



88 East Broadway Blvd.  
Tucson, AZ 85701-1720

Amy Welander  
Senior Attorney

(520) 884-3655  
Fax: (520) 884-3601  
awelander@tep.com

September 20, 2013

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: Tucson Electric Power Company  
Docket No. ER13-78-\_\_\_\_\_  
Order No. 1000 OATT Compliance Filing

Dear Secretary Bose:

Pursuant to the Federal Energy Regulatory Commission's ("Commission" or "FERC") Order on Compliance, issued in this docket on March 22, 2013,<sup>1</sup> Section 206 of the Federal Power Act ("FPA"),<sup>2</sup> and Order No. 1000<sup>3</sup> issued by the Commission, the WestConnect Filing Parties<sup>4</sup> ("Filing Parties") hereby submit this compliance filing to reflect changes to Attachment K<sup>5</sup> of their respective Open Access Transmission Tariff ("OATT").<sup>6</sup> Attachment K of the OATT is included with this filing in both clean and

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<sup>1</sup> Public Service Company of Colorado, et al., 142 FERC ¶ 61,206 (2013) ("March 22 Order")

<sup>2</sup> 16 U.S.C. 824e (2006).

<sup>3</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. ¶ 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 (2011), order on reh'g and clarification, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) ("Order No. 1000").

<sup>4</sup> The WestConnect Filing Parties are: Arizona Public Service Company ("APS"), Black Hills Power, Inc. ("Black Hills Power"), Basin Electric Power Cooperative, Powder River Electric Cooperative, Black Hills Colorado Electric Utility Company, LP ("Black Hills Colorado"), Cheyenne Light, Fuel, & Power Company ("Cheyenne LF&P"), El Paso Electric Company ("El Paso Electric"), NV Energy, Inc. Operating Companies ("NV Energy"), Xcel Energy Services, Inc. ("Xcel"), on behalf of Public Service Company of Colorado ("PSCo"), Public Service Company of New Mexico, Tucson Electric Power Company ("Tucson Electric"), and UNS Electric, Inc. ("UNS Electric").

<sup>5</sup> The transmission planning process for Public Service Company of Colorado is incorporated into Attachment R-PSCo to the Xcel Energy OATT. The transmission planning process for Arizona Public Service Company is incorporated into Attachment E of its OATT.

<sup>6</sup> This compliance filing is without prejudice to the Filing Parties' pending request for rehearing of the March 22 Order in these dockets.

redline formats,<sup>7</sup> with an effective date of January 1 of the year following FERC conditional or full acceptance of the instant filing. The Filing Parties believe the changes proposed in their respective OATT Attachment Ks satisfy the Commission's directives in its March 22 Order.<sup>8</sup>

## I. COMMUNICATIONS

Communications regarding this filing should be sent to the following individuals:

Amy J. Welander  
Senior Attorney  
UNS Electric, Inc.  
88 East Broadway Boulevard  
Mail Stop HQE910  
Tucson, Arizona 85701  
Phone: (520) 884-3655  
awelander@tep.com

Thomas A. McKenna  
Vice President  
UNS Energy Corporation  
88 East Broadway Boulevard  
Mail Stop HQ901  
Tucson, Arizona 85701  
Phone: (520) 745-3580  
tmckenna@tep.com

## II. DESCRIPTION OF THE FILING PARTY

UNS Electric, an Arizona public service corporation, is a regulated public utility that generates, transmits, and distributes electricity to approximately 91,000 retail customers in Mohave and Santa Cruz counties in the state of Arizona. Substantially all of UNS Electric's customers are in the residential and commercial classifications. UNS Electric's transmission and distribution system consists of approximately 56 circuit-miles of 115 kV transmission lines, 236 circuit-miles of 69 kV transmission lines, and 3,432 circuit-miles of underground and overhead distribution lines. The majority of UNS Electric's electric wires are located in northwest Arizona, with the balance located in southeastern Arizona. UNS Electric does not operate its own balancing authority area. Rather, its transmission lines are located wholly within the balancing authority area of its affiliate, Tucson Electric.

Tucson Electric, a vertically-integrated utility that serves approximately 405,000 retail customers in Pima County and parts of Cochise County, Arizona, is concurrently submitting changes to its Open Access Transmission Tariff in compliance with Order No. 1000, similar to those being submitted by UNS Electric in this filing. UNS Electric and Tucson Electric are both wholly owned subsidiaries of UNS Energy Corporation. Tucson Electric performs transmission planning for itself and on behalf of UNS Electric for the Tucson Electric and UNS Electric transmission systems.

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<sup>7</sup> The Attachment K included in this filing is redlined from the Attachment K included with the interregional compliance filing submitted to FERC on May 10, 2013 in Docket No. ER13-1462.

<sup>8</sup> Filing Parties note that the term Attachment K is used for simplicity as that is the location of the local and regional planning process information in the *pro forma* OATT. Some Filing Parties use different OATT attachments for their planning process information; for example, APS uses Attachment E and PSCo uses Attachment R-PSCo.

### **III. BACKGROUND**

On October 11, 2012, APS, Black Hills Power, Inc. (“Black Hills Power”), Basin Electric Power Cooperative, Powder River Electric Cooperative, Black Hills Colorado Electric Utility Company, LP (“Black Hills Colorado”), Cheyenne Light, Fuel, & Power Company (“Cheyenne LF&P”), El Paso Electric Company (“El Paso Electric”), NV Energy, Inc. Operating Companies (“NV Energy”), Xcel Energy Services, Inc. (“Xcel”), on behalf of Public Service Company of Colorado (“PSCo”), Public Service Company of New Mexico, Tucson Electric Power Company (“Tucson Electric”), and UNS Electric, Inc. (“UNS Electric”) respectively submitted revisions to their transmission planning processes under their respective OATTs to comply with Order No. 1000. In its March 22 Order, the Commission accepted the Filing Parties compliance filings, as modified, subject to further compliance filings due within 120 days of the March 22 Order. On June 19, 2013 the Filing Parties requested an additional 60 days to respond to the March 22 Order. On July 5, 2013 the Commission granted the request for extension and set the Filing Parties’ deadline to respond for no later than September 20, 2013. The instant filing is intended to satisfy the Filing Parties’ compliance obligations arising from the March 22 Order.

### **IV. TRANSMISSION PLANNING REGION**

In paragraphs 24-26 of the March 22 Order, the Commission directed the Filing Parties to formally enroll in a transmission planning region and evidence such enrollment by listing the enrolled transmission providers in their respective OATTs. To address the Commission’s directives, the Filing Parties have modified Section III.A.2.c of their respective OATT Attachment Ks to include the transmission providers formally enrolled in the WestConnect Planning Region. As discussed in more detail below, the list in Section III.A.2.c of Attachment K includes only the FERC-jurisdictional transmission providers formally enrolled in Transmission Owners with Load Serving Obligations (“TOLSO”) sector of the WestConnect Planning Region.

Non-jurisdictional transmission owners can participate by formally enrolling as a TOLSO, in which case the Filing Parties will file revisions to their respective OATT Attachments to indicate the formal enrollment of a new transmission provider. Non-jurisdictional transmission owners can also choose not to formally enroll, but instead participate in the TOLSO sector as a “Coordinating Transmission Owner”. Coordinating Transmission Owners will not be formally enrolled in the WestConnect Planning Region; therefore, they will not be listed in the respective OATT Attachments of the Filing Parties.

### **V. PROVIDING FOR THE PARTICIPATION OF BOTH JURISDICTIONAL AND NON-JURISDICTIONAL TRANSMISSION OWNERS IN REGIONAL TRANSMISSION PLANNING**

In the March 22 Order, the Commission directed the elimination of what it ruled to be the voluntary nature of project participation in the WestConnect Planning Region. In

particular, the Commission found inconsistent with Order No. 1000 the ability of transmission owners to elect to participate in a regional transmission project selected in the regional plan for purposes of cost allocation.<sup>9</sup> This finding triggered a several-month process within the region to restructure the WestConnect compliance plan to comport with the March 22 Order. The result of this process is a structure that is characterized by a region with two types of regional transmission owners: (a) those transmission owners subject to the Commission's jurisdiction and to the mandates of Order No. 1000, who are required to enroll in the region for purposes of complying with Order No. 1000; and (b) those transmission owners not subject to the Commission's jurisdiction who may participate in regional transmission planning without enrolling in the region. Non-jurisdictional transmission owners may choose to enroll in the region (in which case, they will be subject to Order No. 1000 cost allocation provisions), or they may choose to participate in the regional planning process by executing the WestConnect Order No. 1000 Planning Participation Agreement ("Planning Participation Agreement") and becoming a member of the Planning Management Committee ("PMC").

