

147 FERC ¶ 61,057  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

PacifiCorp	Docket Nos. ER13-64-001
Deseret Generation & Transmission Cooperative, Inc.	ER13-65-001
NorthWestern Corporation	ER13-67-001
Portland General Electric Company	ER13-68-001
Idaho Power Company	ER13-127-002

ORDER ON COMPLIANCE FILINGS

(Issued April 17, 2014)

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1. On May 17, 2013, the Commission issued an order accepting, subject to modifications,<sup>1</sup> compliance filings that PacifiCorp, Deseret Generation & Transmission Cooperative, Inc. (Deseret), NorthWestern Corporation (NorthWestern Montana), Portland General Electric Company (Portland General), and Idaho Power Company (Idaho Power) (collectively, Filing Parties) made to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.<sup>2</sup>

2. On September 16, 2013,<sup>3</sup> Filing Parties separately submitted, pursuant to section 206 of the Federal Power Act (FPA),<sup>4</sup> revisions to Attachment K of their respective Open Access Transmission Tariffs (OATTs) to comply with the First Compliance Order.<sup>5</sup> For the reasons discussed below, we accept Filing Parties' respective proposed OATT revisions, subject to conditions, and direct Filing Parties to submit further revisions to their respective OATTs in further compliance filings due within 60 days of the date of issuance of this order.

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<sup>1</sup> *PacifiCorp*, 143 FERC ¶ 61,151 (2013) (First Compliance Order).

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

<sup>3</sup> Idaho Power submitted a corrected filing on September 18, 2013.

<sup>4</sup> 16 U.S.C. § 824e (2012).

<sup>5</sup> PacifiCorp, Transmission OATT and Service Agreements, Tariff, Attachment K (Transmission Planning Process) (3.0.0) (PacifiCorp OATT, Attachment K); Idaho Power Co., IPCo eTariff, Attachment K (Transmission Planning Process) (0.0.5) (Idaho Power OATT, Attachment K); Deseret Generation & Transmission Co-operative, Inc., OATT, Attachment K (Transmission Planning Process) (5.0.0) (Deseret OATT, Attachment K); NorthWestern Corporation (Montana), FERC Open Access Transmission Tariff Vol. 2, Attachment K (Transmission Planning Process) (3.0.0) (NorthWestern Montana OATT, Attachment K); Portland General Electric Co., Electric OATT Vol. No. 8, Attachment K (Transmission Planning Process) (4.0.0) (Portland General OATT, Attachment K). Citations to a Filing Party's existing OATT, instead of its proposed OATT revisions submitted as part of its compliance filing, will provide the full cite, including the current version numbers.

## **I. Background**

3. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, taken together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the transmission planning requirements of Order No. 890<sup>6</sup> to require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its OATT to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

4. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.

5. On October 10, 2012 and October 15, 2012, Filing Parties submitted initial revisions to Attachment K of their respective OATTs to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000. On May 17, 2013, the Commission accepted Filing Parties' respective compliance filings, subject to further modifications.

## **II. Compliance Filings – Docket Nos. ER13-64-001, ER13-65-001, ER13-67-001, ER13-68-001, and ER13-127-002**

6. In response to the First Compliance Order, Filing Parties have submitted further revisions to their local and regional transmission planning processes to comply with the

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<sup>6</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

Commission's requirements in the First Compliance Order, including proposed modifications to their OATT provisions regarding the regional transmission planning requirements, consideration of transmission needs driven by public policy requirements, nonincumbent transmission developer reforms, and cost allocation. Filing Parties also submitted, under separate cover, a motion to suspend the previously-accepted effective date for the respective Filing Parties' Attachment Ks to October 1, 2015. Alternatively, Filing Parties requested that the Commission issue an order by November 29, 2013, that (1) accepted the pre-qualification process for sponsored transmission projects for Northern Tier Transmission Group's (NTTG) next transmission planning cycle, which started January 1, 2014, and (2) established a schedule for issuance of a series of Commission orders to address provisions of Filing Parties' proposed Order No. 1000 regional transmission planning process "just-in-time" for implementation. The Commission denied the motion, holding that it was the Commission's intent, in accepting the Filing Parties' proposed October 1, 2013 effective date, that Filing Parties would implement their proposed Attachment K revisions accepted therein together with the further tariff revisions Filing Parties submitted in their September 16, 2013 compliance filings in response to the First Compliance Order.<sup>7</sup>

7. Notice of Filing Parties' compliance filings was published in the *Federal Register*, 78 Fed. Reg. 58,531 and 78 Fed. Reg. 59,013 (2013), with interventions and protests due on or before October 16, 2013. On November 13, 2013, LS Power Transmission, LLC and LSP Transmission Holdings, LLC (collectively, LS Power) filed a motion for leave to file late-filed comments and comments. On November 27, 2013, Filing Parties filed an answer to LS Power's comments.

### **III. Discussion**

#### **A. Procedural Matters**

8. We accept the late-filed comments by LS Power. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will also accept the answer filed by Filing Parties because it has provided information that has assisted us in our decision-making process.

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<sup>7</sup> *PacifiCorp*, 145 FERC ¶ 61,060 (2013).

9. We note that the tariff records Filing Parties submitted here in response to the First Compliance Order also include tariff provisions pending in tariff records that Filing Parties separately filed on May 10, 2013 to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000. The tariff records Filing Parties submitted in their interregional compliance filings are pending before the Commission and will be addressed in a separate order. Therefore, any acceptance of the tariff records in the instant filings that include tariff provisions submitted to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000 is made subject to the outcome of the Commission order addressing the Filing Parties' interregional compliance filings in Docket Nos. ER13-1448-000, ER13-1457-000, ER13-1463-000, ER13-1467-000, and ER13-1473-000.

## **B. Substantive Matters**

10. We find that Filing Parties' respective compliance filings partially comply with the directives in the First Compliance Order. Accordingly, we accept Filing Parties' compliance filings effective October 1, 2013, subject to further compliance filings, as discussed below. We direct Filing Parties to submit the compliance filings within 60 days of the date of issuance of this order.

### **1. Overview of the NTTG Regional Transmission Planning Process**

11. Filing Parties explain that the NTTG regional transmission planning process is a biennial process that seeks to identify more efficient or cost-effective regional solutions for the transmission providers that are enrolled in the NTTG region.<sup>8</sup> Filing Parties' respective OATTs describe the steps that the NTTG regional transmission planning process will take on a quarterly basis to develop the regional transmission plan.<sup>9</sup> First, in the quarter prior to the commencement of the regional transmission planning process (i.e., quarter 8 of the preceding transmission planning cycle), transmission developers that wish to submit transmission projects for regional cost allocation in the upcoming transmission planning cycle must submit qualification information required by Filing Parties' respective OATTs.<sup>10</sup> In quarter 1, the NTTG Planning Committee will collect

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<sup>8</sup> *E.g.*, PacifiCorp Transmittal Letter at 8.

<sup>9</sup> The regional transmission plan refers to the final regional transmission plan as approved by the Steering Committee.

<sup>10</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.

data from transmission providers, stakeholders, and transmission developers. During this period, qualified transmission developers and stakeholders may submit transmission project proposals for evaluation in the regional transmission planning process, including proposals for possible selection in the regional transmission plan for purposes of cost allocation.<sup>11</sup>

12. In quarter 2, the Planning Committee, which oversees the regional transmission planning process, will develop a Biennial Study Plan to guide the preparation of the NTTG regional transmission plan. This Biennial Study Plan describes the methodology, criteria, assumptions, databases, projects subject to reevaluation, analysis tools, and public policy projects to be used and/or analyzed during preparation of the regional transmission plan. NTTG will use a bottom-up approach to develop what it calls an “Initial Regional Plan” based on a combination of the previously approved NTTG regional transmission plan and a “roll-up” of the Full Funder<sup>12</sup> transmission providers’ local transmission plans.<sup>13</sup>

13. During quarters 3 and 4, the Planning Committee will perform modeling and transmission system analysis using the methods documented in the Biennial Study Plan, culminating in the preparation of a draft of the regional transmission plan for stakeholder comment and review. The Planning Committee will use three evaluation criteria – (1) Change in Annual Capital-Related Costs; (2) change in energy losses; and (3) change in reserves – to evaluate transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation.<sup>14</sup> During quarter 5, stakeholders will have an opportunity to review and comment on the regional transmission plan, including assessment of the benefits accruing from transmission facilities planned according to the transmission planning process. Stakeholders may also submit economic study requests during quarter 5.<sup>15</sup>

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<sup>11</sup> *E.g., id.* §§ 3.7.2, 3.7.2.2, 3.7.2.3.

<sup>12</sup> The respective roles of Full Funders and Nominal Funders are discussed below in section III.B.2.a (Transmission Planning Region).

<sup>13</sup> *E.g., PacifiCorp OATT, Attachment K § 3.7.3.2.*

<sup>14</sup> *E.g., id.* §§ 3.7.4.1, 3.7.4.2.

<sup>15</sup> *E.g., id.* § 3.7.5.



14. In quarter 6, the Biennial Study Plan will be updated based on the Planning Committee's review of stakeholder comments and any additional information regarding loads, resources, or transmission projects or alternative solutions. At this time, the Cost Allocation Committee will conduct a preliminary allocation of costs for transmission projects selected in the draft regional transmission plan for purposes of cost allocation, with the Planning Committee producing a draft regional transmission plan at the end of quarter 6.<sup>16</sup>

15. During quarter 7, the Planning Committee will convene a stakeholder process for reviewing and commenting on the draft regional transmission plan.<sup>17</sup> Finally, in quarter 8, the Planning Committee will submit the draft regional transmission plan to the Steering Committee for final approval.<sup>18</sup>

## 2. **Regional Transmission Planning Requirements**

16. Order No. 1000 required each public utility transmission provider to participate in a regional transmission planning process that produces a regional transmission plan and that complies with the identified transmission planning principles of Order No. 890.<sup>19</sup> The regional transmission planning reforms required public utility transmission providers to consider and select, in consultation with stakeholders, transmission facilities that meet the region's reliability, economic, and Public Policy Requirements-related transmission needs more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning processes.<sup>20</sup>

### a. **Transmission Planning Region**

17. Order No. 1000 required each public utility transmission provider to participate in a transmission planning region, which is a region in which public utility transmission providers, in consultation with stakeholders and affected states, agree to participate for

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<sup>16</sup> *E.g., id.* § 3.7.6.

<sup>17</sup> *E.g., id.* § 3.7.7.

<sup>18</sup> *E.g., id.* § 3.7.8.

<sup>19</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 6, 11, 146.

<sup>20</sup> *Id.* PP 11, 148.

purposes of regional transmission planning.<sup>21</sup> The scope of a transmission planning region should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions.<sup>22</sup> However, an individual public utility transmission provider cannot, by itself, satisfy Order No. 1000.<sup>23</sup>

18. In addition, Order No. 1000 required public utility transmission providers to explain how they will determine which transmission facilities are subject to the requirements of Order No. 1000.<sup>24</sup> Order No. 1000 also required public utility transmission providers in each transmission planning region to have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region<sup>25</sup> and, thus, become eligible to be allocated costs under the regional cost allocation method.<sup>26</sup> Order No. 1000 also required that each public utility transmission provider include in its OATT a list of all the public utility and non-public utility transmission providers enrolled as transmission providers in the transmission planning region.<sup>27</sup>

**i. First Compliance Order**

19. In the First Compliance Order, the Commission found that Filing Parties' proposal, as it relates to the enrollment process and the description of the transmission facilities that will be subject to the requirements of Order No. 1000, partially complied with the requirements of Order No. 1000.<sup>28</sup> The Commission found that the NTTG region's footprint is properly governed by the integrated nature of the regional power grid

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<sup>21</sup> *Id.* P 160.

<sup>22</sup> *Id.* (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* PP 65, 162.

<sup>25</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>26</sup> *Id.* PP 276-277.

<sup>27</sup> *Id.* P 275.

<sup>28</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 20.

and the particular reliability and resource issues affecting the NTTG region, and thus the scope of the NTTG region complies with Order No. 1000.<sup>29</sup> In addition, the Commission granted Filing Parties' proposed October 1, 2013 effective date for their respective revised OATTs, so that the proposed Order No. 1000 revisions will apply to the NTTG region's 2014-2015 biennial transmission planning cycle.<sup>30</sup>

20. However, the Commission directed Filing Parties to: (1) revise their respective OATTs to include a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region; (2) include, in their respective OATTs, a list of all the public utility and non-public utility transmission providers that have enrolled; (3) identify to which transmission facilities within Filing Parties' existing local and regional transmission planning processes the proposed OATT revisions will apply, as of the effective date of Filing Parties' compliance filings; and (4) explain how Filing Parties will evaluate those transmission projects currently under consideration in those existing transmission planning processes.<sup>31</sup>

## **ii. Summary of Compliance Filings**

21. With respect to the requirement that Filing Parties include in their OATTs a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region, Filing Parties revised their OATTs to provide that an entity may enroll in the NTTG regional transmission planning process by becoming a funder of NTTG. As set forth in Filing Parties' revised OATTs, an entity may enroll either as a Full Funder or a Nominal Funder.<sup>32</sup> In order to become a Full Funder, an entity must (1) become a party to the

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<sup>29</sup> *Id.* P 21.

<sup>30</sup> *Id.* P 23.

<sup>31</sup> *Id.* P 20.

<sup>32</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.2.3.1 (stating that an "entity that meets the definition of 'Nominal Funder' or 'Full Funder' as defined in the currently effective Funding Agreement is eligible to join NTTG as a funder"). The Funding Agreement refers to the current version of the agreement among the entities funding the activities of NTTG. *E.g.*, *id.* § 1.21. The Funding Agreement states that a Nominal Funder is: (a) a non-FERC jurisdictional transmission dependent utility; (b) that will

(continued...)

currently effective Funding Agreement and comply with the obligations necessary for the agreement to become effective,<sup>33</sup> (2) become a party to the currently-effective Finance Agent Agreement,<sup>34</sup> and (3) have either a Commission-approved OATT with regional, interregional, and interconnection-wide transmission planning provisions that are the same as the other Full Funders (for public utility transmission providers) or, for non-public utility transmission providers, have a Commission-approved reciprocity OATT with regional, interregional, and interconnection-wide transmission planning provisions that are the same as the Full Funders. To become a Nominal Funder, an entity must satisfy criteria (1) and (2), but is not required to have an OATT (or Commission-approved reciprocity OATT) on file.<sup>35</sup>

22. Filing Parties' OATTs include a list of all the public and non-public utility transmission providers that have enrolled in the NTTG region. The Full Funder enrollees

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participate in the NTTG planning process; and (c) has either electric load, electric generation, or both, which is interconnected with an existing Full Funder or which is located within the balancing authority area of an existing Full Funder. NTTG Funding Agreement 2014-2015, Docket No. ER14-249-000, at § 7.1.1 (filed Oct. 31, 2013) (Funding Agreement). The Funding Agreement provides that a Full Funder: (a) owns, controls, or operates a facility used for the transmission of electric energy in interstate commerce which is interconnected with an existing Full Funder or which is located within the balancing authority area of an existing Full Funder; (b) will utilize the NTTG planning processes or services to meet transmission planning and cost allocation requirements set forth in Order No. 890, Order No. 1000, or related successor regulations or orders for its transmission facilities located within the Western Interconnection; and (c) will maintain an OATT or reciprocity OATT on file with the Commission in either case with regional, interregional, and interconnection-wide planning provisions that are the same as the other Full Funders for its transmission facilities located within the Western Interconnection. Funding Agreement § 7.1.2.

<sup>33</sup> *Portland General Elec. Co.*, Docket No. ER14-249-000, *et al.* (Dec. 12, 2013) (delegated letter order accepting the 2014-2015 NTTG Funding Agreement).

<sup>34</sup> The Finance Agent Agreement is Exhibit B to the Funding Agreement and identifies the entity responsible for performing the finance agent tasks set forth in the Funding Agreement. *E.g.*, PacifiCorp OATT, Attachment K § 1.20.

<sup>35</sup> *E.g.*, *id.* § 3.2.3.2.

in the NTTG region are Deseret, Idaho Power, NorthWestern Montana, PacifiCorp, and Portland General, i.e., the public utility transmission providers in the NTTG transmission planning region. Utah Associated Municipal Power Systems is enrolled as a Nominal Funder.<sup>36</sup> Filing Parties' OATTs provide that an enrolled entity (1) agrees to be bound by the decisions that are made by the Steering Committee, Planning Committee, Cost Allocation Committee and any other committees that exist, up to and including the date of enrollment; (2) agrees to resolve disputes according to the dispute resolution process set forth in Attachment K; and (3) if a Full Funder, agrees to maintain effective versions of the agreements and OATT (or Commission-approved reciprocity OATT) required for enrollment.<sup>37</sup> Filing Parties' OATTs also provide that an entity is no longer enrolled in the NTTG region as a funder on the date the entity is no longer a party to the agreements required for enrollment and, if a Full Funder, the Commission accepts an Attachment K for that entity that reflects the entity is no longer enrolled in the NTTG region.<sup>38</sup>

23. Filing Parties explain that any transmission project identified in the regional transmission plan prior to the effective date of the revised Attachment Ks that has not been designated as a "committed project" will be subject to the Filing Parties' proposed Order No. 1000 procedures.<sup>39</sup> Filing Parties state that they cannot, at this time, identify the specific projects that will be subject to the proposed OATTs. Nevertheless, Filing Parties state that, by way of illustration, assuming the proposed OATTs became effective for the next biennial transmission planning cycle starting in January 2014, during quarter 2 of 2014, the Planning Committee will determine the transmission projects within that plan that are not "committed" and thus subject to reevaluation.<sup>40</sup>

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<sup>36</sup> *E.g., id.* §§ 3.2.3.5, 3.2.3.6.

<sup>37</sup> *E.g., id.* § 3.2.3.3.

<sup>38</sup> *E.g., id.* § 3.2.3.4.

<sup>39</sup> A committed project is a project that has all permits and rights-of-way required for construction by the end of quarter 1 of the current regional transmission planning cycle. *E.g., id.* § 1.7.

<sup>40</sup> *E.g., PacifiCorp Transmittal Letter at 4.*

**iii. Commission Determination**

24. We find that Filing Parties' respective filings, as they relate to the enrollment process and the description of the transmission facilities that will be subject to the requirements of Order No. 1000, partially comply with the directives in the First Compliance Order. Filing Parties include a list of all the public utility and non-public utility transmission providers that have enrolled in the transmission planning region in their respective OATTs. Filing Parties also explain (1) how they will identify to which transmission facilities within Filing Parties' local and regional transmission planning processes the proposed OATT revisions will apply, and (2) how Filing Parties will evaluate those transmission projects currently under consideration in those existing transmission planning processes. We find that these revisions comply with Order No. 1000 and satisfy the First Compliance Order's directives.

25. Filing Parties include a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region. As described in paragraph 21 above, a qualifying entity that makes the choice to enroll in the transmission planning region may enroll either as a Full Funder or as a Nominal Funder.<sup>41</sup> Under Filing Parties' proposal, if a non-public utility transmission provider seeks to enroll as a Full Funder, it must have on file a Commission-approved reciprocity OATT, which includes regional, interregional, and interconnection-wide transmission planning provisions that are the same as the existing Full Funders. Given that Order No. 1000 did not require non-public utility transmission providers that wish to enroll in an Order No. 1000 regional transmission planning process to have a reciprocity OATT on file with the Commission, we find that non-public utility transmission providers should be able, if they wish, to enroll as Full Funders without having to file a reciprocity OATT with the Commission. Some requirements for enrollment, such as a publicly available transmission tariff, may be appropriate in order to provide greater transparency about how the regional transmission planning and cost allocation processes will be implemented, given the participation of non-public utility transmission providers without reciprocity OATTs on file with the Commission. That said, we find that the requirement for a non-public utility transmission provider to have a Commission-approved reciprocity OATT to enroll in the NTTG

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<sup>41</sup> We note that, under the definitions of Full Funder and Nominal Funder included in the Funding Agreement, a public utility transmission provider may only enroll as a Full Funder, while a non-public utility transmission provider may enroll either as a Full Funder or a Nominal Funder.

transmission planning region as a Full Funder is overly burdensome because it would prevent a non-public utility transmission provider from enrolling in the region even if that non-public utility transmission provider otherwise provides comparable transmission service to public utility transmission providers in the region through a tariff or other agreement that is not filed with the Commission. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings to revise the enrollment process in their respective OATTs to eliminate this requirement.

**b. Order No. 890 and Other Regional Transmission Planning Process General Requirements**

26. Order No. 1000 required that the regional transmission planning process result in a regional transmission plan<sup>42</sup> and satisfy the Order No. 890 transmission planning principles of (1) coordination, (2) openness, (3) transparency, (4) information exchange, (5) comparability, (6) dispute resolution, and (7) economic planning.<sup>43</sup>

**i. First Compliance Order**

27. The Commission found that Filing Parties' regional transmission planning process fully complied with the Order No. 890 transmission planning principles of coordination and transparency.<sup>44</sup> The Commission directed Filing Parties to make changes to satisfy the principles of openness, information exchange, comparability, dispute resolution, and economic planning studies.

28. The Commission found that Filing Parties' first compliance filings partially complied with the openness principle. While Filing Parties met the requirement that meetings be open to all affected parties, the Commission found that certain provisions addressing the release of Critical Energy Infrastructure Information (CEII) and the

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<sup>42</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

<sup>43</sup> *Id.* PP 146, 151. These transmission planning principles are more fully explained in Order No. 890.

