

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Transmission Planning and Cost Allocation By Transmission Owning and Operating Public Utilities	Docket Nos. RM10-23-000
Public Service Company of Colorado	ER13-75-000
Black Hills Colorado Electric Utility Company	ER13-97-000

COMMENTS OF THE COLORADO PUBLIC UTILITIES COMMISSION

The Colorado Public Utilities Commission (“COPUC”),^{1,2} by and through its counsel, the Office of the Colorado Attorney General, respectfully submits its Comments in response to the Order Nos. 1000 and 1000-A³ compliance filings submitted by Public Service Company of Colorado (“Public Service”) and Black Hills Colorado Electric Utility Company (“Black Hills”) on October 11, 2012.

The COPUC files these comments pursuant to the Commission’s Notice of Compliance Filings in the above-referenced dockets, and the Notice of Extension of Time⁴ (setting November 26, 2012 as the comment deadline for these filings).

¹ Pursuant to Article XXVV of the Colorado Constitution and Title 40, Colorado Revised Statutes, the COPUC has full economic and quality of service regulatory authority over investor-owned electric, gas and water utilities, and partial regulatory control over municipal utilities and electric associations, within the State of Colorado.

² In accordance with Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.214(a)(2) (2012), the COPUC is a party to the instant proceeding as a matter of right and therefore is not required to file a Motion to Intervene or provide a formal statement of interest in these proceedings.

³ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh’g*, Order No. 1000-A, 77 Fed. Reg. 32,184 (May 31, 2012), 139 FERC ¶ 61,132 (2012).

⁴ Notice of Extension of Time at 3, FERC Docket No. ER13-62-000, *et al.* (Nov. 1, 2012).

Introduction

In Order 890, the Commission required that each utility transmission provider adopt the following transmission planning principles as part of their individual transmission planning processes: (1) coordination, (2) openness, (3) transparency, (4) information exchange, (5) comparability, (6) dispute resolution, and (7) economic planning.⁵ The Commission further clarified its intent “to enhance transmission planning processes prospectively to provide *greater openness and transparency in the development of regional transmission plans*” (emphasis added).⁶ Subsequently, in Order 1000, the Commission expanded the scope of these principles by directing public utility transmission providers to adopt these requirements with respect to their regional transmission planning processes.⁷

As set forth below, the COPUC expresses concerns with the cost allocation requirements of Order 1000 and their impact on the cost recovery authority of the COPUC. In addition, the COPUC expresses several concerns, specifically, with the lack of coordination, openness and transparency that has occurred throughout the WestConnect Order 1000 compliance process and with the post-compliance process on a going forward basis.⁸

⁵ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

⁶ *Id.*

⁷ Order 1000, p. 120, ¶ 151.

⁸ In these comments, the COPUC will refer to the WestConnect Order 1000 “compliance process” to mean the time period from December 20, 2011 (when the COPUC initiated its involvement in the WestConnect Order 1000 process) to October 11, 2012 (when Public Service, Black Hills, and other WestConnect transmission providers subject to the Commission’s jurisdiction filed their compliance tariffs pursuant to Order 1000). References to the WestConnect Order 1000 “post-compliance process” refer to the time period following October 11, 2012.

The cost allocation requirements of Order 1000 impact the COPUC's authority to regulate cost recovery through retail rates

Order 1000 requires each public utility transmission provider to establish a method or methods for allocating the costs of new transmission facilities selected in regional transmission plans for purposes of cost allocation.⁹ The cost allocation method or methods selected must adhere to six cost allocation principles: (1) costs are to be allocated roughly commensurate with benefits, (2) those who do not benefit from transmission should not have to pay for it, (3) the benefit-to-cost thresholds must not exclude projects with significant net benefits, (4) there must be no allocation of costs outside a region unless the other region agrees, (5) cost allocation methods and identification of beneficiaries must be transparent, and (6) different allocation methods can apply to different types of transmission facilities.¹⁰ The Commission specifically asserts in Order 1000 that these new requirements “do not address matters of cost recovery,” and as a result, the Commission did not clarify the relationship between cost allocation and cost recovery in the Order.¹¹ The COPUC respectfully disagrees with the decision not to clarify this relationship, as the COPUC views the Order 1000 cost allocation requirements as directly impacting its authority to regulate cost recovery through retail rates.

