

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

Public Service Company of Colorado	)	Docket No. ER13-75-000
	)	
Tucson Electric Power Company	)	Docket No. ER13-77-000
	)	
UNS Electric, Inc.	)	Docket No. ER13-78-000
	)	
Public Service Company of New Mexico	)	Docket No. ER13-79-000
	)	
Arizona Public Service Company	)	Docket No. ER13-82-000
	)	
El Paso Electric Company	)	Docket No. ER13-91-000
	)	
Black Hills Power, Inc.	)	Docket No. ER13-96-000
	)	
Black Hills Colorado Electric Utility Company, LP	)	Docket No. ER13-97-000
	)	
NV Energy, Inc.	)	Docket No. ER13-105-000

**MOTION TO INTERVENE AND PROTEST  
LS POWER TRANSMISSION, LLC AND LSP TRANSMISSION HOLDINGS, LLC**

Pursuant to Rules 211, 212, and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),<sup>1</sup> LS Power Transmission, LLC and LSP Transmission Holdings, LLC (collectively “LSP Transmission”) move to intervene in the above-captioned proceeding and submit this Protest to the Order No. 1000<sup>2</sup> compliance filings of the participants in WestConnect (“WestConnect Compliance Filings”).<sup>3</sup>

<sup>1</sup> 18 C.F.R. §§ 385.211, 212 and 214 (2012).

<sup>2</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011); *order on reb’g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012); *order on reb’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>3</sup> *Public Service Co. of Colorado*, Compliance Filing (Oct. 11, 2012) [hereinafter “PSCo Compliance Filing”]; *Tucson Elec. Power Co.*, Compliance Filing (Oct. 11, 2012) [hereinafter “TEP Compliance Filing”]; *UNS Electric*, Compliance Filing (Oct. 11, 2012) [hereinafter “UNSE Compliance Filing”]; *Arizona Public Service Co.*, Compliance Filing (Oct. 11, 2012) [hereinafter “APS Compliance Filing”]; *Public Service Co. of New Mexico*, Compliance Filing (Oct. 11, 2012) [hereinafter “PSNM Compliance Filing”]; *El Paso Electric Co.*, Compliance Filing (Oct. 11, 2012) [hereinafter

## I. SUMMARY

Through Order No. 1000, *et al.*, the Commission has made important strides in reducing the potential for discriminatory practices from impeding the participation of non-incumbent transmission providers to advance needed transmission infrastructure expansion. However, as presented more fully below, LSP Transmission does not believe that the WestConnect Compliance Filings fulfill the promise of Order No. 1000, because many of the revised tariff provisions are not consistent with the Commission's order. Specifically, the Commission should require the WestConnect Compliance filings to be amended to: (1) remove the cost allocation "opt-out" provision; (2) appropriately define "local" projects; (3) amend the WestConnect governance structure to prevent a small segment of Transmission Owners from having a veto right over all decisions in the regional planning process; (4) include more specific details by which the "more efficient or cost effective" solution is evaluated for inclusion in the regional plan; (5) remove inappropriate exemptions to project re-evaluation criteria; (6) specify which entity will construct projects selected in the regional plan; (7) include project sponsor qualification requirements in the Tariff; and (8) move up the implementation date for Order No. 1000 compliance.

## II. MOTION TO INTERVENE

LSP Transmission, through certain affiliates, develops and owns transmission projects in various areas of the United States. LSP Transmission was an active participant in the Rulemaking proceedings leading up to the Commission's decision to issue Order No. 1000. Likewise, LSP Transmission was an active participant in various stakeholder processes initiated to comply with

---

"EPE Compliance Filing"]; *Black Hills Power, Inc.*, Compliance Filing (Oct. 11, 2012)[hereinafter "Black Hills Compliance Filing"]; *Black Hills Colorado Electric Utility Co., LP*, Compliance Filing (Oct. 11, 2012)[hereinafter "Black Hills CO Compliance Filing"]; and *NV Energy, Inc.*, Compliance Filing (Oct. 11, 2012)[hereinafter "NV Energy Compliance Filing"].

Order No. 1000, including the WestConnect stakeholder process.<sup>4</sup> LSP Transmission has a strong interest in assuring that the regional planning processes and cost allocation methodologies are just, reasonable, and not unduly discriminatory to non-incumbent developers. LSP Transmission will be significantly affected by the implementation of Order No. 1000, *et al.* LSP Transmission and its affiliates have a direct and material economic and legal interest in the outcome of these proceedings that cannot be adequately represented by any other party. Accordingly, LSP Transmission respectfully requests leave to intervene in the above-captioned proceedings.

### III. COMMUNICATIONS

All correspondence and communications in the above-captioned dockets should be directed to the following persons:<sup>5</sup>

Sharon Segner  
 Assistant Vice President  
 LS Power Development, LLC  
 400 Chesterfield Center  
 Suite 100  
 St. Louis, MO 63017  
 Tel: (636) 532-2200  
 Fax: (636) 532-2250  
[ssegner@lspower.com](mailto:ssegner@lspower.com)

Michael R. Engleman  
 Jennifer M. Rohleder  
 Patton Boggs LLP  
 2550 M Street NW  
 Washington, DC 20037  
 Tel: (202) 457-6000  
 Fax: (202) 457-6315  
[mengleman@pattonboggs.com](mailto:mengleman@pattonboggs.com)  
[jrohleder@pattonboggs.com](mailto:jrohleder@pattonboggs.com)

### IV. PROTEST

#### A. Introduction

LSP Transmission and its affiliates (the “LS Power Group”) have a long history of active development of new generation and transmission solutions to address their customer’s energy needs.

The LS Power Group has managed over 20,000 MW of generation across the United States. LSP

---

<sup>4</sup> Comments of LSP Transmission Holdings, LLC submitted into the Order No. 1000 stakeholder process are attached as Appendix I.

<sup>5</sup> LSP Transmission requests waiver of Section 385.203(b)(3) of the Commission’s regulations to permit the designation of more than two persons upon whom service is to be made in this proceeding.

Transmission's transmission development efforts have been focused on all manner of transmission projects, including projects to resolve reliability issues, allow the markets to operate more efficiently and/or support bringing renewable energy to market. LSP Transmission affiliates have developed both cost of service and merchant transmission.

When permitted to compete for transmission, LSP Transmission has established that it brings consumer benefits as a non-incumbent transmission developer. LSP Transmission has actively identified numerous opportunities for transmission development and has submitted projects for planning purposes and/or evaluation, in the limited fashion as currently allowed, to PJM Interconnection, L.L.C. ("PJM"), the Midwest Independent System Operator Corporation ("MISO"), the New York Independent System Operator, Inc. ("NYISO"), and the California Independent System Operator, Corp. ("CAISO"). LSP Transmission affiliates have projects in construction in Nevada and Texas. LSP Transmission has the resources available and the desire to advance development of these projects through planning and permitting in parallel and in an expeditious manner. However, LSP Transmission cannot prudently advance development until the existing barriers to entry – specifically rights of first refusal, closed planning and inability to obtain cost recovery – are eliminated.

LSP Transmission believes that Order No. 1000, *et al.*, will advance significant needed transmission infrastructure expansion if implemented as intended. Through Order No. 1000 the Commission makes important strides in reducing the potential for discriminatory practices from impeding the participation of non-incumbent transmission providers in transmission expansion, and denying consumers the associated benefits of such participation. However, as presented more fully below, LSP Transmission does not believe that the WestConnect Compliance Filings fulfill the promise of Order No. 1000, because many of the revised tariff provisions are not consistent with the Commission's order.

To ensure that Order No. 1000 as implemented meets the full potential of the Order as issued, LSP Transmission believes that it is essential that the Commission fully enforce every mandate of the Order. Full and complete enforcement is essential to the continued existence and the success of a competitive transmission industry that has both incumbent and non-incumbent developers. And although LSP Transmission supports the need for certain “regional differences” the Commission should not accept the premise of many regions that it is so different that key aspects of Order No. 1000 should not be enforced at all. To this end, LSP Transmission submits detailed comments on the areas in which the WestConnect related Compliance Filings fail to comply with Order No. 1000.