<sup>44</sup> First Compliance Order, 143 FERC ¶ 61,151 at PP 30, 47-49. While the Commission found that Filing Parties' compliance filings fully complied with the transparency principle, it also noted that any revisions made in compliance with other directives ordered elsewhere in that order must remain consistent with the transparency principle.

provision of advance notice of meetings were unclear. The Commission therefore directed Filing Parties to revise their OATTs to (1) clarify the rules governing access to and disclosure of planning data in the regional transmission planning process, and (2) provide the length of time that notice will be posted in advance of public meetings to ensure that stakeholders are provided adequate advance notice of meetings.<sup>45</sup>

29. The Commission found that Filing Parties' first compliance filings did not comply with the information exchange principle. Noting that Filing Parties' Order No. 890 compliance filings stated that Filing Parties received load forecasts and resource information from network customers with respect to local transmission planning, the Commission found that Filing Parties failed to revise their OATTs to meaningfully address the information exchange principle as it relates to the regional transmission planning process under Order No. 1000. The Commission therefore directed Filing Parties to revise their OATTs to address the collection and exchange of relevant information, such as customer load forecasts, projected service information, and existing and planned demand response resources provided by customers and stakeholders, for use in developing the regional transmission plan.<sup>46</sup>

30. The Commission found that Filing Parties' first compliance filings partially complied with the comparability principle, as they (1) identified where and when stakeholders may propose alternatives, (2) stated that all stakeholder submissions will be evaluated on a comparable basis, and (3) committed each Filing Party to use its best efforts to facilitate the NTTG region conducting its regional process, using identified regional transmission and non-transmission alternatives, to identify regional transmission projects (if any) that are more efficient and cost-effective from a regional perspective than the transmission projects identified in Filing Parties' local transmission plans. However, the Commission directed Filing Parties to revise their OATTs to address the requirement that the NTTG regional transmission planning process, after considering the data and comments supplied by customers and other stakeholders, develop a transmission system plan that meets the specific service requests of transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in the transmission system planning.<sup>47</sup>

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<sup>45</sup> *Id.* P 37.

<sup>46</sup> *Id.* PP 53-54.

<sup>47</sup> *Id.* P 59.



31. The Commission found that Filing Parties' first compliance filings partially complied with the dispute resolution principle. While Filing Parties included dispute resolution procedures in their OATTs, the Commission found that those procedures improperly restricted the issues that may be raised by a disputing entity. Therefore, the Commission directed Filing Parties to revise their OATTs to include dispute resolution procedures to facilitate resolution of all disputes that might arise from the regional transmission planning process.<sup>48</sup>

32. The Commission found that Filing Parties' first compliance filings partially complied with the economic planning studies principle. Although their filings accounted for economic considerations and described the process through which regional economic studies may be requested by stakeholders and eligible customers, the Commission found that Filing Parties' OATTs failed to describe the process by which regional economic planning studies will be prioritized in the instance that more than two such studies are requested. The Commission directed Filing Parties to address this issue in their second compliance filings.<sup>49</sup>

## ii. Summary of Compliance Filings

33. To address the Commission's holdings on the openness principle, Filing Parties have proposed revisions to their OATTs to require that Filing Parties and stakeholders adhere to the Commission's regulations and orders concerning CEII. Filing Parties also propose changes to their OATTs stating that additional information concerning CEII, including a summary list of data determined by the supplying party to be CEII, shall be posted on the Filing Parties' respective OASIS websites and will be updated regularly. In addition, their revised OATTs provide that any party may seek access to planning-related confidential information if it agrees to adhere to the terms of a confidentiality agreement, the form of which will be posted to each Filing Party's OASIS. The proposed OATT revisions also state that confidential information shall be disclosed in compliance with the Standards of Conduct and to only those participants that require such information and execute the Confidentiality Agreement; however, any such information may be supplied to (1) federal, state, or local regulatory authorities that request it and protect it subject to non-disclosure regulations or (2) upon order of a court of competent jurisdiction.<sup>50</sup> Filing

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<sup>48</sup> *Id.* P 64.

<sup>49</sup> *Id.* P 70.

<sup>50</sup> *E.g.*, PacifiCorp Transmittal Letter at 4; PacifiCorp OATT, Attachment K

Parties further propose to revise their OATTs to specify that the date, time, and location of the Steering, Planning, and Cost Allocation Committee meetings will be posted on the NTTG website, as specified in the respective committee charters. Meeting materials will be posted on the NTTG website prior to the meeting.<sup>51</sup>

34. With respect to the information exchange principle, Filing Parties propose tariff revisions stating that during quarter 1 of the regional transmission planning cycle, the Planning Committee will gather and coordinate transmission provider and stakeholder input applicable to the planning horizon.<sup>52</sup> Specifically, each transmission provider must provide the Planning Committee with its local transmission plan, data used to develop its local transmission plan (including projections of network customer loads and resources, projected point-to-point transmission service forecast information, and existing and planned demand resource resources), stakeholder data (as described in each Filing Party's OATT), updates to information about new or changed circumstances or data contained in the local transmission plan, public policy requirements and considerations, and any other project proposed for the regional transmission plan.<sup>53</sup>

35. To address the First Compliance Order's holdings regarding the comparability principle, Filing Parties propose to revise their OATTs to state that, during quarter 2 of the transmission planning cycle, the Planning Committee will evaluate the data submitted for the regional transmission planning process and will identify the loads, resources, point-to-point transmission requests, desired flows, constraints, and other technical data needed to be included and met by the development of the regional transmission plan. Filing Parties also propose revisions to their OATTs stating that the Planning Committee will evaluate all stakeholder submissions, in consultation with stakeholders, on a basis comparable to data and submissions required for planning the transmission system for both retail and wholesale customers. In addition, Filing Parties propose OATT revisions

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§§ 1.8, 3.5.

<sup>51</sup> *E.g.*, PacifiCorp Transmittal Letter at 4-5; PacifiCorp OATT, Attachment K § 3.4.1, Ex. B § 4.2.

<sup>52</sup> *E.g.*, PacifiCorp Transmittal Letter at 5; PacifiCorp OATT, Attachment K § 3.7.2.1.

<sup>53</sup> *E.g.*, PacifiCorp Transmittal Letter at 5; PacifiCorp OATT, Attachment K § 3.3.4.

stating that the Planning Committee will also evaluate solutions based on a comparison of their ability to meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.<sup>54</sup> Filing Parties state that this evaluation informs the preparation of the Biennial Study Plan, which guides the preparation of the regional transmission plan and ensures that the NTTG regional transmission planning process develops a transmission system plan that meets the specific service requests of transmission customers and otherwise treats similarly-situated customers comparably.<sup>55</sup>

36. To address the First Compliance Order's holdings regarding the dispute resolution principle, Filing Parties propose to revise their OATTs to specifically state that their previously-approved regional dispute resolution process applies to all procedural and substantive disputes related to the regional transmission planning process.<sup>56</sup>

37. Finally, to address the First Compliance Order's holdings regarding the economic planning studies principle, Filing Parties propose to revise their OATTs to state that if the Planning Committee receives more than two regional economic study requests, it will prioritize the requests and determine which studies will be performed based on an evaluation of the following: (1) the most significant opportunities to reduce overall costs of the regional transmission plan while reliably serving the load growth needs being studied in the regional transmission plan, and (2) input from stakeholders at the Planning Committee meeting.<sup>57</sup> In addition, Filing Parties state that, to integrate the changes required by the First Compliance Order, it became necessary to edit the local, regional, and interconnection-wide economic study process in order for the processes to seamlessly work together. Filing Parties state that they have proposed revisions so that one location in Attachment K now clearly specifies the process by which stakeholders submit local, regional, and interconnection-wide Economic Study Requests.<sup>58</sup> Filing Parties state that,

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<sup>54</sup> *E.g.*, PacifiCorp Transmittal Letter at 6; PacifiCorp OATT, Attachment K § 3.7.3.1.

<sup>55</sup> *E.g.*, PacifiCorp Transmittal Letter at 6.

<sup>56</sup> *E.g.*, PacifiCorp Transmittal Letter at 6-7; PacifiCorp OATT, Attachment K § 3.6.1.

<sup>57</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.12.2.

<sup>58</sup> *E.g.*, PacifiCorp Transmittal Letter at 7; PacifiCorp OATT, Attachment K

(continued...)

from there, stakeholders are directed to the specific portions of the tariff that explain how Local Economic Study Requests, Regional Economic Study Requests, and Interconnection-Wide Economic Study Requests are performed.<sup>59</sup> Filing Parties also propose to revise their OATTs to state that all economic study requests will be categorized by the Planning Committee or the transmission provider as a local economic study request, a regional economic study request, or an interconnection-wide economic study request.<sup>60</sup> Filing Parties' OATTs provide that economic study requests will be forwarded to the Planning Committee and reviewed for completeness. The Planning Committee will attempt to remedy any deficiencies in submitted information through informal communications with the stakeholder. However, if efforts are unsuccessful within 15 calendar days of the close of the submission window, the Planning Committee shall return the stakeholder's information and the request will be deemed withdrawn. A stakeholder may resubmit the request for consideration during the next submission window with updated information and data deficiencies cured.<sup>61</sup>

### iii. Commission Determination

38. We find that the proposed revisions to the regional transmission planning process in Filing Parties' respective compliance filings partially comply with the directives in the First Compliance Order.

39. With respect to the openness principle, we find that Filing Parties partially comply with the directives in the First Compliance Order. Filing Parties' proposed revisions clarify the rules governing access to and disclosure of planning data in the regional transmission planning process as required by the First Compliance Order. However, in the First Compliance Order, the Commission expressed concern that stakeholders should be notified on a timely basis in advance of any scheduled meeting and thus directed Filing Parties to revise their respective OATTs to specify how far in advance of NTTG's public meetings stakeholders will be notified.<sup>62</sup> Our review indicates that Filing Parties

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§ 3.11.1.

<sup>59</sup> *E.g.*, PacifiCorp Transmittal Letter at 7; PacifiCorp OATT, Attachment K § 3.11.3 (referencing PacifiCorp OATT, Attachment K §§ 2.7.2, 3.12 & 5.5).

<sup>60</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.11.3.

<sup>61</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.11.2.

<sup>62</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 41.

have not complied with this requirement. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that specify how far in advance of public meetings stakeholders will be notified of the upcoming meeting.

40. With respect to the information exchange principle, we find that Filing Parties' proposed revisions comply with the directives in the First Compliance Order. We find that Filing Parties' revised OATTs require each transmission provider to provide the Planning Committee with the relevant information required, such as customer load forecasts, projected service information, and existing and planned demand response resources provided by stakeholders and customers, which satisfies the First Compliance Order's directive.

41. With respect to the comparability principle, we find that Filing Parties' proposed revisions comply with the directives in the First Compliance Order. Because the revised OATTs indicate that in developing the Biennial Study Plan, the Planning Committee will review and evaluate data submitted into the regional transmission planning process, as well as stakeholder submissions, in consultation with stakeholders, on a basis comparable to data and submissions required for planning the transmission system for wholesale and retail customers,<sup>63</sup> Filing Parties' revisions satisfy the First Compliance Order's comparability directive.

42. With respect to the dispute resolution principle, we find that Filing Parties' proposed revisions comply with the directives in the First Compliance Order because Filing Parties' dispute resolution procedures now apply to all procedural and substantive disputes related to the regional transmission planning process.

43. With respect to the economic planning studies principle, we find that Filing Parties' proposed revisions comply with the directives in the First Compliance Order because Filing Parties' revisions describe the process by which regional economic planning studies will be prioritized in the instance that more than two such studies are requested.<sup>64</sup>

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<sup>63</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.3.1.

<sup>64</sup> *E.g.*, *id.* § 3.12.2.

c. **Requirement to Plan on a Regional Basis to Identify More Efficient or Cost-Effective Transmission Solutions**

44. Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>65</sup> Public utility transmission providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the transmission planning region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.<sup>66</sup> In addition, whether or not public utility transmission providers within a transmission planning region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is a more efficient or cost-effective solution to their needs.<sup>67</sup>

45. Public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer<sup>68</sup> must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.<sup>69</sup>

46. Finally, the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities

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<sup>65</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

<sup>66</sup> *Id.* P 149.

<sup>67</sup> *Id.* P 331.

<sup>68</sup> Order No. 1000 defines merchant transmission projects as projects "for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates." *Id.* P 119.

<sup>69</sup> *Id.* P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

that more efficiently or cost-effectively meet the region's transmission needs.<sup>70</sup> Order No. 1000 does not require that the resulting regional transmission plan be filed with the Commission.

**i. Affirmative Obligation to Plan**

**(a) First Compliance Order**

47. In the First Compliance Order, the Commission found that Filing Parties' filings partially complied with the requirement of Order No. 1000 that public utility transmission providers participate in a transmission planning region that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs. Specifically, the Commission found that Filing Parties' Regional Planning and Cost Allocation Practice Document (Practice Document) and respective OATTs indicated that the NTTG regional transmission planning process will conduct an analysis to identify more efficient or cost-effective solutions, including the development of unsponsored transmission projects that may be selected in the regional transmission plan for purposes of cost allocation, and that the NTTG transmission planning region will use a regional perspective to consider the transmission projects generated through regional analysis to produce an optimized draft regional transmission plan. However, the Commission also found that the procedures for performing these analyses were not explicitly stated in Filing Parties' OATTs.<sup>71</sup>

48. The Commission stated that Order No. 1000 addressed the deficiencies in the existing requirements of Order No. 890 by, among other requirements, placing an affirmative obligation on public utility transmission providers to participate in a regional transmission planning process that produces a regional transmission plan.<sup>72</sup> The Commission further explained that it is not sufficient for a transmission planning region to merely "roll-up" local transmission plans without analyzing whether the regional needs, when taken together, can be met more efficiently or cost-effectively by a regional transmission solution.<sup>73</sup>

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<sup>70</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

<sup>71</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 85.

<sup>72</sup> *Id.* P 84.

<sup>73</sup> *Id.* P 83.

49. Accordingly, the Commission directed Filing Parties to revise their respective OATTs to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.<sup>74</sup> The Commission stated that these OATT revisions must describe the process Filing Parties will use to identify more efficient or cost-effective transmission solutions and explain how the region will conduct that regional analysis through power flow studies, production cost analyses, and/or other methods.<sup>75</sup>

**(b) Summary of Compliance Filings**

50. Filing Parties propose to revise their respective OATTs to affirmatively state that the Planning Committee will analyze the regional transmission needs submitted in quarter 1 of the regional transmission planning cycle to identify more efficient or cost-effective solutions for the NTTG footprint. Filing Parties state that these regional transmission needs reflect reliability requirements, economic considerations, and transmission needs driven by public policy requirements.<sup>76</sup>

51. Filing Parties state that the process by which the NTTG regional transmission planning process identifies more efficient or cost-effective transmission solutions involves the preparation of the Biennial Study Plan<sup>77</sup> in quarter 2 of the regional transmission planning cycle. Filing Parties explain that the Planning Committee develops the Biennial Study Plan, which describes: (a) the detailed study methodology; (b) reliability criteria; (c) public policy requirements and public policy considerations selected for use in the Biennial Study Plan; (d) assumptions; (e) databases; (f) analysis tools; (g) projects included in the prior regional transmission plan that will be

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<sup>74</sup> *Id.* P 87. The Commission further noted that any additional OATT procedures proposed to implement this directive must also comply with the Order No. 890 transmission planning principles. *Id.* n.128.

<sup>75</sup> *Id.* P 85.

<sup>76</sup> *E.g.*, PacifiCorp Transmittal Letter at 8; PacifiCorp OATT, Attachment K § 3.7.4.

<sup>77</sup> The Biennial Study Plan is the study plan used to produce the regional transmission plan, as approved by the Steering Committee. *E.g.*, PacifiCorp OATT, Attachment K § 1.5.



reevaluated; (h) projects included in each of the Full Funders' local transmission plans; (i) sponsored projects, projects submitted by stakeholders, projects submitted by merchant transmission developers, and unsponsored projects identified by the Planning Committee (if any); and (j) allocation scenarios.<sup>78</sup> Filing Parties state that the projects identified in (g) and (h) are referred to as the initial regional transmission plan, and the projects identified in (i) are referred to as alternative transmission projects.<sup>79</sup> Filing Parties state that in quarters 3 and 4, the Planning Committee will utilize each alternative transmission project in one or more Change Case<sup>80</sup> and determine if a Change Case is a more efficient or cost-effective transmission solution for the NTTG footprint than the initial regional transmission plan.<sup>81</sup>

(c) **Commission Determination**

52. We find that Filing Parties' proposed revisions partially comply with the directives in the First Compliance Order regarding the affirmative obligation to plan. We accept Filing Parties' revisions that affirmatively state that the Planning Committee will analyze the regional transmission needs submitted in quarter 1 of the regional transmission planning cycle to identify more efficient or cost-effective transmission solutions for the NTTG footprint. Similarly, we accept Filing Parties' description of the Biennial Study Plan as the mechanism through which the regional transmission planning process will be performed. We find that this regional transmission planning process structure complies with Order No. 1000. Specifically, we find that these OATT revisions address in part

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<sup>78</sup> *E.g.*, PacifiCorp Transmittal Letter at 8; PacifiCorp OATT, Attachment K § 3.7.3.2.

<sup>79</sup> *E.g.*, PacifiCorp Transmittal Letter at 8; PacifiCorp OATT, Attachment K §§ 1.1, 1.24, 3.7.3.2.

<sup>80</sup> A Change Case is a scenario where one or more alternative transmission projects is added to or replaces one or more non-committed transmission projects in the initial regional transmission plan. The deletion or deferral of a non-committed project in the initial regional transmission plan without including an alternative transmission project can also be a Change Case. *E.g.*, PacifiCorp OATT, Attachment K § 1.6.

<sup>81</sup> A description of this evaluation process can be found below in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation).

the First Compliance Order's directive that Filing Parties explain how they satisfy Order No. 1000's affirmative obligation to plan. The proposed OATT revisions also help provide certainty and transparency for stakeholders by more fully explaining the development of, and contents of, the Biennial Study Plan.

53. As discussed in the First Compliance Order, Order No. 1000 requires that Filing Parties participate in a regional transmission planning process that conducts a regional analysis to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs, including an affirmative obligation to analyze whether such transmission solutions exist regardless of whether potential transmission solutions have been proposed by transmission developers or stakeholders. Filing Parties' respective OATTs indicate that (1) the NTTG regional transmission planning process will conduct its own analysis to identify more efficient or cost-effective transmission solutions, including the development of unsponsored transmission projects that may be selected in the regional transmission plan for purposes of cost allocation,<sup>82</sup> and (2) the NTTG transmission planning region will use a regional perspective to consider unsponsored transmission projects generated through regional analysis.<sup>83</sup> Filing Parties' proposal also states that the Planning Committee may propose its own unsponsored transmission projects in quarter 1 of the regional transmission planning process at the same time that transmission developers and stakeholders may propose transmission projects for possible selection in the regional transmission plan for purposes of cost allocation.<sup>84</sup> However, the Planning Committee does not perform a regional analysis or evaluation of transmission projects to determine the more efficient or cost-effective transmission solution to regional transmission needs until quarters 3 and 4. Thus, it is unclear, based on the proposed tariff revisions, whether, and if so, how the NTTG regional transmission planning process will perform an analysis during quarter 1 that could result in the identification of unsponsored transmission projects that the Planning Committee may then propose for regional cost allocation or whether the Planning Committee will identify unsponsored transmission projects through the regional analysis performed during quarters 3 and 4 that it will then propose during quarter 1 of the subsequent transmission planning cycle. Thus, Filing Parties must make further revisions

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<sup>82</sup> *E.g.*, PacifiCorp OATT, Attachment K §§ 3.7.3.2, 3.7.4.1.

<sup>83</sup> *E.g.*, *id.* § 3.3.2.

<sup>84</sup> *E.g.*, PacifiCorp Transmittal Letter at 8; PacifiCorp OATT, Attachment K § 3.7.3.2.

to their OATTs to explain how and when the Planning Committee will perform the regional analysis through which it will identify any unsponsored transmission projects that it proposes during quarter 1 of the regional transmission planning process.<sup>85</sup>

54. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that detail how the Planning Committee will (1) analyze on a regional basis, irrespective of whether any transmission projects have been proposed for possible selection in the regional transmission plan for purposes of cost allocation, whether there are more efficient or cost-effective transmission solutions that may be selected in the regional transmission plan for purposes of cost allocation, including the quarter in which the Planning Committee will perform that analysis, and (2) identify unsponsored transmission projects through the regional analysis.

**ii. Proposed Governance Structure**

**(a) First Compliance Order**

55. In the First Compliance Order, the Commission directed Filing Parties to include in their OATTs the governance procedures for the development of the regional transmission plan, including voting procedures and requirements that will govern the selection of transmission projects in the regional transmission plan for purposes of cost allocation and the approval of the regional transmission plan.<sup>86</sup>

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<sup>85</sup> In complying with this directive, Filing Parties may want to expand upon information previously included in the Practice Document, in which they explain at a high level the study process in quarters 3 and 4. The Practice Document stated that through the study process in quarters 3 and 4, the Planning Committee would confirm or identify regional transmission projects (or transmission alternatives) “that will likely result in a Regional Transmission Plan that is more efficient or cost-effective than the initial plan,” that “the Regional Transmission Plan may identify unsponsored projects that will meet the region’s needs more efficiently or cost-effectively” and that “[t]he results of this study form the basis of the draft Regional Transmission Plan.” Practice Document § 3.5.

<sup>86</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 100.

**(b) Summary of Compliance Filings**

56. Filing Parties state that they revised their respective OATTs to include the NTTG regional transmission planning process' governance procedures. Filing Parties attached the Steering Committee, Planning Committee, and Cost Allocation Committee charters as Exhibits B, C, and D, respectively, to their OATTs. Filing Parties state that each charter defines the purpose and limitations, membership, meeting and voting, and other requirements of the respective committees.<sup>87</sup>

57. Filing Parties' OATTs state that the Steering Committee provides governance and direction on initiatives undertaken by NTTG members and is responsible for approving the NTTG regional transmission plan.<sup>88</sup> According to the NTTG Steering Committee charter, Steering Committee membership is composed of two classes of members: (1) Class 1 members, consisting of those entities enrolled in NTTG as Full Funders or Nominal Funders; and (2) Class 2 members, consisting of state utility commissions, state customer advocates, or state transmission siting agencies within the NTTG footprint.<sup>89</sup> The Steering Committee charter also states that the committee shall work to achieve unanimity for any items that require approval, and where unanimity cannot be achieved, the act of two-thirds of the member representatives or alternates in each class that are present at a meeting at which a quorum is achieved shall be the act of the committee.<sup>90</sup>

58. The Planning Committee, which reports to the Steering Committee, will be responsible for, among other things, reviewing planning and cost allocation data submitted by transmission developers, developing and updating the Biennial Study Plan for each biennial transmission planning cycle, performing and documenting assessments defined in the Biennial Study Plan, developing regional economic study plans and performing stakeholder-requested regional economic studies, and publishing the Steering Committee-approved regional transmission plan.<sup>91</sup> As described in Filing Parties'

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<sup>87</sup> *E.g.*, PacifiCorp Transmittal Letter at 10-11.