States have authority to influence the transmission expansion process through various means, including planning, siting, construction, and cost recovery in retail rates. The COPUC submits that cost recovery is directly impacted by the Order 1000 cost allocation requirements. Cost recovery is accomplished through rate cases filed by investor-owned utilities, which are regulated by both the Commission and state regulatory commissions. In making cost recovery

⁹ Order 1000, p. 405, ¶ 558.

¹⁰ *Id.* at pp. 447-484, ¶¶ 622, 637, 646, 657, 668, and 685.

¹¹ *Id.* at p. 408, ¶ 563.

decisions, state regulatory commissions must determine whether the transmission-related costs are “just and reasonable” before passing these costs on to the ratepayers.

Because Order 1000 requires utility transmission providers to form regions for purposes of conducting transmission and cost allocation, a transmission project approved by a particular region for purposes of cost allocation will result in an allocation of costs via the Commission-approved tariff. The filed rate doctrine often precludes state utility commissions from being able to review whether such costs should be passed on to the ratepayers through traditional cost recovery retail rate proceedings.¹² Rather, as more projects will be built over time through the regional cost allocation process, an increasing portion of costs are likely to be passed on to the ratepayers beyond the direct control of state commissions through traditional cost recovery proceedings.

Background on the WestConnect governance structure for purposes of Order 1000 compliance

Before Order 1000, the governance structure of WestConnect consisted of a Steering Committee for purposes of overall governance and a Planning Management Committee for purposes of transmission planning.¹³ Only utility transmission owners were permitted to vote on these two committees. These utilities were, and continue to be, governed by the WestConnect Project Agreement for Subregional Transmission Planning.¹⁴ This “pre-Order 1000” Planning

¹² The filed rate doctrine requires a state to allow a regulated utility to recovery 100 percent of its FERC-filed wholesale costs in its state-regulated retail rates – without a formal state commission determination in advance. *See, e.g., Narragansett Electric Co. v. Burke*, 381 A.2d 1358 (1977) (finding that where FERC sets a rate for the sale of power to a wholesale purchaser, a state may not exercise jurisdiction over retail rates to prevent the wholesale purchaser from recovering, at retail, the FERC-approved rate), cert. denied 435 U.S. 972 (1978).

¹³ *See*, “WestConnect FERC Order 1000 Overview,” presentation at WestConnect FERC Order 1000 Stakeholder Meeting (February 8, 2012), *available at*: http://westconnect.com/planning_order_1000_stakeholder.php.

¹⁴ WestConnect Project Agreement for Subregional Transmission Planning, effective May 23, 2007, *available at*:

Management Committee was designed to handle transmission planning processes in compliance with Order 1000's predecessor, Order 890, on behalf of WestConnect members.

Following the effective date of Order 1000, WestConnect formed an Implementation Management Committee ("IMC") to handle all Order 1000 compliance processes on behalf of the WestConnect member utilities.¹⁵ The membership composition and voting structure of the IMC are identical to that of the Steering Committee. State commissions and other key stakeholders are permitted to attend the IMC meetings and participate on that committee's Order 1000 "strike teams,"¹⁶ but are not permitted to be members of or vote on the IMC.¹⁷

WestConnect state regulatory commissions assigned representatives to the Governance, Planning and Cost Allocation Strike Teams of the IMC. The Governance Strike Team proposed the formation of a new Planning Management Committee ("PMC") for purposes of WestConnect Order 1000 planning processes.¹⁸ The PMC would have both stakeholders and state commissions as its voting members.¹⁹ The Governance Strike Team's original proposal also contemplated the formation of a Governance Committee to replace the WestConnect Steering

http://westconnect.com/filestorage/wc_regional_planning_project_agmt_exec_copy_052307_amended_obj_proc_011409.pdf.

¹⁵ See, "WestConnect FERC Order 1000 Overview," presentation at WestConnect FERC Order 1000 Stakeholder Meeting (February 8, 2012), *available at*:

http://westconnect.com/planning_order_1000_stakeholder.php.

¹⁶ In order to more efficiently discuss and form proposals to address the various Order 1000 requirements, the IMC formed the following strike teams: (1) Governance, (2) Communication, (3) Planning, and (4) Cost Allocation. *Id.*

¹⁷ *Id.*

¹⁸ Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 12-14 (June 7, 2012); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slides 42-48 (June 7, 2012); *available at*: http://westconnect.com/planning_order_1000_stakeholder.php.

¹⁹ Minutes of the WestConnect FERC Order 1000 IMC Meeting pp. 2-3 (June 19, 2012), *available at*: http://westconnect.com/planning_order_1000_stakeholder.php; Minutes of the WestConnect FERC Order 1000 Governance Strike Team Meeting pp. 6-10 (June 20, 2012), *available at*: http://westconnect.com/planning_order_1000_governance.php.