The Commission's Order No. 1000 requirements are aimed at improving the existing transmission planning processes throughout the country. Broad participation in planning by all transmission owners within the region should contribute to the success of the WestConnect regional transmission planning process. As discussed in more detail below, for those non-jurisdictional transmission owners that choose not to enroll in the region, the proposed structure allows for their continued participation in the WestConnect transmission planning process as Coordinating Transmission Owners. The Coordinating Transmission Owner provisions allow for the breadth of participation that the region enjoys today, and maintains the broad scope of funding of regional transmission planning activities that the region historically has experienced. In short, the Coordinating Transmission Owner provisions allow for compliance with Order No. 1000 by the Filing Parties while maintaining the participation of non-jurisdictional transmission owners in the WestConnect regional transmission planning process to the fullest extent possible.

WestConnect presented this revised structure to stakeholders last month in a public meeting held on August 19, 2013. No stakeholder voiced opposition to it at the August meeting (or since). The Filing Parties present it to the Commission as a just and reasonable response to its compliance directives in the March 22 Order, and offer additional details on its characteristics, below:

A. The Difference Between Enrolling and Participating in the Region

To enroll in the region means being subject to the entirety of Order No. 1000 regional planning, including Order No. 1000's regional cost allocation provisions. Transmission owners that do not enroll in the region are allowed to participate in the regional process in the same way as enrolled transmission owners in every aspect *except* Order No. 1000 regional cost allocation, including:

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<sup>9</sup> March 22 Order at P 306, *et seq.*

- They are allowed to become members of the PMC
- They are allowed to propose a project for study in the regional process
- They are allowed to comment on the projects proposed by others
- They are allowed to vote on matters before the PMC for decision, except for decisions on Order No. 1000 cost allocation
- They will fund the regional process in a manner comparable to that of transmission owners enrolled in the region

For those transmission owners that do not enroll in the region, their signing the Planning Participation Agreement (for PMC membership) will serve as an indicator of an individual transmission owner's commitment to participate in the WestConnect regional transmission planning process. For ease of reference, transmission owners not enrolled in the region, but participating in the regional transmission planning process will be called Coordinating Transmission Owners if they join the PMC's TOLSO member sector.<sup>10</sup>

#### B. The Scope of Regional Planning for Coordinating Transmission Owners

Even though a Coordinating Transmission Owner does not "enroll" in the region, it may submit a new proposed regional transmission facility for study in the WestConnect regional planning process. A Coordinating Transmission Owner may not seek Order No. 1000 cost allocation in the WestConnect Planning Region, however, for its proposed regional project. In addition, a Coordinating Transmission Owner may not seek Order No. 1000 cost allocation in the WestConnect Planning Region for any proposed project that is shown through the study process to provide quantifiable benefits, as defined in the respective OATT Attachment Ks, to itself or other Coordinating Transmission Owners.<sup>11</sup>

The same treatment would apply without regard to whether the transmission facility is proposed by a Coordinating Transmission Owner or by someone else. Order No. 1000 cost allocation in the WestConnect Planning Region would not be applicable to any facility that electrically interconnects with a facility of a Coordinating Transmission Owner<sup>12</sup> (i.e., any transmission owner located within but not enrolled in the region). In addition, Order No. 1000 cost allocation in the WestConnect Planning Region would not be applicable to any proposed project that is shown through the WestConnect study process to provide quantifiable benefits, as defined in the respective OATT Attachment Ks, to a Coordinating Transmission Owner, or to any other transmission owner not enrolled in any region. Proposed transmission projects not eligible for Order No. 1000 cost allocation are eligible for study in the WestConnect regional transmission planning process as more efficient or cost-effective solutions to identified regional needs. The OATT has been revised to expressly provide for such eligibility. See Section III.C.5.

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<sup>10</sup> Timely and orderly withdrawal from enrollment in the WestConnect Planning Region, the continuing obligations of withdrawing entities toward the WestConnect Planning Region, and any conditions on re-enrollment will be addressed in the Planning Participation Agreement.

<sup>11</sup> Any project proposed through the regional process that connects to one or more Enrolled Transmission Owners would be eligible to be studied for Order No. 1000 cost allocation.

<sup>12</sup> Owned wholly or in part.

Other forms of cost responsibility may be pursued for such proposed regional projects, including, for example, participant funding. Participant funding is allowed, but will not serve as the method of Order No. 1000 cost allocation. Therefore, stakeholders interested in pursuing regional projects for which Order No. 1000 cost allocation is not available could pursue other forms of cost allocation outside of the parameters of Order No. 1000 cost allocation. Cost responsibility for participant funded projects will not be governed by the WestConnect Order No. 1000 regional cost allocation methods.

C. The Benefit of Proposing a Regional Project for Study by WestConnect When that Project is One for which Order No. 1000 Cost Allocation is Not Available

One benefit of proposing a regional project for study by WestConnect when that project is one for which Order No. 1000 cost allocation is not available would be the opportunity to have the facility's impacts (and benefits) identified and quantified holistically within a transparent, stakeholder-driven regional planning process, which could spur interest in the project's development among other parties. This will serve the Commission's goal of having a regional process that will identify projects that are more efficient or cost effective for the region. Even though Order No. 1000 cost allocation will not be available for every proposed transmission project in the region, that does not mean that projects that produce large benefits across the region will lag behind projects for which Order No. 1000 cost allocation is available. The expected outcome is that the better projects will get pursued, without regard to whether the cost allocation applicable to that project is Order No. 1000 cost allocation, or some other method.<sup>13</sup> The process that identifies impacts (benefits) may be the tipping point for discussions among interested parties to take place.

D. Consideration of a Less Inclusive Planning Structure

Given the Commission's determinations that drive these issues (that non-jurisdictional transmission owners are not subject to Order No. 1000 and its cost allocation directives, that projects cannot be selected for Order No. 1000 cost allocation unless their costs are commensurate with their benefits, and that projects selected for Order No. 1000 cost allocation must not result in free ridership concerns), an alternative might be to create a structure in which only public utility transmission owners *enroll and participate* in the WestConnect regional transmission planning process. That alternative is less attractive to the range of transmission owners in the WestConnect Planning Region because it removes from the regional planning process a large part of the current transmission system in the WestConnect region and bars participation by historical contributors of both financial and human resources for regional planning activities. In contrast, the proposal presented in the instant filing strives to retain all transmission owners in the region for purposes of *the process of regional transmission planning*, while acknowledging that with respect to Order No. 1000 cost allocation, non-jurisdictional transmission owners are free to decide whether or not to be subject to Order No. 1000

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<sup>13</sup> In this manner, cost allocation functions much like a project where all impacted parties have to agree to pursue the project before it moves forward.

cost allocation. Those that enroll, whether jurisdictional or non-jurisdictional, will be subject to Order No. 1000's cost allocation provisions. Those that do not enroll will not be subject to Order No. 1000's cost allocation provisions, but still will be able to participate in the region's planning process in all other respects. Retaining a WestConnect governance structure that permits the maximum possible involvement of all transmission owners in the region, combined with the affirmative obligation required by the Commission in its March 22 Order, should better permit the development and study of regional projects that will better serve the region's needs.

#### E. Consideration of Other Alternatives

The Filing Parties evaluated a structure under which a proposed regional project identified as one that would provide quantifiable benefits, as such benefits are defined in UNS Electric's Attachment K, to an entity not enrolled in the WestConnect Planning Region would have its project costs allocated exclusively to enrolled transmission owners through an identification of the costs that would have otherwise been attributed to unenrolled beneficiaries in proportion to their overall benefits, and a re-allocation of those costs onto enrolled transmission owners. This kind of structure was rejected as contrary to Order No. 1000. Under Order No. 1000's Regional Cost Allocation Principle 1, allocated costs must be roughly commensurate with benefits. If benefits to entities not enrolled in the region are identified and quantified, then it would be counter to Order No. 1000 to re-assign those benefits solely to enrolled entities, where the allocation would no longer be roughly commensurate with benefits. The proposed project's cost allocation must align with the project's identified beneficiaries in order to be eligible for regional cost allocation under Order No. 1000. That is why WestConnect selected the alternative that, if a proposed project's benefits are identified to include an entity not enrolled in the region (and therefore not within the reach of the region's Order No. 1000 cost allocation), that project is not eligible for Order No. 1000 cost allocation.<sup>14</sup> To do otherwise would be to violate the Commission's Regional Cost Allocation Principle 1, and permit free ridership through the re-allocation of quantified benefits away from entities not subject to Order No. 1000 and enrolled in the region, and onto the shoulders of enrolled entities.

#### F. Impact on Funding of Regional Transmission Planning Activities

Under the proposed WestConnect structure, annual funding responsibilities for WestConnect's administrative and planning functions of both enrolled transmission owners and Coordinating Transmission Owners will be set forth in the Planning Participation Agreement, which is being developed to govern the rights and obligations of all PMC members. Historically, transmission owners that would make up the Coordinating Transmission Owner group have contributed approximately half (sometimes a little more than half) of the overall funding for WestConnect transmission planning activities. Providing a means for Coordinating Transmission Owners to participate in the WestConnect regional planning process through membership on the

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<sup>14</sup> In this manner, cost allocation functions much like a project where all impacted parties have to agree to pursue the project before it moves forward.