<sup>88</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.1, Ex. B (Steering Committee Charter), art. 1.

<sup>89</sup> *E.g.*, *id.* Ex. B (Steering Committee Charter) art. 2.

<sup>90</sup> *E.g.*, *id.* Ex. B (Steering Committee Charter) art. 4.

<sup>91</sup> *E.g.*, *id.* Ex. C (Planning Committee Charter) art. 1.

OATTs, the Planning Committee is responsible for producing the regional transmission plan, inclusive of regional economic congestion studies.<sup>92</sup>

59. The Planning Committee charter states that there are three classes of committee members: (1) transmission providers and developers engaged in or intending to engage in the sale of electric transmission service within the NTTG footprint; (2) transmission users engaged in the purchase of electric transmission service within the NTTG footprint, or other entities which have, or have the intention of entering into, an interconnection agreement with a transmission provider within the NTTG footprint; and (3) regulators and other state agencies within the NTTG footprint that are interested in transmission development.<sup>93</sup> According to the Planning Committee charter, committee approval of a voting matter requires the approval of the transmission provider/developer sector and at least one other membership sector, with sector approval constituting a majority of voting members present.<sup>94</sup>

60. The Cost Allocation Committee, which also reports to the Steering Committee, will be responsible for, among other things, reviewing cost allocation data submitted by transmission developers, advising the Planning Committee on scenarios used for cost allocation, developing and revising cost allocation recommendations for transmission projects under consideration for selection in the regional transmission plan for purposes of cost allocation, and preparing detailed reports explaining its cost allocation recommendations.<sup>95</sup>

61. The Cost Allocation Committee charter states that each regulatory commission, state consumer agency, state transmission siting agency, and entity enrolled in NTTG as a funder and that has appointed a representative to the Steering Committee shall be entitled

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<sup>92</sup> *E.g., id.* § 3.1.

<sup>93</sup> *E.g., id.* Ex. C (Planning Committee Charter) art. 2.

<sup>94</sup> *E.g., id.* Ex. C (Planning Committee Charter) art. 4.

<sup>95</sup> *E.g., id.* § 3.1, Ex. D (Cost Allocation Committee Charter) art. 1.

to appoint one person to the committee.<sup>96</sup> Committee approval of a voting matter requires the approval of a majority of voting members present.<sup>97</sup>

(c) **Commission Determination**

62. We find that Filing Parties' incorporation into their respective OATTs of the Steering Committee, Planning Committee, and Cost Allocation Committee charters, which (1) define the purpose and limitations, membership, meeting and voting, and other requirements of the respective committees that will govern the selection of transmission projects in the regional transmission plan for purposes of cost allocation, and (2) detail the voting procedures that will govern the approval of the regional transmission plan, complies with the directives in the First Compliance Order. Therefore, the committee charters are accepted for filing.

iii. **Merchant Transmission Developers**

(a) **First Compliance Order**

63. The Commission found that the Filing Parties' proposal to apply its uniform data submission requirements to merchant transmission projects did not comply with Order No. 1000. The Commission stated that Order No. 1000 requires merchant transmission developers to provide adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on systems in the region;<sup>98</sup> it does not require merchant transmission developers to propose their project for the regional transmission plan. As a result, the Commission found that Filing Parties' proposal did not contain provisions requiring a merchant transmission developer who does not propose its transmission project for the regional transmission plan to provide information necessary to assess the potential reliability and operational impacts of its proposed transmission facility on systems in the region.

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<sup>96</sup> *E.g., id.* Ex. D (Cost Allocation Committee Charter) art. 2.

<sup>97</sup> *E.g., id.* Ex. D (Cost Allocation Committee Charter) art. 4.

<sup>98</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 103 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 164, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 298).

Therefore, the Commission directed Filing Parties to revise their OATTs to establish such information requirements.<sup>99</sup>

64. With respect to the uniform data submission requirements applicable to merchant transmission developers, the Commission also found that Filing Parties may include the following information requirements in their OATTs for merchant transmission projects but must make clear that a merchant transmission developer will be required to provide this information only to the extent it has the information readily available when the information is due: (1) forecasted transmission service requirements; (2) whether the proposed project meets reliability or load service needs; and (3) whether the proposed project satisfies a transmission need driven by public policy requirements.<sup>100</sup> Additionally, the Commission found that Filing Parties may not require that merchant transmission developers provide information regarding project costs, associated annual revenue requirements, and underlying assumptions and parameters in developing revenue requirements because the information is unrelated to the merchant transmission project's reliability or operational impacts on the transmission system.<sup>101</sup>

**(b) Summary of Compliance Filings**

65. Filing Parties propose to revise their OATTs to require merchant transmission developers to provide the following information: (1) project location; (2) voltage level; (3) structure type; (4) conductor type and configuration; (5) project terminal facilities; (6) project development schedule; (7) current project development phase; and (8) in-service date.<sup>102</sup> In addition, Filing Parties propose revisions stating that, to the extent applicable and data are readily available, merchant transmission developers must

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<sup>99</sup> *Id.*

<sup>100</sup> *Id.* P 104. The Commission also noted that its understanding of information requirements (2) and (3) was that they require the transmission developer to identify whether its proposed transmission project addresses reliability or load service need(s) or transmission need(s) driven by public policy requirements, and do not impose a requirement that the merchant transmission developer perform and provide the region with its own studies demonstrating that it meets such requirements or satisfies such needs. *Id.* n.147.

<sup>101</sup> *Id.* P 104.

<sup>102</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.2.2, Table 2.

provide the approximate location of the new or existing resource and/or load that may require the proposed transmission project if other than forecasted transmission service. In addition, to the extent the information is readily available when the information is due, Filing Parties' proposal states that merchant transmission developers must submit forecasted transmission service requirements (if any), whether the proposed project meets reliability or load service needs, and whether the proposed project satisfies a transmission need driven by public policy requirements. Finally, Filing Parties propose revisions to their OATT stating that, to the extent applicable and data are readily available, merchant transmission developers must submit economic considerations that are driving the transmission project, defined with respect to merchant transmission developers as the approximate location of the congestion that the project was proposed to address.<sup>103</sup> Filing Parties state that in response to the Commission directives in the First Compliance Order, they are not requiring the submission of information regarding project costs, associated annual revenue requirements, and underlying assumptions in developing revenue requirements.<sup>104</sup>

(c) **Commission Determination**

66. We find that Filing Parties' proposed revisions to the data submittal requirements for merchant transmission developers comply with the directives in the First Compliance Order. Filing Parties' proposed data submittal requirements ensure, as required by Order No. 1000, that merchant transmission developers will provide adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on systems in the region.

iv. **Planning Horizon and Planning Cycle**

(a) **First Compliance Order**

67. In the First Compliance Order, the Commission accepted Filing Parties' proposal to adopt a ten-year planning horizon for the NTTG regional transmission planning process. The Commission disagreed with protesters that the proposed ten-year planning horizon is too short and will prevent the region from evaluating transmission plans that

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<sup>103</sup> *E.g.*, PacifiCorp Transmittal Letter at 12; PacifiCorp OATT, Attachment K § 3.7.2.2, Table 2.

<sup>104</sup> *E.g.*, PacifiCorp Transmittal Letter at 12.



would meet regional needs more efficiently or cost-effectively than plans assessing a longer planning horizon, and noted that while the NTTG Planning Committee uses a ten-year planning horizon, it also takes into consideration up to a 20 year planning horizon.<sup>105</sup> The Commission also accepted Filing Parties' proposal to adopt a two year planning cycle.<sup>106</sup>

**(b) Protest**

68. LS Power notes that Filing Parties propose to use a 15-year planning horizon for their local transmission planning processes, while their regional transmission planning process uses a ten-year planning horizon. LS Power asserts that Filing Parties provide no explanation as to why the local transmission planning horizon is longer than the regional transmission planning horizon, and argues that because Filing Parties propose an "adjusted net benefits" analysis to determine whether an "alternative" project should be selected in the regional transmission plan to replace a local transmission project, using different planning horizons would appear to have the potential to skew the analysis of benefits. LS Power argues, therefore, that the local and regional transmission planning processes should have the same planning horizon.<sup>107</sup>

69. LS Power also states that it is concerned about the combined length of the local and regional transmission planning processes. LS Power notes that both processes have a two-year transmission planning cycle; however, because the regional transmission process builds on projects included in the local transmission plan, LS Power argues that the regional transmission planning process is in reality a four-year process. LS Power states that Filing Parties offer no explanation as to why a four-year transmission planning cycle is necessary or why project studies in the regional transmission planning process will take seven additional quarters to analyze proposals after they are submitted in quarter 1 of the regional transmission planning process. LS Power argues that it would be more efficient to study both local and regional transmission proposals at the same time to avoid duplication of effort or to more closely sequence the studies.<sup>108</sup>

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<sup>105</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 91.

<sup>106</sup> *Id.* PP 6, 23.

<sup>107</sup> LS Power Protest at 4-5.

<sup>108</sup> *Id.* at 5.

(c) **Answer**

70. Filing Parties note that the Commission has accepted Filing Parties' ten-year planning horizon for regional transmission planning and approved a 15-year local transmission planning horizon. Similarly, Filing Parties state that the Commission approved the two-year local and regional transmission planning processes when it accepted Filing Parties' Order No. 890 compliance filings.<sup>109</sup> Filing Parties state that LS Power did not seek rehearing of any of those Commission determinations from either their Order No. 890 or Order No. 1000 compliance proceedings. Furthermore, Filing Parties dispute LS Power's characterization of the transmission planning process as a four-year process, arguing that the regional and local transmission planning processes are concurrent two-year processes, both of which are completed within the biennial transmission planning cycle and operate in parallel and series. Filing Parties argue that these processes operate together to feed information into each other at the conclusion of each two-year transmission planning cycle. Filing Parties conclude that the Commission should reject LS Power's protest.<sup>110</sup>

(d) **Commission Determination**

71. We reject LS Power's protest as an out-of-time rehearing request of prior Commission determinations regarding the appropriate planning horizon and transmission planning cycle for Filing Parties' local and regional transmission planning processes. The two-year local and regional transmission planning processes, as well as Filing Parties' respective local transmission planning horizons<sup>111</sup> and the 10-year regional transmission planning horizon, were accepted by the Commission as part of Filing

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<sup>109</sup> Filing Parties Answer at 6-7 (citing First Compliance Order, 143 FERC ¶ 61,151 at P 91 and *Idaho Power Co.*, 124 FERC ¶ 61,053, at P 18 (2008) (subsequent history omitted)).

<sup>110</sup> *Id.* at 6-8.

<sup>111</sup> We note that Filing Parties do not have uniform local transmission planning horizons. PacifiCorp OATT, Attachment K § 2.1 (10 year horizon); Deseret OATT, Attachment K § 1.1 (10 year horizon); NorthWestern Montana OATT, Attachment K § 2.1.6 (15 year horizon); Portland General OATT, Attachment K § 2.1 (10 year horizon, with a possible extension to a 20 year horizon); Idaho Power OATT, Attachment K § 2.1 (20 year horizon).

Parties' Order No. 890 compliance filings.<sup>112</sup> Pursuant to section 313(a) of the FPA, an aggrieved party must file a request for rehearing within thirty days after the issuance of the Commission's order.<sup>113</sup> Because LS Power failed to timely raise these challenges, it is barred by the FPA from raising them here.

**d. Consideration of Transmission Needs Driven by Public Policy Requirements**

72. Order No. 1000 required public utility transmission providers to amend their OATTs to include procedures for the consideration of transmission needs driven by Public Policy Requirements in both the local and regional transmission planning processes.<sup>114</sup> Public Policy Requirements are requirements established by local, state or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).<sup>115</sup>

73. The Commission in Order No. 1000 explained that, to consider transmission needs driven by Public Policy Requirements, public utility transmission providers must adopt procedures to (1) identify transmission needs driven by Public Policy Requirements and (2) evaluate potential solutions to meet those identified needs.<sup>116</sup> More specifically, public utility transmission providers must adopt procedures in their local and regional transmission planning processes for identifying transmission needs driven by Public Policy Requirements that give all stakeholders a meaningful opportunity to provide input

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<sup>112</sup> *Idaho Power Co.*, 124 FERC ¶ 61,053, at PP 18, 42 (2008) (subsequent history omitted). The 10-year regional transmission planning horizon was reaffirmed in the First Compliance Order. First Compliance Order, 143 FERC ¶ 61,151 at P 91.

<sup>113</sup> 16 U.S.C. § 825k(a) (2012); *see also* 18 C.F.R. § 713(b) (2013) (requiring that a request for rehearing "be filed not later than 30 days after issuance of any final decision . . .").

<sup>114</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

<sup>115</sup> *Id.* P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

<sup>116</sup> *Id.* P 205.

and to offer proposals regarding what they believe are transmission needs driven by Public Policy Requirements.<sup>117</sup> Each public utility transmission provider must explain how it will determine at both the local and regional level, the transmission needs driven by Public Policy Requirements for which solutions will be evaluated<sup>118</sup> and must post on its website an explanation of: (1) those transmission needs driven by Public Policy Requirements that were identified for evaluation for potential solutions in the local and regional transmission planning processes and (2) why other proposed transmission needs driven by Public Policy Requirements were not selected for further evaluation.<sup>119</sup>

74. Order No. 1000 also required public utility transmission providers, in consultation with stakeholders, to evaluate at the local and regional level potential solutions to identified transmission needs driven by Public Policy Requirements, including transmission facilities proposed by stakeholders.<sup>120</sup> The evaluation procedures must give stakeholders the opportunity to provide input and enable the Commission and stakeholders to review the record created by the process.<sup>121</sup>

**i. Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Regional Transmission Planning Process**

**(a) First Compliance Order**

75. In the First Compliance Order, the Commission found that Filing Parties' compliance filings partially complied with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements in the regional transmission planning process.<sup>122</sup> The Commission found that Filing Parties' proposal complied with the requirement to post an explanation of: (1) those transmission needs driven by public

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<sup>117</sup> *Id.* PP 206-209; Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

<sup>118</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 208-209.

<sup>119</sup> *Id.* P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>120</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211 & n.191.

<sup>121</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 320-321.

<sup>122</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 118.

policy requirements that were identified for evaluation for potential solutions in the local and regional transmission planning processes and (2) why other proposed transmission needs driven by Public Policy Requirements were not selected for further evaluation.<sup>123</sup> The Commission also found that Filing Parties' proposal complied with Order No. 1000's requirement that public utility transmission providers establish procedures in their OATTs to evaluate, at the regional level, potential transmission solutions to identified transmission needs driven by public policy requirements, including the evaluation of transmission facilities stakeholders propose to satisfy an identified transmission need driven by public policy requirements.<sup>124</sup> Lastly, the Commission found that Filing Parties' proposal complied with Order No. 1000's requirement that the procedures for evaluating identified transmission needs driven by public policy requirements for solutions provide an opportunity for stakeholders to provide input during such evaluation.<sup>125</sup>

76. The Commission found that the Filing Parties' proposed definition of public policy requirements partially complied with Order No. 1000. The proposed definition appropriately included those public policy requirements that are established by state or federal laws or regulations and regulations promulgated by a relevant jurisdiction. However, the Commission directed Filing Parties to further revise the definition of public policy requirements in their OATTs to explicitly include local laws or regulations.<sup>126</sup>

77. With respect to identification of transmission needs driven by public policy requirements, the Commission found that Filing Parties revised OATTs did not describe in sufficient detail how stakeholders can provide input and offer proposals regarding the transmission needs they believe are driven by public policy requirements in the regional transmission planning process such that the process for doing so is transparent to all interested stakeholders. The Commission therefore required Filing Parties to revise their respective OATTs to describe how stakeholders can submit what they believe are transmission needs driven by public policy requirements.<sup>127</sup>

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<sup>123</sup> *Id.* P 124.

<sup>124</sup> *Id.* P 125.

<sup>125</sup> *Id.* P 126.

<sup>126</sup> *Id.* P 119.

<sup>127</sup> *Id.* P 121.

78. The Commission also noted that the criteria used to identify those transmission needs driven by public policy requirements for which transmission solutions will be evaluated in the regional transmission planning process were included in the Practice Document, but not in the Filing Parties' respective OATTs. Additionally, the Commission found that the proposed criteria were not adequately defined because the Practice Document listed that the criteria "may include" the seven specifically listed therein. The Commission therefore directed Filing Parties to further describe in their OATTs the process, including the set of criteria, by which they will identify the transmission needs driven by public policy requirements that will be included in the Biennial Study Plan. The Commission further noted that should Filing Parties propose to include the criteria that appeared in the Practice Document into their OATTs, they must explain how they will determine, in a transparent and not unduly discriminatory manner, which criteria will apply to a given need if all of the criteria will not be applied to each transmission need driven by public policy requirements.<sup>128</sup>

**(b) Summary of Compliance Filing**

79. To address the Commission's finding with respect to the definition of public policy requirements, Filing Parties propose to revise the definition in their respective OATTs to explicitly include those public policy requirements that are established by local laws or regulations.<sup>129</sup> Filing Parties also propose to revise the definition of public policy considerations<sup>130</sup> to explicitly exclude those public policy considerations that are established by local laws or regulations.<sup>131</sup>

80. In addition, Filing Parties propose to revise their respective OATTs to describe how stakeholders can submit what they believe are transmission needs driven by public policy requirements. Specifically, Filing Parties propose to revise their OATTs to state

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<sup>128</sup> *Id.* P 123.

<sup>129</sup> *E.g.*, PacifiCorp Transmittal Letter at 12; PacifiCorp OATT, Attachment K § 1.38.

<sup>130</sup> Public policy considerations are defined by Filing Parties as "those public policy considerations that are not established by local, state, or federal laws or regulations." *E.g.*, PacifiCorp OATT, Attachment K § 1.37.

<sup>131</sup> *E.g.*, PacifiCorp Transmittal Letter at 12; PacifiCorp OATT, Attachment K § 1.37.

that any stakeholder may submit data for evaluation as part of the preparation of the draft regional transmission plan, including data supporting transmission needs and associated facilities driven by public policy requirements, public policy considerations, and alternate solutions to the identified transmission solutions set out in the transmission provider's local transmission plan and prior regional transmission plan. In addition, the revised OATTs specify that stakeholders must submit such transmission needs by January 31 of quarter 1 of the biennial transmission planning cycle using a data submittal form found on the NTTG website.<sup>132</sup>

81. Filing Parties also propose to revise their respective OATTs to describe the process by which they will identify the transmission needs driven by public policy requirements for which transmission solutions will be evaluated in the regional transmission planning process.<sup>133</sup> Specifically, Filing Parties propose that during quarter 1 of the regional transmission planning cycle, the Planning Committee receives transmission needs driven by public policy requirements, public policy considerations, and data from the local transmission plans and stakeholders.<sup>134</sup> In quarter 2, after consulting with stakeholders, including state regulators, the Planning Committee recommends to the Steering Committee the public policy requirements to be used in the Biennial Study Plan.<sup>135</sup> Filing Parties propose that the Steering Committee approve the Biennial Study Plan, including public policy requirements and public policy considerations in June of quarter 2.<sup>136</sup> After the Steering Committee approves the public

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<sup>132</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.2.1.

<sup>133</sup> *E.g.*, PacifiCorp Transmittal Letter at 13.

<sup>134</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.3.3.1.

<sup>135</sup> Filing Parties' proposal also states that the Planning Committee will recommend to the Steering Committee the public policy considerations to be used for additional study analysis. The proposal further states that the additional study analysis results related to public policy considerations are informational only and while they may inform the regional transmission plan, they will not result in more transmission projects. PacifiCorp OATT, Attachment K § 3.7.3.3.2.

<sup>136</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.3.3.2.

policy requirements and public policy considerations, the Planning Committee will post on the NTTG website those public policy requirements and public policy considerations that will and will not be evaluated in the regional transmission planning cycle, along with an explanation of why they were or were not considered.<sup>137</sup>

(c) **Commission Determination**

82. We find that Filing Parties' proposed revisions to the regional transmission planning process comply (subject to one needed conforming modification discussed below) with the directives in the First Compliance Order concerning the consideration of transmission needs driven by public policy requirements. First, Filing Parties have revised the definition of public policy requirements in their respective OATTs to explicitly include those public policy requirements that are established by local laws or regulations,<sup>138</sup> as required by the First Compliance Order. Second, Filing Parties have revised their respective OATTs to describe how and when stakeholders may submit data supporting transmission needs driven by public policy requirements and public policy considerations,<sup>139</sup> satisfying the First Compliance Order's directive that Filing Parties describe in sufficient detail how stakeholders can provide input and offer proposals regarding the transmission needs they believe are driven by public policy requirements. Third, Filing Parties have revised their respective OATTs to provide that in quarter 2 of the regional transmission planning process, the Planning Committee will recommend to the Steering Committee, after consulting with stakeholders, including state regulators, the public policy requirements to be used in the Biennial Study Plan, and the Steering Committee will approve the Biennial Study Plan, including the transmission needs driven by public policy requirements.<sup>140</sup> Thus, we find that Filing Parties comply with the directive in the First Compliance Order that they describe in their respective OATTs the

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<sup>137</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.3.3.4.

<sup>138</sup> *E.g.*, PacifiCorp Transmittal Letter at 12; PacifiCorp OATT, Attachment K § 1.38.

<sup>139</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.2.1.