**B. The WestConnect Cost Allocation Provision Should Be Binding and the Commission Should Require Removal of the Opt-out Provision**

Each of the WestConnect Compliance Filings has a provision that allows parties to opt-out of the cost allocation provisions filed in the compliance filing, thus granting transmission owners a broad right to avoid paying the costs of projects selected in the regional plan for cost allocation. For example, under the Opt-out provision in each of the WestConnect participant filings (“Opt-out provision”), inclusion of a project in the regional transmission plan would not “(3) obligate any entity to implement or effectuate, or commit to implement or effectuate, any cost allocation, (4) obligate any entity to pay, or commit to pay, costs of any project or proposed project in accordance with any cost allocation, or (5) entitle any entity to recover for any transmission service or usage or to recover from any entity any cost of any transmission facilities, regardless of whether such transmission facilities are included in any plan.”<sup>6</sup>

---

<sup>6</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.8; TEP Compliance Filing, Attachment K at Section VII.B.8; UNSE Compliance Filing, Attachment K at Section VII.B.9; APS Compliance Filing, Attachment E at Section VII.B.9; PSNM Compliance Filing, Attachment K at Section VII.B.9; EPE Compliance Filing, Attachment K at Section VI.B.9; Black Hills Compliance Filing, Attachment K at Section VII.B.9; Black Hills CO Compliance Filing, Attachment K at Section VII.B.9; NV Energy Compliance Filing, Attachment K at Section III.O.

The proposed Opt-out provision goes directly against the requirement of Order No. 1000 which requires:

558. We require that a public utility transmission provider have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation.

The Commission recognized the importance of having certainty regarding cost allocation, finding:

561. . . . By imposing the cost allocation requirements adopted here, the Commission seeks to enhance certainty for developers of potential transmission facilities by identifying, up front, the cost allocation implications of selecting a transmission facility in the regional transmission plan for purposes of cost allocation.

The Commission also held:

562. In response to Coalition for Fair Transmission Policy, we require the development of a cost allocation method or a set of methods in advance of particular transmission facilities being proposed so that developers have greater certainty about cost allocation and other stakeholders will understand the cost impacts of the transmission facilities proposed for cost allocation in transmission planning. The appropriate place for this consideration is the regional transmission planning process because addressing these issues through the regional transmission planning process will increase the likelihood that transmission facilities selected in regional transmission plans for purposes of cost allocation are actually constructed, rather than later encountering cost allocation disputes that prevent their construction.

The Opt-out provision proposed by the WestConnect participants will have the effect of making meaningless the requirements Order No. 1000. The proposed process provides no surety to non-incumbent developers that if they are selected as the more efficient or cost effective project in the regional plan, and actually construct the project, that they will get paid. Indeed, while the Section B. 8 of the Regional Cost Allocation provisions provides a wholesale opt-out, Section B. 6 requires the project developer “selected for inclusion in the Regional Plan for purposes of cost allocation” to meet submit development schedules and meet those schedules as monitored by the every entities

that can “opt-out” of paying for the project. The uncertainty is highlighted by the assertion that “Projects subject to reevaluation include . . . [p]rojects with any change in participation or cost allocation entities that result in a project that is not fully funded; . . . .”<sup>7</sup>

The Opt-out provision also appears to be an effort to re-litigate an issue that certain parties addressed to the Commission before Order No. 1000 was issued. The Commission rejected those concerns.

563. . . . We disagree with Arizona Public Service Company, however that incumbent utilities may be unreasonably burdened by the potential of cost allocation for transmission facilities developed by third party developers. For any proponent of a transmission facility, whether an incumbent or a nonincumbent, to have the costs of a transmission facility allocated through the regional cost allocation method or methods, its transmission facility first must be selected in the regional transmission plan for purposes of cost allocation. This in turn requires a determination that the transmission project is an efficient or cost-effective solution pursuant to the processes the transmission providers in the region have put in place, including consultation with stakeholders. Therefore, the benefits of any such transmission project should have been clearly identified prior to the allocation of any related costs.

The Commission should reject the concept of voluntary participation that has been proposed here, and in multiple other compliance filings throughout the West. In its place, the Commission should affirm that transmission planning and cost allocation procedures that are adopted in compliance with Order 1000 are mandatory for all enrolled entities for all projects that fulfill regional needs and that qualify for regional cost allocation.

Finally, in the stakeholder process, certain WestConnect participants argued that the Opt-out provision was acceptable as WestConnect “is different” and that participation is “voluntary.” LSP Transmission acknowledges that participation in WestConnect is voluntary. For the jurisdictional

---

<sup>7</sup> PSCo Compliance Filing at 10; TEP Compliance Filing at 9; UNSE Compliance Filing at 9; APS Compliance Filing at 9; PSNM Compliance Filing at 9; EPE Compliance Filing at 9; Black Hills Compliance Filing at 9; Black Hills CO Compliance Filing at 8-9; NV Energy Compliance Filing at 8.

transmission providers, however, complying with Order No. 1000 is not voluntary. As noted, Order No. 1000 required each jurisdictional transmission provider to participate in a region that has a cost allocation methodology for projects selected in the regional plan as the more efficient or cost effective.

Based on the clear mandate of Order No. 1000, LSP Transmission requests that the Commission reject the “Opt-out” provision and require the WestConnect Participants to amend their Compliance Filings to delete the following provision in each of their Tariffs:<sup>8</sup>

No Obligation to Construct: The Regional Planning Process is intended to determine and recommend more efficient or cost-effective transmission solutions for the WestConnect Planning Region. After the Regional Plan is approved, due to the uncertainty in the planning process and the need to address cost recovery issues, the Regional Planning Process shall not obligate any entity to construct, nor obligate any entity to commit to construct, any facilities, including any transmission facilities, regardless of whether such facilities are included in any plan. Nothing in this Attachment R or the Planning Participation Agreement or any cost allocation under the Business Practice Manual or the Planning Participation Agreement will (1) determine any transmission service to be received by, or any transmission usage by, any entity, (2) obligate any entity to purchase or pay for, or obligate any entity to commit to purchase or pay for, any transmission service or usage, (3) obligate any entity to implement or effectuate, or commit to implement or effectuate, any cost allocation, (4) obligate any entity to pay, or commit to pay, costs of any project or proposed project in accordance with any cost allocation, or (5) entitle any entity to recover for any transmission service or usage or to recover from any entity any cost of any transmission facilities, regardless of whether such transmission facilities are included in any plan. Without limiting the generality of the foregoing, nothing in this Attachment R, the Business Practice Manual or the Planning Participation Agreement with respect to an Order No. 1000 cost allocation shall preclude WestConnect or any other entity from carrying out any of its statutory authorities or complying with any of its statutory obligations.

---

<sup>8</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.8; TEP Compliance Filing, Attachment K at Section VII.B.8; UNSE Compliance Filing, Attachment K at Section VII.B.9; APS Compliance Filing, Attachment E at Section VII.B.9; PSNM Compliance Filing, Attachment K at Section VII.B.9; EPE Compliance Filing, Attachment K at Section VI.B.9; Black Hills Compliance Filing, Attachment K at Section VII.B.9; Black Hills CO Compliance Filing, Attachment K at Section VII.B.9; NV Energy Compliance Filing, Attachment K at Section III.O.



In addition, the WestConnect Participants must be required to delete any other language that reflects a voluntary, project by project, regional cost allocation methodology.<sup>9</sup>

**C. The WestConnect Participants' Local Project Carve Outs Are Inconsistent With Order No. 1000**

The WestConnect Participants have a number of carve outs for “local projects.” These carve outs go well beyond the local project exclusions established in Order No. 1000. The Tariffs provide that “[a]ll components of a Transmission Owner’s local transmission plan shall be included in the Regional Plan and shall be considered a Local Transmission Projects that are not eligible for regional cost allocation.”<sup>10</sup> Simply though inclusion of a project in the “local transmission plan” the WestConnect Participants appear to be attempting to circumvent the restrictive definition of local project in Order No. 1000. For example:

- PSCo, like other WestConnect Participants, has a provision in its proposed tariff that allows two or more Transmission Owners to “voluntarily” agree to cost allocation for a building a new transmission planning project that crosses more than one retail distribution service territory. The provision, in the Section on “Local Transmission Projects” reads “PSCo may share ownership, and associated costs, of any new transmission project, based upon mutual agreement between the parties. Such a joint ownership arrangement may arise because of existing joint ownership of facilities in the

<sup>9</sup> See, e.g., PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.5 (“To the extent a project beneficiary elects to participate in a project approved for cost allocation in the Regional Plan, the beneficiary will receive transmission transfer capability on the project in exchange for transmission service payments.” [emphasis added]).

<sup>10</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.1; TEP Compliance Filing, Attachment K at Section VII.B.1; UNSE Compliance Filing, Attachment K at Section VII.B.1; APS Compliance Filing, Attachment E at Section VII.B.1; PSNM Compliance Filing, Attachment K at Section VII.B.1; EPE Compliance Filing, Attachment K at Section VI.B.1; Black Hills Compliance Filing, Attachment K at Section VII.B.1; Black Hills CO Compliance Filing, Attachment K at Section VII.B.1; NV Energy Compliance Filing, Attachment K at Section III.N(b)(1).

area of the new facilities, overlapping service territories, or other relevant considerations.<sup>11</sup> By definition, such projects are not “local” projects under Order No. 1000 and must be treated by the WestConnect Participants as Regional proposals and submitted into the regional planning process. These provisions could be interpreted as allowing two WestConnect Participants to bypass the Order 1000 transmission planning and cost allocation process by mutually agreeing to construct “any new transmission project” and to allocate costs among their ratepayers accordingly. The Commission should require removal of the provisions.