PMC should help mitigate the anticipated increase in the cost to execute the WestConnect Regional Planning Process—costs which would otherwise fall on other PMC members. In other words, it avoids the harsh and burdensome cost impacts that would come with a structure that loses the financial contributions of Coordinating Transmission Owners to fund the regional planning process.

#### G. Impact on Interregional Cost Allocation

The proposed structure does not trigger any change to the eligibility criteria for interregional cost allocation. Under the common interregional tariff language presented to the Commission by all four Order No. 1000 planning regions in the West, including WestConnect, for an interregional project to be eligible for interregional cost allocation, it must be selected in the regional transmission plans of at least two of the four western planning regions. This requirement remains unchanged. As a result, if a proposed regional transmission project in the WestConnect Planning Region electrically interconnects with transmission facilities of a transmission owner located within, but not enrolled in, the WestConnect Planning Region, or is shown through the study process to provide quantifiable benefits to that transmission owner, the proposed regional project would not be eligible for Order No. 1000 cost allocation in the WestConnect Planning Region. This would not affect the eligibility of the project for interregional cost allocation among the other three regions in the West. Under the common interregional tariff language, a project that interconnects with, but is not selected by, an individual region remains eligible for selection by the other relevant regions.<sup>15</sup>

### **VI. PMC GOVERNANCE-RELATED COMPLIANCE CLARIFICATION**

In response to the Commission's directive in the March 22 Order at paragraph 139, the Filing Parties incorporated new language into Section III.A of their respective OATT Attachments Ks to clarify that the WestConnect Steering Committee, and other historical committees of WestConnect, are to have no right to approve or deny the actions of the new PMC. In other words, the PMC is to be independent of the other committees and activities of WestConnect.

### **VII. OPENNESS**

In paragraphs 51-55 of the March 22 Order the Commission directed the Filing Parties to clarify that closed executive sessions of the PMC would only be used to address matters outside the Regional Planning Process. The Filing Parties had no intent to exclude stakeholders from the Regional Planning Process; however, to address the Commission directive, the Filing Parties have added language to Section III.B.5.b of their respective OATT Attachment Ks clarifying that closed executive sessions of the PMC will be used

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<sup>15</sup> As is the case with any other proposed interregional project, any project that does not meet the requirements for cost allocation as an interregional project would be eligible for completion as a participant-funded project. In this case, the project would have a full analysis of benefits to assist in development discussions.



for matters involving contracts, personnel, financial matters, or legal matters such as, but not limited to, litigation. The Filing Parties believe these executive sessions, if necessary, will have no impact on the Regional Planning Process nor will they exclude stakeholders from meaningful participation.

In paragraphs 51-57 of the March 22 Order the Commission also directed the Filing Parties to include the process for stakeholders to access and submit non-disclosure agreements with WestConnect planning members. The Filing Parties have included additional language in Section III.E.8 of their respective OATT Attachment Ks directing any entity wishing to access confidential information to the WestConnect website to access a non-disclosure agreement and instructions for submitting the agreement.

### **VIII. DISPUTE RESOLUTION**

The March 22 Order directed the Filing Parties to further revise the dispute resolution section of their respective OATT Attachment Ks to include all procedures to address disputes arising from the regional transmission planning process.<sup>16</sup> The Commission noted that the Filing Parties' dispute resolution provision did not address disputes that might arise between PMC members.<sup>17</sup>

As part of the instant filing, the Filing Parties added a new section to the dispute resolution provisions of their respective OATT Attachments to address the Commission's directive. The new section describes the procedures applicable to disputes that might arise between members of the PMC, and requires that disputes, whether arising under the OATT Attachment K or between PMC members, be initiated on a timely basis, as further described in the OATT Attachment K. The procedures incorporate a process whereby (i) the disputing PMC members must first seek to resolve the dispute through negotiation and the adoption by the PMC of a recommended course of action; or (ii) if a resolution is not adopted by the PMC, alternatively, the disputing parties may refer the dispute to arbitration in accordance with the provisions of the Planning Participation Agreement. If the disputing PMC members are unable to resolve their dispute using the avenues described above, a disputing PMC member may refer either a procedural or substantive matter within the Commission's jurisdiction to FERC for resolution, such as by filing a complaint, request for declaratory order or a change in rate, in accordance with its rights under the Federal Power Act.

### **IX. COMPARABILITY**

The Commission directed the Filing Parties to address the tariff's omission of a requirement that "WestConnect, after considering the data and comments supplied by customers and other stakeholders, will develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission

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<sup>16</sup> March 22 Order at 95.

<sup>17</sup> *Id.*

system planning.”<sup>18</sup> In response, the Filing Parties have incorporated into Section III.B.1 of their respective OATT Attachment Ks a statement that “the PMC, after considering the data and comments supplied by customers and other stakeholders, is to develop a regional transmission plan that treats similarly-situated customers (e.g., network, retail network, and native load) comparably in transmission system planning.” Filing Parties point out that the reference to “a transmission system plan that meets the specific service requests of their transmission customers” does not appear in the compliance tariff. This is because the PMC has no transmission customers, and does not receive or evaluate specific service requests for transmission service on any individual transmission system. The PMC can, and will, accept the charge that its development of the regional transmission plan not reflect the unduly discriminatory treatment of similarly-situated customers in transmission system planning. In addition, Section III.E.1 of the Filing Parties’ respective Attachment Ks makes clear that the regional plan developed by the PMC is to identify projects that more efficiently or cost effectively meet identified regional transmission needs. With respect to the obligation to reliably satisfy individual transmission service requests on an individual transmission system, that obligation is left in the hands of each individual transmission provider in a manner consistent with the Commission’s instructions in the March 22 Order at paragraph 336 (“Order No. 1000 does not require that the transmission facilities in a public utility transmission provider’s local transmission plan (whether developed individually or jointly) be subject to approval at the regional or interregional level, unless the public utility transmission provider seeks to have any of those facilities selected in the regional transmission plan for purposes of cost allocation”).

Second, in paragraph 89 of the March 22 Order, the Commission directed the parties to provide that sponsors of non-transmission alternatives are to have an opportunity to demonstrate that information required for a project submittal should not be required for a specific non-transmission alternative proposal, because that opportunity is afforded to sponsors of transmission proposals. The Filing Parties have done so in Section III.C.6 of their respective OATT Attachment Ks.

Third, in paragraph 90 of the March 22 Order, the Commission found that the scope of the application of the Filing Parties’ proposed \$25,000 project submittal fee “might be unjust, unreasonable, and unduly discriminatory.” The Commission concluded that the filing fee appeared to have been developed for projects eligible for regional cost allocation, and then questioned its application to projects not eligible for regional cost allocation (identifying, specifically, non-transmission alternatives). In response, the Filing Parties have restructured the scope and method of collecting fees associated with studying projects for the regional transmission plan in Section III.C of their respective OATT Attachment Ks. First, any project may seek study by the PMC to address an identified regional need, without regard to whether the project seeks regional cost allocation. Second, all projects seeking to be studied by the PMC as a more efficient or cost effective solution to an identified regional need are to pay for the cost of such study, without regard to whether the project is a transmission project or a non-transmission

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<sup>18</sup> March 22 Order at P 87.

alternative, and without regard to whether the project seeks regional cost allocation. Finally, the method of collecting reimbursement for such study costs has been changed from a \$25,000 flat fee to a structure somewhat more akin to the way in which generator interconnection study costs are collected (by submission of a \$25,000 deposit, subject to true-up based upon actual study costs). As restructured, the collection of study costs is comparable for all projects seeking study by the PMC to address an identified regional need.

## **X. OBLIGATION TO PLAN**

In paragraphs 116-119 of the March 22 Order, the Commission directed that the PMC may not solely rely on stakeholders and other interested parties to propose more efficient or cost effective solutions, finding that it has an affirmative obligation to identify solutions that more efficiently or cost effectively meet regional transmission needs, even in the absence of requests by stakeholders. In response, the Filing Parties have incorporated into Section III.E.1 of their respective OATT Attachment Ks a statement to make clear that the PMC has this affirmative obligation, even in the absence of requests by stakeholders. In addition, the Filing Parties have expanded the OATT Attachment K language to describe the process by which the PMC will conduct its regional analysis through power flow studies, production cost analyses and other methods. See OATT Attachment K Sections III.E.2, III.E.3, III.E.4, and III.E.5 for the additions.

## **XI. TRANSPARENCY**

In paragraph 61 of the March 22 Order, the Commission found that the original compliance tariffs complied with the transparency principle. The Commission simply cautioned in paragraph 62 that as tariff revisions are developed to comply with other directives in the March 22 Order, the Filing Parties are to evaluate whether additional revisions are necessary to remain in compliance with the transparency principle. In response, the Filing Parties developed the instant compliance revisions with the transparency principle in mind. Not only was care taken not to erode the transparency reflected in the original as-filed compliance tariff, the Filing Parties expanded upon it by improving the description of how stakeholders may participate in each transmission provider's local transmission planning processes with respect to transmission needs driven by Public Policy Requirements in Section II.C of their respective OATT Attachment Ks.