Committee.²⁰ The proposed Governance Committee would include both stakeholders and state commissions as voting members.²¹ In addition, the committee would retain ultimate approval authority over all WestConnect processes, including transmission planning processes pursuant to Order 1000.²²

The process leading to the creation of the Planning Management Committee and the uncertainties still surrounding that entity raise concerns with the lack of coordination, openness, and transparency

Beginning on or around December 20, 2011, the COPUC and other state regulatory commissions involved in the WestConnect Order 1000 process requested a meaningful role, i.e., a vote on the WestConnect IMC, with respect to the filings to be made on October 12, 2012. The IMC denied that request²³ and the IMC voting members remained transmission owners only.

Subsequently, the WestConnect Governance Strike Team proposed formation of a new PMC to handle all Order 1000 related transmission planning and cost allocation procedures on behalf of WestConnect. The new PMC will not become active until the WestConnect Order 1000 transmission planning and cost allocation processes, as provided in the WestConnect utilities' October 11,

²⁰ Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 12-14 (June 7, 2012); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slides 42-48 (June 7, 2012); *available at:* http://westconnect.com/planning_order_1000_stakeholder.php.

²¹ Minutes of the WestConnect FERC Order 1000 IMC Meeting pp. 2-3 (June 19, 2012), *available at:* http://westconnect.com/planning_order_1000_stakeholder.php; Minutes of the WestConnect FERC Order 1000 Governance Strike Team Meeting pp. 6-10 (June 20, 2012), *available at:* http://westconnect.com/planning_order_1000_governance.php.

²² Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 12-14 (June 7, 2012); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slides 44-47 (June 7, 2012); *available at:* http://westconnect.com/planning_order_1000_stakeholder.php.

²³ Minutes of the WestConnect FERC Order 1000 IMC Meeting p. 4 (March 20, 2012) (IMC members asking to consider state proposal for a vote on the IMC and IMC members refusing to consider the proposal); Minutes of the WestConnect FERC Order 1000 IMC Meeting p. 2 (April 17, 2012) (summary of March IMC meeting including discussion of the “non-vote” decision of the IMC on state participation); Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting p. 3 (May 10, 2012); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slide 29 (May 10, 2012) (remarking that “states’ voting role at IMC was not approved, but states should have a meaningful role in ongoing Order 1K activities”); all meeting minutes and presentations *available at:* http://westconnect.com/planning_order_1000_imc.php and http://westconnect.com/planning_order_1000_stakeholder.php.

2012 compliance tariff filings, are approved by the Commission.²⁴ The original draft document on this subject matter discussed the link between the PMC and the WestConnect Governance Committee, where the Governance Committee would have the ultimate approval authority for Order 1000-compliant transmission plans and cost allocation procedures.²⁵ In addition, the Governance Committee would handle non-Order 1000 matters.²⁶ Stakeholders and state regulatory commissions were to have votes on both the Governance Committee and the PMC. Stakeholders and state regulatory commissions provided input on that draft document and it stayed relatively consistent up until early July 2012. However, during the first week of July 2012, closed door discussions among the transmission owners took place and the draft document was amended without any input from state regulatory commissions or other key stakeholders.²⁷ Ultimately, the new draft only described the PMC, removed any reference to a Governance Committee, and failed to mention its relationship to the existing WestConnect Steering Committee.²⁸ That omission, in turn, raises the possibility that the Steering Committee, which

²⁴ See: WestConnect Regional Planning Process Business Practice Manual, Version 11, p. 32 (last revised October 12, 2012), *available at*: http://westconnect.com/planning_order_1000_bpm.php.

²⁵ Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 12-14 (June 7, 2012); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slides 44-47 (June 7, 2012); *available at*: http://westconnect.com/planning_order_1000_stakeholder.php.

²⁶ *Id.*

²⁷ Minutes of the WestConnect FERC Order 1000 Governance Strike Team Meeting pp. 2-6 (July 3, 2012) (discussion on “Straw Proposal Review” indicates the existence of a PMC and a Governance Committee); Minutes of the WestConnect Order 1000 Governance Strike Team Meeting pp. 1- 7 (July 11, 2012) (*see*: comments on page 1, indicating that the new proposal would remove the Governance Committee, leave the existing Steering Committee and PMC in place, and move the approval authority for Order 1000 matters to the PMC; *see also*: comments on page 2, indicating the reasoning behind the transmission owners’ proposal); *available at*: http://westconnect.com/planning_order_1000_governance.php.