<sup>140</sup> *E.g.*, PacifiCorp Transmittal Letter at 13; PacifiCorp OATT, Attachment K § 3.7.3.3.2.



process by which they will identify the transmission needs driven by public policy requirements that will be included in the Biennial Study Plan.<sup>141</sup>

83. While we find the majority of the proposal is compliant with the directives of the First Compliance Order, we direct one modification to conform terminology used in Filing Parties' respective OATTs to the terminology used in Order No. 1000. Filing Parties propose a new section concerning the posting of transmission needs driven by public policy requirements and public policy considerations;<sup>142</sup> however, as proposed, this new section states the Planning Committee will post on the NTTG website public policy requirements and public policy considerations (including an explanation of why they were or were not considered), rather than the *transmission needs* driven by such requirements and considerations.<sup>143</sup> In the First Compliance Order, the Commission found the Filing Parties' proposal to post on the NTTG and each Filing Party's website an explanation of which transmission needs driven by public policy requirements and public policy considerations will and will not be evaluated, along with an explanation of why particular transmission needs driven by public policy requirements and public policy considerations were or were not selected, complied with Order No. 1000.<sup>144</sup> We therefore direct Filing Parties to submit, within 60 days of the date of issuance of this order, revised tariff language that corrects these references to the *transmission needs* driven by public policy requirements and public policy considerations, consistent with the Commission's finding in the First Compliance Order.

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<sup>141</sup> Additionally, Filing Parties propose revisions to their evaluation process that apply to transmission needs driven by public policy requirements, along with all other transmission needs. We address these proposed revisions to the evaluation process in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation) below.

<sup>142</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.3.3.4.

<sup>143</sup> *Compare, e.g., id.* § 3.7.3.3.4 *with, e.g., id.* § 3.7.3.3.3 (“During the Regional Planning Cycle, the Planning Committee determines if there is a more efficient or cost-effective regional solution to meet *the transmission needs* driven by Public Policy Requirements set forth in the Biennial Study Plan.” (emphasis added)).

<sup>144</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 124.

ii. **Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process**

(a) **First Compliance Order**

84. In the First Compliance Order, the Commission found that each Filing Party's compliance filing partially complied with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements in the local transmission planning process.<sup>145</sup> The Commission found that each Filing Party's compliance filing satisfied the Order No. 1000 requirement that each public utility transmission provider include in its OATT procedures to identify at the local level transmission needs driven by public policy requirements and allow stakeholders an opportunity to provide input and to offer proposals regarding the transmission needs they believe are driven by Public Policy Requirements.<sup>146</sup>

85. Additionally, in the First Compliance Order, the Commission found that each Filing Party's compliance filing complied with the Order No. 1000 requirement that each public utility transmission provider post on its website an explanation of (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential transmission solutions in the local transmission planning process; and (2) why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>147</sup> Finally, the Commission found that Filing Parties' proposals to apply the same evaluation process and selection criteria to all local transmission projects, including those to address transmission needs driven by public policy requirements, met Order No. 1000's requirement that each public utility transmission provider establish procedures to evaluate

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<sup>145</sup> *Id.* P 136. The Commission stated that there is one definition of public policy requirements that applies to both the local and regional transmission planning process in each Filing Party's OATT, and thus that the revision to the definition of public policy requirements ordered in paragraph 119 of the First Compliance Order would address both the local and regional transmission planning processes. *Id.*

<sup>146</sup> *Id.* P 137.

<sup>147</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

at the local level potential transmission solutions to identified transmission needs driven by public policy requirements, including those proposed by stakeholders.<sup>148</sup>

86. However, the Commission found that Filing Parties did not comply with Order No. 1000's requirement to describe in their OATTs a just and reasonable and not unduly discriminatory process through which each public utility transmission provider will identify, out of the larger set of needs proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process.<sup>149</sup> The Commission therefore directed Filing Parties to address this issue in their second compliance filing.<sup>150</sup>

**(b) Summary of Compliance Filing**

87. Each Filing Party provides additional detail describing the local transmission system plan review and evaluation process that identifies those needs for which transmission solutions will be evaluated.<sup>151</sup>

88. Deseret clarifies that a transmission developer may submit information regarding its project to the transmission provider or to the NTTG Planning Committee during quarter 1 of the local transmission planning process. Deseret also clarified that it will consider potential transmission needs driven public policy consideration during quarter 1. Additionally, Deseret proposed language stating that stakeholder input will occur throughout the eight quarter transmission planning cycle, with categorization of transmission needs driven by public policy requirements or public policy considerations occurring in quarter 1, and technical analysis of those transmission needs driven by public policy requirements selected for further consideration happening in subsequent quarters using steady state power flow, post-transient steady state power flow, and transient stability analyses. Deseret also states that potential solutions driven by public policy requirements and public policy considerations will be identified with and

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<sup>148</sup> First Compliance Order, 143 FERC ¶ 61,151 at PP 139-140.

<sup>149</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209.

<sup>150</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 138.

<sup>151</sup> *E.g.*, PacifiCorp Transmittal Letter at 14.

evaluated on a comparable basis to all other potential solutions based on their relative economics and ability to meet reliability criteria.<sup>152</sup>

89. Idaho Power's proposes that all stakeholder submissions, including those transmission needs driven by public policy requirements and public policy considerations, will be considered on a comparable basis as all other proposals and data submissions and that they will be evaluated with all other potential solutions during the transmission planning process based on a comparison of their relative economics and ability to meet reliability criteria. Idaho Power also proposes that an explanation of why transmission needs driven by public policy requirements or public policy considerations will or will not be included in the biennial transmission planning process will be posted on its OASIS website.<sup>153</sup> Additionally, Idaho Power states that all stakeholders have the opportunity to submit transmission needs driven by public policy requirements or public policy considerations during quarter 1 of the transmission planning process.<sup>154</sup>

90. Northwestern states that stakeholder input will occur throughout the eight quarter local transmission system plan process. Northwestern proposes that the local transmission system plan process will begin with data collection, goal, and scenarios definition in quarter 1. Also in quarter 1, from the larger set of public policy requirements and considerations that have been received, the transmission needs driven by public policy requirements that will be used to develop the local transmission plan will be identified. Technical analysis will be performed in quarters 2 through 6, which will include steady state flow and transient stability analyses. In quarter 7, a decision rule will be developed, taking into account stakeholder input and transmission solutions for transmission needs driven by public policy requirements and considerations. The decision rule will evaluate all potential solutions based on a comparison of their relative economics and ability to meet reliability criteria. Reporting and coordination of the local transmission system plan will occur in quarter 8.<sup>155</sup>

91. Portland General clarifies that it will identify transmission needs driven by public policy requirements to be evaluated in the transmission planning process, transmission

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<sup>152</sup> Deseret OATT, Attachment K § 2.2.1.

<sup>153</sup> Idaho Power OATT, Attachment K § 3.2.1.

<sup>154</sup> *Id.* § 4.1.4.

<sup>155</sup> Northwestern Montana OATT, Attachment K § 2.1.10.4.

needs driven by public policy requirements and public policy considerations that will be used in the development of sensitivity analyses, and those transmission needs driven by public policy requirements that will not be further evaluated in the transmission planning process by considering the input of stakeholders, including any participating regulatory authority during quarter 1 for its near term planning process and during quarter 5 for its long term planning process.<sup>156</sup>

(c) **Commission Determination**

92. We find that Filing Parties' proposed revisions to their local transmission planning processes comply with the First Compliance Order's requirement to describe a just and reasonable and not unduly discriminatory process through which each public utility transmission provider will identify, out of the larger set of needs proposed, those needs for which transmission solutions will be evaluated in the local transmission planning process. The proposed revisions, along with Filing Parties' existing tariff language, which was accepted by the Commission in the First Compliance Order, establish that Filing Parties will identify at the local level (1) transmission needs driven by public policy requirements to be evaluated in the transmission planning process, (2) transmission needs driven by public policy requirements and public policy considerations that will be used in the development of sensitivity analyses, and (3) those transmission needs driven by public policy requirements that will not be considered during quarter 1 of the local transmission planning processes.<sup>157</sup> Also during quarter 1, Filing Parties establish provisions which require each of them to explain why transmission needs driven by public policy requirements or public policy considerations have been identified for inclusion in the aforementioned categories.<sup>158</sup> We therefore,

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<sup>156</sup> Portland General Electric OATT, Attachment K §§ 3.2.1, 3.2.5.

<sup>157</sup> PacifiCorp OATT, Attachment K § 2.2.2.1; Deseret OATT, Attachment K § 2.2.1; Idaho Power OATT, Attachment K § 3.2.1; NorthWestern Montana OATT, Attachment K § 2.1.10.2; Portland General Electric OATT, Attachment K §§ 3.2.1 and 3.2.5.

<sup>158</sup> PacifiCorp OATT, Attachment K § 2.2.2.1; Deseret OATT, Attachment K § 2.2.1; Idaho Power OATT, Attachment K § 3.2.1; NorthWestern Montana OATT, Attachment K § 2.1.10.2.4; Portland General Electric OATT, Attachment K §§ 3.2.1 and 3.2.5.

upon further review, find that these elements, as described in Filing Parties' respective local transmission planning processes, satisfy the First Compliance Order's directive.

### **3. Nonincumbent Transmission Developer Reforms**

93. In Order No. 1000, the Commission adopted a framework of reforms to ensure that nonincumbent transmission developers have the opportunity to participate in the transmission development process. In particular, public utility transmission providers must eliminate federal rights of first refusal from Commission-jurisdictional tariffs and agreements and develop not unduly discriminatory qualification criteria and processes governing the submission and evaluation of proposals for new transmission facilities.<sup>159</sup>

#### **a. Qualification Criteria**

94. Order No. 1000 required each public utility transmission provider to revise its OATT to establish appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation.<sup>160</sup> These criteria must not be unduly discriminatory or preferential when applied to either an incumbent transmission provider or a nonincumbent transmission developer.<sup>161</sup> In addition, public utility transmission providers must adopt procedures for timely notifying transmission developers of whether they satisfy the region's qualification criteria and allowing them to remedy any deficiencies.<sup>162</sup>

95. Order No. 1000-A clarified that it would be an impermissible barrier to entry to require a transmission developer to demonstrate, as part of the qualification criteria, that

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<sup>159</sup> In the First Compliance Order, the Commission found that Filing Parties' OATTs do not contain any federal rights of first refusal with respect to transmission projects selected in the NTTG regional transmission plan for purposes of cost allocation and therefore comply with the requirements of Order No. 1000.

<sup>160</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 225, 323.

<sup>161</sup> *Id.* P 323.

<sup>162</sup> *Id.* P 324.

it has, or can obtain, state approvals necessary to operate in a state to be eligible to propose a transmission facility.<sup>163</sup>

**i. First Compliance Order**

96. In the First Compliance Order, the Commission found that the information described by Filing Parties with respect to qualification criteria partially complied with Order No. 1000's requirements. The Commission stated that as a threshold matter, Order No. 1000 specifically stated that the transmission developer "qualification 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."<sup>164</sup> The Commission therefore found that Filing Parties' proposal that only qualified transmission developers may *propose* a regional transmission project for consideration in the regional transmission plan for purposes of cost allocation was inconsistent with Order No. 1000. The Commission also stated that 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, the Commission directed 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>165</sup>

97. The Commission found that Filing Parties' proposed qualification criteria provisions were generally fair, not unreasonably stringent, and provide potential transmission developers the opportunity to demonstrate they have the financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities. The Commission, however, found that Filing Parties reflected these criteria in the Practice Document rather than their respective OATTs. The Commission therefore

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<sup>163</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

<sup>164</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 156 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324 n.304, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 439 n.520).

<sup>165</sup> *Id.*

directed Filing Parties to reflect the qualification criteria for determining a transmission developer's eligibility to propose a transmission project that it intends to develop for potential selection in the regional transmission plan for purposes of cost allocation, and the procedures that will allow a transmission developer to remedy any identified deficiencies, in their respective OATTs.<sup>166</sup>

98. With respect to the financial qualification criteria requirements, the Commission found it was reasonable to require a prospective transmission developer to demonstrate that it has an investment grade credit rating and appropriate to allow a prospective transmission developer to satisfy an alternative demonstration if it cannot demonstrate that it has an investment grade credit rating. However, the Commission stated that Filing Parties did not support their proposed alternative demonstration.<sup>167</sup> In particular, the Commission stated that Filing Parties did not explain or provide any justification to demonstrate that a transmission developer having assets that are at least five times the transmission project's capital costs is necessary to demonstrate that the transmission developer has the financial qualifications to develop the transmission project. The Commission therefore directed Filing Parties to provide justification for the proposed alternative demonstration or, alternatively, propose and justify another alternative in the event that a prospective transmission developer cannot demonstrate an investment grade credit rating.<sup>168</sup>

99. The Commission also found that Filing Parties' proposed qualification criterion that requires a transmission developer, or its parent, to demonstrate that it has five years' experience in operating and maintaining transmission projects did not comply with Order No. 1000. The Commission concluded that this proposed qualification criterion was unreasonably stringent<sup>169</sup> and might act as a barrier to new entry, and thus the Commission found that Filing Parties may not include this criterion in their OATTs, unless they allow transmission developers to satisfy the criterion by relying upon the relevant experience of third-party contractors.<sup>170</sup>

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<sup>166</sup> *Id.* P 157.

<sup>167</sup> *Id.* P 158.

<sup>168</sup> *Id.*

<sup>169</sup> *Id.* P 159 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.)

<sup>170</sup> *Id.*



**ii. Summary of Compliance Filings**

100. In response to the Commission's directive that Filing Parties revise their OATTs to state that any entity may submit a transmission project into the regional transmission planning process for consideration for purposes of cost allocation, Filing Parties propose to revise their respective OATTs to allow both transmission developers and stakeholders to propose transmission projects for consideration in the regional transmission plan.<sup>171</sup> Filing Parties also propose to revise their OATTs to require that only incumbent transmission developers and nonincumbent transmission developers that intend to submit a transmission project for cost allocation consideration must meet the qualification criteria.<sup>172</sup>

101. Filing Parties revised their respective OATTs in response to the Commission's directives to set forth qualification criteria, procedures for timely notifying potential transmission developers of whether they satisfy the qualification criteria, and opportunities for a potential transmission developer to remedy any deficiencies. With respect to qualification criteria, Filing Parties have revised their respective OATTs to include the sponsor qualification criteria. Filing Parties state that the requisite qualification data are grouped into the following categories: (1) transmission developer description; (2) project summary; (3) project name; (4) transmission developer demonstration of technical expertise to develop, construct, and own the proposed project; (5) transmission developer financial expertise to develop, construct and own the proposed project; (6) proposed project financing plan; (7) transmission developer ability to maintain and operate the project; (8) primary project contact; and (9) signature.<sup>173</sup>

102. With regard to the transmission developer description criterion, in addition to the transmission developer's address and years in business, the transmission developer must describe the nature of its business. To meet the project summary criterion, the transmission developer must provide: (1) voltage; (2) estimated cost; (3) approximate construction period; (4) project location; (5) points of interconnection with the

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<sup>171</sup> *E.g.*, PacifiCorp OATT, Attachment K §§ 3.7.2.2, 3.7.2.3.

<sup>172</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.1.

<sup>173</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

transmission grid; (6) whether the transmission project is alternating current or direct current; (7) whether the transmission project is single or double circuit; and (8) the transmission project's name. Under the proposal, the assessment of this information will involve whether the required data was submitted.<sup>174</sup>

103. To demonstrate technical expertise, Filing Parties propose that the transmission developer must describe its management's experience in developing, constructing (or managing construction), and owning a project of similar size and scope. The transmission developer also must provide (1) a discussion of its depth and breadth of technical expertise, including the transmission developer's internal and external expertise to develop, construct, and own the proposed transmission project, and (2) the name, location and description of a transmission project of similar scale that demonstrates the transmission developer's expertise to develop, construct, and own the proposed transmission project. Under the proposal, a transmission developer's technical expertise will be assessed based on whether its submission provides experience, including managerial and technical experience, in developing, constructing (or managing construction) and owning comparable projects.<sup>175</sup>

104. Filing Parties propose that the transmission developer can establish its creditworthiness by providing the following information, if available: (1) most recent annual report; (2) most recent quarterly report; (3) last two most recent audited year-end financial statements; (4) rating agency reports; (5) any material issues that could affect the credit decision;<sup>176</sup> and (6) other information supporting the transmission developer's financial expertise. Additionally, the transmission developer, or its parent company, must demonstrate that either has an investment grade rating. If neither the transmission developer nor its parent company has an investment grade rating, either entity must demonstrate that it has: (1) existed for at least five years; (2) maintained positive working capital for the prior three years; and (3) a minimum tangible net worth of

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<sup>174</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

<sup>175</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

<sup>176</sup> Examples of material issues include litigation, arbitration, contingencies or investigations. *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

\$1 million or total assets of \$10 million. Under the proposal, the transmission developer's financial expertise will be assessed based on whether the transmission developer satisfied the required qualitative criteria.<sup>177</sup> In support of the proposed alternative to an investment grade rating, Filing Parties assert that the five-year existence requirement corresponds with a reasonable period of time to plan a transmission project. Similarly, Filing Parties contend that maintaining positive working capital for the prior three years is an indicator of the stability of a transmission developer's access to capital. Filing Parties also assert that a minimum tangible net worth of \$1 million demonstrates that the transmission developer has working capital to undertake the significant permitting required for a transmission project. Finally, Filing Parties contend that if a transmission developer has total assets of \$10 million, this asset level is roughly similar to the level of assets of a very small utility, and therefore is representative of the level of assets that could support the construction and/or operation of a transmission project.<sup>178</sup>

105. Under Filing Parties' proposal, the transmission developer also must provide a proposed project financing plan, in which it: (1) describes how the transmission project will be financed; (2) lists the investors and the percentage ownership of each investor; and (3) provides the proposed sources of debt and equity capital and the percentages of each. The transmission developer's financing plan will be evaluated by the Planning and Cost Allocation Committees based on whether the submission provides the appropriate financial information for the investors, including the provided financial expertise information.<sup>179</sup>

106. In response to the Commission's directive that Filing Parties revise their OATTs to allow transmission developers to satisfy the five-year experience requirement by relying upon the relevant experience of third-party contractors, Filing Parties revise their proposed qualification criteria to allow transmission developers to satisfy the requirement by relying on the experience of its parent organization or its third-party contractor that has been retained to operate and/or maintain the proposed facility.<sup>180</sup> Specifically, the

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<sup>177</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

<sup>178</sup> *E.g.*, PacifiCorp Transmittal Letter at 16.

<sup>179</sup> *E.g.*, *id.*; PacifiCorp OATT, Attachment K § 3.7.1.2., Table 1.

<sup>180</sup> *E.g.*, PacifiCorp Transmittal Letter at 16; PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

transmission developer can demonstrate its ability to maintain and operate the proposed project by providing a clear description of the entity<sup>181</sup> that has been retained to operate or maintain the proposed transmission project. The transmission developer must provide examples of at least five years of operation and maintenance experience for a similarly sized project for the entity who will be responsible for operation and maintenance. The transmission developer's ability to maintain and operate the proposed transmission project will be assessed based upon whether the transmission developer satisfied the criteria. Finally, the transmission developer must designate a primary project contact and include that contact's name, title, phone number and email address. The proposed project submittal must be signed by an authorized representative.<sup>182</sup>

107. Filing Parties propose that a transmission developer must submit the sponsor qualification data by October 31 of quarter 8 of the prior regional transmission planning cycle using the sponsor qualification data form found on the NTTG website. Filing Parties further propose that the Planning and Cost Allocation Committees will apply the qualification criteria in a comparable and non-discriminatory manner to both incumbent and nonincumbent transmission developers and will determine, in consultation with stakeholders, the sufficiency of the qualification data at regularly scheduled meetings in November of quarter 8 of that prior cycle. Under the proposal, within five business days of the two Committees' determinations, NTTG will provide notice to the transmission developer either stating that the transmission developer satisfied the qualification data requirements or identifying specific deficiencies.<sup>183</sup>

108. Subsequently, under the proposal, the transmission developer must remedy identified deficiencies by January 31 of quarter 1 of the current regional transmission planning cycle; if the deficiency is not remedied by the end of January of quarter 1, the transmission project will be considered an unsponsored project submitted by a stakeholder, unless the transmission developer withdraws the project from further consideration. Filing Parties propose to revise their OATTs to state that the Planning

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<sup>181</sup> The entity designated to maintain and operate the proposed project may be the transmission developer, the transmission developer's parent organization, or its third-party contractor. *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

<sup>182</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1.

<sup>183</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2.

Committee may consider the incomplete data when deciding whether to include an unsponsored project that resembles a project set forth in a withdrawn submission. Filing Parties propose to further revise their OATTs to provide that, during the next regional transmission planning cycle, a stakeholder may seek qualification as a transmission developer, with updated information and data deficiencies cured. Filing Parties propose to revise their OATTs to require the transmission developer to remain in compliance with the qualification requirements in order for the transmission project to continue to be considered a sponsored project in the next regional transmission plan.<sup>184</sup>

### iii. Commission Determination

109. Filing Parties have revised their respective OATTs to (1) allow any applicant to propose a transmission project for potential selection in the regional transmission plan for purposes of cost allocation,<sup>185</sup> (2) clarify that the qualification criteria apply only to incumbent and nonincumbent transmission developers that intend to submit a transmission project for cost allocation consideration, and do not apply to stakeholders who propose transmission projects but do not intend to develop them,<sup>186</sup> and (3) allow transmission developers to satisfy the five years' experience requirement by relying on the experience of its parent organization or its third-party contractor that has been retained to operate and/or maintain the proposed project.<sup>187</sup> We find that these clarifications partially comply with the directives in the First Compliance Order.

110. With respect to five-year experience requirement, Filing Parties' proposal appears to require that, before a potential transmission developer can qualify to submit a bid to develop a transmission facility selected in the regional transmission plan for purposes of cost allocation, it must have retained, presumably through executed contracts, the entity the developer may rely on to operate and/or maintain any potential future transmission

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<sup>184</sup> *E.g.*, PacifiCorp Transmittal Letter at 15; PacifiCorp OATT, Attachment K § 3.7.1.2.

<sup>185</sup> *E.g.*, PacifiCorp OATT, Attachment K §§ 3.7.2.2, 3.7.2.3; PacifiCorp Transmittal Letter at 15.

<sup>186</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.1; PacifiCorp Transmittal Letter at 15.