## **XII. INFORMATION EXCHANGE**

In paragraph 67 of the March 22 Order, the Commission concluded that WestConnect had not provided sufficient clarity about the timing of information submissions in the WestConnect Regional Planning Process. According to the Commission, the proposal “only generally describes the timing of such submissions and the notice that will be provided to stakeholders and other entities responsible for submission of such data.”<sup>19</sup>

To address this directive, the WestConnect Filing Parties have established a more detailed schedule of information submission windows for stakeholders providing information for the WestConnect Regional Planning Process. Under the proposed language, WestConnect will provide a window of at least 30 days whenever WestConnect requests information from members and stakeholders. This is consistent with the language in the WestConnect Filing Parties’ existing tariffs specifying a 30-day window for information requested from transmission customers, independent transmission developers and owners, merchant transmission developers, and transmission owners with load serving obligations. In addition, the proposed language clarifies that transmission project submittals and non-transmission alternative submittals that address an identified regional need may be made through the 5th quarter of the planning cycle.<sup>20</sup>

## **XIII. INFORMATION REQUIREMENTS**

Order No. 1000 required planning regions to identify the information that project sponsors must submit for any projects that project sponsor sought to have considered in the regional planning process.<sup>21</sup> In the March 22 Order, the Commission found that the WestConnect Filing Parties had proposed sufficiently detailed information requirements, but also found that the WestConnect Filing Parties’ tariffs had not included in their tariff language all of the information requirements for proposed projects that are included in their draft Business Practices. To remedy this, the Commission directed the WestConnect Filing Parties to include in their tariffs the requirement that prospective project sponsors provide the project’s in-service date and other applicable requirements.<sup>22</sup>

In compliance, the WestConnect Filing Parties have revised their respective tariffs so that the list of information that project sponsors must provide in order for a project to be considered in the regional plan includes the project in-service date, among other identified requirements for a project proponent to submit its project in the regional planning process to address an identified regional need.<sup>23</sup>

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<sup>19</sup> March 22 Order at P 67.

<sup>20</sup> Proposed Attachment K Section III.C.5 (“Transmission Project Submittals”); Proposed Attachment K Section III.C.6 (“Submission of Non-Transmission Alternatives”).

<sup>21</sup> Order No. 1000 at P 325.

<sup>22</sup> March 22 Order at P 226. The Commission explained that these changes are only necessary if the WestConnect utilities intend to require that transmission project sponsors provide this information. *Id.*

<sup>23</sup> Proposed Attachment K Section III.C.5.

To address possible impacts from the proposed transmission project on other regions, the information requirements for proposed projects will require that the sponsor provide transmission system impact studies showing the system reliability impacts on neighboring transmission systems or other transmission planning regions, including the identification of all costs associated with upgrades required to mitigate the adverse impacts on other transmission systems. If such studies are not available, the project sponsor can request that they be performed by WestConnect at the sponsor's expense as part of WestConnect's analysis of the proposed project.<sup>24</sup>

#### **XIV. MERCHANT TRANSMISSION DEVELOPERS**

In the March 22 Order, the Commission held that the WestConnect proposed tariff language on merchant transmission developers partially complied with Order No. 1000.<sup>25</sup> However, the Commission concluded that WestConnect Filing Parties should clarify their OATTs to specify the information requirements for merchant transmission developers. In particular, the Commission found that the WestConnect Filing Parties had indicated that merchant transmission developers must submit the same project information as is required for other transmission projects submitted through the WestConnect Regional Planning Process, must have proper NERC registrations, and must comply with Reliability Standards, but that the proposed tariff language had not made this clear.

In compliance with the Commission's directive on merchant developers, the WestConnect Filing Parties have proposed clarifications to their tariff language. In the description of the information collection requirements of the regional planning process, the description of the information to be submitted by merchant transmission developers has been expanded to specify that merchant transmission developers are subject to the same Reliability Standards as transmission owners with load-serving obligations, and are responsible for NERC registration and compliance with Regional Reliability Standards and other applicable local, state, and federal requirements governing their activities.<sup>26</sup>

#### **XV. QUALIFICATION CRITERIA**

In paragraphs 217-218 of the March 22 Order, the Commission concluded that the WestConnect Planning Region did not include the qualification criteria that WestConnect would use to establish a potential transmission developer's eligibility to develop a transmission project selected in the WestConnect Regional Plan for purposes of cost allocation. As stated in Order No. 1000, these 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."<sup>27</sup> The instant filing complies with the Commission's directive on developer qualification criteria.

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<sup>24</sup> Proposed Attachment K Section III.C.5.

<sup>25</sup> March 22 Order at P 144.

<sup>26</sup> Proposed Attachment K Section III.C.3.

<sup>27</sup> Order No. 1000 at P 323.

WestConnect Filing Parties have specified that any entity may propose projects for consideration in the regional planning process if they provide the relevant information, but has established separate qualification criteria for entities seeking to be eligible to develop projects selected in the regional plan for cost allocation. This is consistent with the Commission's clarification that these developer qualification criteria apply only to transmission developers seeking to be eligible to use the WestConnect regional cost allocation process to develop projects identified in the WestConnect Regional Plan for purposes of cost allocation, and that any entity that does not seek to itself develop projects should be eligible to propose projects for consideration in the Regional Plan without pre-qualification.<sup>28</sup> Thus, Section III.C.5 of Attachment K explains that any entity may "propose a project for selection in the Regional Plan" so long as the project proponent submits the necessary information and is "an active member in good standing within one of the five PMC membership sectors." To become a member of a PMC membership sector, an entity must execute the WestConnect Planning Participation Agreement, and pay any dues, and comply with the provisions (as applicable) under that agreement.<sup>29</sup> As the dues for membership sectors such as "transmission customers," "state regulatory commissions," and "key interest groups" are minimal, the requirement to execute the WestConnect Planning Participation Agreement should not prevent any entity from proposing a project that it does not intend to develop itself.

If any entity wishes to propose a project for selection in the regional plan for purposes of cost allocation and be eligible to develop that project, WestConnect has provided criteria that such developers must meet to demonstrate that they have the "necessary financial resources and technical expertise to develop, construct, own, operate and maintain transmission facilities."<sup>30</sup>

These criteria, included in Section III.D of Attachment K, consist of the following:

- *Overview:* Section III.D.2.a requires a prospective developer to provide a brief overview of its capability to finance, own, construct, operate, and maintain

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<sup>28</sup> Order No. 1000 at P 324 n.304 ("[Q]ualification criteria . . . should not be applied to an entity proposing a transmission project for consideration in the regional transmission planning process if that entity does not intend to develop the proposed transmission project."); *PacifiCorp*, 143 FERC ¶ 61,151 at P 156 ("Whether a transmission project is *proposed* during the regional transmission planning process is different than whether there is an entity qualified to *develop* such a project. Therefore, we direct Filing Parties to clarify in their OATTs that: (1) any entity may submit a transmission project into the regional transmission planning process for consideration for purposes of cost allocation; and (2) their proposed qualification criteria will only apply to a transmission developer that intends to develop a transmission project that it submits into the regional transmission planning process for purposes of cost allocation.").

<sup>29</sup> Proposed Attachment K Section III.A.2.a.

<sup>30</sup> Although a prospective transmission developer may satisfy these criteria, this does not entitle that developer to construct, own, and operate a transmission project. As noted in Proposed Attachment K Section III.D.1, only governmental authorities have the authority to grant those rights. This is consistent with the Commission's statement that "Nothing in this Final Rule preempts or limits any obligations or requirements that a nonincumbent transmission developer may be subject to under state or local laws." Order No. 1000 at P 339. *See also* June 22 Order at P 269 ("The determination of which transmission developer may use the regional cost allocation method for a selected transmission project does not necessarily confer rights to construct the project.").