²⁸ Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 7-8 (July 17, 2012) (concern expressed by numerous stakeholders that previously-approved Governance proposal had been changed by only a “small percentage of participants” and without stakeholder input; *see*: summary of stakeholder comments on page 10, under “Session Closing”); Presentation at the WestConnect FERC Order 1000 Stakeholder Meeting, slides 58-61 (July 17, 2012) (referencing the “recent shift in thinking” for Order 1000 governance on slide 59 and the new governance proposal on slide 60); Minutes of the WestConnect FERC Order 1000 IMC Meeting pp. 4-6 (July 18, 2012) (stakeholder remarks that Governance

does not allow for votes by stakeholders or state regulatory commissions, could ultimately veto the PMC, rendering the state and stakeholder votes on the PMC meaningless.²⁹

It is also important to note that neither the compliance tariff filings submitted by Public Service and Black Hills, nor the WestConnect Regional Planning Process Business Practice Manual (“BPM”),³⁰ clarify the relationship between the Steering Committee and the PMC (for example, whether the Steering Committee could veto the PMC and vice versa).³¹ Instead, these issues are reserved for resolution via the Planning Participation Agreement (“PPA”), which has not been drafted at this time.³² The COPUC is concerned with this lack of clarification and submits that this is indicative of the general lack of transparency, openness, and coordination with the WestConnect Order 1000 compliance process.

Further uncertainties surrounding the PPA remain. These uncertainties include, among others, the legal relationship between members of the PMC, who will actually sign the PPA to become a member of the PMC;³³ the relationship between the PMC and the Steering Committee (including, among other things, an explicit clarification that the Steering Committee has no veto power over the PMC); a clarification regarding the “executive sessions” for transmission owners

Committee’s relationship to the PMC had been changed and that an ambiguous relationship now existed between the Governance Committee and the PMC); all meeting minutes and presentations *available at*: http://westconnect.com/planning_order_1000_imc.php and http://westconnect.com/planning_order_1000_stakeholder.php.

²⁹ Minutes of the WestConnect FERC Order 1000 IMC Meeting p. 5 (July 18, 2012) (*see*: remarks of Western Interstate Energy Board staff member Tom Carr, on behalf of WestConnect: “We do not want a state vote to be rendered meaningless in the PMC if that vote can be overruled by the [Steering Committee] or [Governance Committee]), *available at*: http://westconnect.com/planning_order_1000_imc.php.

³⁰ WestConnect Regional Planning Process Business Practice Manual, Version 11, p. 6 (last revised October 12, 2012), *available at*: http://westconnect.com/planning_order_1000_bpm.php.

³¹ *Id.*

³² The PPA is referred to simply as “The Agreement” for purposes of the BPM. *Id.* at 2, 7, 8.

³³ The WestConnect regional compliance filings explain that an entity cannot vote on the PMC until it has executed the PPA. However, the PPA will not be established until the PMC takes effect—i.e., when the Commission acts upon the compliance filings.

only; and specific notice requirements for exiting the PMC (as provided by the BPM and tariff filings).

Finally, the PMC will not take effect until the Commission approves Order 1000 compliance filings.³⁴ In the meantime, WestConnect is operating with “one foot in and one foot out” in terms of governance for its Order 1000 compliance processes. On the one hand, for purposes of interregional coordination, WestConnect operates under its Order 1000 PMC structure, as described in its compliance tariffs and the BPM.³⁵ On the other hand, for purposes of the ongoing regional planning discussions, WestConnect continues to operate under the IMC. Therefore, state regulatory commissions and other stakeholders do not presently have a vote for these important discussions. This disconnect is also inconsistent with the Order 1000 requirements for openness, transparency and coordination.

Executive sessions for closed door discussions among transmission owners only

In their compliance filings, Public Service and Black Hills mention “executive sessions” for closed door discussions among transmission owners only.³⁶ These executive sessions would exclude all PMC member sectors, including state regulatory commissions and key interest groups, other than transmission owners. The compliance filings do not specify what topics may be discussed during these executive sessions (other than stating that confidential issues,

³⁴ See: WestConnect Regional Planning Process Business Practice Manual, Version 11, p. 32 (last revised October 12, 2012), available at: http://westconnect.com/planning_order_1000_bpm.php.

