regardless of the change in the joint operating scenario and not considering or addressing any other similar scenarios that may cause substantial changes in operations or power flow, Entergy has ignored a key issue in the December 15 Order: the need for studies if there is a substantial change in operation or power flows.

81. Entergy argues that Union Power's protest incorrectly assumes that a change in generation dispatch is the determinative variable in whether a substantial change in power flow occurs.¹⁷¹ Entergy states that section 3.2.4.1 explains that power flows may change substantially when the designated resources or load differ from those previously designated. Entergy states that, if both resources and load remain the same, then the power flows should not be substantially impacted, which would eliminate the need for a system impact study. Entergy argues that, therefore, determining whether a system impact study is needed to evaluate rollover requests depends on whether the designated resources or load change.

Commission Determination

82. While we understand Union Power's concerns, the proposed revisions explain that a system impact study will be considered when designated resources or load change. We find that the proposed revisions capture the circumstances in which a system impact study would be needed to analyze a substantial change in power flows. Accordingly, we find that the proposed revisions to sections 3.2.4.1 and 3.2.4.2 in Attachment D comply with the December 15 Order, and we accept them.

7. Attachment D, Section 4.2 (Evaluating Conditional Firm Service Options)

83. In the December 15 Order, the Commission conditionally accepted proposed section 4.2.¹⁷² Proposed section 4.2 describes the system impact study process for

¹⁷⁰ Union Power Protest at 14.

¹⁷¹ Entergy Answer at 10.

¹⁷² December 15 Order, 137 FERC ¶ 61,199 at n.344.

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.¹⁷³ The Commission directed Entergy to correct a typographical error that resulted in two sections numbered 4.2.1.¹⁷⁴

84. In the Compliance Filing, Entergy has not corrected this typographical error. Union Power protests this omission.¹⁷⁵

Commission Determination

85. We direct Entergy to file, within 30 days of the date of this order, proposed revisions to correct this numbering error.

8. Attachment D, Sections 7.9.2 (Prior to Expiration of Network Service Agreement) and 7.9.3 (System Impact Studies)

86. In the December 15 Order, the Commission rejected proposed section 7.9.2 in Attachment D providing that rollover rights may 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.¹⁷⁶ The Commission noted that the proposed provision conflicted with the Commission's determination in Order No. 890-A that the length of a network customer's service agreement, not the length of a power contract supporting a network service agreement, determines whether the network customer is eligible for rollover rights.¹⁷⁷ The Commission noted that Order No. 890-B rejected Entergy's arguments to base rollover rights on the term of the resource.¹⁷⁸ The Commission found that Entergy's arguments

¹⁷³ *Id.* P 334.

¹⁷⁴ *Id.* n.344 (“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”).

¹⁷⁵ Union Power Protest at 15.

¹⁷⁶ December 15 Order, 137 FERC ¶ 61,199 at PP 406, 412-413.

¹⁷⁷ *Id.* P 412.

¹⁷⁸ *Id.*

had not persuaded it to change the determination affirmed in Order No. 890.¹⁷⁹ Therefore, the Commission directed Entergy to revise section 7.9.2 (and a reference in proposed section 7.9.3) to remove rollover rights for resources not designated at the time of the service agreement expiration/rollover.¹⁸⁰

87. In the Compliance Filing Transmittal Letter, Entergy states that it removed section 7.9.2 entirely and revised section 7.9.3.¹⁸¹ In the proposed revisions, Entergy has revised section 7.9.2 to remove rollover rights for resources not designated at the time of the service agreement expiration/rollover, but has not revised section 7.9.3.

Commission Determination

88. Entergy has revised section 7.9.2 to remove the references to allowing rollover rights for resources not designated at the time of the service agreement/rollover, as directed.¹⁸² Accordingly, we find that the proposed revisions to section 7.9.2 in Attachment D comply with the December 15 Order, and we accept them. However, Entergy has not revised section 7.9.3 in a similar manner, as directed. Therefore, we direct Entergy to file, within 30 days of the date of this order, revisions to proposed section 7.9.3 to remove rollover rights for resources not designated at the time of the service agreement expiration/rollover.

9. Attachment E, Section 3 (Procedures for Loss Compensation Service)

89. In the December 15 Order, the Commission conditionally accepted proposed section 3 in Attachment E, subject to modification.¹⁸³ Section 3 provides the procedures for loss compensation service.¹⁸⁴ Under proposed section 3.iv, the amount of loss for which a point-to-point transmission service customer is responsible was calculated by taking the amount of energy (in megawatts) scheduled for delivery, multiplying it by the

¹⁷⁹ *Id.* P 413.