- regional transmission projects consistent with Good Utility Practice, including the prospective developer's history of constructing, owning, operating, and maintaining transmission projects.
- *Business Practices*: Section III.D.2.b requires a prospective developer to describe its processes and history of developing transmission projects, including the types of resources it brings to transmission projects, including relevant capability and experience contemplated for the licensing, design, engineering, material and equipment procurement, siting and routing, Right-of-Way and land acquisition, construction and project management related to the construction of transmission projects.
  - *Compliance History*: Section III.D.2.c requires a prospective developer to describe its compliance history related to violations of NERC and/or Regional Reliability Standards and/or other regulatory requirements pertaining to the development, construction, ownership, operation, and/or maintenance of electric transmission facilities by the applicant or any Alternate Qualifying Entity. This will provide valuable information to the PMC about the applicant's ability to comply with the regulatory requirements governing the development of transmission projects. To the extent the applicant and any Alternate Qualifying Entity it may rely upon to meet these criteria lacks such a compliance history, this section provides them the flexibility to provide equivalent information regarding any electric distribution or generation facilities it has developed, constructed, owned, operated and/or maintained.
  - *Participation in the Planning Process*: Section III.D.2.d requires a prospective transmission developer to describe its participation in the WestConnect Regional Planning Process or other planning forums for the identification, analysis, and communication of transmission projects as a way of determining the applicant's participation in the industry's efforts related to transmission development.
  - *Project Execution*: Section III.D.2.e requires a prospective transmission developer to explain why it has the capability and experience to comply with the on-going scheduling, operating, and maintenance activities associated with project development and execution.
  - *Right-of-Way Acquisition Ability*: Section III.D.2.f requires a prospective transmission developer to describe its procedures and practices for addressing the transmission project siting and right-of-way acquisition requirements necessary for transmission development.
  - *Financial Health*: Section III.D.2.g requires a prospective transmission developer to demonstrate that it is sufficiently creditworthy and has adequate capital resources to finance transmission projects. In order to provide the flexibility sought by the Commission in this area,<sup>31</sup> WestConnect provides several methods by which applicants can demonstrate their financial health. An applicant can demonstrate that it has an investment grade credit rating from both S&P and

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<sup>31</sup> See, e.g., *Louisville Gas & Electric Co.*, 144 FERC ¶ 61,054 at P 154 (2013).

- Moody's. Alternatively, an applicant can provide corporate financial statements for the most recent five years. If an applicant does not have a credit rating and is less than five years old, the applicant can submit corporate financial statements for each year those statements are available. As an alternative, the applicant can provide copies of their guarantees, surety bonds, letters of credit or other forms of security for the PMC's review. If an applicant is providing financial statements, the applicant must provide the funds from operations-to-interest coverage ratio, the funds from operation-to-total debt ratio, and the total debt-to-total capital ratio. The applicant must also indicate the levels of these ratios that the applicant will maintain during and after construction of the transmission project.
- *Safety Program*: Section III.D.2.h requires a prospective transmission developer to demonstrate that it has an adequate internal safety program, contractor safety program, safety performance record, and has executed its safety program.
  - *Transmission Operations*: Section III.D.2.i requires a prospective transmission developer to demonstrate it has the ability to operate a transmission project after it is complete. This includes, among other things, demonstrating that the applicant has control center operations capabilities, the ability to obtain required path ratings, a NERC compliance process and compliance history, as applicable, the required NERC certifications or the ability to obtain any applicable NERC certifications, the ability to establish Total Transfer Capability, storm/outage response and restoration plans, and a record of past reliability performance, as applicable. Recognizing that transmission developers might rely on other entities for these capabilities, WestConnect asks that the applicant provide a statement of which entity(ies) will be operating completed transmission facilities and will be responsible for staffing, equipment, and crew training.
  - *Transmission Maintenance*: Section III.D.2.j requires a prospective transmission developer to demonstrate that it has an adequate transmission maintenance program or, alternatively, plans to develop such a program. Such a maintenance program would cover staffing and crew training and transmission facility and equipment maintenance. This would also address the applicant's record of past maintenance performance, NERC compliance process and any past history of NERC compliance or plans to develop a NERC compliance program. Recognizing that transmission developers might rely on other entities for these capabilities, WestConnect asks that the applicant provide a statement of which entity(ies) will be maintaining the completed transmission facilities.
  - *Regulatory Compliance*: Section III.D.2.k requires a prospective transmission developer to demonstrate that it has the ability (or plans to develop the ability) to comply with Good Utility Practice, WECC criteria and Regional Reliability Standards, NERC Reliability Standards, construction standards, industry standards, environmental standards, and applicable local, state, and federal permitting requirements, as these are the regulatory requirements most closely related to successfully developing, operating, and maintaining a regional transmission project.



- *Affiliation Agreements*: Section III.D.2.l provides a prospective transmission developer an opportunity to rely on other entities, called “Alternate Qualifying Entities,” to fulfill the transmission developer qualification criteria. This is consistent with Commission directives in other orders, which have stressed flexibility in the arrangements that prospective developers can rely upon to fulfill developer qualification criteria.<sup>32</sup> Under the WestConnect proposal, a transmission developer can rely on its own qualification, the qualifications of a corporate affiliate, or the qualifications of an unaffiliated third-party that submits an affidavit stating its willingness to perform the tasks identified by the prospective transmission developer.
- *WestConnect Membership*: Section III.D.2.m requires a prospective transmission developer to either be a member of WestConnect in the Transmission Owners with Load Serving Obligations sector or Independent Transmission Developers and Owners sector or to agree to join the WestConnect Transmission Owners with Load Serving Obligations or Independent Transmission Developers and Owners sector and sign the Planning Participation Agreement. The Commission has accepted a similar commitment in another region.<sup>33</sup>
- *Other*: Section III.D.2.n permits the applicant to provide any additional information about its project development experience that the applicant believes would demonstrate its expertise related to the developer criteria.

The necessary information demonstrating qualification under these criteria must be submitted by potential developers during the first quarter of the WestConnect planning cycle, except that during the first WestConnect planning cycle the PMC shall have the discretion to extend the period for the submission of this information.<sup>34</sup> By September 30 each year, the PMC will notify each prospective transmission developer whether it has satisfied these criteria. If an applicant did not satisfy the criteria, the PMC will provide that applicant with 30 days to correct the deficiency and the PMC will notify the applicant within 45 days after receiving the new information whether the applicant has

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<sup>32</sup> *Avista Corp.*, 143 FERC ¶ 61,255 at P 187 (2013) (“Given the potential for a prospective transmission developer to rely on third-party contractors to construct, own, operate and maintain transmission facilities, it is unreasonable to require such a developer to demonstrate that it has the capability to do so without also providing an opportunity for a transmission developer to satisfy this showing through reliance on relevant third-party experience.”); *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059 at P 227 (2013) (“that it is premature at the qualification stage to require a potential transmission developer to enter into executed contracts with any entity the transmission developer may rely on to meet the managerial qualification criteria.”).

<sup>33</sup> *Avista Corp.*, 143 FERC ¶ 61,255 at P 181 (“[W]e find reasonable the requirement that any transmission developer who intends to sponsor a transmission project in the ColumbiaGrid transmission planning region execute the Restated PEFA before requesting Order No. 1000 cost allocation for a transmission project that it proposed.”).

<sup>34</sup> Proposed Attachment K Section III.D.2. This discretion ensures that the PMC can provide a larger submission window as needed to accommodate the many prospective transmission developers who will be preparing to submit this information for the first time.

satisfied the qualification criteria.<sup>35</sup> Then, by December 31 each year, the PMC will post on the WestConnect website a list of the transmission developers who satisfy the transmission developer criteria. Transmission developers found to meet the qualification criteria are “Eligible Transmission Developers.”<sup>36</sup>

By June 30 each subsequent year, Eligible Transmission Developers must submit a notarized letter to WestConnect stating that the developer continues to meet the qualification criteria or identifying changes to the information in its initial application. Each Eligible Transmission Developer that is not yet a WestConnect member and current on its membership dues must submit an annual certification fee, which is equal to the membership fee they would pay each year as a member of WestConnect. WestConnect members that are current on their membership dues need not submit this annual certification fee.<sup>37</sup> Equality in this area ensures that no entity is unduly advantaged or disadvantaged based on its membership or lack of membership in WestConnect.

Each Eligible Transmission Developer will have an ongoing obligation to notify the PMC chair of changes to the information provided in the developer’s transmission developer application. Such notifications must be submitted within 30 days of the change. After receiving notification of the change, the PMC will either (1) determine that the change does not affect the status of the transmission developer as an Eligible Transmission Developer, (2) suspend the transmission developer’s eligibility status until any deficiency in the transmission developer’s qualifications is cured, (3) allow the transmission developer to maintain its eligibility status for a limited time period, as specified by the PMC, while the transmission developer cures the deficiency, or (4) terminate the transmission developer’s eligibility status.<sup>38</sup>

The PMC has the authority to terminate a transmission developer’s Eligible Transmission Developer status if the Eligible Transmission Developer (1) fails to submit its annual certification letter, (2) fails to pay the applicable WestConnect membership fees, (3) experiences a change in its qualifications and the PMC determines that it may no longer qualify as an Eligible Transmission Developer, (4) informs the PMC that it no longer desires to be an Eligible Transmission Developer, (5) fails to notify the PMC of a change to the information provided in its application within thirty (30) days of such change, or (6) fails to execute the Planning Participation Agreement within a reasonable time defined by the PMC after seeking to be an entity eligible to use the cost allocation methodology for a project selected in the regional plan for purposes of cost allocation.

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<sup>35</sup> This is consistent with the Commission’s directive in other proceedings that regions provide “procedures for timely notifying potential transmission developers of whether they satisfy the qualification criteria and providing opportunities to remedy any deficiencies.” *PacifiCorp*, 143 FERC ¶ 61,151 at P 157 (2013).