<sup>187</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1; PacifiCorp Transmittal Letter at 16.

facility. We find that this NTTG proposal that requires executed contracts to qualify to submit a bid creates an impermissible barrier to entry and does not comply with the requirement that qualification criteria be fair and not unreasonably stringent when applied to either the incumbent transmission provider or nonincumbent transmission developers.<sup>188</sup> Accordingly, we direct the Filing Parties to file, within 60 days of the date of issuance of this order, a further compliance filing that removes the requirement for a prospective transmission developer to have retained the third-party contractor to meet the qualification criteria in order to be eligible to submit a bid.

111. Next, Filing Parties revised their respective OATTs to include the qualification criteria that previously were included in the Practice Document.<sup>189</sup> Our review indicates that in so doing, Filing Parties incorporated additional detail with respect to the qualification criteria that were previously accepted by the Commission. We find the provisions moved from the Practice Document together with the additional detail incorporated regarding how a transmission developer can satisfy the qualification criteria further clarifies for transmission developers the information that they must submit.<sup>190</sup> Therefore, we accept the qualification criteria and find that Filing Parties have complied with our directive to reflect the qualification criteria in their respective OATTs.

112. Filing Parties also revised their respective OATTs to provide procedures for timely notifying transmission developers regarding whether the transmission developer

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<sup>188</sup> See *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059, at P 227 (2013) (directing Southwest Power Pool, Inc. to remove from its tariff a requirement that a prospective transmission developer enter into executed contracts to meet certain qualification criteria and be eligible to submit a bid).

<sup>189</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2; PacifiCorp Transmittal Letter at 15.

<sup>190</sup> For example, Filing Parties propose in their revised OATTs to require the following project summary information: (1) voltage; (2) single or double circuit; (3) AC or DC; (4) estimated cost; (5) approximate construction period; (6) project location; and (7) points of interconnection with the transmission grid. *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2, Table 1. In the prior proposal (as reflected in the Practice Document), transmission developers were required to provide a summary of the proposed project, including: voltage, approximate construction duration, and cost of the transmission project. Practice Document § II.4.1.1, Table 2.

satisfied the qualification criteria and to provide opportunities to remedy any deficiencies.<sup>191</sup> We find that these proposed provisions comply with the directives in the First Compliance Order because the procedures provide the transmission developer with an opportunity to correct any deficiencies in its submittal.

113. In response to the Commission's directive to either provide justification for Filing Parties proposed alternative to an investment grade credit rating or to propose and justify another alternative, Filing Parties have revised their proposal to retain two of the three required alternative demonstrations<sup>192</sup> and replace the requirement that a transmission developer demonstrate that it has assets that are at least five times the proposed transmission project's capital costs with the requirement that a transmission developer demonstrate that it has a minimum tangible net worth of \$1 million, or total assets of \$10 million. We note that the development and construction of transmission projects requires a significant financial investment; therefore, it is not unreasonable to require some assurance that the transmission developer will have the financial assets necessary to complete the project. This proposed alternative to an investment grade credit rating is fair, not unreasonably stringent, or unduly discriminatory or preferential and provides each transmission developer with the opportunity to demonstrate that it has the necessary financial resources to develop, construct, own, operate, and maintain transmission facilities. Therefore, we find that this revision is reasonably related to the transmission developer's financial ability to undertake a transmission project and, accordingly, we accept this revised requirement.

114. However, we continue to find that Filing Parties have failed to justify their proposed financial qualification criterion that requires a transmission developer to demonstrate in lieu of showing that it has an investment grade credit rating that it or its parent company has been in existence for five years and has had positive working capital for the past three years. Filing Parties contend that the five year requirement corresponds

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<sup>191</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2; PacifiCorp Transmittal Letter at 15-16.

<sup>192</sup> Filing Parties originally proposed to require that a transmission developer demonstrate that it has an investment grade credit rating or, in the alternative, to demonstrate that: (1) it or its parent company has existed for at least five years; (2) its working capital has been positive for the prior three years; and (3) its assets are at least five times the transmission project's capital costs. First Compliance Order, 143 FERC ¶ 61,151 at P 153.

to a reasonable time to plan a transmission project and that three prior years of positive working capital indicate the stability of a transmission developer's access to capital. We find that Filing Parties have offered no evidence to support the correlations they assert. More importantly, we find that requiring these two demonstrations would needlessly restrict the pool of qualified transmission developers to companies that are at least five years old. Such a requirement would preclude otherwise well-qualified transmission developers that could rely on the technical expertise of third parties to construct and operate a transmission project and that are well-capitalized and have ready access to capital markets from proposing transmission projects for selection in the regional transmission plan. Thus, Filing Parties' proposal to require these two alternative demonstrations unduly restricts newly-formed companies from proposing transmission projects in the regional transmission planning process, regardless of their financial ability to undertake a transmission project. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their respective OATTs to remove these alternative demonstrations.

115. Finally, we accept Filing Parties' proposal to require a transmission developer to remain in compliance with the qualification requirements for a transmission project selected in a regional transmission plan for purposes of cost allocation to continue to be considered a sponsored project in the next regional transmission plan.<sup>193</sup> We find that this proposal, which will allow a transmission project to remain selected, but unsponsored, in the event the transmission developer no longer meets the qualification criteria in subsequent transmission planning cycles, alleviates our concern in the First Compliance Order that a transmission project selected in the regional transmission plan for purposes of cost allocation would be ineligible to receive regional cost allocation in these circumstances.<sup>194</sup>

**b. Information Requirements**

116. Order No. 1000 required each public utility transmission provider to identify in its OATT the information that a prospective transmission developer must submit in support of a transmission project proposed in the regional transmission planning process.<sup>195</sup> The

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<sup>193</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.1.2.

<sup>194</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 195.

<sup>195</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 325.



information requirements must be sufficiently detailed to allow a proposed transmission project to be evaluated comparably to other transmission facilities proposed in the regional transmission planning process. The information requirements must be fair and not be so cumbersome as to effectively prohibit transmission developers from proposing transmission facilities, yet not be so relaxed that they allow for relatively unsupported proposals.<sup>196</sup> Order No. 1000 also required each public utility transmission provider to identify in its OATT the date by which a transmission developer must submit information on a proposed transmission project to be considered in a given transmission planning cycle.<sup>197</sup>

**i. First Compliance Order**

117. The Commission found Filing Parties' compliance filings partially complied with Order No. 1000's information requirements for proposed transmission projects. The Commission accepted Filing Parties' proposal to require transmission developers to submit certain minimum information requirements for all transmission projects that are proposed to address regional needs, including from developers not seeking regional cost allocation, and to apply additional information requirements to those developers proposing transmission projects for potential selection in the regional transmission plan for purposes of cost allocation.<sup>198</sup> However, the Commission required Filing Parties to make certain revisions to both the minimum information requirements and the additional information requirements.

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<sup>196</sup> *Id.* P 326.

<sup>197</sup> *Id.* P 325.

<sup>198</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 168.

118. With respect to the minimum information requirements,<sup>199</sup> the Commission found that Filing Parties failed to explain what load and resource data they required for a proposed transmission project, or what information a transmission developer must provide, to satisfy the proposed “economic considerations” requirement. The Commission noted that Filing Parties did not explain which entity determines whether a particular information element is appropriate, and therefore required, for a given transmission project, or whether transmission developers may argue that certain data or other information elements are not applicable to their proposed regional transmission project. Therefore, the Commission directed Filing Parties to submit further compliance filings that (1) clarify what load and resource data would be required for proposed transmission projects; (2) explain what information a transmission developer must provide to satisfy the proposed “economic considerations” requirement; and (3) explain whether the NTTG Planning Committee or the public utility transmission providers in the transmission planning region determine what data and other information elements are deemed appropriate for consideration of proposed transmission projects.<sup>200</sup>

119. The Commission found that the following additional information requirements applicable to developers submitting transmission projects for potential selection in the regional transmission plan for purposes of cost allocation did not comply with Order No. 1000: (1) if the transmission project is proposed to meet a reliability or public policy requirement, copies of all studies supporting the transmission project selection; (2) if the transmission project is proposed as part of the transmission planning for future resource development, any production cost model input and output used in the economic

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<sup>199</sup> Filing Parties proposed that a transmission developer submit the following minimum transmission project information, to the extent appropriate for the project, regardless of whether or not the transmission developer is seeking to have the project selected in the regional transmission plan for purposes of cost allocation: (1) load and resource data; (2) forecasted transmission service requirements; (3) whether the project meets reliability or load service requirements; (4) economic considerations; (5) whether the project satisfies a transmission need driven by public policy requirements; and (6) details regarding the proposed transmission project, including the project location, voltage level, structure type, conductor type and configuration, project terminal facilities, project cost and the annual revenue requirement, including underlying assumptions and parameters for the requirement, development schedule, the current project development phase, and the in-service date. *Id.* P 163.

<sup>200</sup> *Id.* P 169.

justification of the transmission project; (3) copies of all studies that quantify the annual impacts on the transmission developer and other regional entities; and (4) the input assumptions and forecasts incorporated in any studies evaluating the efficiency and cost-effectiveness of the transmission project. The Commission found that requiring the prospective transmission developer to provide such studies, data, and assumptions in order to propose a transmission project for consideration for selection in the regional transmission plan for purposes of cost allocation was unreasonable and such requirements could effectively prohibit transmission developers from proposing transmission

projects.<sup>201</sup> The Commission indicated that such detailed studies are appropriately conducted as part of the transmission planning process to determine whether or not to select a proposed transmission project in the regional transmission plan for purposes of cost allocation. Consequently, the Commission required Filing Parties to either remove from their respective OATTs the aforementioned information requirements or clarify that such studies, data, and assumptions are not required, but are permitted to the extent that the transmission developer voluntarily performed such studies to support its proposed transmission project's selection as a more efficient or cost-effective transmission solution or to quantify the proposed transmission project's impacts.<sup>202</sup>

## ii. Summary of Compliance Filings

120. In response to the Commission's directive to explain what load and resource data are required for a proposed transmission project, Filing Parties propose to revise their respective OATTs to provide that an incumbent transmission developer shall provide load and resource data for its balancing authority area or the balancing authority area in which it operates.<sup>203</sup> Under the proposal, nonincumbent transmission developers must identify the load intended to be served with the transmission line and the generation resource intended to inject energy into the transmission line for the identified load.<sup>204</sup>

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<sup>201</sup> *Id.* PP 170-171 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 326).

<sup>202</sup> *Id.*

<sup>203</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.2.2, Table 2.

<sup>204</sup> *E.g., id.*

121. To clarify the requirement to provide “economic considerations” for sponsored and unsponsored transmission projects, Filing Parties propose to revise their respective OATTs to require transmission developers and stakeholders to provide data supporting all economic considerations (rather than load service, reliability, or public policy requirements) that are driving the transmission project. Filing Parties clarify that economic considerations include, but are not limited to, a search for lower-cost power or marketing opportunities for power or transmission service.<sup>205</sup>

122. With respect to what entity determines whether data and other information elements are deemed appropriate with respect to transmission projects, Filing Parties clarify that the Planning Committee serves that role. The Planning Committee will also review the submission for completeness. According to Filing Parties, if a transmission developer fails to meet any of the minimum information requirements, the Planning Committee will notify the transmission developer of the deficiencies and will attempt to remedy deficiencies in the submitted information through informal communications. Filing Parties further explain that if efforts to remedy deficiencies are not met by April 15 of quarter 2, the Planning Committee shall return the transmission developer’s information and its transmission project proposal shall be deemed withdrawn. However, Filing Parties explain that the Planning Committee may consider the incomplete data in its consideration of whether to include an unsponsored project that resembles the withdrawn submission. Filing Parties state that during the next regional transmission planning cycle, the transmission developer may resubmit its respective transmission project, with updated information and remedied data deficiencies, for consideration in the regional transmission plan and may request cost allocation consideration.<sup>206</sup>

123. Filing Parties also explain that they have opted to retain the additional information requirements applicable to transmission projects submitted by project sponsors, merchant transmission developers, and stakeholders for potential selection in the regional transmission plan for purposes of cost allocation. Filing Parties have revised the description of the additional information in their respective OATTs and have conformed the Cost Allocation Data Form to the description in their respective OATTs to state that transmission developers “are encouraged but not required to also provide” the following information: (a) a statement as to whether the project was selected in a transmission

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<sup>205</sup> *E.g., id.*

<sup>206</sup> *E.g., PacifiCorp Transmittal Letter at 17-18; PacifiCorp OATT, Attachment K § 3.7.2.6.*

provider's local plan; (b) a statement as to whether the proposed project is planned in conjunction with evaluation of economical resource development and operation (i.e., as part on an integrated resource planning process or other resource planning process regarding economical operation of current or future resources) conducted by or for one or more load serving entities within the footprint of a transmission provider; (c) copies of all studies upon which planning of the project is based, if the proposed project is planned primarily to meet the transmission needs of a reliability or public policy requirement of a transmission provider; (d) copies of all studies upon which planning of the project is based, including, but not limited to, any production cost model input and output used as part of the economic justification of the project, if the proposed project is planned as part of future resource development and operation within the footprint of a local transmission provider; (e) copies of all studies performed by or in possession of the Applicant that describe and/or quantify the estimated annual impacts (both beneficial and detrimental) of the proposed project on the Applicant and other regional entities; (f) copies of any WECC or other regional, interregional, or interconnection-wide planning entity determinations relative to the project; (g) the input assumptions and the range of forecasts incorporated in any studies the transmission developer relied upon in evaluating the efficiency or cost-effectiveness of the proposed project; and (h) any proposal the

transmission developer the Applicant may choose to offer addressing treatment of project cost overruns.<sup>207</sup>

### iii. Commission Determination

124. We find that the provisions in Filing Parties' filing addressing information requirements partially comply with the directives in the First Compliance Order. Filing Parties clarify the load and resource data that both incumbent transmission developers and nonincumbent transmission developers must provide, as well as the information that a transmission developer must provide to satisfy the "economic consideration" requirement for a proposed transmission project, complying with the Commission's directives in the First Compliance Order. Filing Parties' revised OATTs also clarify that the NTTG Planning Committee and Cost Allocation Committee will be responsible for determining whether a transmission developer has satisfied the region's information requirements, will notify the transmission developer of the deficiencies, and will attempt to remedy deficiencies in the submitted information through informal communications.

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<sup>207</sup> *E.g.*, PacifiCorp Transmittal Letter at 17-18; PacifiCorp OATT, Attachment K § 3.7.2.3(a) – (h).

Therefore, we find that Filing Parties comply with the Commission's directive in the First Compliance Order that Filing Parties explain whether the NTTG Planning Committee or the public utility transmission providers in the transmission planning region determine what data and other information elements are deemed appropriate for consideration of proposed transmission projects. Furthermore, the Filing Parties have responded to our concern regarding the requirement that various studies, data, and assumptions be provided by the prospective transmission developer for a proposed transmission project to be considered in the regional transmission plan by revising their OATTs to provide that the transmission developer may submit these studies and information on a voluntarily basis. Thus, Filing Parties have resolved the Commission's concern that these information requirements could effectively prohibit transmission developers from proposing transmission projects.

125. However, we direct Filing Parties to make a clarifying edit to their procedures governing the proposal of transmission projects for consideration in the regional transmission planning process, to ensure that stakeholders may submit ideas into the regional transmission planning process without being required to provide the full scope of information that Filing Parties propose to require for sponsored and unsponsored transmission project proposals. Filing Parties propose that a "stakeholder may submit an unsponsored project for consideration in the Regional Transmission Plan by submitting to the Planning Committee chair the information identified in the 'Unsponsored Project' column of Table 2" in their respective OATTs.<sup>208</sup> Our review indicates that these information requirements placed upon the stakeholder are the same as those required for transmission developers that propose a transmission project for consideration in the regional transmission plan. Under Order No. 1000, transmission providers must allow any stakeholder to suggest potential transmission and non-transmission solutions as part of providing input into a transmission provider's local and regional transmission planning processes.<sup>209</sup> Therefore, while we find acceptable Filing Parties' proposal to require those seeking to develop transmission projects (including stakeholders) to satisfy the information requirements for a transmission project that it wishes to propose in the regional transmission planning process, requiring stakeholders to satisfy the same information requirements to suggest a potential transmission solution into the NTTG regional transmission planning process would be inconsistent with Order No. 1000's emphasis on an open and inclusive regional transmission planning process. Filing Parties

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<sup>208</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.2.2.

<sup>209</sup> Order No. 1000. FERC Stats. & Regs. ¶ 31,323 at P 70.

therefore must clarify that the information requirements applicable to entities proposing unsponsored transmission projects apply to those transmission projects that may be considered for selection in the regional transmission plan for purposes of cost allocation, and not for those potential transmission solutions that stakeholders may suggest as part of providing input into the NTTG regional transmission planning process.

126. Accordingly, we direct the Filing Parties to file, within 60 days of the date of issuance of this order, further compliance filings to clarify this section to affirm that stakeholders may suggest, as part of providing input into the regional transmission planning process, potential transmission solutions without providing all the information required for proposal of a concrete transmission project for consideration in the regional transmission planning process.<sup>210</sup>

**c. Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

127. Order No. 1000 required each public utility transmission provider to amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.<sup>211</sup> The evaluation process must ensure transparency and provide the opportunity for stakeholder coordination.<sup>212</sup> In addition, the evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>213</sup>

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<sup>210</sup> Stakeholders are of course encouraged to provide as much information as possible to the Planning and Cost Allocation Committees to ensure that these committees can give meaningful consideration to their project ideas.

<sup>211</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

<sup>212</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>213</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

**i. First Compliance Order**

128. The Commission found that Filing Parties' proposals addressing the evaluation of proposed transmission projects partially complied with the requirements of Order No. 1000. It noted that the Filing Parties' OATTs provide that, during the second quarter of the biennial transmission planning cycle, the NTTG Planning Committee will develop the Biennial Study Plan, which will describe, among other things, the methodology, criteria, assumptions, databases, and analysis tools to be used in the review and selection of transmission projects for the regional transmission plan. However, the Commission also found that, while Filing Parties included their proposed evaluation criteria in the Practice Document, their OATTs lacked the appropriate level of detail to describe a sufficiently transparent and not unduly discriminatory process for selecting projects in the regional transmission plan for purposes of cost allocation.<sup>214</sup> Specifically, the Commission concluded that Filing Parties must explain whether all of the proposed evaluation criteria would be applied to all transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation, and if not, how Filing Parties will determine which criteria will apply to a particular transmission project.<sup>215</sup> In addition, the Commission found that Filing Parties used the term "more efficient *and* cost-effective" in the Practice Document when referring to the criterion used to evaluate proposed transmission projects instead of the "more efficient *or* cost-effective" criterion established by Order No. 1000.<sup>216</sup> Finally, the Commission found that Filing Parties' proposal did not explain how the evaluation process would result in a determination sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>217</sup>

129. Accordingly, the Commission directed Filing Parties to revise their OATTs to: (1) set forth the criteria that they will use to determine if a proposed transmission project is a more efficient or cost-effective solution for the transmission planning region and, if the criteria will not all be applied to each proposed transmission project, an explanation

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<sup>214</sup> First Compliance Order, 143 FERC ¶ 61,151 at PP 179-180.

<sup>215</sup> *Id.* P 181.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*



of how Filing Parties will determine in a transparent and not unduly discriminatory manner which criteria will apply to a given transmission project; and (2) describe an evaluation process that culminates in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>218</sup>

## ii. Summary of Compliance Filings

130. On compliance, Filing Parties propose to revise their respective OATTs to describe the evaluation process by which they will identify more efficient or cost-effective transmission solutions. These proposed revisions provide that the Planning Committee will evaluate solutions based on a comparison of their ability to meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.<sup>219</sup> Under the proposal, the Planning Committee will develop a Biennial Study Plan in quarter 2 that describes: (a) the detailed study methodology; (b) reliability criteria; (c) public policy requirements and considerations selected for use in the plan; (d) assumptions; (e) databases; (f) analysis tools; (g) projects included in the prior plan that will be reevaluated; (h) projects included in each Full Funders' local transmission plans; (i) sponsored projects, projects submitted by stakeholders, projects submitted by merchant developers, and unsponsored projects identified by the Planning Committee (collectively, alternative transmission projects); and (j) allocation scenarios.<sup>220</sup> In quarters 3 and 4 of the transmission planning cycle, the Planning Committee will use each alternative transmission project, as defined above in part (i), in one or more Change Cases<sup>221</sup> to determine if the Change Case is a more efficient or cost-effective transmission solution than the initial regional transmission plan.<sup>222</sup>

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<sup>218</sup> *Id.* P 182.

<sup>219</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.3.1.

<sup>220</sup> *E.g.*, *id.* § 3.7.3.2(a) - (j).

<sup>221</sup> A definition of "Change Case" is provided above in footnote 80 in section III.B.2.c.i (Affirmative Obligation to Plan).

<sup>222</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.4.1.

131. Under the proposal, the Planning Committee will base its analysis on changes between a Change Case and the initial regional transmission plan<sup>223</sup> with respect to capital-related costs, energy losses, and reserves, with each criterion expressed as an annual change in costs or revenue.<sup>224</sup> Specifically, the proposal states that the capital-related cost criterion captures benefits related to transmission needs driven by both reliability and public policy requirements, as well as the extent to which a project in the initial regional transmission plan can be displaced (either deferred or replaced) while still meeting all regional transmission needs, including reliability standards (associated with serving existing, as well as new, service obligations) such that the Change Case has lower capital-related costs. The displacement of a transmission project in the initial regional transmission plan may be due to a Change Case or due to a determination that more than one transmission project in the initial regional transmission plan is meeting the same transmission need. The proposal also states that this benefit metric also captures the extent to which a Change Case may displace one or more transmission projects in the initial regional transmission plan for purposes of meeting public policy requirements because it is determined to have lower capital-related costs, while still meeting the same public policy requirements. Capital-related costs will be calculated as the sum of annual return (both debt and equity related), depreciation, taxes other than income, operation and maintenance expense, and income taxes. These costs will be based on estimates provided by the transmission developer or, if the transmission developer does not provide estimates, estimates by the Planning Committee using representative industry data, and power flow analysis will be used to ensure that each scenario meets transmission reliability standards. In addition, entities affected by the change in capital-related costs will be identified for use in determining beneficiaries in the cost allocation process.<sup>225</sup>

132. Filing Parties also propose OATT revisions stating that the energy losses metric captures the change in energy generated to serve a given amount of load and stating that a change in annual energy losses between a Change Case and the initial regional transmission plan measures the energy impact of changing (either displacing or adding)

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<sup>223</sup> The initial regional transmission plan includes projects in the prior regional transmission plan and projects included in the transmission providers' local transmission plans. *E.g., id.* § 1.24.