- A Provision providing that a “Local Transmission Project” can have an “Open Season” to “secure additional project participants.”<sup>12</sup> Although the referenced section has language that could be read to suggest it could apply to projects that a Transmission Owner might submit into the regional process for regional cost allocation, the provision is listed under “Local Transmission Projects” in the Tariff. Under Order No. 1000, any project that is outside the retail distribution service territory of a transmission service provider, or whose costs are allocated outside that retail distribution service territory, is not a local project for Order No. 1000 purposes and must be submitted into the regional plan, whether that cost allocation is “voluntary” or the result of a regional cost allocation methodology. Allowing the type of

---

<sup>11</sup> See, e.g., PSCo Compliance Filing, Attachment R-PSCo at Section VI.A (emphasis added).

<sup>12</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.A.1; TEP Compliance Filing, Attachment K at Section VII.A.1; UNSE Compliance Filing, Attachment K at Section VII.A.1; APS Compliance Filing, Attachment E at Section VII.A.1; PSNM Compliance Filing, Attachment K at Section VII.A.1; EPE Compliance Filing, Attachment K at Section VI.A.1; Black Hills Compliance Filing, Attachment K at Section VII.A.1; Black Hills CO Compliance Filing, Attachment K at Section VII.A.1.

“open season” project solicitation for local projects would circumvent the mandate of Order No. 1000.

- The proposed Tariff provision permitting Participant Funded Transmission projects could likewise be inappropriately applied. These projects do not request Regional Cost allocation, but are included in the study base case for Regional Plan.<sup>13</sup> Although Participant Funding may be appropriate in certain circumstances and for certain stakeholders, LSP Transmission is concerned that the provision could be used to allow two Transmission Owners to agree to cost allocation between their ratepayers and “Participant Fund” a project, thereby avoiding testing their project in the regional planning process. The Commission should make it clear that “Participant Funding” as used in the Tariff cannot apply to WestConnect Participant transmission owners. Any projects they pursue, the costs of which will be recovered from ratepayers, must either be an Order No. 1000 local project or selected through the regional planning process.
- To the extent that the WestConnect Compliance Filings require that a project must connect with more than one transmission provider to be considered “regional” the filings are not consistent with Order No. 1000.<sup>14</sup> A project

---

<sup>13</sup> PSCo Compliance Filing, Attachment R-PSCo at Section III.E; TEP Compliance Filing, Attachment K at Section III.D.2; UNSE Compliance Filing, Attachment K at Section III.D.2; APS Compliance Filing, Attachment E at Section III.D.2; PSNM Compliance Filing, Attachment K at Section III.D.2; EPE Compliance Filing, Attachment K at Section III.C.12; Black Hills Compliance Filing, Attachment K at Section III.D.2; Black Hills CO Compliance Filing, Attachment K at Section III.D.2; NV Energy Compliance Filing, Attachment K at Section III.G.

It is important to note that the utilities could agree to “voluntarily cost share” a regional project, and then that project is in the “baseline” of the regional plan.

<sup>14</sup> PSCo Compliance Filing at 17-18; TEP Compliance Filing at 16; UNSE Compliance Filing at 16; APS Compliance Filing at 17; PSNM Compliance Filing at 17; EPE Compliance Filing at 17; Black Hills Compliance Filing at 16; Black Hills CO Compliance Filing at 16; NV Energy Compliance Filing at 15.

that is entirely within one retail distribution territory and is cost allocated with another utility is not a local project, rather it is a regional project under Order No. 1000.<sup>15</sup> Likewise, a single system project that crosses two or more retail distribution territories or whose costs are allocated to two or more retail distribution territories are regional projects pursuant to Order No. 1000 and should not be designated as local projects under WestConnect's process.<sup>16</sup> This carve-out is inconsistent with Order No. 1000.

- A provision providing, for example, that “For any transmission project where PSCo is the sole owner or such project is to be built within or for the benefit of the existing PSCo system such as local, small, and/or reliability projects, PSCo shall proceed with the project pursuant to its rights and obligations as the Transmission Owner for the local area.”<sup>17</sup> By providing that any project to be built “for the benefit of the existing PSCo system” including “reliability projects” the language goes well beyond the local project exception provided by Order No. 1000.

#### **D. The WestConnect Governance Structure Is Inappropriate**

The WestConnect governance structure inappropriately provides incumbent transmission owners with veto authority over the regional transmission plan. The WestConnect Compliance

---

<sup>15</sup> Order No. 1000-A at P 29.

<sup>16</sup> *See*, footnote 14 *supra*.

<sup>17</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.A (emphasis added); *see, also*, TEP Compliance Filing, Attachment K at Section VII.A; UNSE Compliance Filing, Attachment K at Section VII.A; APS Compliance Filing, Attachment E at Section VII.A; PSNM Compliance Filing, Attachment K at Section VII.A; EPE Compliance Filing, Attachment K at Section VI.A; Black Hills Compliance Filing, Attachment K at Section VII.A; Black Hills CO Compliance Filing, Attachment K at Section VII.A.

Filings provide for a governance structure that has five distinct stakeholder groups. However, to move forward with a regional plan:

[a]ll actions of the Planning Management Committee (including approval of the Regional Plan) will be made possible by satisfying either if the following requirements:

75% of the members voting of at least 3 sectors approving a motion, where one of the three voting sectors approving is the Transmission Owners with Load Serving Obligations sector; or

75% of the members voting if the four member sectors other than the Transmission Owners with Load Serving Obligation sector approving a motion and 2/3 of the members voting if the Transmission Owners with Load Serving Obligation sector approving a motion.<sup>18</sup>

This structure provides a very small segment, 35 percent, of the load serving Transmission Owners in WestConnect with a veto right over all decisions in the regional planning process. Allowing such a small segment of the regional stakeholders to exercise such authority is inappropriate. Regional decision making should be conducted based on simple majority voting by no more than 2/3 of the voting groups. Under no circumstances, however, should a single stakeholder group have the ability to dictate all decisions in the region.

In Paragraph 328 of Order 1000, FERC “requires that each public utility transmission provider amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional plan for purposes of cost allocation.” WestConnect, as a non-RTO, lacks the assurance of independence required of an RTO. Although LSP Transmission is not advocating for an Order No. 1000 compliance filing that creates a RTO in the WestConnect footprint, the Commission cannot simply assume that WestConnect or

---

<sup>18</sup> PSCo Compliance Filing, Attachment R-PSCo at Section III.B.5(b); TEP Compliance Filing, Attachment K at Section III.B.5(b); UNSE Compliance Filing, Attachment K at Section III.B.5(b); APS Compliance Filing, Attachment E at Section III.B.5(b); PSNM Compliance Filing, Attachment K at Section III.B.5(b); EPE Compliance Filing, Attachment K at Section III.C.6(b); Black Hills Compliance Filing, Attachment K at Section III.D.2; Black Hills CO Compliance Filing, Attachment K at Section III.B.5(b); NV Energy Compliance Filing, Attachment K at Section III.B.5(b).

the WestConnect Participant's decisions will be independent or unbiased. More than a decade ago, the Commission held that "independent governance of the RTO is a necessary condition for nondiscriminatory and efficient planning and expansion."<sup>19</sup> In relying on WestConnect to meet their obligations to comply with Order No. 1000, the WestConnect Participants likewise should not enjoy the ability to block transmission projects that harm their economic interest either. WestConnect's decision-making is only as good as its independence, and its independence is only as good as its governance structure. The Compliance Filing must therefore prove to the Commission that WestConnect will make decisions in a non-discriminatory or non-preferential manner. Allowing 35 percent of the Transmission Owners to block any action does not meet this critical requirement.

And to avoid any confusion in adjusting the governance structure going forward, while Order No. 1000 allows for the inclusion of a voting requirement for "identified beneficiaries to vote on proposed transmission facilities"<sup>20</sup> the Commission should make it clear that transmission owners who compete for regional projects are not the "identified beneficiaries" of the transmission additions, rather the ratepayers are the beneficiaries. Thus, the issue at hand is not a voting requirement as a general concept, rather, LSP Transmission objects to the fact that as it is currently comprised a small group of the WestConnect transmission owners can block any proposed actions. Likewise, LSP Transmission would object to the proposition that incumbent investor-owned transmission owners as load serving entities can "vote" on behalf of "beneficiaries" on whether a competitor's transmission project gets built. Such rules have a chilling effect on project submissions and are inconsistent with the intent of Order No. 1000 to obtain the best project at the best price.