<sup>36</sup> Proposed Attachment K Section III.D.3.a.

<sup>37</sup> Proposed Attachment K Section III.D.3.b.

<sup>38</sup> Proposed Attachment K Section III.D.3.b.

## **XVI. REEVALUATION PROCESS**

In the March 22 Order, the Commission explained that Order No. 1000 requires public utility transmission providers in a region to set forth the circumstances under which they will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in the regional plan for purposes of cost allocation require evaluation of alternative transmission solutions.<sup>39</sup> The purpose of this requirement is to ensure that “adequate processes are in place to determine whether delays associated with the completion of a transmission facility selected in a regional plan for purposes of cost allocation have the potential to adversely affect an incumbent transmission provider’s ability to fulfill its reliability needs or service obligations.”<sup>40</sup> The Commission stated that while it interpreted the Filing Parties proposed language concerning reevaluation as addressing this requirement, the Commission directed the Filing Parties to revise their OATTs to the extent necessary to conform them to the Commission’s description of the requirements of Order No. 1000.<sup>41</sup> In connection with this directive, the Commission further ordered the Filing Parties to revise their OATTs to: (1) allow an incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if an evaluation of alternatives is needed; and (2) if the proposed solution is a transmission facility, provide for the facility’s evaluation for possible solutions in the regional transmission plan for purposes of cost allocation.<sup>42</sup>

As revised, the Filing Parties’ proposed reevaluation process is fully consistent with the Commission’s description of the requirements of Order No. 1000. Under the process set out in the Filing Parties’ OATT Attachment Ks, the PMC shall reevaluate the Regional Plan and transmission facilities selected in the Regional Plan for purposes of cost allocation to determine if alternative transmission solutions are necessary if: (1) a project is delayed and fails to meet its in-service date by more than 2 years; (2) there are changes to underlying projects characteristics or beneficiaries, including a project’s failure to secure a developer or a project developer’s non-compliance with the qualification criteria set out in the OATT Attachment Ks; (3) there are significant physical changes to the project, including rating changes and changes to the number of transmission elements or point of interconnection; or (4) there is a change in the calculation of benefits or the cost-benefit ratio of the project that may affect whether the project remains an efficient or cost effective solution to meeting regional needs. Individual projects are subject to reevaluation until: (1) state and federal approval processes are completed and approved; (2) all local, state, and federal siting permits have been approved; and (3) major construction contracts have been issued. When reevaluation is required, the PMC will determine whether alternative transmission solutions are needed using the same regional planning processes and procedures that it uses in identifying solutions to regional transmission needs. Further, consistent with the Commission’s directive, if an alternative

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<sup>39</sup> March 22 Order at P 254.

<sup>40</sup> See Order No. 1000-A at P 477.

<sup>41</sup> March 22 Order at P 254.

<sup>42</sup> *Id.*

solution is needed, an incumbent transmission owner may propose one or more solutions that it would implement within its retail distribution service or footprint and may submit any proposed transmission project for possible selection in the Regional Plan for purposes of cost allocation.

The criteria established by the Filing Parties ensures that the PMC will consider the need for alternative transmission solutions anytime that a project fails to meet its in-service date by a prescribed period of time or the project exhibits other characteristics, such as project, developer, or system changes, that are hallmarks that a project will be delayed or ultimately will not be constructed. Thus, consistent with the Commission's discussion, the Filing Parties have established a process by which the PMC will engage in ongoing review of project delays and the need for alternative solutions and which ensures that any such delays will not adversely affect an incumbent transmission provider's ability to fulfill its reliability needs or service obligations.

Moreover, the process established by the Filing Parties meets the other requirements of the March 22 Order. The Filing Parties have revised Section III.E.7 of their respective OATT Attachment Ks to clarify that the PMC is required to reevaluate the Regional Plan— not just individual projects – and that only the PMC has the authority to modify the status of a transmission project selected for purposes of cost allocation from the Regional Plan. In addition, the Filing Parties proposed revisions establish defined triggers for reevaluation, provide additional detail concerning changes to costs and benefits that trigger reevaluation, and clarify that the PMC will reevaluate projects selected in the Regional Plan for purposes of cost allocation and the need for alternative transmission solutions using the same processes that it uses when evaluating projects for selection in the Regional Plan for purposes of cost allocation in the first instance. Also, the Filing Parties have eliminated the concept of voluntary participant funding of projects in its reevaluation criteria. Finally, the Filing Parties have clarified that local or single system projects that have been selected in the Regional Plan for purposes of cost allocation are subject to reevaluation and have eliminated the exemption from reevaluation for planned transmission system upgrades selected in the plan for purposes of regional cost allocation and projects that have been approved by the PMC in previous planning cycles.

## **XVII. TRANSMISSION NEEDS DRIVEN BY PUBLIC POLICY REQUIREMENTS IN LOCAL AND REGIONAL PROCESS**

The March 22 Order set forth a variety of directives for the Filing Parties to further revise their respective OATTs to fully comply with the Order No. 1000 directives to consider transmission needs driven by public policy requirements in the local and regional transmission planning process. The Filing Parties' instant filing contains various revisions, as summarized below, to satisfy these directives.

As required by the March 22 Order, the Filing Parties revised their respective OATT Attachment Ks to include a definition of public policy requirements.<sup>43</sup> Specifically, this

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<sup>43</sup> March 22 Order at PP 168, 196.

definition is set forth in Section II.A.2.c of the Filing Parties' respective OATT Attachment Ks and defines "Public Policy Requirements" to mean those requirements enacted by state or federal laws or regulations, including those laws enacted by local governmental entities, such as a municipality or county. This definition is used in both the Filing Parties' local and regional transmission planning sections of the OATT Attachment Ks. The Filing Parties also revised their respective OATT Attachment Ks to explain their reference to the term "proposed public policy requirements", as required by the Commission.<sup>44</sup> As a preliminary matter, the Filing Parties replaced the term "proposed public policy requirements" with the term "proposed public policy" in the OATT Attachment Ks, which more accurately reflects that such public policy has not yet been enacted and, therefore, is not yet a requirement. As used in the Filing Parties' OATT Attachment Ks, "proposed public policy" refers to public policy that has been proposed before a governmental authority, but not yet enacted.<sup>45</sup>

The terms "Public Policy Requirements" and "proposed public policy" are used in both the local and regional transmission planning sections of the Filing Parties' OATT Attachment Ks. A summary of the other changes made to the Filing Parties' respective OATT Attachments to address consideration of Public Policy Requirements in both the local and regional transmission planning processes is set forth below.

A. Consideration of Public Policy Requirements in the Regional Transmission Planning Process

In response to the Commission's directives in the March 22 Order, the Filing Parties added provisions that describe how stakeholders can submit what they believe are transmission needs driven by Public Policy Requirements and how the proposed process for evaluating solutions to transmission needs in the regional transmission planning process provides an opportunity for stakeholders to provide input during the evaluation of potential solutions to identified needs.<sup>46</sup> In addition, the Commission directed the Filing Parties to address how they would identify which transmission needs driven by Public Policy Requirements would be evaluated for solutions, among the larger set of transmission needs driven by Public Policy Requirements.<sup>47</sup>

Regional transmission needs driven by Public Policy Requirements will be addressed initially within the local planning cycles of the Filing Parties through the consideration of local transmission needs driven by Public Policy Requirements. For those Public Policy Requirements that affect more than one transmission owner in the WestConnect Planning Region (as defined in the OATT Attachment Ks), a solution identified at the local level to satisfy the local needs of the affected transmission owners(s) may also satisfy a regional transmission need identified by the PMC for the WestConnect Planning Region. As such, stakeholders will have the opportunity to first offer input on or make proposals of what they believe are transmission needs driven by Public Policy Requirements at the

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<sup>44</sup> *Id.* at PP 169, 196.

<sup>45</sup> *See* Section II.A.2.c of the Filing Parties OATT Attachment Ks.

<sup>46</sup> March 22 Order at PP 170, 176.

<sup>47</sup> *Id.* at P 172.

local transmission planning meetings held by the respective Filing Parties. Stakeholders will also have the opportunity to participate in the open meetings held under the Regional Planning Process (as defined in the respective OATT Attachment Ks) to discuss transmission needs driven by Public Policy Requirements and the evaluation of solutions to such needs. During these open meetings, stakeholders may propose transmission needs driven by Public Policy Requirements and possible solutions to such needs, or offer comments on proposals of others. Stakeholders that sign the WestConnect Planning Participation Agreement and become members of the PMC will perform regional transmission planning functions, which will also provide opportunities to identify regional transmission needs driven by Public Policy Requirements and develop solutions to those needs through membership on the PMC subcommittees.

Notice of both regional and local transmission planning meetings in which stakeholders may participate will be posted on the WestConnect website.