³⁵ Interregional coordination refers to the presently occurring meetings between WestConnect, CAISO, ColumbiaGrid, and NTTG to discuss and plan for the interregional compliance filings due in April 2013. See: “WestConnect Overview,” presentation at FERC Order 1000 Interregional Coordination Team Stakeholder Meeting (Nov. 7, 2012), available at: <https://www.columbiagrid.org/O1000Inter-documents.cfm>.

³⁶ Public Service and Black Hills, on p. 8 and 6 of their transmittal letters state that “all WestConnect PMC monthly meetings will be open to stakeholder participation, except for occasional executive sessions to discuss confidential issues such as contractual or personnel matters.” The COPUC has been unable to find other references to these executive sessions in the compliance filings submitted by Public Service and Black Hills.

including contractual and personnel matters may be discussed) and how, if at all, these discussions would be documented.³⁷ The COPUC submits that no PMC member sector should be excluded from executive sessions and that closed door discussions among transmission owners only conflicts with the openness, coordination, and transparency requirements of the Order.

Lack of clarity as to how OATT revisions will be handled

The current version of the BPM lists obligations and responsibilities of the PMC.³⁸ The BPM, at pp. 6-7, states that the responsibilities of the PMC will include, but are not limited to, the following: “approve changes to the WestConnect planning process that do not require OATT revision (i.e., BPM revisions)” and “approve changes to the WestConnect planning cost allocation process that do not require OATT revision (i.e., BPM revisions).” The BPM is vague with respect to changes “that do not require OATT revision” and does not specify the manner in which OATT revisions will be handled. However, based upon previous discussions within WestConnect and other language contained in the compliance filings, the COPUC is concerned that OATT revisions may be left for discussion among transmission owners only, without any

³⁷ However, previous WestConnect discussions shed light on the original intent behind the executive sessions. *See: Minutes of the WestConnect FERC Order 1000 IMC Meeting* pp. 4-5 (August 21, 2012) (*see: discussion on page 4 regarding “Responsibilities Reserved for the TOs”*), *available at: http://westconnect.com/planning_order_1000_imc.php*; Presentation at the WestConnect FERC Order 1000 IMC Meeting, slide 15 (August 21, 2012) (listing the following as TO-only responsibilities: (1) purchase of goods and services outside PMC approved budget; (2) approval of changes to planning process that require OATT revision; (3) approval of changes to [cost allocation] process that require OATT revision; (4) regulatory compliance decisions related to future FERC orders which would require OATT revisions; and (5) determination of need for legal advice for pending or active legal actions, selection of litigation strategy and allocation of associated costs), *available at: http://westconnect.com/planning_order_1000_imc.php*.

³⁸ The current version of the WestConnect BPM, last revised October 12, 2012, is available on the WestConnect Order 1000 website, http://www.westconnect.com/planning_order_1000_rc_filing.php.

input from state regulatory commissions and other stakeholders.³⁹ The COPUC submits that OATT revisions should not be discussed in transmission owner-only executive sessions and that such sessions conflict with the openness, coordination, and transparency requirements of the Order.

WestConnect’s approach to regional transmission planning is not compliant with the Order’s requirements for regional, as opposed to local, transmission planning

Transmission planning approaches can vary greatly. A purely “bottom up” approach examines regional transmission planning solely from a utility project-by-project view whereas a “top down” approach focuses on the larger regional footprint. A hybrid approach first examines transmission planning needs at the regional level and then later considers needs identified in the local plans. The hybrid approach enables the most efficient solution to “rise to the top”⁴⁰ and the COPUC submits it is the approach most compliant with the Order 1000 regional transmission planning requirements.

Despite repeated requests by both state regulatory commissions and stakeholders calling for WestConnect to adopt the hybrid approach to regional transmission planning,⁴¹ WestConnect instead developed an approach where consideration is first given to needs identified in the roll-up of local transmission owner plans, followed by a WestConnect-wide (i.e., regional) reliability

³⁹ Minutes of the WestConnect FERC Order 1000 IMC Meeting pp. 4-5 (August 21, 2012) (*see*: discussion beginning on page 4 regarding “Responsibilities Reserved for the TOs”), *available at*: http://westconnect.com/planning_order_1000_imc.php; Presentation at the WestConnect FERC Order 1000 IMC Meeting, slide 15 (August 21, 2012) (listing the following as TO-only responsibilities: (1) purchase of goods and services outside PMC approved budget; (2) approval of changes to planning process that require OATT revision; (3) approval of changes to [cost allocation] process that require OATT revision; (4) regulatory compliance decisions related to future FERC orders which would require OATT revisions; and (5) determination of need for legal advice for pending or active legal actions, selection of litigation strategy and allocation of associated costs), *available at*: http://westconnect.com/planning_order_1000_imc.php.