---

<sup>19</sup> *Regional Transmission Organizations*, 89 FERC ¶ 61,285 at 490 (1999)("Order No. 2000")(The Commission further stated that "expansion may not be achieved if an RTO operates under a faulty governance system (e.g., a governance system that allows market participants to block expansions that will harm their commercial interests)").

<sup>20</sup> Order No. 1000 at P 689.

LSP Transmission does not oppose the concept of beneficiaries having a say in what solutions move forward. There are many mechanisms for beneficiaries to have that say, whether it is through an objective benefit-cost ratio determination that prohibits a project from moving forward if it does not meet the ratio or through a mechanism that allows beneficiaries to have a more direct say. Investor owned load serving entities are not the direct beneficiaries, however, of relieving congestion and may, in fact, be harmed by removing that congestion. If the load serving entity is also a generator or an incumbent transmission owner, they do not “benefit” at all from new transmission that they do not own, and thus should be prohibited from voting as a beneficiary.

To the extent that the stakeholders in WestConnect wish to keep a voting scheme for the regional transmission plan moving forward, the Commission must require that they develop a voting regime that is truly nondiscriminatory. In that regime, if voting is based on beneficiaries, whoever votes for ratepayers, the true beneficiaries of removing congestion, must have an unbiased view and only the rate payer’s interest at heart. Incumbent Transmission Owners that are load serving entities are not the parties that will bear the cost of transmission additions, whether built by the incumbent or a non-incumbent. Rather, it is their ratepayers that bear the costs.

**E. The Commission Should Require in the Tariff That the Region Specifically Confirm That Regional Project Submissions Were Evaluated By the Planning Management Committee in a Non-discriminatory Manner**

While mere words on document do not ensure that all actions will conform to the requirements of Order No. 1000, they do provide some leverage that Commission imposed obligations will be met. The WestConnect Compliance Filings charge the Planning Management Committee with determining the Regional Plan. However, the Tariff provisions include no specific statements that the actions of the Planning Management Committee will be under-taken in a bias free, non-discriminatory manner. LSP Transmission asks that the Commission require the WestConnect Participants to add edit the second sentence of Section III. I to read: “The Regional

Plan will document why projects were either included or not included in the Regional Plan and shall affirmatively attest that the review and analysis performed by or on behalf of the WestConnect Planning Management Committee were done in a non-discriminatory manner using consistent review and analysis whether incumbent transmission owner projects or non-incumbent project.”

**F. The WestConnect Compliance Filings Lack Detail Regarding How WestConnect Will Determine the “More Efficient or Cost Effective” Solution to Meet Needs**

The determination of the most cost-effective and efficient solution is an integral part of the eligibility of a project for regional cost allocation under Order No. 1000. The WestConnect Compliance Filings are essentially devoid of any evaluation methodology and are therefore not in compliance with Order No. 1000. The full extent of the WestConnect Compliance Filings’ statement on its selection of the more efficient or cost effective project is that:

The Regional Planning Process will then identify the most appropriate transmission project, taking into account factors such as how long the project would take to complete and the timing of the need.<sup>21</sup>

The Process description concludes with:

[u]pon completion of the studies and stakeholder input, the WestConnect PMC will vote to approve the Regional Plan, which will explain why projects were either included or not included in the plan.<sup>22</sup>

In Order No. 1000, the Commission required significantly more.

328. Third, the Commission requires each public utility transmission provider to amend its OATT to describe a transparent

---

<sup>21</sup> PSCo Compliance Filing, Attachment R-PSCo at Section III.E; TEP Compliance Filing, Attachment K at Section III.D.2; UNSE Compliance Filing, Attachment K at Section III.D.2; APS Compliance Filing, Attachment E at Section III.D.2; PSNM Compliance Filing, Attachment K at Section III.D.2; EPE Compliance Filing, Attachment K at Section III.C.12; Black Hills Compliance Filing, Attachment K at Section III.D.2; Black Hills CO Compliance Filing, Attachment K at Section III.D.2; NV Energy Compliance Filing, Attachment K at Section III.G.

<sup>22</sup> PSCo Compliance Filing at 9; TEP Compliance Filing at 8; UNSE Compliance Filing at 8; APS Compliance Filing at 8; PSNM Compliance Filing at 8; EPE Compliance Filing at 8; Black Hills Compliance Filing at 8; Black Hills CO Compliance Filing at 8; NV Energy Compliance Filing at 7.



and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation. This process must comply with the Order No. 890 transmission planning principles, ensuring transparency, and the opportunity for stakeholder coordination. The evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>23</sup>

In explaining the requirements of this process, the Commission required that:

To ensure comparable treatment of all resources, the Commission has required public utility transmission providers to include in their OATT's language that identifies how they will evaluate and select among competing solutions and resources. This includes the identification of the criteria by which the public utility transmission provider will evaluate the relative economics and effectiveness of performance for each alternative offered for consideration.<sup>24</sup>

The WestConnect Compliance Filings provided no such information. The Commission must require the WestConnect Participants to amend their Compliance Filings to detail how they will select among competing projects for inclusion in the regional plan.

#### **G. The WestConnect Project Reevaluation Criteria are Discriminatory**

The WestConnect Compliance filings inappropriately exempt certain incumbent developed projects from reevaluation. The WestConnect Compliance Filings provide “local or single system transmission projects that have been identified in individual Transmission Owner’s Transmission Planning . . .” are “not subject to reevaluation. However, these projects form the basis for the regional plan. As such, they must be subject to reevaluation or exclusion from the plan if they fail to meet the same milestones for completion as regional projects. If a local project fits the reevaluation criteria, *i.e.*, either fails to meet in service date, undergoes significant electrical parameter changes or a change in cost allocation – that project should be subject to reevaluation and determination should

---

<sup>23</sup> Order No. 1000 at P 328 (emphasis added).

<sup>24</sup> Order No. 1000 at P 315 (footnote omitted).

be made by WestConnect if that project could be replaced by a more efficient or cost effective solution for the Region.

In addition, the WestConnect Compliance Filings inappropriately exempt certain projects from “reevaluation” that are in fact never included in a regional transmission plan determined as required by Order No. 890 or 1000. The WestConnect Compliance Filings provide that projects will not be subject to reevaluation that are included in the 10-year corporate capital project budgets” of the WestConnect Commission-jurisdictional Transmission Owners or projects that are undergoing review through WECC Project Coordination and Rating Review Process.<sup>25</sup> LSP Transmission’s position is that neither of these categories is exempt from Order No. 1000 because they have never been selected in a regional plan and therefore have never gone through the evaluation process in the first instance. Indeed, the Commission should find it offensive that they seek to exempt projects that were merely in “the 10-year corporate capital budget.”

In addition, the reevaluation process proposed by the WestConnect participants is unreasonable. For example, Section VI. B. 6 “Project Development Schedule” of the PSCo Attachment R-PSCo proposal states:

If a transmission facility is selected for inclusion in the Regional Plan for purposes of cost allocation, the transmission developer of that transmission facility must submit a development schedule that indicates the required steps, such as the granting of state approvals, necessary to develop and construct the transmission facility such that it will meet the regional needs of the WestConnect Planning Region. As part of the ongoing monitoring of the status of the transmission project once it is selected, the transmission owners and providers in the WestConnect Planning Region shall establish the dates by which the required steps to construct must be achieved that are tied to when construction must begin to timely meet the need that the

---

<sup>25</sup> PSCo Compliance Filing, Attachment R-PSCo at Section III.J; TEP Compliance Filing, Attachment K at Section III.D.7; UNSE Compliance Filing, Attachment K at Section III.D.7; APS Compliance Filing, Attachment E at Section III.D.7; PSNM Compliance Filing, Attachment K at Section III.D.7; EPE Compliance Filing, Attachment K at Section III.C.17; Black Hills Compliance Filing, Attachment K at Section III.D.7; Black Hills CO Compliance Filing, Attachment K at Section III.D.7; NV Energy Compliance Filing, Attachment K at Section III.L.

project is selected to address. If such required steps have not been achieved by those dates, then the transmission owners and providers in the WestConnect Planning Region may remove the transmission project from the selected category and proceed with reevaluating the Regional Plan to seek an alternative solution.<sup>26</sup>

LSP Transmission objects to this provision as inconsistent with PSCo Attachment R-PSCo Section III.J., which establishes the Planning Management Committee as “responsible for determining, during each planning cycle, when and if projects are to be reevaluated.”<sup>27</sup> Thus, the provision allowing the “transmission owners and providers” to determine whether to “remove the transmission project from the selected category and proceed with reevaluating” is inappropriate and creates contradictory obligations. Project schedules and milestones should be developed by the project sponsor and submitted to the Planning Management Committee for monitoring and subjected to reevaluation pursuant to Section III.J under the same terms as incumbent transmission owner projects.

