

153 FERC ¶ 61,079
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Avista Corporation	Docket Nos. ER13-94-005 ER15-422-001
Puget Sound Energy, Inc.	ER13-99-005 ER15-429-001
MATL LLP	ER13-836-004

ORDER ON COMPLIANCE FILINGS

(Issued October 22, 2015)

1. On May 14, 2015, the Commission issued an order accepting, subject to modifications,¹ the third compliance filings submitted by Avista Corporation (Avista), Puget Sound Energy, Inc. (Puget Sound), and MATL LLP (MATL) (together, ColumbiaGrid Public Utilities) to comply with the regional transmission planning and cost allocation requirements, and local planning requirements, of Order No. 1000.²

¹ *Avista Corp.*, 151 FERC ¶ 61,127 (2015) (Third Compliance Order). *See also*, *Avista Corp.*, 148 FERC ¶ 61,212 (2014) (Second Compliance Order), and *Avista Corp.*, 143 FERC ¶ 61,255 (2013) (First Compliance Order).

² *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*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S. C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

2. On June 15, 2015, ColumbiaGrid Public Utilities each separately submitted, pursuant to section 206 of the Federal Power Act (FPA),³ revisions to Attachment K of their respective Open Access Transmission Tariffs (OATT)⁴ to comply with the Third Compliance Order. ColumbiaGrid Public Utilities also filed the Second Amended ColumbiaGrid Order 1000 Functional Agreement (Second Amended Functional Agreement).⁵ The proposed OATT revisions and Amended Functional Agreement comprise ColumbiaGrid Public Utilities' Fourth Compliance Filings. In this order, we conditionally accept for filing, subject to further compliance filings, ColumbiaGrid Public Utilities' Fourth Compliance Filings, effective January 1, 2015.

I. Notice of Filing and Responsive Pleadings

3. Notice of Avista's compliance filings in Docket Nos. ER13-94-005 and ER15-422-001,⁶ Puget Sound's compliance filings in Docket Nos. ER13-99-005 and ER15-429-001,⁷ and MATL's compliance filing in ER13-836-003 was published in the *Federal Register*, 80 Fed. Reg. 35,645 (2015), with interventions and protests due on or before July 6, 2015.

³ 16 U.S.C. § 824e (2012).

⁴ Avista Corporation, FERC Electric Tariff Volume No. 8 (OATT), Attachment K (Transmission Planning Process) (8.0.0); Puget Sound Energy, OATT, Attachment K (Transmission Planning Process), Part III (ColumbiaGrid Transmission Planning Process) (4.0.0) & Appendix A (Definitions) (4.0.0); MATL, Original Volume No. 0 (OATT), Title Page, Attachment K (Transmission Planning Process) (4.1.0). In this order, we generally use Avista's OATT for specific references to the ColumbiaGrid transmission planning process, rather than referencing the same provision in each respective OATT.

⁵ Avista Corp FERC Rate Schedule No. CG2, (1.0.0), Puget Sound Energy Amended and Restated Order 1000 Functional Agreement (1.0.0), MATL Order 1000 ColumbiaGrid Functional Agreement (0.1.0).

⁶ Avista filed its Attachment K in Docket No. ER13-94-005, and Second Amended Functional Agreement in Docket No. ER15-422-001.

⁷ Puget Sound filed its Attachment K in Docket No. ER13-99-005, and Second Amended Functional Agreement in Docket No. ER15-422-001.

4. ColumbiaGrid⁸ and the City of Seattle, Washington submitted timely motions to intervene in Docket Nos. ER15-422-000 and ER15-429-000. The City of Seattle, Washington submitted a motion to intervene in Docket Nos. ER13-94-000, ER13-99-000, and ER13-836-000. Coalition of Eastside Neighborhoods for Sensible Energy and Citizens for Sane Eastside Energy (collectively, Eastside Citizens) filed a timely motion to intervene and protest in Puget Sound's compliance filings in Docket Nos. ER13-99-005 and ER15-429-001, and Bonneville Power Administration (Bonneville Power) filed timely comments. On July 20, 2015, Avista filed an answer to Bonneville Power's comments. On July 22, 2015, Puget Sound filed an answer to Eastside Citizens' protest in Docket Nos. ER13-99-005 and ER15-429-001.

II. Discussion

A. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept Avista's and Puget Sound's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

7. As discussed below, we conditionally accept for filing, subject to further compliance filings, ColumbiaGrid Public Utilities' Fourth Compliance Filings, effective January 1, 2015.