¹⁸⁰ *Id.*

¹⁸¹ Compliance Filing Transmittal Letter at 13.

¹⁸² We note that Entergy incorrectly states in its Transmittal Letter at 13 that section 7.9.2 has been removed.

¹⁸³ December 15 Order, 137 FERC ¶ 61,199 at P 366.

¹⁸⁴ *Id.* PP 363, 366.

loss factor, and rounding it up to the next whole megawatt.¹⁸⁵ The Commission found that Entergy's rounding methodology would result in an over-collection of losses.¹⁸⁶ Thus, the Commission directed Entergy to revise section 3 in 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.¹⁸⁷

90. In the Compliance Filing, Entergy proposes to remove the references to rounding the loss factor calculation to the next whole megawatt in section 3 (rather than revise the section) and direct customers to the TSR Business Practices.¹⁸⁸ Entergy proposes to include a notation in section 3 that the rounding method is set forth in the TSR Business Practices. Entergy states that the TSR Business Practices set forth the manner through which the transmission provider applies rounding of the resulting loss factor calculation to the extent rounding applies. Entergy explains that it has chosen to address rounding in its TSR Business Practices to give it the flexibility to modify the rounding procedure if Entergy determines that transmission customers are submitting multiple identical tags to avoid providing loss compensation. Entergy states that it has revised the TSR Business Practices to state that transmission loss factors are rounded up or down according to basic arithmetic rounding principles.

Protest and Answer

91. Union Power argues that the proposed revision to section 3 does not comply with the Commission's directive to include in section 3 a methodology that will prevent over-collection of losses.¹⁸⁹ Union Power also complains that, by moving the issue into the TSR Business Practices, Entergy would eliminate its burden to demonstrate in an FPA section 205 filing that the proposed treatment of losses is just and reasonable, shifting the burden to transmission customers to file an FPA section 206 complaint showing that the methodology resulted in an over-collection. Union Power adds that loss compensation is a cost-of-service ratemaking issue that should be subject to prior Commission review.

¹⁸⁵ *Id.* P 363.

¹⁸⁶ *Id.* P 366.

¹⁸⁷ *Id.*

¹⁸⁸ Compliance Filing Transmittal Letter at 12-13.

¹⁸⁹ Union Power Protest at 15-16.

92. Entergy responds that, in the December 15 Order, the Commission acknowledged that it may be appropriate to address some issues in a business practice because requiring all practices to be in the OATT would be impractical and potentially administratively burdensome.¹⁹⁰ Entergy contends that the inclusion of the topic in section 3 with a reference to the TSR Business Practices is consistent with section 14 in Attachment C that the Commission accepted in the December 15 Order, which lists AFC Process topics and points to the TSR Business Practices for further details. Entergy again states that the TSR Business Practices comply with the December 15 Order. Entergy adds that, although it has expressed hesitation about relying on such an approach because its transmission customers can avoid loss compensation through tag submissions, it is willing to rely on that approach, unless it finds that transmission customers are deliberately submitting tag data in a manner designed to avoid loss compensation. Entergy restates that this concern and the ability to change the TSR Business Practices if such conduct occurs prompted Entergy to move the loss compensation procedures to the TSR Business Practices.

Commission Determination

93. We find that Entergy has not complied with the December 15 Order because it has not revised section 3 in 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, as directed.¹⁹¹ Entergy instead has deleted the methodology from section 3 and replaced it with a reference to the methodology being in the TSR Business Practices. We reject Entergy's proposed revisions and we direct Entergy to file, within 30 days of the date of this order, revisions to section 3 in Attachment E that reflect the directive in the December 15 Order.

The Commission orders:

(A) Union Power's request for rehearing is hereby granted in part and denied in part, as discussed in the body of this order.

(B) Entergy's compliance filing is hereby accepted in part, conditionally accepted in part, subject to modification, and rejected in part, as discussed in the body of this order.

¹⁹⁰ Entergy Answer at 11 (citing December 15 Order, 137 FERC ¶ 61,199 at P 217 (quoting Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1651)).

¹⁹¹ December 15 Order, 137 FERC ¶ 61,199 at P 366.

(C) Entergy is hereby directed to submit proposed OATT revisions and explanations, within the time periods directed in this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.