⁴⁰ Minutes of the WestConnect FERC Order 1000 Stakeholder Meeting pp. 6-8 (May 10, 2012), *available at*: http://westconnect.com/planning_order_1000_stakeholder.php.

⁴¹ *Id.*

assessment of these plans.⁴² In adopting this approach, WestConnect fails to first identify transmission planning needs at the regional level and, instead, contemplates that incumbent transmission providers will provide information on projects to WestConnect based on assessments of their individual systems.⁴³

The COPUC submits that its hybrid approach, by contrast, will determine the most effective and cost efficient transmission options for a given region by first examining planning needs from a “big picture view” at the regional level. The COPUC further submits that the failure by WestConnect and its members to adopt this approach to planning violates the Order 1000 requirements in the following ways:

First, the decision to start with a “bottom up” analysis will result in merely rolling up preexisting local plans to identify transmission planning needs and to determine the most cost effective options. Even though WestConnect follows this analysis with a “top down” reliability assessment, that assessment is focused on the roll-up of these preexisting local plans and thus, the focus remains at the local level. By failing to examine needs at the regional level first, this approach lacks the “big picture view” required to “result in the development of a regional transmission plan that reflects the identification by the transmission planning region of the set of transmission facilities that are more efficient or cost-effective solutions for the transmission planning region.”⁴⁴

Second, by starting with a “bottom up” analysis, WestConnect’s transmission planning process for purposes of Order 1000 is inherently focused first on the plans of local incumbent transmission providers and is thereby biased towards their plans and proposed projects. This is

⁴² See: WestConnect BPM, last revised October 12, 2012, available on the WestConnect Order 1000 website, http://www.westconnect.com/planning_order_1000_rc_filing.php, p. 15, lines 23-26.

⁴³ *Id.*

⁴⁴ Order 1000, p. 64, ¶ 78.

contrary to the Order 1000 requirement that “a non-incumbent transmission developer must have the same eligibility as an incumbent transmission developer to use a regional cost allocation method or methods for any sponsored transmission facility selected in the regional transmission plan for purposes of cost allocation.”⁴⁵

Third, in promulgating Order 1000, the Commission intended to “ensure an *opportunity for more transmission projects to be considered in the transmission planning process on an equitable basis* and increase the likelihood that transmission facilities in the transmission plan will move forward to construction” (emphasis added).⁴⁶ WestConnect’s approach to transmission planning, which starts off identifying needs from a local rather than regional level, results in the narrowing of possible options from the initial stages of the process, thereby contradicting the Order’s stated intent.

Finally, the COPUC submits that the narrow scope and view inherent in the WestConnect approach to transmission planning is not the most effective way to consider non-transmission alternatives, as required by Order 1000. In promulgating Order 1000, the Commission intended “to ensure that public utility transmission providers in each transmission planning region, in consultation with stakeholders, identify and evaluate [non]-transmission alternatives at the regional level that may resolve the region’s needs more efficiently or cost-effectively than solutions identified in the local transmission plans of individual public utility transmission providers.”⁴⁷ By first focusing its transmission planning needs at the local rather than regional level, WestConnect’s approach narrowly considers the transmission needs of its region. This

⁴⁵ *Id.*, p. 264, ¶ 332.

⁴⁶ *Id.*, p. 36, ¶ 42.

⁴⁷ *Id.*, pp. 63-64, ¶ 78.

leads to a similarly narrow consideration of non-transmission alternatives to meet those needs, thereby contradicting the Order's stated intent.

WHEREFORE, the COPUC respectfully requests that the Commission withhold approval of the Order 1000 compliance tariffs filed by Black Hills and Public Service on October 11, 2012 until these utilities appropriately address the issues raised by these comments. Specifically, with respect to the concerns with the lack of coordination, openness and transparency in the WestConnect Order 1000 compliance and post-compliance processes, the COPUC respectfully requests the Commission withhold its approval until the compliance tariff filings have been appropriately modified to resolve these concerns and that any supporting documentation, including the BPM and PPA, are similarly modified to resolve these concerns.

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.211), I hereby certify that I have served a copy of the foregoing document upon each person listed on the official service lists maintained by the Secretary of the Commission in the above-captioned proceedings.

Dated this 26th day of November, 2012.

Respectfully submitted,

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