⁸ ColumbiaGrid is a nonprofit corporation consisting of the following members: Avista; Puget Sound; Bonneville Power; the City of Seattle, Washington, acting by and through its City Light Department; the City of Tacoma, Washington, Department of Public Utilities, Light Division, doing business as Tacoma Power; Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 2 of Grant County, Washington; and Public Utility District No. 1 of Snohomish County, Washington.

1. Participation by Non-Public Utility Transmission Providers

a. Third Compliance Order

8. In the Third Compliance Order, the Commission rejected ColumbiaGrid Public Utilities' proposal to allow an eligible Enrolled Party⁹ to convert to a Governmental Non-Enrolled Party.¹⁰ The Commission found that providing Enrolled Parties with an open-ended option to convert to a Governmental Non-Enrolled Party will create uncertainty as to which parties are enrolled and, as a result, bound by the preliminary cost allocation. Accordingly, the Commission directed ColumbiaGrid Public Utilities to

⁹ An Order 1000 Enrolled Party is defined as “any Order 1000 Party (whether incumbent or nonincumbent) that (i) is an Order 1000 Enrolled Party pursuant to section 14.17 of the Order 1000 Agreement; and (ii) has not withdrawn (and has not been deemed to have withdrawn) from the Order 1000 Agreement pursuant to section 13 of the Order 1000 Agreement. For the avoidance of doubt, specifically excluded from being an Order 1000 Enrolled Party are (a) any Person that is Enrolled in any Order 1000 Planning Region in the [Regional Interconnected Systems] other than the Order 1000 ColumbiaGrid Planning Region, (b) any Person that has elected pursuant to section 14.17 of the Order 1000 Agreement to be a Governmental Non-Enrolled Party, and (c) any Person that is pursuant to section 14.17 of the Order 1000 Agreement an ITP Proponent; *provided that* an Order 1000 Non-Incumbent Transmission Developer may be Enrolled in the Order 1000 ColumbiaGrid Planning Region with respect to the proposed transmission facilities of such Non-Incumbent Transmission Developer in the Order 1000 ColumbiaGrid Planning Region identified pursuant to section 14.17 of the Order 1000 Agreement and also Enrolled in another Order 1000 Planning Region.” *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.37 (emphasis in original).

¹⁰ The parties to the Amended Functional Agreement include those entities that have signed the Amended Functional Agreement and either: (1) have enrolled in the ColumbiaGrid region (i.e., Enrolled Parties), (2) are Interregional Transmission Project (ITP) proponents, or (3) are non-public utility transmission providers that have not enrolled in the region (i.e., Governmental Non-Enrolled Parties). *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, § 1.8; Second Amended Functional Agreement § 14.17. Currently, Avista, Puget Sound, and MATL are the only enrolled members of the ColumbiaGrid transmission planning region and parties to the Amended Functional Agreement. *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, § 16; Second Amended Functional Agreement § 12.1.

remove the language that allows an eligible Enrolled Party to convert to a Governmental Non-Enrolled Party, as well as the revised provision defining an Enrolled Party as an Order 1000 Party that “has not converted to being a Governmental Non-Enrolled Party pursuant to section 14.17.”¹¹

b. Summary of Compliance Filings

9. ColumbiaGrid Public Utilities propose to revise the conversion provision in their respective OATTs as follows:

~~Any Order 1000 Enrolled Party that is eligible to be a Governmental Non-Enrolled Party may convert from being an Order 1000 Enrolled Party to being a Governmental Non-Enrolled Party effective on the date such Order 1000 Enrolled Party provides written notice of such conversion to ColumbiaGrid. Contemporaneously with providing such notice, the converting Order 1000 Enrolled Party is to (a) provide a written notice of such conversion to each Order 1000 Party and (b) execute and deliver to ColumbiaGrid a substitute signature block for the Order 1000 Agreement indicating the converting Order 1000 Enrolled Party is a Governmental Non-Enrolled Party and reflecting the effective date of such conversion. Upon such conversion becoming effective, the converting~~ Upon the withdrawal (or deemed withdrawal) pursuant to section 13 of the Order 1000 Agreement of any Order 1000 Enrolled Party from the Order 1000 Agreement becoming effective, the withdrawing Order 1000 Enrolled Party is to no longer be Enrolled in the Order 1000 ColumbiaGrid Planning Region,¹² is to no longer be an Order 1000 Enrolled Party and is not to be subject to any Order 1000 Cost Allocation approved by the Board pursuant to section 11 of Appendix A of the Order 1000 Agreement after the effective date of such ~~conversion~~ withdrawal. Any

¹¹ Third Compliance Order, 151 FERC ¶ 61,127 at P 46.