Finally, the Filing Parties revised their respective OATT Attachment Ks to describe a just and reasonable and not unduly discriminatory process for identifying the transmission needs driven by enacted Public Policy Requirements for which solutions will be evaluated in the regional transmission planning process. The Filing Parties also explain in their compliance filings how their open and transparent regional transmission planning process determines whether to move forward regarding transmission needs driven by Public Policy Requirements.<sup>48</sup>

#### B. Consideration of Public Policy Requirements in the Local Transmission Planning Process

Each of the Filing Parties revised its respective OATT Attachment K to include new provisions<sup>49</sup> that address: “(1) procedures to identify transmission needs driven by public policy requirements that allow stakeholders an opportunity to provide input and to offer proposals regarding the transmission needs they believe are driven by public policy requirements, and (2) a just and reasonable and not unduly discriminatory process for identifying, out of this larger set of needs, those needs for which transmission solutions will be evaluated” in response to the Commission’s directives in the March 22 Order.<sup>50</sup> The new provisions describe how stakeholders will have a meaningful opportunity to submit what the stakeholders believe are transmission needs driven by Public Policy Requirements, and provides for an open and transparent transmission planning process in compliance with the March 22 Order by incorporating stakeholder input at various stages of the local planning process.<sup>51</sup>

Stakeholders may participate in identifying local transmission needs driven by Public Policy Requirements by contacting the respective Filing Parties’ point of contact directly at the email address provided in its OATT Attachment K. Additionally, stakeholders

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<sup>48</sup> March 22 Order at P 172.

<sup>49</sup> See Section II.C of the respective Filing Parties OATT Attachment Ks.

<sup>50</sup> March 22 Order at P 200.

<sup>51</sup> *Id.*

may offer input on or make proposals for local transmission needs driven by Public Policy Requirements at the Filing Parties' open meetings under their local transmission planning processes set forth in their OATT Attachment Ks.

The Filing Parties revised their respective OATT Attachment Ks to describe a just and reasonable and not unduly discriminatory process for identifying the local transmission needs driven by enacted Public Policy Requirements for which solutions will be evaluated in the regional transmission planning process. The Filing Parties also explain in their compliance filings how their open and transparent transmission planning process determines whether to move forward regarding local transmission needs driven by Public Policy Requirements.<sup>52</sup>

Stakeholders may also participate in the evaluation of solutions to those local transmission needs driven by Public Policy Requirements that are selected by each Filing Party for further evaluation. Stakeholders may provide comments on proposed solutions or may submit other proposed solutions to such local transmission needs during the respective Filing Parties' open local transmission planning meetings. After seeking the input of stakeholders, each Filing Party will determine whether to select a particular local solution in its local transmission plan using the same procedures used to evaluate any other project proposed in the local planning process.

Additionally, the Filing Parties included in these new provisions a requirement to post on each of their own respective websites: (i) a list of all local transmission needs identified that are driven by Public Policy Requirements and that are included in its respective local planning studies; and (ii) an explanation of why other suggested transmission needs driven by Public Policy Requirements will not be evaluated.

## **XVIII. OWNERSHIP RIGHTS**

To address the Commission's concerns discussed in paragraph 340 of the March 22 Order, the Filing Parties propose additional language to what was originally proposed in Section VII.B.5 of their respective OATT Attachment Ks. The additional language clarifies that the Filing Parties did not intend to create a right of first refusal for transmission beneficiaries, but instead intended ownership as an alternative if the parties involved negotiated an arm's length transaction that allowed an identified beneficiary to receive an ownership percentage of the project rather than paying an allocated share of project costs through transmission service payments. If the parties are unable to reach an agreement under the ownership scenario, the identified beneficiaries would remain obligated for its allocated share of project costs identified through the regional cost allocation methodology. The Filing Parties believe the proposed language allows for flexibility for both the project developer and identified beneficiaries while still meeting the Commissions objectives for cost allocation.

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<sup>52</sup> *Id.*

The OATT Attachment K language proposed by the Filing Parties in Section VII.B.5 clarifies two things. First, it provides for an identified beneficiary to receive transfer capability on a project in exchange for its allocation of cost. Second, it provides an alternative through which an identified project beneficiary that contributes capital toward the construction of a regional transmission project (in lieu of making transmission service payments for transfer capability on a transmission project) to obtain, should it so elect and only upon the agreement of the project developer, a proportionate ownership interest in the project. The proposed language also affords an entity that is willing to front a portion of the cost of a project the opportunity to be fairly compensated for its contribution and in a manner proportionate to its investment in the project—no greater and no less—and opens up the opportunity for a transmission developer to secure capital contributions for its project (a choice a developer may find, in certain instances, superior to the option of securing service subscriptions). Additionally, providing an ownership option (in lieu of transmission service payments) allows those beneficiaries that may not necessarily benefit from additional transfer capability on a new transmission project, whether due to lack of contiguity to the new facilities or otherwise, to realize the benefits through an ownership option. Under either scenario, ownership or transmission service, such rights are limited to the extent of the benefit gained by the identified project beneficiary.

#### **XIX. COST ALLOCATION, EVALUATION PROCESS FOR SELECTION IN PLAN FOR PURPOSES OF COST ALLOCATION**

The Filing Parties have proposed changes to the language in their respective OATT Attachment Ks addressing the Commission's directives in the March 22 Order regarding cost allocation and the evaluation process for selection in the regional transmission plan for purposes of cost allocation. These proposed changes are as follows:

- A. Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation
  1. Evaluation and Selection Process for Projects and the Role of Each WestConnect Committee and/or Subcommittee.

To address the Commission's issues discussed in paragraph 238 of the March 22 Order regarding the role of certain WestConnect Committees in the process for determining the selection of a project in the regional transmission plan for purposes of cost allocation, the Filing Parties have added language to Section III.B.5.b of their respective OATT Attachment Ks that provides additional detail on the role of the PMC in the management of the WestConnect Regional Planning Process. Additionally, the PMC is responsible for the creation of and dissolving of subcommittees such as the Planning Subcommittee and Cost Allocation Subcommittee that provide recommendations to the PMC concerning the evaluation and selection process for projects to be included in the plan for purposes of cost allocation that address identified regional needs.



2. The Role of a Local Transmission Plan in the PMC Selection Process of a Regional Reliability Transmission Project

The Filing Parties have added language to Section III.E.2 of their respective OATT Attachment Ks to address the Commission's issue in paragraph 242 of the March 22 Order, that a local transmission owner's willingness to modify its local transmission plan should not impact the PMC's selection of a more efficient or cost effective regional transmission project for purposes of cost allocation. In Section III.E.2, the Filing Parties state: "Because local transmission owners are ultimately responsible for compliance with NERC Reliability Standards and for meeting local needs the local transmission plans will not be modified; however, the PMC may identify more efficient or cost effective regional transmission projects." These revised provisions comport with the Commission's clarification on this issue in Order No. 1000-A at paragraph 190 ("we also clarify that we do not require that the transmission facilities in a public utility transmission provider's local transmission plan be subject to approval at the regional or interregional level, unless that public utility transmission provider seeks to have any of those facilities selected in the regional transmission plan for purposes of cost allocation").

B. Cost Allocation for Transmission Projects Selected in the Regional Transmission Plan for Purposes of Cost Allocation

1. Binding Cost Allocation on Identified Beneficiaries

To address the Commission's issues discussed in paragraph 309 of the March 22 Order regarding binding cost allocation on identified beneficiaries, the Filing Parties have added a new Section VII.B.10 to their respective OATT Attachment Ks. Section VII.B.10 states that the cost allocation methods, as provided in Section VII of the Filing Parties OATT Attachment Ks, are binding on the Enrolled Transmission Owners identified as beneficiaries, without prejudice to certain rights and obligations:

- (a) The right and obligation of the PMC to reevaluate a transmission facility previously selected for inclusion in the regional plan for purposes of cost allocation;
- (b) The right and obligation of a transmission developer to make a filing under Section 205 or other applicable provision of the Federal Power Act in order to seek approval from the Commission to recover the costs of any transmission facility selected for inclusion in the regional plan for purposes of cost allocation;
- (c) The right and obligation of any interested person to intervene and be heard before the Commission in any Section 205 or other applicable provision proceeding initiated by a transmission developer under the Federal Power Act, including the right of any identified beneficiaries of the transmission facility to support or protest the filing and to present evidence on whether the proposed cost recovery is or is not just and reasonable; and

- (d) The right and obligation of the Commission to act under Section 205 or other applicable provision of the Federal Power Act to approve or deny any cost recovery sought by a transmission developer for a transmission facility selected in the regional plan for purposes of cost allocation.

2. Clarification of Which Entities may be Allocated Costs for Reliability Projects Selected for Purposes of Cost Allocation

To address the Commission's issues discussed in paragraph 313 of the March 22 Order, the Filing Parties have added a statement to Section VII.B.1 of their respective OATT Attachment Ks that states that the ultimate responsibility for maintaining system reliability and compliance with NERC Transmission Planning Standards rests with each transmission owner, and that the costs of reliability projects will be allocated to enrolled transmission owners identified as beneficiaries.