#### **H. The Regional Planning Process Fails To Affirmative Specify the Entity That Will Construct Projects Selected In the Regional Plan**

Once a Regional project is selected in the transmission plan, the regional process fails to identify the entity that will construct the chosen project. In fact, the WestConnect Compliance Filings affirmatively state that the “WestConnect Planning Management Committee will not be responsible for choosing a developer for, or managing the development of, any project selected for inclusion in the Regional Plan.”<sup>28</sup> The Commission should require the WestConnect Compliance Filings to confirm that to the extent that the qualified entity that proposed the project selected for

---

<sup>26</sup> PSCo Compliance Filing , Attachment R-PSCo at Section VI.B.6.

<sup>27</sup> *Id.* at Section III.J.

<sup>28</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.6; TEP Compliance Filing, Attachment K at Section VII.B.6; UNSE Compliance Filing, Attachment K at Section VII.B.6; APS Compliance Filing, Attachment E at Section VII.B.6; PSNM Compliance Filing, Attachment K at Section VII.B.6; EPE Compliance Filing, Attachment K at Section VI.B.6; Black Hills Compliance Filing, Attachment K at Section VII.B.6; Black Hills CO Compliance Filing, Attachment K at Section VII.B.6; NV Energy Compliance Filing, Attachment K at Section III.N(b)(6).

inclusion in the Regional Plan sought to develop that project, it must be designated as the entity to construct and own the project. This selection process is the entire purpose of the qualification and evaluation process required by Order No. 1000.

### **I. Project Sponsor Qualification Requirements Should Be Included in the Tariff**

Pursuant to Order No. 1000, each public utility transmission provider is required to revise its tariff to demonstrate that the “regional transmission planning process in which it participates has established appropriate qualification criteria for determining an entity’s eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider or a non-incumbent transmission provider.”<sup>29</sup> Consistent with Order No. 1000, LSP Transmission believes that appropriate qualification criteria should be fair and not unreasonably stringent when applied to either the incumbent transmission provider or a non-incumbent transmission provider.<sup>30</sup> The Qualification Criteria are summarized in the WestConnect Regional Planning Process Business Practice Manual (“BPM”).<sup>31</sup> LSP Transmission objects to the fact that the qualification criteria are established in document separate from the WestConnect participants’ tariffs and that document was not submitted as part of the WestConnect Compliance Filing for Commission approval. This structure is not in compliance with Order No. 1000 and the Commission should require the WestConnect participants to include the qualification requirements within their respective tariffs. LSP Transmission also notes that the information required to be submitted with the project proposal is listed in the Business Practice Manual, not in the OATT as required by Order No. 1000. The Commission should require correction of this aspect of the Compliance Filing.

---

<sup>29</sup> Order No. 1000 at P 323.

<sup>30</sup> *Id.* at P 324.

<sup>31</sup> BPM at Sec. 4.3.2.2. The BPM is posted at [http://www.westconnect.com/planning\\_order\\_1000\\_bpm.php](http://www.westconnect.com/planning_order_1000_bpm.php).

## **J. Cost Recovery**

Order 1000 requires that there should be eligibility for both incumbents and non-incumbents to receive cost recovery for projects selected in the regional plan. LSP Transmission sees no clear language in the Compliance Filing granting this certainty, and clear language should be added to the Compliance Filing. In addition, LSP Transmission has already outlined its strong concerns with the “opt out” provisions and “voluntary participation” requirements in WestConnect.

Certainty regarding cost recovery is also called into question by yet another “opt out” provision in the proposed Tariff. For instance, the PSCo Compliance Filing proposed Attachment R-PSCo provides that “notwithstanding the foregoing provisions, PSCo shall not assume cost responsibility for any transmission project if the cost of the project is not reasonably expected to be recoverable in PSCo’s retail and/or wholesale transmission rates.”<sup>32</sup> This provision is inappropriate as the Commission-approved regional cost allocation methodology provides the WestConnect Participants the only required rate recovery and certainty.

## **K. Effective date of new WestConnect Regional Planning process**

The WestConnect Participants state that the first regional plan will be produced no earlier than two years after Commission approval of the tariff filing.<sup>33</sup> While LSP understands that the current planning process will be underway when Commission approval is attained, the new transmission planning process should start applying to the next planning phase for the ongoing planning cycle after Commission approval. For example, if a project that was currently being developed between two Transmission Owners was being treated as a local project, it should be treated as a Regional Project after Order No. 1000 Commission approval is attained.

---

<sup>32</sup> PSCo Compliance Filing, Attachment R-PSCo at Section VI.B.7.

<sup>33</sup> PSCo Compliance Filing at 9-10; TEP Compliance Filing at 8; UNSE Compliance Filing at 8; APS Compliance Filing at 8; PSNM Compliance Filing at 8; EPE Compliance Filing at 8; Black Hills Compliance Filing at 8; Black Hills CO Compliance Filing at 8; NV Energy Compliance Filing at 7.





**LSP TRANSMISSION HOLDINGS, LLC**

**COMMENTS TO WESTCONNECT:**

**FERC ORDER 1000 FILING**



## Sharon Segner

---

**From:** Henderson, Susan F <Susan.F.Henderson@xcelenergy.com>  
**Sent:** Monday, February 27, 2012 11:29 AM  
**To:** Sharon Segner  
**Subject:** RE: LS Power Proposal on FERC Order 1000 compliance

Received. Thanks

**Susan Henderson, P.E.**  
**Xcel Energy | Responsible By Nature**  
**Manager – Regional Transmission Planning**  
1800 Larimer Suite 600, Denver, CO 80202  
P: 303.571.7575 C: 303.947.9133 F: 612.318.4766  
E: [susan.f.henderson@xcelenergy.com](mailto:susan.f.henderson@xcelenergy.com)

---

**From:** Sharon Segner [<mailto:Ssegner@LSPower.com>]  
**Sent:** Sunday, February 26, 2012 5:07 PM  
**To:** Henderson, Susan F  
**Subject:** LS Power Proposal on FERC Order 1000 compliance

Hi Sue,

Thanks for all your leadership and hard work in the West Connect process. We appreciate the opportunity to participate in the strike committee on transmission planning.

I did want to follow-up. LS Power has been working on a policy document which we believe is compliant with FERC Order 1000 related to the new entrant issues.

We have outlined some of the key requirements of FERC Order 1000 and proposed a policy solution for each requirement. Attached here is our eight-page proposal on the various requirements.

We'd very much appreciate the opportunity to discuss further.

Thanks again for allowing us to be on the strike team committee. I hope that we can provide constructive comments. Please forward this to the other members working on this issue.

Sharon Segner  
Associate Vice President  
LS Power Development

**This message is intended only for the designated recipient(s). It may contain confidential, privileged or proprietary information. If you are not a designated or intended recipient, you may not review, copy, distribute, use, or take any action in reliance upon this message or any attachments. If you receive this message in error, please notify the sender by reply email and delete this message and any attachments.**

## **FERC Order 1000 Compliance – LS Power Recommendations and Positions**

### **Requirements of any West Connect Compliance Filing**

- I. **Removal of the ROFR from Tariff and/or Transmission Owners Agreement to eliminate provisions that establish a federal right of first refusal for incumbent transmission provider with respect to projects selected in a regional transmission plan for purposes of cost allocation.**
  - a. LS Power Position:
    - i. This includes ANY project for which ANY of its costs are allocated regionally (rather to the local utility)
      1. This includes reliability, public policy or economic projects
  
- II. **FERC “requires each public utility transmission provider to revise its OATT to demonstrate that the regional transmission planning process in which it participates has established appropriate qualification criteria for determining an entity’s eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider or a non-incumbent transmission provider. These criteria must not be unduly discriminatory or preferential. The qualification criteria must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate and maintain transmission facilities.” (Paragraph 323, FERC Order 1000)**
  - a. LS Power Position:
    - i. **FERC Order is Clear on Basic Qualification Ground Rules**
      1. Appropriate qualification must demonstrate that the transmission developer has the necessary financial resources and technical expertise to develop, construct, own, operate and maintain transmission facilities (Paragraph 323, FERC Order 1000)
      2. Appropriate qualification criteria should be fair and not unreasonably stringent when applied to either the incumbent transmission provider or non-incumbent transmission provider. (Paragraph 324, FERC Order 1000)
      3. The qualification criteria should allow for the possibility that the existing public utility transmission provider already satisfies the criteria (Paragraph 324, FERC Order 1000)
      4. The qualification criteria should allow any transmission developer the opportunity to remedy any deficiency (Paragraph 324, FERC Order 1000)
    - ii. **Pre-Qualification Process to Implement Qualification Requirements**
      1. All interested transmission developers, including new entrants, existing transmission owners, and the affiliates of existing transmission owners, would be required to go through the pre-qualification process. This

pre-qualification process would ensure that an entity interested in proposing projects has the necessary financial and technical expertise for developing, constructing, owning and maintaining facilities.