<sup>224</sup> *E.g., id.* § 3.7.4.2.

<sup>225</sup> *E.g.,* PacifiCorp Transmittal Letter at 8-9; PacifiCorp OATT, Attachment K § 3.7.4.2(a).

transmission projects within the initial regional transmission plan with one or more transmission projects in the Change Case. Under the proposal, power flow or production cost analysis will be used to measure the quantity of energy losses in each scenario, and those entities affected by the change in energy losses will be identified for the cost allocation process.<sup>226</sup>

133. According to Filing Parties' proposed revisions, the reserves metric is based on savings that may result when two or more balancing authority areas could economically share a reserve resource when unused transmission capacity remains in a proposed transmission project. The proposed language states that a change in annual reserves between a Change Case and the initial regional transmission plan measures the energy impact of changing transmission projects within the initial regional transmission plan with one or more transmission projects in the Change Case. Under the proposal, the incremental reserve requirement for each balancing authority area within the NTTG footprint will be calculated as a standalone quantity and as a reserve sharing quantity for each scenario, and those entities affected by the change in reserves will be identified for the cost allocation process.<sup>227</sup>

134. In order to evaluate these metrics, Filing Parties propose that the Planning Committee will develop one or more Change Cases by replacing non-committed transmission projects in the initial regional transmission plan with one or more of the alternative transmission projects, with Change Cases also potentially including the deletion or deferral of a non-committed project in the initial regional transmission plan without including an alternative project.<sup>228</sup> Under the proposal, each Change Case will be compared against the initial regional transmission plan for the tenth year of a ten-year transmission planning horizon, and the energy losses and reserves metrics will be monetized using an index price of power and summed with the capital-related costs to develop an incremental cost for that Change Case that will be compared to the initial regional transmission plan's incremental capital-related cost for replaced or deferred

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<sup>226</sup> *E.g.*, PacifiCorp Transmittal Letter at 9; PacifiCorp OATT, Attachment K § 3.7.4.2(b).

<sup>227</sup> *E.g.*, PacifiCorp Transmittal Letter at 9; PacifiCorp OATT, Attachment K § 3.7.4.2(c).

<sup>228</sup> A definition of "committed project" is provided above at Footnote 39 in section III.B.2.a (Transmission Planning Region).

transmission projects and incremental monetized non-financial incremental costs. The incremental cost of a transmission project will then be adjusted based on its effects on neighboring regions, and the set of transmission projects (either the initial regional transmission plan or a Change Case) with the lowest incremental cost will be incorporated into the draft regional transmission plan. Those transmission projects that are eligible for cost allocation that are incorporated within the draft regional transmission plan will then be evaluated for cost allocation by the Cost Allocation Committee.<sup>229</sup>

135. Filing Parties also propose to revise their OATTs to require the Planning Committee to include in the regional transmission plan the calculations it uses in analyzing the Change Cases to determine if a Change Case presents a more efficient or cost-effective solution.<sup>230</sup> Filing Parties further propose to revise their OATTs to state that the Planning Committee and the Cost Allocation Committee will (1) utilize best efforts to provide input data and calculated output data to requesting stakeholders unless precluded by software licensing requirements or other limitations and (2) identify for requesting stakeholders the models used and the contact information of the vendors providing the model.<sup>231</sup> Filing Parties state that these calculations will provide the details necessary to allow stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>232</sup> The proposed revisions also state that stakeholders may comment on the clarity of the calculations considered by the Planning Committee and the Cost Allocation Committee.<sup>233</sup>

136. Finally, Filing Parties also propose to revise their respective OATTs to specifically state that proposed transmission projects will be evaluated based upon the “more efficient

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<sup>229</sup> *E.g.*, PacifiCorp Transmittal Letter at 9-10; PacifiCorp OATT, Attachment K § 3.7.4.1.

<sup>230</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.10.

<sup>231</sup> *E.g.*, *id.*

<sup>232</sup> *E.g.*, PacifiCorp Transmittal Letter at 19.

<sup>233</sup> *E.g.*, *id.*; PacifiCorp OATT, Attachment K § 3.10.

or cost-effective” criterion set forth in Order No. 1000, in place of the “more efficient and cost-effective” criterion that they had previously proposed.<sup>234</sup>

### iii. Protest

137. LS Power asserts that the NTTG evaluation process for regional transmission projects is vague. Specifically, it contends that projects arising in the local planning process must have cost estimates that are comparable to the cost estimates required of the alternative transmission projects used to evaluate projects in the initial regional transmission plan. It also claims that proponents of local projects should be required to identify the treatment of project cost overruns in the local transmission plan, so that an “apples to apples” project comparison can be made in the regional transmission plan.<sup>235</sup>

138. LS Power also challenges Filing Parties’ proposed definition of “Initial Regional Plan,” which is defined to include projects included in the prior NTTG regional transmission plan and projects included in local transmission plans of Full Funders.<sup>236</sup> LS Power argues that the definition of “Local Transmission System Plan or Local Transmission Plan” may allow transmission projects beyond those that meet the definition of “local” in Order No. 1000, and asserts that it would be inappropriate to include any “local” transmission project in the “Initial Regional Plan” that expands beyond the Order No. 1000 definition of “local” transmission projects. LS Power seeks confirmation that the scope of transmission projects that will be included in their local transmission plans, and thus form the Initial Regional Plan, will include only those projects that meet Order No. 1000’s definition of “local.” LS Power argues that the local transmission plan should be reserved only for those transmission projects within a single transmission provider’s retail distribution service territory or footprint and for which the costs are borne exclusively by the customers of the transmission provider. LS Power further argues that its concern is enhanced by the “local” cost allocation provisions of Filing Parties’ OATTs, which purport to apply to transmission projects that extend beyond individual Filing Parties’ respective balancing authority areas and are owned by multiple transmission owners. LS Power asks the Commission to require Filing Parties to

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<sup>234</sup> *E.g.*, PacifiCorp Transmittal Letter at 19.

<sup>235</sup> LS Power Protest at 6-7.

<sup>236</sup> *See* section III.B.2.a.ii (Transmission Planning Region) above for the definition of “Full Funder.”

amend their OATTs to confine local transmission planning to local transmission projects as defined under Order No. 1000.<sup>237</sup>

**iv. Answer**

139. In response to LS Power's arguments, Filing Parties state that the Planning Committee ensures that accurate and comparable data have been supplied for each proposed project so that projects can be compared on a comparable basis. Filing Parties assert that the Commission should reject LS Power's arguments because they are outside the scope of the compliance filings.<sup>238</sup>

140. Filing Parties also argue that LS Power's comments regarding their local transmission plans do not accurately characterize the nature of regional and local transmission planning. Filing Parties note that in Order No. 1000, the Commission explicitly allowed "bottom-up" transmission planning,<sup>239</sup> and that Filing Parties have used a "bottom-up" approach since their Order No. 890 compliance filings.<sup>240</sup>

**v. Commission Determination**

141. We find that Filing Parties' proposed OATT revisions regarding the evaluation process partially comply with the directives of the First Compliance Order.

142. Filing Parties have revised their respective OATTs to describe the evaluation process by which they will identify more efficient or cost-effective solutions,<sup>241</sup> and to clarify that the Planning Committee will evaluate solutions based on a comparison of their ability to meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.<sup>242</sup> Specifically, in quarters 3

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<sup>237</sup> LS Power Protest at 3-4.

<sup>238</sup> Filing Parties Answer at 11.

<sup>239</sup> *Id.* at 4 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 158).

<sup>240</sup> Filing Parties assert that these issues should have been raised in response to Filing Parties' Order No. 890 or initial Order No. 1000 compliance filings. *Id.* at 4-6.

<sup>241</sup> *E.g.*, PacifiCorp Transmittal Letter at 18.

<sup>242</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.3.1.

and 4 of the transmission planning cycle, the Planning Committee will use each alternative transmission project in one or more Change Cases to determine if the Change Case is a more efficient or cost-effective transmission solution for the NTTG footprint than the initial regional transmission plan.<sup>243</sup> The Planning Committee's evaluation is based on changes in capital-related costs, energy losses, and reserves between a Change Case and the initial regional transmission plan.<sup>244</sup> To evaluate these criteria, the Planning Committee will develop one or more Change Cases by replacing non-committed transmission projects in the initial regional transmission plan with one or more of the alternative transmission projects, with Change Cases also potentially including the deletion or deferral of a non-committed project in the initial regional transmission plan without including an alternative project. Filing Parties' proposed tariff revisions describe the benefits captured by each criterion and the method by which each criterion will be calculated.<sup>245</sup>

143. For instance, Filing Parties' proposal states that a change in annual capital-related costs between a Change Case and the initial regional transmission plan captures the extent that a project in the initial regional transmission plan can be displaced while still meeting all regional transmission needs, including reliability standards such that the Change Case has lower capital-related costs. Filing Parties explain that this benefit metric also captures the extent to which a Change Case may displace one or more projects in the initial regional transmission plan for purposes of meeting transmission needs driven by public policy requirements because it is determined to have lower capital-related costs, while still meeting the same public policy requirements. Furthermore, Filing Parties' proposal also provides that the annual capital-related costs criterion will be calculated as the sum of annual return, depreciation, taxes other than income, operation and maintenance expense, and income taxes.<sup>246</sup> To explain the methodology that will be used to calculate the criteria, which will each be expressed as an annual change in costs (or revenue), Filing Parties' revisions include that the criteria capturing changes in energy losses and reserves will be monetized using an index price of power and summed with capital-related cost criteria to develop an incremental cost for

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<sup>243</sup> *E.g., id.* § 3.7.4.1.

<sup>244</sup> *E.g., id.* § 3.7.4.2.

<sup>245</sup> *E.g., id.*

<sup>246</sup> *E.g., id.*

that Change Case. The incremental cost for the Change Case will then be compared to the initial regional transmission plan's incremental capital-related cost for replaced or deferred project(s) and incremental monetized non-financial incremental costs.<sup>247</sup>

144. Based on the detail provided by Filing Parties in their compliance filings and noted above, we find that Filing Parties have complied, subject to one additional clarification, with the directive to set forth the criteria used to determine if a proposed transmission project is a more efficient or cost-effective transmission solution. While we accept Filing Parties' proposed revisions, we note that Filing Parties' proposal does not clearly define the term "monetized non-financial incremental costs." Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their respective OATTs to clarify the definition of "monetized non-financial incremental costs."

145. With respect to the directive to describe an evaluation process that culminates in a determination sufficiently detailed for stakeholders to understand why a particular transmission project was or was not selected in the regional transmission plan for purposes of cost allocation,<sup>248</sup> Filing Parties have revised their OATTs to require the Planning Committee to include in the regional transmission plan the calculations it uses to determine if a Change Case presents a more efficient or cost-effective solution.<sup>249</sup> We conclude that these revisions will enable stakeholders to request information from the Planning Committee regarding the models used as part of its analysis and vendors associated with the modeling, in addition to the input data and calculated output data.<sup>250</sup> Furthermore, Filing Parties' proposed revisions will allow stakeholders to comment on the clarity of the calculations considered by the Planning Committee.<sup>251</sup> We also find that the proposed revisions pertaining to the evaluation of proposed transmission facilities

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<sup>247</sup> *E.g., id.* §§ 3.7.4.1, 3.7.4.2.

<sup>248</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 182.

<sup>249</sup> *E.g.,* PacifiCorp Transmittal Letter at 19; PacifiCorp OATT, Attachment K § 3.10.

<sup>250</sup> *E.g.,* PacifiCorp Transmittal Letter at 19; PacifiCorp OATT, Attachment K § 3.10.

<sup>251</sup> *E.g.,* PacifiCorp Transmittal Letter at 19; PacifiCorp OATT, Attachment K § 3.10.



provide additional transparency for the evaluation process and the determinations made regarding the selection of proposed transmission projects and that these revisions will allow stakeholders to understand why transmission projects are or are not selected in the regional transmission plan for purposes of cost allocation, as required by Order No. 1000.<sup>252</sup> In addition, we find that Filing Parties have complied with the directive to revise their respective OATTs to state that that proposed transmission projects will be evaluated based upon the “more efficient *or* cost-effective” criterion set forth in Order No. 1000.<sup>253</sup>

146. Finally, we find that LS Power’s protest raises issues related to provisions in Filing Parties’ first compliance filings that were accepted by the Commission in the First Compliance Order, and thus, the issues raised are out of time. Instead, LS Power should have raised these issues on rehearing of the First Compliance Order and not in its protest of the second compliance filing. We therefore deny LS Power’s protest. Nevertheless, we note that LS Power’s proposal to require that local transmission projects be subject to the same information requirements as regional transmission projects submitted for regional cost allocation is not required by Order No. 1000. Furthermore, we agree with Filing Parties that their “bottom-up” approach to regional transmission planning is consistent with Order No. 1000.<sup>254</sup>

**d. Reevaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

147. To ensure the incumbent transmission provider can meet its reliability needs or service obligations, Order No. 1000 required each public utility transmission provider to amend its OATT to describe the circumstances and procedures for reevaluating the regional transmission plan to determine if alternative transmission solutions must be evaluated as a result of delays in the development of a transmission facility selected in a

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<sup>252</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

<sup>253</sup> *E.g.*, PacifiCorp Transmittal Letter at 19; PacifiCorp OATT, Attachment K § 3.7.4.2.

<sup>254</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 158.

regional transmission plan for purposes of cost allocation.<sup>255</sup> If an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint, and if that solution is a transmission facility, then the proposed transmission facility should be evaluated for possible selection in the regional transmission plan for purposes of cost allocation.<sup>256</sup>

**i. First Compliance Order**

148. In the First Compliance Order, the Commission found that Filing Parties partially complied with the requirements of Order No. 1000 with respect to the reevaluation process.<sup>257</sup> The Commission accepted much of Filing Parties' proposed reevaluation process, including the conditions under which a transmission project could be reevaluated in a subsequent transmission planning cycle. However, the Commission directed changes to, or an explanation of, four aspects of Filing Parties' reevaluation process. First, it noted that Filing Parties' proposal provides for the reevaluation of transmission *projects*, rather than the reevaluation of the regional transmission *plan*, as required by Order No. 1000. It therefore directed Filing Parties to clarify in their OATTs that the NTTG regional transmission planning process will undertake a reevaluation of the regional transmission plan, rather than only transmission projects.<sup>258</sup>

149. Second, the Commission directed Filing Parties, consistent with the requirements of Order No. 1000, to revise their OATTs to allow an incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if, as a result of the reevaluation of the regional transmission plan, an evaluation of alternatives is needed, and, if the proposed solution is a transmission facility, to provide for the facility's evaluation for possible selection in the regional transmission plan for purposes of cost allocation.<sup>259</sup>

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<sup>255</sup> *Id.* PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>256</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329.

<sup>257</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 191.

<sup>258</sup> *Id.* P 192.

<sup>259</sup> *Id.*

150. Third, the Commission noted that Filing Parties proposed to apply an 85 percent cost-effectiveness threshold to alternative solutions that address the needs of the region if a transmission developer fails to meet its project development schedule due to delays of governmental permitting agencies, such that the needs of the region would not be met. The Commission found that Filing Parties had failed to justify this proposal in the circumstances in which an incumbent transmission provider's reliability needs or service obligations would go unmet if an alternative solution failed to satisfy the threshold. Accordingly, the Commission directed Filing Parties to either justify the proposal or eliminate the cost-effectiveness threshold in these circumstances from their OATTs.<sup>260</sup>

151. Finally, the Commission rejected, as unsupported, Filing Parties' proposal<sup>261</sup> to render a transmission project selected in the regional transmission plan for purposes of cost allocation ineligible to receive regional cost allocation, in the event that the transmission developer no longer meets the qualification criteria in subsequent transmission planning cycles.<sup>262</sup>

## ii. Summary of Compliance Filings

152. Filing Parties state that they have revised their respective OATTs to provide for the reevaluation of the transmission project in the context of the current regional transmission planning cycle using an updated in-service date, if the Planning Committee determines that the transmission project cannot be constructed by its original in-service date.<sup>263</sup> Filing Parties also propose to revise their respective OATTs to allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if a transmission project must be reevaluated. Filing Parties propose to revise their respective OATTs to state that such a solution will be evaluated in quarter 2 of the regional transmission planning cycle like

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<sup>260</sup> *Id.* P 194.

<sup>261</sup> Filing Parties' proposed revisions related to this issue are described above in greater detail in section III.B.3.a.ii (Qualification Criteria).

<sup>262</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 195. The Commission noted that the proposal was reflected in the Practice Document and not the Filing Parties' OATTs. *Id.*

<sup>263</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.9.1; PacifiCorp Transmittal Letter at 19-20.

any other transmission project being considered in the regional transmission plan. In addition, Filing Parties propose to revise their respective OATTs to provide that when reevaluating transmission projects, the Planning Committee will only consider remaining costs to complete the project being reevaluated against the costs to complete the other transmission projects being evaluated.<sup>264</sup>

153. Filing Parties have also proposed to remove the application of an 85 percent cost-effectiveness threshold to alternative projects that replace reevaluated, non-committed projects.<sup>265</sup> Finally, Filing Parties state they have revised their respective OATTs to provide for a reevaluation of cost allocation in each regional transmission planning cycle for any transmission project that has been selected for purposes of cost allocation in the prior transmission planning cycle, until the project is deemed “committed” under the regional transmission plan.<sup>266</sup>

154. Filing Parties also note that under their OATTs, developers of transmission projects selected in a prior regional transmission plan are expected to inform the Planning Committee of any delay that would potentially affect the project’s in-service date.<sup>267</sup> Filing Parties propose to revise their respective OATTs to require that the transmission developer or stakeholder that submitted a transmission project that has been selected in the regional transmission plan for purposes of cost allocation submit an updated development schedule to the Planning Committee by March 31 of quarter 1 of the regional transmission planning cycle. The proposed revisions provide that stakeholders must submit this information using the Data Submittal Form found on the NTTG website.<sup>268</sup>

### iii. Commission Determination

155. The revised OATTs indicate that Planning Committee will reevaluate the “original” transmission project in the context of the current regional transmission

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<sup>264</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.9.1.

<sup>265</sup> *E.g.*, PacifiCorp Transmittal Letter at 20.

<sup>266</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.9.2; PacifiCorp Transmittal Letter at 20-21.

<sup>267</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.9.1.

<sup>268</sup> *E.g.*, *id.* § 3.7.2.5.

planning cycle, using an updated in-service date in the event that the Planning Committee determines that a transmission project selected in the regional transmission plan for purposes of cost allocation cannot be constructed by its original in-service date. We interpret Filing Parties' proposed reevaluation process as assessing the impacts of delays in the development of a transmission facility selected in the regional transmission plan for purposes of cost allocation on the transmission plan and determining whether such delays require the evaluation of alternative solutions. We therefore find that Filing Parties have complied with the directive to clarify that the NTTG regional transmission planning process will undertake a reevaluation of the regional transmission plan, rather than only transmission projects, as required by Order No. 1000.<sup>269</sup> We also accept Filing Parties' proposal that non-committed transmission facilities will be reevaluated each regional transmission planning cycle for purposes of cost allocation.<sup>270</sup>

156. We also conclude that Filing Parties' proposed OATT revisions that allow the incumbent transmission provider to propose transmission solutions that it would implement within its retail service territory or footprint if a transmission project must be reevaluated,<sup>271</sup> noting that an incumbent transmission provider solution will be evaluated in quarter 2 of the regional transmission planning cycle like any other transmission project being considered in the regional transmission plan,<sup>272</sup> comply with the directives in the First Compliance Order. Further, we accept Filing Parties' proposal to remove the application of the 85 percent cost-effectiveness threshold to alternative projects that replace reevaluated, non-committed projects.<sup>273</sup> While the Commission permitted Filing Parties to justify this proposal, we find that Filing Parties' removal of this provision complies with the directives of the First Compliance Order.

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<sup>269</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>270</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.9.2.

<sup>271</sup> *E.g.*, PacifiCorp Transmittal Letter at 20; PacifiCorp OATT, Attachment K § 3.9.1. During such reevaluation, the Planning Committee will only consider remaining costs to complete the original project against the cost to complete the other projects being evaluated.

<sup>272</sup> *E.g.*, PacifiCorp Transmittal Letter at 20; PacifiCorp OATT, Attachment K § 3.9.1.

<sup>273</sup> *E.g.*, PacifiCorp Transmittal Letter at 20.

e. **Cost Allocation for Transmission Facilities Selected in the Regional Transmission Plan for Purposes of Cost Allocation**

157. Order No. 1000 required each public utility transmission provider to participate in a regional transmission planning process that provides nonincumbent transmission developers and incumbent transmission developers the same eligibility to use a regional cost allocation method or methods for any transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>274</sup> Order No. 1000 also required that the regional transmission planning process have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>275</sup>

i. **First Compliance Order**

158. The Commission found that the provisions in Filing Parties' compliance filings addressing the ability of a nonincumbent transmission developer to allocate the cost of a transmission facility through a regional cost allocation method or methods partially complied with the requirements of Order No. 1000. The Commission accepted Filing Parties proposed sponsorship model, which is expressly permitted in Order No. 1000.<sup>276</sup> However, the Commission found that Filing Parties failed to propose a mechanism to grant to a transmission developer the right to use the regional cost allocation method for a more efficient or cost-effective transmission solution that results from the regional transmission planning process. The Commission therefore directed Filing Parties to revise their respective OATTs to establish a fair and not unduly discriminatory mechanism that the NTTG regional transmission planning process will use to grant a transmission developer the right to use the regional cost allocation method for an unsponsored transmission facility.<sup>277</sup>

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<sup>274</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 332.