3. Clarification of the Allocation of Costs Less Than or Equal to One Percent of Total Benefits for an Economic Transmission Project Selected for Cost Allocation

To address the Commission's issues discussed in paragraph 315 of the March 22 Order regarding allocation of costs less than or equal to one percent of total benefits for an economic transmission project selected for cost allocation, the Filing Parties have added a statement to Section VII.B.2 of their respective OATT Attachments to clarify that: "Where a project satisfies the B/C ratio and is determined to provide benefits less than or equal to one percent of total project benefits to an Enrolled Transmission Owner, such benefits will be re-allocated to all other enrolled identified beneficiaries on a pro-rata basis, in relation to each entity's share of total project benefits."

4. Clarification of Which Entities may be Allocated Costs for Economic Projects Selected for Purposes of Cost Allocation

To address the Commission's issues discussed in paragraph 316 of the March 22 Order regarding the entities which may be allocated costs for economic projects selected for purposes of cost allocation, the Filing Parties have added a statement to Section VII.B.2 of their respective OATT Attachment Ks that states that: "The cost of any project that has an aggregate 1.25 B/C ratio or greater will be divided among the enrolled transmission owners that show a benefit based on the amount of benefits calculated to each respective transmission owner."

5. Explanation of the Determination of Whether Multiple Types of Benefits will be considered for a Single Transmission Project

To address the Commission's issues discussed in paragraph 318 of the March 22 Order regarding the determination of whether multiple types of benefits will be considered for a single transmission project, the Filing Parties have provided additional clarification in

Section VII.B.4 on this point, stating that interested stakeholders are given the opportunity to provide input to determine whether to consider multiple benefits for a single transmission project, in accordance with Section III (the Regional Transmission Planning Process). Further, the Filing Parties also describe the steps that the PMC will utilize in the determination of whether to consider multiple benefits for a single project, including categorizing the benefits as: (a) meeting NERC Transmission Reliability Standards (reliability); (b) achieving production cost savings or a reduction in reserve sharing requirements (economic); or (c) necessary to meet transmission needs driven by Public Policy Requirements. The PMC will identify all three benefits through the regional cost allocation process, and if the project cannot pass the cost allocation threshold for any one of the three benefit categories alone, the sum of benefits from each benefit may be considered.

6. Calculation of Benefit to Cost Ratios for Economic Transmission Projects

To address the Commission's issues discussed in paragraph 322 of the March 22 Order regarding calculation of benefit to cost ratios for economic transmission projects, the Filing Parties have added clarifying language in Section VII.B.2 of their respective OATT Attachment Ks. The additional language states that in order for an economic project to be considered economically justified and receive cost allocation, it must have a benefit to cost ratio that is greater than 1.0 under each reasonable scenario evaluated and have an average ratio of at least 1.25 under all scenarios evaluated. The Filing Parties have also included a description of how scenario analyses will be used to ensure that benefits for economic project selected for cost allocation and involving more than one system will be attributed to the beneficiary enrolled transmission owners. The clarification language also incorporates an example of how an aggregate load-weighted benefit to cost ratio calculation will be used to allocate costs of a project to the enrolled transmission owners, based on the extent of each of the enrolled transmission owners economic benefits received, relative to the total project benefits.

7. Consequences of a Transmission Facility Selected in the Regional Transmission Plan for Purposes of Cost Allocation on a Transmission System in Another Region

To address the Commission's issues discussed in paragraph 323 of the March 22 Order regarding the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation on a transmission system in another region, the Filing Parties have added a new Section VII.B.11 to their respective OATT Attachment Ks, to address the "Impact of a Regional Project on Neighboring Planning Regions." Under Section VII.B.11, the Filing Parties state that the PMC will study the impact(s) of a regional transmission project on neighboring planning regions, including the resulting need, if any, for mitigation measures in such neighboring planning regions resulting from: a) the WECC Path Rating Process; b) under FERC OATT requirements; c) under NERC Reliability Standards requirements, and/or d) under any negotiated arrangements between the interconnected entities. In agreeing to study the impacts of a regional transmission facility on neighboring planning region, the PMC is not agreeing to

bear the cost of any mitigation measures it identifies, and will request that developers design and build projects to mitigate the project's identified impacts on neighboring planning regions. Any costs involved in the mitigation shall be included in the regional transmission project's total project costs for purposes of determining the projects eligibility for regional cost allocation under Section VII.B. The Filing Parties state that the WestConnect Planning Region will not be responsible for compensating a neighboring planning region, transmission provider, transmission owner, Balancing Authority Area, or any other entity, for the costs of any required mitigation measure, or other consequences, on their systems associated with a regional transmission project in the WestConnect Planning Region.

8. Documentation on Regional Cost Allocation for Reliability and Public Policy Transmission Projects

To address the Commission's issues discussed in paragraph 325 of the March 22 Order regarding documentation of regional cost allocation for reliability and public policy transmission projects, the Filing Parties have incorporated an additional statement in each of Section VII.B.1 and Section VII.B.3 of their respective OATT Attachment Ks, stating that the manner in which WestConnect Regional Planning Process applies this methodology for cost allocation shall be described in the Regional Transmission Plan.

9. Production Cost Savings, Reserve Sharing Requirements and Documentation for Economic Transmission Projects

To address the Commission's issues discussed in paragraph 326 of the March 22 Order regarding production cost savings, reserve sharing requirements and documentation for economic transmission projects, the Filing Parties have incorporated additional language in Section VII.B.2 of their respective OATT Attachment Ks. Specifically, the Filing Parties state that production cost savings are to be determined by the PMC performing a production cost simulation that models the impact of the proposed transmission project on production costs and congestion. The production cost savings and reductions in reserve sharing requirements will be calculated as the reduction in production costs between a production cost simulation with the project included, as compared to a production cost simulation without the project. The PMC will identify a transmission project's impact on reserve sharing requirements as it applies to the individual transmission systems involved. The Filing Parties intend that the following production cost principles be applied and that the production cost models appropriately consider the hurdle rates between transmission systems.

- The production cost savings from a project must be present in each year from the project in-service date and extending out at least 10 years.
- Cost savings must be expressed in present-value dollars and consider the impact of various fuel cost forecasts.
- The production cost study must account for contracts and agreements related to the use of the transmission system.

- The production cost study must account for contracts and agreements related to the access and use of generation.

The Filing Parties have also included language to provide stakeholders two different ways to acquire documentation regarding how the PMC applies the regional cost allocation method for an economic transmission project to a transmission facility.

## **XX. LOCAL TRANSMISSION PLANNING PROCESSES**

The Commission observed generally in the March 22 Order that the basis for certain revisions in the pre-Order No. 1000 transmission planning provisions of the Filing Parties had not been addressed, and directed that they be addressed in the next compliance filing.<sup>53</sup> Any revisions to provisions that relate to UNS Electric's local planning processes but do not relate to Order No. 1000 or provisions necessary to comply with Order No. 1000 directives have been removed from the instant filing. UNS Electric believes that all other revisions are justifiably related to Order No. 1000 and fall into the following four categories: (1) revisions to tariff language to align terminology between regional and local planning processes and to ensure consistency with the tariff provisions of other members of the WestConnect Planning Region; (2) revisions made to clarify differences between processes that apply to local planning rather than regional planning; (3) revisions removing provisions that relate solely to the sub-regional planning processes that have been integrated into the regional planning process; and (4) revisions to tariff section references necessitated by the aforementioned revisions.

## **XXI. REQUEST FOR EFFECTIVE DATE AND ACCEPTANCE FOR FILING**

In paragraphs 24, 28, and 29 of the March 22 Order the Commission expressed concern with the Filing Parties proposal to tie the effective date of their respective OATT Attachment Ks with final Commission action and the apparent inconsistency between the implementation date for the Order No. 1000 planning process and the effective date of the OATT Attachments. In the instant filing, the Filing Parties propose an effective date of January 1 of the year following FERC conditional or full acceptance of the instant filing. Should this proposal result in an effective date in an odd-numbered year, WestConnect will conduct an abbreviated planning process in that odd-numbered year and begin its full biennial process in the following even-numbered year.

The Filing Parties believe this proposal gives FERC and WestConnect flexibility to allow for a January 1, 2014 effective date if the Commission chooses to issue an order prior to the end of 2013 and also gives some certainty to the parties participating in the WestConnect Planning Region that the effective date will be January 1, 2015 if the Commission issues an order after the end of 2013. WestConnect also will need to begin the full biennial planning process on an even-numbered year to align with its interregional neighbors, Northern Tier Transmission Group, ColumbiaGrid, and the California Independent System Operator. In the interim, while the Commission reviews

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<sup>53</sup> March 22 Order at P 353.

The Honorable Kimberly D. Bose  
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the instant filing, WestConnect plans to continue transition efforts to the extent it can prior to Commission acceptance.

Sincerely,

*/s/ Amy J. Welander* \_\_\_\_\_

Amy J. Welander  
Attorney for UNS Electric, Inc.