2. Beginning on the date of filing the FERC Order 1000 compliance filing (October 12, 2012), the WEST CONNECT region (for purposes of FERC Order 1000) shall immediately commence a pre-qualification process.
3. Region would provide notice of qualification or denial within 30 days of the submittal of the standardized qualification application.
4. Such qualification would be good for three years from the date of qualification, however sponsors would be subject to verification of continued status upon the assignment of any sponsored project.
5. If denied, the developer would be eligible to remedy any deficiencies in its application.
6. Once qualified for three years, information would have to be updated annually. If there are any material adverse changes in information, the qualification could be revoked by WEST CONNECT Board.

### iii. LS Power Qualification Proposal

1. Required Qualification Criteria to Propose a Project for Selection into the Regional Plan for Purposes of Regional Cost Allocation
  - a. Willingness to Join WEST CONNECT and Become a Transmission Owner, with all requirements, rights and responsibilities, when assigned project
  - b. Willingness to Register with NERC **when required and eligible** under the current NERC Regulations.
    - i. All entities, incumbents and non-incumbents alike, that are users, owners, or operators of the electric bulk power system must register with NERC for performance of applicable reliability functions (Paragraph 342, FERC Order 1000)
    - ii. "However, if there are still concerns regarding the lack of lack of clarity as to when compliance with NERC registration and reliability standards would be triggered, we would conclude that the appropriate forum to raise these questions and request clarification is in the NERC process." (Paragraph 343, FERC Order 1000)
  - c. Financial Criteria must be met.
    - i. Demonstrated capability of a parent company, affiliate, or project company financing U.S. energy projects equal or greater than the lesser of \$500 million dollars or the capital cost of the proposed transmission project

- ii. Material degradation of the financial condition of the entity once qualified can be grounds for termination of qualification status and project re-assignment
  - iii. Examples of documents to be provided confidentially to WEST CONNECT to demonstrate compliance:
    - 1. A list of projects equal or greater than the lesser of \$500 million dollars or the capital cost of the proposed transmission project financed by the parent company, affiliate, or project company
  - d. Technical Criteria must be met.
    - i. Demonstrated capability of a parent company, affiliate, or project company developing, constructing, operating and maintaining U.S. energy projects of similar or larger complexity, size and scope of the proposed project
    - e. Willingness of entity to apply for state public utility status during development process
    - f. Willingness of entity to apply for eminent domain authority at appropriate time under state law for the project
- III. **FERC "requires that each public utility transmission provider revise its OATT to identify: (a) the information that must be submitted by a prospective transmission developer in support of a transmission project it proposes in the regional transmission planning process; and (b) the date by which such information must be submitted in a given transmission planning cycle." (Paragraph 325, FERC Order 1000). "These information requirements must identify in sufficient detail the information necessary to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in the regional transmission planning process. They may require, for example, relevant engineering studies and cost analyses and may be request other reports or information from the transmission developer that are needed to facilitate evaluation of the transmission project in the regional transmission planning process." (Paragraph 326, FERC Order 1000).**
  - a. LS Power Position
    - i. **Information required to be submitted with any Project Submittal by any Qualified Developer include:**
      - 1. Contact Information
      - 2. Date of Completion of Pre-Qualification Process
      - 3. Name of Project Entity to Be Assigned Project
      - 4. Project Description
        - a. Scope of Project

- i. Points of Interconnection to Existing System. From and To Buses.
    - ii. Voltage Level
    - iii. AC / DC
    - iv. Circuit configuration (single circuit, double circuit)
    - v. Impedance Information
    - vi. Approximate Circuit Mileage
    - vii. Location and conceptual project routing corridors, including general permitting considerations and challenges
    - viii. A clear description of project and a description of the problem addressing
      - 1. Modeling studies, as needed
  - b. Capital Cost Estimate
    - i. All projects, including incumbent proposals, passing initial screens should be subject to independent cost estimate review for capital costs
    - ii. Estimated revenue requirement, including the proposed ROE
  - c. Proposed Schedule for Development, Construction, and Operation Date
    - i. Identification of Internal Organizational Expertise
  - d. Plan for post construction, maintenance, and operation of the proposed line.
    - i. Intention of Joining WEST CONNECT and Becoming a Transmission Owner must be clearly stated
  - e. Identification of applicable CPCN requirements and applicable state jurisdiction requirements
5. Deposit Required with Each Project submittal - \$25,000
- ii. Adjustments to Proposed Projects after Submittal
    - 1. If a proposer seeks to adjust or modify a proposed project, the adjustments can be allowed if:
      - a. The technical and cost data is updated to reflect better information obtained from the independent cost estimate (ie. Impedance data updates due to more accurate data from independent cost estimate) or from the overall transmission planning process; or,
      - b. The scope of the revised project is materially similar to the originally proposed project

**IV. FERC "requires that each public utility transmission provider to amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to**

**select a proposed transmission facility in the regional transmission plan for purposes of cost allocation. This process must comply with the Order No. 890 transmission planning principles, ensuring transparency, and the opportunity for stakeholder coordination. The evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.” (Paragraph 328, FERC Order 1000).**

a. LS Power position:

i. The Evaluation Process

1. A process must be established to evaluate potential solutions to regional transmission needs, with the input of interested parties and stakeholders. (Paragraph 331, Page 261)

ii. **Efficient and Cost-Effective Solutions Should be the Most Important Component and the FOCUS of the ultimate Evaluation Matrix**

1. “Whether or not public utility transmission providers within a region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is an efficient or cost-effective solution to their needs” (Paragraph 331, FERC Order 1000).
2. Rigorous technical analysis shall be performed to determine the best technical solution
  - a. Analysis and optimization of alternatives will continue in parallel with independent consultant review
3. **Projects proposed by WEST CONNECT should be competitively bid**

iii. Ultimate Project Evaluation Matrix:

1. Whether the proposed transmission facility is the most efficient or cost-effective solution to the transmission needs - 75 percent weight
  - a. Use of Independent Cost Estimates / Independent Consultant Review
  - b. Use one consultant for all “finalist” projects in a given area
    - i. Final consultant review will be conducted, if required, of a limited number of most effective projects
  - c. The consultant shall review the cost estimates of new entrant and non-incumbent utilities for consistency and accuracy, as well as permitting feasibility
2. Independent “Fatal Flaw” Analysis on siting – 25 percent weight
3. Whether the transmission facility provides multiple system benefits – reliability, economic, and public policy – Tie-Breaker Question

iv. Additional Assignment Criteria

1. If sponsorship is the model, assignment must go to the qualified project sponsor unless WEST CONNECT has a reason that is not unduly discriminatory or preferential.
  2. Assignment must be consistent with FERC Order 1000.
  3. Assignment of a project can only be assigned to a qualified transmission provider.
  4. A Local Project Retains a ROFR for the incumbent utility (paragraph 318, FERC Order 1000)
    - a. "A local transmission facility is a transmission facility located solely within a public utility transmission provider's retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation".
    - b. The local project must be a) solely within the retail distribution service territory or footprint **and** b) not in the regional transmission plan for purposes of cost allocation. (Paragraph 63, FERC Order 1000)
    - c. Any such projects must still be evaluated under the criteria for project evaluation and determined to be the most efficient or cost effective for the region.
  5. An incumbent transmission provider would be permitted to maintain a federal right of first refusal for upgrades to its own facilities. (paragraph 319, FERC Order 1000).
    - a. Upgrades are defined as "such as tower change outs or reconductoring" (paragraph 319, FERC Order 1000)
    - b. Any such projects must still be evaluated under the criteria for project evaluation and determined to be the most efficient or cost effective for the region.
  6. The "Final Rule does not . . . **grant or deny** transmission developers the ability to use rights-of-way held by other entities . . . . The retention, modification, or transfer of rights-of-way remains subject to relevant law or regulation granting the rights-of-way." (Paragraph 319, FERC Order 1000)
    - a. Order 1000 does not state that there remains a ROFR for all right-of-way owned by an incumbent.
    - b. Unless a project is route specific, the ownership of ROW should not be evaluation criteria for assignment but final route and ability to use existing ROW will be determined in the CPCN state process (if CPCN is required).
  7. Assignment must be consistent with state and local laws.
- b. The Evaluator:
- i. FERC "declines to mandate the use independent third-party observers, as suggested by the Western Independent Transmission Group. To the extent

public utility transmission providers in consultation with other stakeholders in a region wish, they may propose an independent third-party observer and we will review such proposal on compliance.” (Paragraph 330, FERC Order 1000)

ii. LS Power Position:

1. For WEST CONNECT, this could be a viable solution. The fees for evaluator could be paid from deposits paid when projects are submitted.

c. Minimizing Disputes:

- i. FERC “encourages public utility transmission providers to consider ways to minimize disputes, such as through additional transparency mechanisms, as they identify enhancements to regional transmission planning processes necessary to comply with the Final Rule”. (Paragraph 330, FERC Order 1000).

ii. LS Power Proposal

1. All proposals should be posted immediately after the window for submittals is closed. If there is no window for submittals, the proposals should be posted immediately on website.
2. All study results for all projects submitted shall be posted.
3. If identical projects are submitted during a proposal window by qualified developers and the project meets the technical criteria established by WEST CONNECT, then WEST CONNECT should allow the qualified proposers of the identical projects ten (10) days to meet to discuss ownership options and solutions.
4. The utility transmission provider shall establish arbitration procedures to address any dispute regarding application of the qualification criteria or the evaluation process. Any proposed project sponsor who was denied qualified sponsor status or whose project was not selected because another project was determined to be the most cost efficient or effective may initiate arbitration within 30 days of the decision before [WEST CONNECT stakeholder to identify arbitration forum]. The matter will be decided by a single arbitrator whose sole review will be to determine whether the qualification criteria or evaluation criteria was applied in an appropriate and non-discriminatory manner. The arbitrator shall render its opinion with 30 days of submission and not more than 120 days from initiation of the arbitration.

- V. **FERC requires “each public utility transmission provider to amend its OATT to describe the circumstances and procedures under which public utility transmission providers in the regional transmission planning process will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative solutions, including those proposed by the incumbent transmission provider, to ensure**



## Sharon Segner

---

**From:** Sharon Segner  
**Sent:** Friday, March 02, 2012 5:41 PM  
**To:** Henderson, Susan F; Torkelson LeeAnn V; Hein, Jeffrey T  
(Jeffrey.T.Hein@xcelenergy.com)  
**Cc:** Adam Gassaway; Sandeep Arora  
**Subject:** RE: Comments to project analysis  
**Attachments:** west connect order 1000 project analysis comments.docx

Thank you very much for the opportunity to submit comments on the Order 1000 Project Analysis whitepaper discussed at last week's meeting.

I have attached LS Power's comments on the whitepaper.

Sharon Segner

---

**From:** Henderson, Susan F [<mailto:Susan.F.Henderson@xcelenergy.com>]  
**Sent:** Monday, February 27, 2012 3:04 PM  
**To:** Barbara McMinn; Bob Easton; Charlie Pottey ([cpottey@nvenergy.com](mailto:cpottey@nvenergy.com)); Charlie Reinhold ([reinhold@ctcweb.net](mailto:reinhold@ctcweb.net)); Craig Cameron; Eric Egge ([Eric.Egge@blackhillscorp.com](mailto:Eric.Egge@blackhillscorp.com)); Frank Barbera; Giancarlo Estrada; Hein, Jeffrey T; Henderson, Susan F; Henke, Robert; Jacque Cook; Jennifer Piggot; Jodie Snyder; John Collins; Laurel Whisler; Malone, Dennis H; Matt Haag; Rebecca Wagner; Robin M. Nuschler ([fercsolutions@aol.com](mailto:fercsolutions@aol.com)); Ron Belval; Sharon Segner; Steve Cobb; Steve Ellenbecker ([sellenbecker@westgov.org](mailto:sellenbecker@westgov.org)); Tom Duane; Torkelson LeeAnn V  
**Subject:** Comments to project analysis

Just as a reminder and correction, please send you comments to the on the project analysis proposal to the following

LeeAnn Torkelson ([leeann.torkelson@srpnet.com](mailto:leeann.torkelson@srpnet.com)) with copies sent to  
Jeff Hein ([Jeffrey.t.hein@xcelenergy.com](mailto:Jeffrey.t.hein@xcelenergy.com))

Jeff volunteered to help LeeAnn compile comments while she is out of the office.

Thanks.

**Susan Henderson, P.E.**  
**Xcel Energy | Responsible By Nature**  
**Manager – Regional Transmission Planning**  
1800 Larimer Suite 600, Denver, CO 80202  
P: 303.571.7575 C: 303.947.9133 F: 612.318.4766  
E: [susan.f.henderson@xcelenergy.com](mailto:susan.f.henderson@xcelenergy.com)

---

**XCELENERGY.COM**

Please consider the environment before printing this email

This email, and any attachment, may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive for the recipient), please contact the sender by reply email and delete all copies of this message and any attachments.

**Order 1000 Project Analysis**

**LS Power Transmission Comments on February 21 Proposal**

1. **Criteria for Merchant to comply with Reliability Standards:**
  - a. There is provision in footnote that we don't understand. We understand it to mean that merchant projects must be greater 230 kV and 50 miles in order to be subject to proposed reliability standards. However, we think all merchant projects should comply with applicable reliability standards just like utility-proposed projects, regardless of length and size of line.
2. **The recommended planning cycle should be biennial.** It is important that West Connect use current input assumptions in transmission modeling, otherwise the proposed project may not be credible with the state commissions. We would strongly oppose a triennial cycle, or any cycle longer than two years. It is very important for the CPCN siting applications to be supported with current and recent analysis.
3. **A Specific Voltage or Class of Projects to Be Studied:**
  - a. The proposal on page 6 says that "the purpose of the WestConnect Order 1000 plan is to study projects of a regional nature or that could have an impact on the region".
    - i. LS Power STRONGLY disagrees with the notion that ONLY projects with a capacity of greater than or equal to 1000 MW and energized at 345 kV or higher COULD HAVE AN IMPACT ON THE REGION. There is a footnote that says that says that 230 kV projects might be regional, subject to a determination. LS Power believes that even 230 kV is inappropriate.
    - ii. LS Power believes that reliability, economic, and public policy projects energized at 345 kV or lower COULD and **often do** have regional impacts. It is arbitrary to say that only 345kV projects and above have regional impacts on reliability, consumers, and public policy objectives.
    - iii. In addition, a large portion of West Connect is primarily 230 kV and many of these clearly have regional benefits.
    - iv. **LS Power Proposal:**
      1. LS Power proposes that projects energized at 100 kV or higher be considered regional, in the absence of technical determination of the true regional nature of the project. **However, West Connect should make all efforts to make a technical determination on the true regional nature of any project first.** If a project provides material benefits in a region, then it should be determined a regional project.
  - b. The proposal on page 6 also says in paragraph 2 that "the assumption is that all West Connect member projects 345 kV and all projects of voltages less than 345 kV will be included (as appropriate to the year under study) as in-service. This criteria applies to both AC and DC projects."

- i. LS Power VERY strongly opposes the discriminatory nature of this study requirement, and believes that this requirement is in violation of both FERC Order 1000 and the Federal Power Act.
- ii. By assuming that all West Connect project proposals are included the transmission model and "in-service", it could seriously harm new entrants in West Connect. In addition, the existence of such discriminatory practices will also produce rates that are not just and reasonable.
- iii. Paragraph 241 of FERC Order 1000 is clear that for one solution to be chosen over another in the transmission planning process, there must be an evaluation of the relative economics and effectiveness of performance for each alternative. **West Connect cannot "assume" that the West Connect projects proposed are the most effective solution and therefore, included in the baseline modeling. There must be a rigorous and transparent evaluation process to make that determination; otherwise, there can be no regional cost allocation and rates are not just and reasonable. By assuming that the West Connect projects are in the baseline, it discriminates against the other alternatives, encourages "blanket line drawing", and denies any evaluation of the technical strength of the West Connect member proposal.**

iv. **LS Power Counter-Proposal:**

- 1. LS Power believes that only projects approved for regional cost recovery by West Connect (specifically, the new governance structure proposed in FERC Order 1000 compliance filing) or only projects that are wholly participant-funded and have obtained all regulatory approval should be in the baseline model as "in-service".
- 2. In addition, LS Power believes that if the above projects listed in (iv) are substantially delayed during the permitting or construction process, then these newly updated in-service dates should also be included in the model as soon as the new in-service dates are known and available.
- v. The above comments are also applicable to the Proposed Study Process, listed on page 8, under C. Perform Studies, i. Power Flow, "Develop base case with all projects that meet criteria "in service".

4. Proposed Economic Study Process

- a. The process outlined on page 9 implies that standardized cost estimates be used, with standard cost per mile assumptions on new projects.
- b. LS Power believes that for all projects, qualified developers should submit cost estimates.
  - i. Like in PJM's economic transmission planning process, for projects above \$50 million in cost, the submitted cost estimates should be subject to an independent cost estimate REVIEW for reasonableness and consistency across competing projects, if a project meets preliminarily project approval criteria.