<sup>275</sup> *Id.* P 336.

<sup>276</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 200.

<sup>277</sup> *Id.* P 201.

**ii. Summary of Compliance Filings**

159. In response to the Commission's directive, Filing Parties propose to revise their respective OATTs to state that transmission developers and stakeholders can propose transmission projects in quarter 1 of the regional transmission planning cycle for consideration in the regional transmission plan by submitting the identified relevant information.<sup>278</sup>

**iii. Commission Determination**

160. We find Filing Parties' response fails to satisfy the Commission's compliance directive. Specifically, we find that it remains unclear whether or how a transmission developer (whether incumbent or nonincumbent) would be granted the right to use the regional cost allocation method for an unsponsored transmission project that is selected as a more efficient or cost-effective transmission solution in the regional transmission plan for purposes of cost allocation. We note that transmission solutions that were not proposed by stakeholders or transmission developers may be identified as more efficient or cost-effective solutions through the Planning Committee's regional analysis, undertaken as part of the region's affirmative obligation to plan.<sup>279</sup> In addition, in the event that a transmission developer of a transmission project selected in a regional transmission plan for purposes of cost allocation no longer satisfies the region's qualification criteria in subsequent transmission planning cycles, Filing Parties propose to treat such transmission projects as unsponsored projects that remain in the regional transmission plan for purposes of cost allocation.<sup>280</sup> Order No. 1000 established that

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<sup>278</sup> *E.g.*, PacifiCorp Transmittal Letter at 21; PacifiCorp OATT, Attachment K § 3.7.2.2.

<sup>279</sup> For example, as discussed above in section III.B.2.c.i (Affirmative Obligation to Plan), Filing Parties propose that the NTTG Planning Committee may propose unsponsored projects in quarter 1 for possible selection in the regional transmission plan for purposes of cost allocation. However, Filing Parties do not propose any procedures to determine which entity or entities will be able to use the regional cost allocation determination associated with such a project if it is ultimately selected in the regional transmission plan for purposes of cost allocation.

<sup>280</sup> *See* section III.B.3.a (Qualification Criteria) above for additional discussion of this proposal.

regions using a sponsorship model must “have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional plan for purposes of cost allocation.”<sup>281</sup> The Commission further noted that other mechanisms, or combination of mechanisms, may comply with the requirement.<sup>282</sup>

161. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their respective OATTs to provide a fair and not unduly discriminatory mechanism that the NTTG regional transmission planning process will use to grant a transmission developer the right to use the regional cost allocation method for an unsponsored transmission facility.

#### 4. Cost Allocation

162. Order No. 1000 required each public utility transmission provider to have in its OATT a method, or set of methods, for allocating the costs of any new transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>283</sup> Each public utility transmission provider must demonstrate that its cost allocation method satisfies six regional cost allocation principles.<sup>284</sup> In addition, while Order No. 1000 permitted participant funding, participant funding cannot be the regional cost allocation method.<sup>285</sup>

163. Regional Cost Allocation Principle 1 requires that the cost of transmission facilities be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits.

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<sup>281</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 336.

<sup>282</sup> For example, this mechanism could include a solicitation of interest for potential transmission developers or a non-discriminatory competitive bidding process. *See, e.g., Tampa Elec. Co.*, 143 FERC ¶ 61,254, at P 217 (2013); *Cal. Indep. Sys., Operator Corp.*, 143 FERC ¶ 61,057, at PP 272-273 (2013).

<sup>283</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 558, 690.

<sup>284</sup> *Id.* P 603.

<sup>285</sup> *Id.* P 723.



The cost allocation methods must clearly and definitively specify identifiable benefits and the class of beneficiaries, and the transmission facility costs allocated must be roughly commensurate with that benefit.<sup>286</sup>

164. Regional Cost Allocation Principle 2 requires that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, not be involuntarily allocated any of the costs of those transmission facilities.<sup>287</sup>

165. Regional Cost Allocation Principle 3 specifies that, if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. Such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the transmission planning region or public utility transmission provider justifies, and the Commission approves, a higher ratio.<sup>288</sup>

166. Regional Cost Allocation Principle 4 specifies that the regional cost allocation methods must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. In addition, each regional transmission planning process must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.<sup>289</sup>

167. Regional Cost Allocation Principle 5 specifies that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a

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<sup>286</sup> *Id.* PP 625, 678.

<sup>287</sup> *Id.* P 637.

<sup>288</sup> *Id.* P 646.

<sup>289</sup> *Id.* P 657.

transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.<sup>290</sup>

168. Regional Cost Allocation Principle 6 specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, but there can be only one cost allocation method for each type of transmission facility.<sup>291</sup> If a transmission planning region chooses to use a different cost allocation method for different types of transmission facilities, each cost allocation method must be determined in advance for each type of facility.<sup>292</sup> A regional cost allocation method may include voting requirements for identified beneficiaries to vote on proposed transmission facilities.<sup>293</sup>

**a. Cost Allocation Principles**

**i. First Compliance Order**

169. The Commission found that Filing Parties' compliance filings partially complied with Order No. 1000's Regional Cost Allocation Principles. First, the Commission found that Filing Parties generally met the Order No. 1000 requirement that each public utility transmission provider have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation. The Commission found that Filing Parties' proposal to identify beneficiaries and measure benefits of a transmission facility selected in the regional transmission plan based on the resulting changes in energy losses and reserves complied with Regional Cost Allocation Principle 1, as that approach allocates the costs in a manner that is at least roughly commensurate with the benefits the transmission facility provides. However, the Commission found that Filing Parties had not properly defined their third benefit metric – changes in annual capital-related costs – in order for the Commission to determine whether that metric complied with Regional Cost Allocation Principle 1. Therefore, the Commission directed Filing Parties to describe this proposed benefit metric in greater detail and explain how it allocates costs of a transmission facility

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<sup>290</sup> *Id.* P 668.

<sup>291</sup> *Id.* PP 685-686.

<sup>292</sup> *Id.* P 560.

<sup>293</sup> *Id.* P 689.

selected in the regional transmission plan for purposes of cost allocation in a manner that is at least roughly commensurate with the benefits that facility provides.<sup>294</sup>

170. The Commission also found that Filing Parties' proposal to allocate the costs of transmission projects selected in the regional transmission plan for purposes of cost allocation to beneficiaries in proportion to the value of adjusted net benefits that they receive from a transmission project complied with Regional Cost Allocation Principle 1. However, the Commission raised concerns with some aspects of the Filing Parties' proposed adjustment of the net benefits used to calculate those proportions. To arrive at the adjusted net benefits, Filing Parties proposed to adjust the net initial benefits for a regional beneficiary using the following criteria:

- (1) The net benefits attributed in any scenario are capped at 150 percent of the average of the unadjusted net benefits across all allocation scenarios;
- (2) If the average of the net benefits, as adjusted by (1) above, across the allocation scenarios is negative, the average net benefit to that beneficiary is set to zero; and
- (3) Based on the net benefits, as adjusted by (1) and (2) above, across the allocation scenarios, if the ratio of the standard deviation to the average is greater than 1.0, the average net benefit to that beneficiary is set to zero.

Filing Parties then proposed that each of these adjustments be applied to each regional beneficiary independent of other beneficiaries, and that beneficiaries other than the transmission developer be allocated costs such that the ratio of adjusted net benefits to allocated costs is no less than 1.1. The Commission found that Filing Parties' proposal to impose a cap on positive outlying benefits, but not on negative outlying benefits, increased the likelihood that the adjusted average net benefits across the allocation scenarios would be negative. As a result, the average net benefit for that beneficiary would be set to zero and the benefit-to-cost ratio for beneficiaries other than the transmission developer would be less than 1.1. The Commission concluded that limiting expected benefits in this manner would not result in an allocation of costs that is roughly commensurate with benefits received and, therefore, absent justification, rejected Filing Parties' proposed 150 percent cap. Because the Commission rejected this cap, it directed Filing Parties to provide justification regarding the second and third adjustment criteria.

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<sup>294</sup> First Compliance Order, 143 FERC ¶ 61,151 at PP 238-241.

In particular, the Commission expressed concern that, under Filing Parties' proposal, the average net benefits to a beneficiary would be set to zero such that the beneficiary would not be allocated costs if the ratio of the standard deviation to the average of the net benefits across the allocation scenarios is greater than 1.0, even if the average net benefits are always positive. The Commission concluded that such a result does not allocate costs in a manner that is roughly commensurate with benefits because an identified beneficiary with positive net benefits in all scenarios would not be allocated any costs. Thus, the Commission required Filing Parties to justify this aspect of their proposal.<sup>295</sup>

171. With respect to Filing Parties' proposal that, if a beneficiary other than the transmission developer would be allocated less than \$2 million in costs, that beneficiary will not be allocated any costs, and the transmission developer would be allocated any remaining transmission project costs after the allocation of costs to beneficiaries, the Commission (1) found that excluding from cost allocation beneficiaries that receive *de minimis* benefits complies with Regional Cost Allocation Principle 1, but (2) held that Filing Parties had failed to explain how such costs would be allocated to identified beneficiaries, rather than the transmission developer. Accordingly, the Commission directed Filing Parties to describe how these costs would be allocated, concluding that allocating those costs solely to the transmission developer would not comply with Regional Cost Allocation Principle 1.<sup>296</sup>

172. The Commission found that that Filing Parties' proposal to allow for an updated assessment in quarter 2 for a transmission project that has been selected in a regional transmission plan for purposes of cost allocation complies with Order No. 1000. However, the Commission directed Filing Parties to include in their OATTs a description of the reassessment process and the specific conditions under which the cost allocation of a transmission facility selected in the regional transmission plan for purposes of cost allocation will be reassessed.<sup>297</sup>

173. The Commission found that Filing Parties' proposed regional cost allocation method complies with Regional Cost Allocation Principle 2. The Commission accepted

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<sup>295</sup> *Id.* PP 243-247.

<sup>296</sup> *Id.* P 248. The Commission similarly rejected Filing Parties' proposal to allocate solely to transmission developers, costs that a non-regional beneficiary declined to accept for a transmission project with interregional benefits. *Id.* P 258.

<sup>297</sup> *Id.* P 253.

Filing Parties' proposed use of allocation scenarios to evaluate, and allocate costs of, transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation, but also directed Filing Parties to include in their OATTs a description of an allocation scenario.<sup>298</sup> The Commission also found that Filing Parties' proposal, which proposed a benefit-to-cost ratio of 1.1, complied with Regional Cost Allocation Principle 3.<sup>299</sup>

174. The Commission found that Filing Parties' proposal did not comply with Regional Cost Allocation Principle 4. While Filing Parties' proposal addressed the benefits that a transmission facility selected in the regional transmission plan for purposes of cost allocation provides to entities outside of the NTTG transmission planning region, Filing Parties failed to address whether the NTTG transmission planning region has agreed to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated within the NTTG transmission planning region. The Commission therefore directed Filing Parties to revise their OATTs to provide for identification of the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions and to address whether the NTTG transmission planning region has agreed to bear the costs associated with any required upgrades and, if so, how such costs will be allocated within the NTTG transmission planning region.<sup>300</sup>

175. The Commission found that Filing Parties' regional cost allocation method partially complied with Regional Cost Allocation Principle 5 and directed Filing Parties to provide greater detail concerning how benefits will be calculated. Noting that Filing Parties proposed three benefit metrics (changes in annual capital-related costs, energy losses, and reserves) that *may* be used to evaluate a transmission project's benefits and beneficiaries, the Commission found that Filing Parties' OATTs failed to provide adequate detail about these metrics that would allow a stakeholder to determine how the regional cost allocation method was applied to a proposed transmission facility. The Commission also found that Filing Parties' method for identifying beneficiaries lacked transparency, stating that Filing Parties failed to describe how beneficiaries would know if a particular benefit metric applies to them and whether they have been identified as a

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<sup>298</sup> *Id.* P 256.

<sup>299</sup> *Id.* P 257.

<sup>300</sup> *Id.* P 259.

beneficiary of a particular transmission facility selected in the regional transmission plan for purposes of cost allocation. The Commission, therefore, directed Filing Parties to revise their OATTs to (1) include a minimum set of benefit metrics that will be applied to every transmission facility selected in the regional transmission plan for purposes of cost allocation, (2) set forth a transparent method for calculating changes in annual capital-related costs, energy losses, and reserves, and (3) describe a transparent method for identifying beneficiaries with adequate documentation to allow a stakeholder to determine how it was applied to a proposed transmission facility.<sup>301</sup>

176. The Commission found that Filing Parties' proposed regional cost allocation method complied with Cost Allocation Principle 6.<sup>302</sup>

## ii. Summary of Compliance Filings

177. Filing Parties explain that a change in Annual Capital-Related Costs<sup>303</sup> captures benefits related to transmission needs driven by both reliability and public policy requirements, as well as the extent that a Change Case<sup>304</sup> may displace one or more projects required to meet reliability standards or transmission needs driven by public

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<sup>301</sup> *Id.* PP 261-262.

<sup>302</sup> *Id.* P 263.

<sup>303</sup> Filing Parties' revised OATTs state that "Annual Capital-Related Costs" will be the sum of annual return (both debt and equity related), depreciation, taxes other than income, operation and maintenance expense, and incomes taxes. These costs will be based on estimates provided by the Applicant or estimates by the Planning Committee using representative data if not provided by the Applicant. *E.g.*, PacifiCorp OATT, Attachment K § 3.7.4.2(a). The Annual Capital-Related Costs metric is discussed in more detail above in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation).

<sup>304</sup> *See* section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation) for further discussion of the use of Change Cases in the NTTG regional transmission planning process.

policy requirements in the initial regional transmission plan.<sup>305</sup> Filing Parties state that this displacement would occur if the Change Case has lower capital-related costs while continuing to meet all reliability standards or the same public policy requirements. Filing Parties also provide, as Exhibit A to their compliance filings, an illustration explaining how this benefit metric allocates the costs of a transmission facility selected in the regional transmission plan for purposes of cost allocation in a manner that is at least roughly commensurate with the benefits that the transmission facility provides.<sup>306</sup>

178. Filing Parties have proposed revisions to their procedures for adjusting the calculated initial net benefits for each identified beneficiary to determine whether a transmission project will be selected in the regional transmission plan for purposes of cost allocation. Filing Parties propose to use the following two revised criteria: (1) the net benefits attributed in any scenario are capped at no less than 50 percent and no more than 150 percent of the average of the unadjusted, net benefits (whether positive or negative), and (2) if the average of the net benefits, as adjusted above, across the allocation scenarios is negative, the average net benefit to that beneficiary is set to zero.<sup>307</sup> In support of the first criterion, Filing Parties explain that they have modified the previous 150 percent cap criterion, which was originally proposed for the purpose of removing outlying cost allocation scenario values to prevent the outliers from skewing the benefit calculation. This cap will apply at 50 percent and 150 percent increments, which will address both positive and negative cost allocation scenarios. In addition, according to Filing Parties, the proposed revision also eliminates the likelihood that the adjusted average net benefits across the allocation scenarios will be negative in order to address the Commission's concern that application of the 150 percent cap criterion would result in an allocation of costs that is not roughly commensurate with benefits received.

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<sup>305</sup> The initial regional transmission plan includes projects in the prior regional transmission plan and projects included in the transmission providers' local transmission plans. *E.g.*, PacifiCorp OATT, Attachment K § 1.24.

<sup>306</sup> *E.g.*, PacifiCorp Transmittal Letter at 22, Ex. A.

<sup>307</sup> Filing Parties further explain that they have eliminated the previous third criterion, which set the average net benefit to a beneficiary to zero if the ratio of the standard deviation to the average of the net benefits across the allocation scenarios is greater than 1.0 if the entire range of benefits is positive. *E.g.*, *id.* at 23.

179. With respect to the second criterion, Filing Parties explain that they propose to retain it because it operates to ensure that a beneficiary with negative impacts from a project would not be allocated any costs and would not be able to recover damages for any impacts from other beneficiaries or the transmission developer, if any. Filing Parties argue that if this criterion is not included and net losses are included in the cost allocation, the costs allocated to other beneficiaries with positive net benefits would be overstated, potentially in violation of the roughly commensurate principle.<sup>308</sup>

180. Filing Parties propose to revise the *de minimis* cost threshold from \$2 million to \$100,000; accordingly, if a beneficiary is allocated a cost of less than \$100,000, the cost allocated to the beneficiary would be set to zero. Filing Parties state that this amount necessarily reduces the administrative burden associated with allocating and tracking minor portions of project costs.<sup>309</sup> In addition, Filing Parties propose to revise their respective OATTs to provide that, after the allocation of costs to beneficiaries, a transmission developer may voluntarily accept any remaining project costs. According to Filing Parties, any unallocated costs, including costs that a non-regional beneficiary declines to adopt, will be reallocated among the remaining beneficiaries, and reallocation will continue among beneficiaries above the 1.1 and *de minimis* thresholds until all costs are allocated. Under the proposal, if the thresholds prevent all costs from being reallocated among beneficiaries and the unallocated costs are not accepted by the transmission developer, the transmission project will no longer be eligible for regional cost allocation.<sup>310</sup>

181. With respect to cost allocation reassessment, Filing Parties have proposed to revise their respective OATTs to state that a cost allocation shall be performed in each biennial transmission planning cycle for any transmission project that has been selected for purposes of cost allocation in the prior regional transmission plan until such project has

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<sup>308</sup> *E.g.*, *id.* at 22-23; PacifiCorp OATT, Attachment K § 3.8.2.2.

<sup>309</sup> *E.g.*, PacifiCorp Transmittal Letter at 23-24; PacifiCorp OATT, Attachment K § 3.8.2.2.

<sup>310</sup> *E.g.*, PacifiCorp Transmittal Letter at 24-25; PacifiCorp OATT, Attachment K § 3.8.2.2.



all permits and rights-of-way required for construction by the end of quarter 1 of the current regional transmission planning cycle and is thus deemed committed.<sup>311</sup>

182. Filing Parties provide additional detail regarding the use of allocation scenarios in calculating the costs and benefits of a transmission project proposed for selection in the regional transmission plan for purposes of cost allocation. They explain that the Cost Allocation Committee, in consultation with the Planning Committee and with stakeholder input, creates allocation scenarios in quarters 1 and 2 of the regional transmission planning cycle for those parameters that likely affect the amount of total benefits of a transmission project and their distribution among beneficiaries for inclusion in the Biennial Study Plan. Filing Parties propose to revise their respective OATTs to explain that:

the variables in the allocation scenarios will include, but are not limited to, load levels by load-serving entity and geographic location, fuel prices, and fuel and resource availability. For example, cost allocation scenarios could include a range of future load levels. Future projections of load levels in a given scenario will be based on factors such as, but not limited to, projected demand for irrigation, economic development, and heating/cooling demands necessitated by weather forecasts in particular geographic locations. These load level projections will be compared against a range of future resource options. Future projections of resource options in a given scenario will be based on factors such as, but not limited to, projected fuel prices and projected yields of particular types of generation resources (e.g., wind, hydro, etc.). This process will provide the overall range of future cost allocation scenarios that will be used in determining a project's benefits and beneficiaries. In the development of the allocation scenarios the Cost Allocation Committee will give consideration to alternative resource planning scenarios developed by transmission providers within the NTTG Footprint as well as scenarios developed by other regional and Western Interconnection entities.<sup>312</sup>

Filing Parties further propose to revise their respective OATTs to state that because estimates of the amount and distribution of benefits may be highly uncertain and

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<sup>311</sup> *E.g.*, PacifiCorp Transmittal Letter at 24; PacifiCorp OATT, Attachment K § 3.9.2.

<sup>312</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.8.2.3.

dependent upon key assumptions and projections, the potential impact of these uncertainties is estimated and incorporated in the calculation of net benefits used in cost allocation through the use of scenarios that choose data across a range of outcomes for these parameters.<sup>313</sup>

183. Filing Parties also propose to revise their respective OATTs to identify the consequences of a transmission facility being selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions. Filing Parties explain that the Planning Committee will monitor the impacts of transmission projects under consideration for the draft regional transmission plan on neighboring transmission planning regions. Under the proposal, the Planning Committee will first identify the most efficient or cost-effective transmission plan (either the initial transmission plan or a Change Case) prior to consideration of the impacts on neighboring transmission planning regions; however, if the Planning Committee finds that the initial transmission plan or Change Case may cause reliability standard violations on neighboring transmission planning regions, the Planning Committee will coordinate with the neighboring transmission planning regions to reassess and redesign the facilities. If the violation of reliability standards can be mitigated through new or redesigned facilities or facility upgrades within the NTTG footprint or through operational adjustments within the NTTG footprint, the cost of the mitigation solutions will be considered in addition to the cost of the transmission project(s) under consideration. If the reliability standard violation cannot be mitigated (by actions within the NTTG footprint or the affected neighboring transmission planning region), the Change Case or initial transmission plan will not be selected for the draft regional transmission plan. According to Filing Parties, the impacts of upgrades on, or additions to, the neighboring transmission planning regions, whether identified by the Planning Committee or neighboring transmission planning regions, will be considered by the Planning Committee, provided, however, that any costs associated with such impacts in the neighboring transmission planning regions will not be accepted for regional cost allocation, and will not be considered when selecting a transmission project for the draft regional transmission plan.<sup>314</sup>

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<sup>313</sup> *E.g.*, PacifiCorp Transmittal Letter at 25-26; PacifiCorp OATT, Attachment K § 3.8.2.3.

<sup>314</sup> *E.g.*, PacifiCorp Transmittal Letter at 26-27; PacifiCorp OATT, Attachment K § 3.7.4.3.

184. Filing Parties propose revisions to their respective OATTs to state that the Biennial Study Plan will use three criteria – (1) change in Annual Capital-Related Costs, (2) change in energy losses, and (3) change in reserves – to determine if a Change Case is a more efficient or cost-effective solution for the NTTG footprint than the initial regional transmission plan. Filing Parties explain that these same criteria will also be applied to every transmission project selected in the regional transmission plan for purposes of cost allocation.<sup>315</sup> In order to provide a transparent method for identifying beneficiaries with adequate documentation to allow a stakeholder to determine how the method was applied to a proposed transmission facility, Filing Parties propose to revise their respective OATTs to clearly define and describe these benefit metrics and to describe how the cost allocation scenarios will be prepared and utilized in conjunction with the benefit metrics to determine project benefits and the allocation of costs to beneficiaries.<sup>316</sup>

185. Finally, as discussed above in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation), Filing Parties also propose to revise their OATTs to require the Planning Committee to include in the regional transmission plan the calculations it uses in analyzing the Change Cases to determine if a Change Case presents a more efficient or cost-effective solution.<sup>317</sup> Filing Parties further propose to revise their OATTs to state that the Planning Committee and the Cost Allocation Committee will (1) utilize best efforts to provide input data and calculated output data to requesting stakeholders unless precluded by software licensing requirements or other limitations, and (2) identify for requesting stakeholders the models used and the contact information of the vendors providing the model. The proposed revisions also state that stakeholders may comment on the clarity of the calculations considered by the Planning Committee and the Cost Allocation Committee.<sup>318</sup>

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<sup>315</sup> *E.g.*, PacifiCorp Transmittal Letter at 27; PacifiCorp OATT, Attachment K § 3.7.4.3. These benefit metrics are discussed in more detail above in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation).

<sup>316</sup> *E.g.*, PacifiCorp Transmittal Letter at 27-28; PacifiCorp OATT, Attachment K §§ 3.8.2.2 and 3.8.2.3.

<sup>317</sup> *E.g.*, PacifiCorp Transmittal Letter at 28; PacifiCorp OATT, Attachment K § 3.10.

<sup>318</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.10.

**iii. Protest**

186. LS Power states that it is concerned that the cost allocation formula proposed by Filing Parties will inappropriately preclude transmission projects from being selected in the regional transmission plan for purposes of cost allocation unless the transmission developer agrees to bear costs of the project. Specifically, LS Power is concerned about the following provision:

Unallocated costs due to the limitations above are reallocated among the remaining Beneficiaries. Reallocation will continue among regional Beneficiaries, which are still above the benefit-cost threshold (e.g., the 1.10 ratio of adjusted net benefits to allocated costs) until either all costs are allocated or there are no Beneficiaries above the 1.10 benefit-cost threshold. *The Applicant may voluntarily accept any remaining project costs. Otherwise, if the thresholds prevent all costs from being reallocated among Beneficiaries and the unallocated costs are not accepted by the Applicant, the project is no longer eligible for cost allocation.*<sup>319</sup>

In addition, LS Power notes that this provision provides that if “a beneficiary has an allocated cost of less than \$100,000, the cost allocated to that beneficiary is set to zero.”<sup>320</sup> LS Power is concerned that if the formula prevents all costs from being allocated to beneficiaries, unless the transmission developer agrees to bear those costs, the transmission project will no longer be eligible for cost allocation. LS Power objects to the provision and argues that if a transmission project is selected in the regional transmission plan for purposes of cost allocation, then all costs should be allocated to beneficiaries and the transmission developer should not be forced to bear those costs in order to keep its transmission project in the regional transmission plan.<sup>321</sup>

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<sup>319</sup> LS Power Protest at 6 (quoting PacifiCorp OATT, Attachment K § 3.8.2.2 (emphasis added by LS Power)).

<sup>320</sup> *Id.* (quoting PacifiCorp OATT, Attachment K § 3.8.2.2).

<sup>321</sup> *Id.*

**iv. Answer**

187. Filing Parties argue that the effect of LS Power's proposal is that transmission projects in which not all costs are allocated would nonetheless receive regional cost allocation, a result that the Commission has indicated is unacceptable.<sup>322</sup> Filing Parties note that, in the First Compliance Order, the Commission acknowledged Filing Parties' use of a benefit-to-cost ratio of 1.1 and explained that it may be necessary for a transmission developer to voluntarily accept unallocated costs remaining *after* the benefit-to-cost ratio of each individual beneficiary has been reduced to the 1.1 floor.<sup>323</sup> Filing Parties explain that, in response to the First Compliance Order, they revised their proposed cost allocation method so that only transmission projects for which all costs are allocated may receive regional cost allocation. Filing Parties further argue that their proposal provides transmission developers with an option, but not a requirement, to accept unallocated project costs to allow a transmission project that otherwise would be ineligible for regional cost allocation to nonetheless become eligible, where unassigned costs remain after all costs have been assigned to beneficiaries, to the extent possible without reducing the benefit-to-cost ratio to less than 1.1.<sup>324</sup>

**v. Commission Determination**

188. As described further below, we find that Filing Parties' proposed revised regional cost allocation method complies with the Commission's directives in the First Compliance Order addressing the Regional Cost Allocation Principles.

189. First, as discussed in greater detail in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation) above, we accept Filing Parties' proposed definition of "Change in Annual Capital-Related Costs," as well as their explanation of how this metric allocates the costs of a transmission facility selected in the regional transmission plan for purposes of cost allocation in a manner that is at least roughly commensurate with the benefits provided by the proposed facility. We find that this additional detail, as well as the

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<sup>322</sup> Filing Parties Answer at 8-9 (citing First Compliance Order, 143 FERC ¶ 61,151 at P 248; Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 640, 648).

<sup>323</sup> *Id.* at 9 (quoting First Compliance Order, 143 FERC ¶ 61,151 at P 250).

<sup>324</sup> *Id.* at 8-10.

illustration set forth in Exhibit A to Attachment K of their respective OATTs,<sup>325</sup> provides stakeholders and transmission developers with sufficient information to understand how the “Change in Annual Capital-Related Costs” metric will be applied to transmission projects proposed for evaluation in the regional transmission planning process.

190. Second, we accept Filing Parties’ proposed revisions to their procedures for adjusting the calculated initial net benefits for each identified beneficiary. We find that Filing Parties’ proposal to cap net benefits at no less than 50 percent and no more than 150 percent of the adjusted net benefits (whether positive or negative) is an acceptable approach to eliminate both outlying positive and negative benefit calculations, and therefore addresses the flaw in Filing Parties’ prior proposal that only applied such adjustment to outlying positive calculations. Similarly, we accept Filing Parties’ proposal to set a beneficiary’s net benefits to zero if the average net benefits, following the previously-discussed adjustment, are negative, as well as Filing Parties’ proposal to eliminate the third adjustment criterion proposed in their initial Order No. 1000 compliance filings.<sup>326</sup> We agree that these revisions will help ensure that identified beneficiaries that are unlikely to receive benefits from a transmission project will not be assessed costs for that project. Furthermore, although not required by the First Compliance Order, we accept Filing Parties’ proposal to lower from \$2 million to \$100,000 the *de minimis* cost threshold below which a beneficiary’s allocated costs would be set to zero.<sup>327</sup> We find that this lower threshold, when coupled with Filing Parties’ proposal, addressed below, for allocating unallocated costs, is acceptable.

191. Filing Parties provide additional information regarding how the NTTG regional transmission planning process will account for unallocated costs. First, with respect to

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<sup>325</sup> *E.g.*, PacifiCorp OATT, Attachment K Ex. A. As discussed above, Exhibit A is Filing Parties’ example of how this benefit metric allocates the costs of a transmission facility selected in the regional transmission plan for purposes of cost allocation in a manner that is at least roughly commensurate with the benefits that the transmission facility provides.

<sup>326</sup> This criterion would have set a beneficiary’s average net benefit to zero if the ratio of the standard deviation to the average net benefits, as adjusted by outlying benefit adjustment and negative average net benefit adjustment, is greater than 1.0. First Compliance Order, 143 FERC ¶ 61,151 at PP 244-247.

<sup>327</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.8.2.2.

beneficiaries and costs outside of the NTTG transmission planning region, we note that, as directed by the First Compliance Order, Filing Parties have removed from their OATTs their proposal to allocate to the transmission developer the costs that otherwise would be the responsibility of a non-regional beneficiary if such a beneficiary declines to adopt those costs. Filing Parties also explain that any unallocated costs, including costs that a non-regional beneficiary declines to adopt, will be reallocated among the remaining beneficiaries, with such reallocation continuing among beneficiaries that satisfy the 1.1 benefit-to-cost ratio and \$100,000 *de minimis* threshold until either all costs are allocated or there are no beneficiaries that satisfy the 1.1 benefit-to-cost ratio.<sup>328</sup> We find these OATT revisions and additional information comply with the First Compliance Order's directives.

192. We also affirm our acceptance of Filing Parties' proposal to allow transmission developers to voluntarily accept any unallocated costs that otherwise would preclude the transmission developer's proposed project from being selected in the regional transmission plan for purposes of cost allocation, and deny LS Power's protest as an out-of-time rehearing request.<sup>329</sup> In accepting this aspect of Filing Parties' proposal, the Commission stated: "We find that this aspect of the proposal may allow transmission projects to receive regional cost allocation that they otherwise would not if Filing Parties proposed to strictly apply a benefit to cost ratio without granting a transmission developer the opportunity to bear those costs."<sup>330</sup> We reiterate that finding here.

193. Filing Parties also provide additional detail regarding their proposed reassessment practices. As discussed in more detail in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation) above, we accept Filing Parties' proposal to perform a cost allocation in each biennial transmission planning cycle for any transmission project that has been selected for purposes of cost allocation in the prior regional transmission plan until such

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<sup>328</sup> *E.g., id.*

<sup>329</sup> Although LS Power included this argument in its protest of Filing Parties' second compliance filing, the First Compliance Order did not direct any compliance revisions regarding this provision and, in fact, accepted this provision. Thus, LS Power should have raised this issue in a rehearing request, not in its protest of the second round compliance filing.

<sup>330</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 250.

project is deemed “committed”<sup>331</sup> as compliant with the First Compliance Order’s directive and Regional Cost Allocation Principle 1. This proposal provides necessary clarity to transmission developers and other stakeholders regarding the circumstances under which such projects’ cost allocation may be reassessed in subsequent transmission planning cycles.

194. With respect to Regional Cost Allocation Principle 2, we find that Filing Parties’ proposed description of an allocation scenario<sup>332</sup> satisfies the First Compliance Order’s directive to include such a description in their OATTs.<sup>333</sup> This additional detail provides necessary clarity for stakeholders regarding how the NTTG regional transmission planning process will employ allocation scenarios to evaluate transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation.

195. We also find that Filing Parties’ revised proposal satisfies Regional Cost Allocation Principle 4. As required by the First Compliance Order, Filing Parties’ revised proposal explains how the NTTG transmission planning region will account for impacts of transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation on neighboring transmission planning regions, which is detailed in paragraph 183 above, and confirms that any costs associated with such impacts will not be accepted for cost allocation and will not be considered by the NTTG region when selecting a transmission project for purposes of cost allocation in the NTTG regional transmission plan.<sup>334</sup>

196. With respect to Regional Cost Allocation Principle 5, Filing Parties have revised their respective OATTs to state that the Biennial Study Plan will use the three criteria addressed above in section III.B.3.c (Evaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation) – Change in Annual Capital-Related Costs, change in energy losses, and change in reserves – to determine if a Change Case is a more efficient or cost-effective solution than the initial

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<sup>331</sup> The process through which a transmission project selected in the regional transmission plan for purposes of cost allocation may be deemed “committed” is described above in section III.B.2.a (Transmission Planning Region).

<sup>332</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.8.2.3.

<sup>333</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 256.

<sup>334</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.7.4.3.



regional transmission plan.<sup>335</sup> Filing Parties also affirm that these criteria are applied to every transmission project selected in the regional transmission plan for purposes of cost allocation and provide the methodology used for calculating these metrics.<sup>336</sup> We find that this information satisfies the First Compliance Order's requirements.

197. Finally, we find that Filing Parties, as required by the First Compliance Order, have revised their respective OATTs to describe a transparent method for identifying beneficiaries with adequate documentation to allow a stakeholder to determine how it was applied to a proposed transmission facility. Filing Parties clearly define and describe the benefit metrics that they will apply to transmission projects proposed for selection in the regional transmission plan for purpose of cost allocation.<sup>337</sup> In addition, they describe how the Cost Allocation Committee will prepare and utilize cost allocation scenarios with the benefit metrics to determine benefits and costs allocated to beneficiaries,<sup>338</sup> and their revised OATTs require the NTTG Planning Committee to include cost allocation calculations in the regional transmission plan.<sup>339</sup>

**b. Transmission Project Eligibility for Regional Cost Allocation**

**i. First Compliance Order**

198. The Commission rejected Filing Parties' requirement that, to be selected in the regional transmission plan for purposes of cost allocation, a transmission project must be proposed for such purpose by a pre-qualified transmission developer. The Commission also expressed concern that Filing Parties' proposed minimum cost and benefit thresholds may be too restrictive, thereby excluding from evaluation transmission facilities that provide significant benefits to the transmission planning region.<sup>340</sup> The Commission

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<sup>335</sup> *E.g., id.* § 3.7.4.2.

<sup>336</sup> *E.g., id.* § 3.8.2.2.

<sup>337</sup> *E.g., id.* § 3.7.4.2.

<sup>338</sup> *E.g., id.* §§ 3.8.2.2, 3.8.2.3.

<sup>339</sup> *E.g., id.* § 3.10.

<sup>340</sup> Filing Parties' initial proposal provided that in order for a transmission project to be selected in the regional transmission plan for purposes of cost allocation, the project

(continued...)

therefore directed Filing Parties, if they wish to retain their proposed cost and benefit thresholds, to provide additional justification as to how their proposed threshold requirements reach an appropriate balance and identify transmission facilities that are likely to have regional benefits. In addition, the Commission directed Filing Parties to revise their OATTs to describe how the benefits of a proposed transmission facility will be calculated for purposes of determining whether the facility satisfies the proposed benefit threshold.<sup>341</sup>

## ii. Summary of Compliance Filings

199. Filing Parties propose to revise their respective OATTs to identify three categories of transmission projects that are eligible for selection in the regional transmission plan for purposes of cost allocation: (1) a transmission project proposed for such purpose by a pre-qualified sponsoring entity, (2) an unsponsored transmission project identified in the regional transmission planning process, (3) or an unsponsored transmission project proposed by a stakeholder, transmission provider, or nonincumbent transmission developer that does not desire to sponsor the project.<sup>342</sup>

200. Filing Parties also propose to revise other threshold criteria that will apply to determine whether a transmission project is eligible for selection in the regional transmission plan for purposes of cost allocation. First, they propose to eliminate the criterion that a proposed transmission project must have total estimated project benefits to regional entities other than the transmission developer which exceed \$10 million. Second, Filing Parties propose to revise the minimum cost threshold for a transmission project that is eligible for regional cost allocation to \$20 million, which Filing Parties

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must: (1) either be proposed for such purpose by a pre-qualified transmission developer or be an unsponsored project identified in the regional transmission planning process; (2) be selected in the regional transmission plan; (3) have an estimated cost which exceeds the lesser of (a) \$100 million or (b) five percent of the transmission developer's net plant in service (as of the end of the calendar year prior to the submission of the project); and (4) have total estimated project benefits to regional entities (other than the transmission developer) that exceed \$10 million. First Compliance Order, 143 FERC ¶ 61,151 at P 264.

<sup>341</sup> *Id.* PP 268-269.

<sup>342</sup> *E.g.*, PacifiCorp OATT, Attachment K § 3.8.2.1(a).

assert provides a reasonable balance between managing the administrative requirements imposed on NTTG members in preparing a cost allocation for a transmission project, regardless of size, and the likelihood that a project costing less than \$20 million will span multiple transmission providers, require sharing of its cost across multiple entities in order to be constructed, and/or provide substantial benefits to multiple entities. Accordingly, to be eligible for selection in the regional transmission plan for purposes of cost allocation, a transmission project must (1) fall into one of the three categories of projects identified above, (2) be selected in the draft regional transmission plan, and (3) have an estimated cost exceeding \$20 million.<sup>343</sup>

### iii. Commission Determination

201. We find that Filing Parties' proposed revisions to their respective OATT provisions governing which transmission projects are eligible for regional cost allocation comply with the Commission's directives in the First Compliance Order. First, Filing Parties' revised OATTs clearly state that a stakeholder may propose a transmission project for selection in the regional transmission plan for purposes of cost allocation and need not satisfy Filing Parties' proposed qualification criteria if the stakeholder does not intend to sponsor the project. Second, we accept Filing Parties' proposals to (1) eliminate the requirement that, to be eligible to be selected in the regional transmission plan for purposes of cost allocation, a transmission project must provide at least \$10 million in benefits to regional entities other than the project's sponsor, and (2) revise the region's minimum cost threshold requirement to \$20 million. We find that Filing Parties' revised proposal is consistent with similar thresholds accepted by the Commission for other transmission planning regions,<sup>344</sup> and we accept it here.

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<sup>343</sup> *E.g.*, PacifiCorp Transmittal Letter at 28; PacifiCorp OATT, Attachment K § 3.8.2.1.

<sup>344</sup> *See, e.g.*, New York Independent System Operator, Inc., NYISO Tariffs, OATT, Attachment Y § 31.5.4.3.5 (Cost Allocation and Cost Recovery) (2.0.0) (requiring that, to be eligible for regional cost allocation, a transmission project's total capital cost exceed \$25 million); Midcontinent Independent System Operator, Inc., FERC Electric Tariff, Attachment FF (16.0.0), § II.C.3.d (requiring that, in order for a project to be eligible for regional cost allocation as a Multi Value Project, a transmission project's total cost be greater than or equal to the lesser of \$20 million or five percent of the constructing Transmission Owner's net transmission plant).

**c. Ownership Rights**

**i. First Compliance Order**

202. In the First Compliance Order, the Commission rejected Filing Parties' proposal to provide transmission providers whose transmission projects have been deferred or replaced, ownership or ownership-like rights on the alternative transmission project or on the transmission system within which the alternative transmission project is embedded. The Commission found that the proposal appeared to require a transmission developer to relinquish a portion, if not all, of its ownership stake in its transmission project, which would be a disincentive to nonincumbent transmission developers to propose transmission projects for selection in the regional transmission plan for purposes of cost allocation. The Commission noted, however, that Filing Parties may submit a revised proposal that addresses access to new transmission facilities for which an entity has been allocated costs pursuant to a regional cost allocation method, but such a proposal should not require a transmission developer to grant ownership in, or ownership-like rights to, its transmission project.<sup>345</sup>

**ii. Summary of Compliance Filings**

203. Filing Parties propose to revise the OATT provision rejected by the Commission to read as follows:

While the estimation of benefits is not dependent or conditioned on a Beneficiary's receipt of future ownership (or ownership-like) rights on the project or the transmission system(s) involved, the Cost Allocation Committee shall identify and provide with the cost allocation of any such project those transmission rights or ownership-like rights that were assumed would be available to and utilized by the Beneficiary in order to realize the benefits attributed to the Beneficiary.<sup>346</sup>

Filing Parties explain that these revisions clarify that, in order to identify all potential beneficiaries, the Cost Allocation Committee must determine which portion, and how much, of any benefits identified in the benefit metrics are dependent upon an entity's entitlement in the alternative transmission project. The provision does not provide

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<sup>345</sup> First Compliance Order, 143 FERC ¶ 61,151 at P 277.

<sup>346</sup> *E.g.*, PacifiCorp Transmittal Letter at 29; PacifiCorp OATT, Attachment K § 3.8.2.2.

beneficiaries an ownership right, but is merely an information requirement designed to ensure that benefits associated with a deferred or replaced transmission project are properly identified and calculated.<sup>347</sup>

### **iii. Commission Determination**

204. We find that Filing Parties' revised proposal partially complies with Order No. 1000 and the First Compliance Order. Filing Parties properly removed from their respective OATTs the provision that could have required a transmission developer to relinquish a portion, if not all, of its ownership stake in a transmission project selected in the regional transmission plan for purposes of cost allocation.

205. We also conditionally accept Filing Parties' proposal to identify and provide with the cost allocation for a transmission project selected in the regional transmission plan for purposes of cost allocation, the transmission rights or ownership-like rights that were assumed would be available to and utilized by beneficiaries to realize their benefits from the transmission project. We agree that such information can be useful to beneficiaries and transmission developers. However, Filing Parties' proposal does not adequately explain what "ownership-like rights" are, and therefore what rights may be assumed to underlie benefit determinations in the regional transmission planning process. Accordingly, we direct Filing Parties to submit, within 60 days of the date of issuance of this order, further compliance filings that revise their respective OATTs to explain what "ownership-like rights" are and to provide additional detail regarding what "ownership-like rights" may be assumed as part of the regional transmission planning process.

## **5. Conforming Edits**

### **a. Summary of Compliance Filings**

206. Filing Parties explain that they revised their respective OATTs to carry forward defined terms in the regional transmission planning process to the local, interregional, and interconnection-wide planning procedures. In addition, they added a table of contents to their respective Attachment Ks and reordered the sections to assist stakeholders in understanding and using their Attachment Ks, given that the Practice

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<sup>347</sup> *E.g.*, PacifiCorp Transmittal Letter at 29.

Document has become obsolete following Filing Parties submission of their second round compliance filings.<sup>348</sup>

207. In addition, Filing Parties propose conforming revisions to their local and interconnection-wide economic study procedures to account for revisions in the process for prioritizing regional economic studies. A single section of Filing Parties' respective OATTs now specifies the process by which stakeholders submit local, regional, and interconnection-wide economic study requests, and stakeholders are then directed to the specific portions of the OATT that explain how those requests are performed.<sup>349</sup>

**b. Commission Determination**

208. We accept Filing Parties' proposal to carry defined terms in the regional transmission planning process forward to the local, interregional, and interconnection-wide portions of their respective OATTs, as well as Filing Parties addition of a table of contents and section reorganization. We also accept Filing Parties' conforming revisions to their local and interconnection-wide economic study procedures.

The Commission orders:

(A) Filing Parties' respective compliance filings are hereby accepted, effective October 1, 2013, subject to further compliance filings, as discussed in the body of this order.

(B) Filing Parties are hereby directed to submit further compliance filings, within 60 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>348</sup> *E.g., id.*

<sup>349</sup> *E.g., id.* at 7; PacifiCorp OATT, Attachment K §§ 2.7, 3.11, 5.5.

Document Content(s)

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