## Sharon Segner

---

**From:** Sandeep Arora  
**Sent:** Wednesday, August 01, 2012 6:48 PM  
**To:** WC\_Communications@icfi.com; jpiggott@icfi.com  
**Cc:** Sharon Segner  
**Subject:** LS Power Comments: WestConnect BPM  
**Attachments:** LSP Comments West Connect BPM Aug 1 2012.docx

Hello Jennifer:

Please see attached LS Power's comments on WestConnect draft BPM proposal. If there are any questions, please feel free to contact me.

Thanks  
Sandeep

*Sandeep Arora  
Director, Transmission & Markets  
LS Power Development, LLC  
Pleasanton, CA  
O: (925) 201 5252  
C: (916) 850 5817*

---

**From:** [1kplanning-bounces@mailman.swcp.com](mailto:1kplanning-bounces@mailman.swcp.com) [<mailto:1kplanning-bounces@mailman.swcp.com>] **On Behalf Of** Piggott, Jennifer  
**Sent:** Wednesday, August 01, 2012 11:35 AM  
**To:** WC Communications; [stakeholder@westconnect.com](mailto:stakeholder@westconnect.com); [imc@westconnect.com](mailto:imc@westconnect.com); [1kgovernance@westconnect.com](mailto:1kgovernance@westconnect.com); [1kcompliance@westconnect.com](mailto:1kcompliance@westconnect.com); [1kcostallocation@westconnect.com](mailto:1kcostallocation@westconnect.com); [1kplanning@westconnect.com](mailto:1kplanning@westconnect.com)  
**Subject:** WC\_FO1k- Draft WC BPM Version 8 - comments due today  
**Importance:** High

Dear WestConnect Stakeholders, IMC and Strike Team Members-

Just a reminder that comments on Version 8 of the Draft WestConnect Business Practice Manual (BPM) for FERC Order 1000 are due today by **5:00 pm (Mountain)**. Please remember to insert your comments in the attached comment form and email the completed form to ([WC\\_Communications@icfi.com](mailto:WC_Communications@icfi.com))

Please let me know if you have any questions.

Best Regards-  
Jennifer

**JENNIFER M. PIGGOTT**  
Senior Project Manager | Communications Director | ICF International  
Cell: 801-624-9577  
Email: [jpiggott@icfi.com](mailto:jpiggott@icfi.com)  
[www.icfi.com](http://www.icfi.com)

**WestConnect FERC Order 1000**  
**Business Practice Manual Version 8 – Comment Form**  
**Please provide comments by 5 pm (Mountain), Wednesday, August 1, 2012**

Commenter Name	Comment Number	Page Number	Line Number	Comment
LSP Transmission Holdings, LLC ("LS Power")	1	9	2	The West Connect planning process is proposed to start on January 2014. LS Power believes that January 2014 is too far out into the future, and the reforms should be implemented much sooner. LS Power sees this effective date as key, as it is also the date that the proposed grandfathering of projects revolves around on page 16, line 14-20.
LSP Transmission Holdings, LLC ("LS Power")	2	15	17-20	LS Power strongly objects to the notion that single system transmission projects, as defined, are local projects under Order 1000. As the description states, "in many areas of the West, transmission facilities may span multiple service territories or footprints but only provide service to one single entity. These projects will be considered single system transmission projects." Order 1000 is clear that a local project must be SOLELY within a retail distribution service territory or footprint. The fact that a project spans two or more retail distribution service territories or footprints makes it a regional project under Order 1000.
LSP Transmission Holdings, LLC ("LS Power")	3	15	22-23	BPM states, "Any project that is not specifically identified as a local or regional project subject to regional cost allocation shall be considered a participant-funded project..." LS Powers objects to the notion that projects need to be specifically identified as Local or Regional. Rather than having a requirement to identify upfront, a distinction between the two should be made simply based on the Order 1000 principles, i.e. If a project spans two or more retail distr, it should be considered Regional, and should be finalized through WestConnect Regional Plan and be awarded regional cost allocation. Voluntary funding arrangements between two Transmission Owners should not make an otherwise "Regional" project to be out of the WestConnect Regional Planning process for evaluation to see whether it's the most efficient and cost effective solution.
LSP Transmission Holdings, LLC ("LS Power")	4	15	29-30	BPM states, "Facilities, including transmission, constructed pursuant to the FERC Generation Interconnection process will not be considered as a transmission facility selected in the Regional Plan for the purpose of cost allocation. LS Power is generally okay with this statement as long as the upgrades triggered by Generator Interconnection studies are "Local" per Order 1000 definition. If a "Regional" upgrade is triggered from Generator Interconnection studies, this should be treated as a Regional project & hence should be finalized through WestConnect's Regional Plan and have Regional cost allocation.
LSP Transmission Holdings, LLC ("LS Power")	5	16	14-20	<p>The proposal suggests that the "following projects will not be subject to reevaluation prior to the effective date of the compliance filings accepted by FERC.... B) Local or single system transmission projects, as defined in Section 4.1.4.1, that have been planned and submitted to the West Connect Regional Plan or exist in 10-year corporate capital project budgets".</p> <p>LS Power strongly objects to the "grandfathering" of projects that have been "submitted" to West Connect by the effective date (January 2014 as proposed). Many of these grandfathering of projects will indeed be regional projects, as single system transmission projects will be regional projects if they span more than one retail distribution territory or footprint.</p> <p>LS Power also objects to the notion that a project in the 10-year capital project budget of incumbent utilities by the effective date (January 2014) will be grandfathered into the regional plan.</p>

**WestConnect FERC Order 1000**  
**Business Practice Manual Version 8 – Comment Form**  
**Please provide comments by 5 pm (Mountain), Wednesday, August 1, 2012**

Commenter Name	Comment Number	Page Number	Line Number	Comment
LSP Transmission Holdings, LLC ("LS Power")	6	17	1-6	3 – Change in project participation. Under what circumstances does WestConnect contemplate change in participatory or cost allocated entities could happen? If a "Regional" project is finalized through WestConnect plan then participation and cost allocation for this project should not change and the project should proceed with developmental activities (conditioned on receiving all necessary approvals).
LSP Transmission Holdings, LLC ("LS Power")	7	18	3-4	"...If a reliability violation is identified in this 3 power flow process, the violation will be referred back to the appropriate TO for resolution..." LS Power re-iterates that if reliability project deemed necessary for this is a "Local" project, it is correct to refer this back to the TO. Otherwise, if it is a "Regional" project, it should be finalized within the WestConnect plan and be tested for being most efficient and cost effective solution.
LSP Transmission Holdings, LLC ("LS Power")	8	17	11	The West Connect proposal says that planned transmission system upgrades to existing facilities will be grandfathered into the Regional Plan, and not subject to re-evaluation.  LS Power strongly objects. FERC Order 1000 provides a ROFR for upgrades to existing facilities, but does not provide that upgrades to existing facilities do not have to be evaluated against other alternatives in the regional planning process
LSP Transmission Holdings, LLC ("LS Power")	9	17	8	Single system transmission projects identified in an individual transmission provider's Transmission Planning (TPL) assessments to mitigate reliability issues cannot be not subject to re-evaluation if they are not local projects under Order 1000.
LSP Transmission Holdings, LLC ("LS Power")	10	18	32	The requirement that a regional project must connect with more than one transmission provider is not consistent with Order 1000. A project that is entirely within one retail distribution territory and is cost allocated with another utility is not a local project, rather a regional project under Order 1000.  In order to be consistent with Order 1000, Language should be clarified to read: "Must connect with more than one transmission provider or if project is solely within one retail distribution facility or footprint, must be cost allocated with two or more utilities"
LSP Transmission Holdings, LLC ("LS Power")	11	23	15-21	The cost allocation proposal for reliability projects provides for regional cost allocation for reliability projects "only if multiple utilities agree that a regional transmission project that a regional transmission project is able to provide the required system reliability improvements in a more cost-effective and efficient manner than individual projects, then costs for the regional project may be allocated on the basis of the cost for an individual system to comply with reliability standards."  LS Power would only agree so long as it is clear in language that the TO's projects are truly local and not a disguised regional project just individually assigned. Meaning that if the reliability need in on one system but requires a two system project to fix it that is not a local project. But if there are 3 local projects and a regional project is proposed to take care of the three needs, any of the locals can say they are moving forward with their local instead.
LSP Transmission Holdings, LLC ("LS Power")	12	23	34-37	"...Should multiple utilities have separate reliability issues that they agree can be more efficiently addressed by a single project as part of the Regional Plan, that project may be approved and the cost could be shared by those utilities in proportion to the cost of alternatives that could be pursued by the individual utility to resolve the reliability issue ..." Such projects should be developed through the WestConnect Regional plan, should be compared to other



Document Content(s)

WestConnect Protest Filing.PDF.....1-39