¹² The Order 1000 ColumbiaGrid Planning Region is defined as the Order 1000 Transmission Systems of Order 1000 Enrolled Parties. *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.32.

Governmental Non-Enrolled Party is not to be allocated, and the Board is not to approve, an Order 1000 Cost Allocation to any Order 1000 Party¹³ that is a Governmental Non-Enrolled Party on the date of approval of such Order 1000 Cost Allocation.¹⁴

ColumbiaGrid Public Utilities propose to revise the definition of Enrolled Party in their respective OATTs to delete language stating that such a party “has not converted to being a Governmental Non-Enrolled Party pursuant to section 14.17.”¹⁵

10. In addition, ColumbiaGrid Public Utilities propose the following entirely new withdrawal provision:

1.10 Withdrawal by Order 1000 Party

Under section 13.1 of section 13 of the Order 1000 Agreement: Any Order 1000 Party may withdraw from the Order 1000 Agreement by providing written notice of such withdrawal to ColumbiaGrid and each of the other Order 1000 Parties. Such withdrawal is to occur and be effective upon (i) the receipt of such written notice by ColumbiaGrid if the withdrawing Order 1000 Party is within the definition of 16 U.S.C. § 824(f) (and hence is not a “public utility” under Part II of the Federal Power Act) or (ii) the expiration of 90 days following the receipt of such written notice by ColumbiaGrid if the withdrawing Order 1000 Party is not within the definition of 16 U.S.C. § 824(f).

Under section 13.2 of section 13 of the Order 1000 Agreement: Any Order 1000 Enrolled Party that (i) at any time owns or operates existing transmission facilities in the

¹³ Order 1000 Party means each signatory, other than ColumbiaGrid, to the Order 1000 Agreement. *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.46.

¹⁴ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §1.8; Second Amended Functional Agreement § 14.17.

¹⁵ *E.g.*, Avista, OATT, Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.37.

Regional Interconnected Systems that are operating; and (ii) after the expiration of 90 days after such time is either not a signatory to the PEFA or is Enrolled in an Order 1000 Planning Region other than ColumbiaGrid is to be deemed to have withdrawn from the Order 1000 Agreement, which deemed withdrawal is to be effective upon the expiration of such 90-day period.

No Order 1000 Party that has withdrawn or has been deemed to have withdrawn pursuant to section 13 of the Order 1000 Agreement is to have any obligation to make any payment pursuant to section 3 of the Order 1000 Agreement if such payment was not due on or before the date upon which the withdrawal or deemed withdrawal of such Order 1000 Party is effective. Upon the withdrawal or deemed withdrawal of such Order 1000 Party becoming effective, all rights and obligations under the Order 1000 Agreement of such Order 1000 Party are to terminate; *provided that* all obligations and liabilities of such Order 1000 Party accrued under the Order 1000 Agreement through the date upon which the withdrawal or deemed withdrawal of such Order 1000 Party is effective are to be preserved until satisfied.¹⁶

c. Comments

11. Eastside Citizens argue that ColumbiaGrid Public Utilities' revised language inappropriately transforms a clearly jurisdictional investor-owned utility like Puget Sound into any Order No. 1000 Party that can opt out of Order No. 1000 altogether. Eastside Citizens states that Puget Sound contends that there are circumstances where opt-outs can apply to cost allocations as well, since any Order 1000 Party can withdraw and be free of those allocations before they are calculated and deemed due. Eastside Citizens assert that Puget Sound blatantly ignores the many Commission determinations on these subjects spelled out in the Second Compliance Order and Third Compliance Order.¹⁷

¹⁶ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, § 1.10; Second Amended Functional Agreement § 13.2 (emphasis in original).

¹⁷ Eastside Citizens Protest at 9.

d. Answer

12. In response to Eastside Citizens' claim that ColumbiaGrid Public Utilities' revisions will permit a public utility to opt out of Order No. 1000 altogether, Puget Sound answers that nothing in Attachment K or the Second Amended Order 1000 Agreement would excuse a public utility from the obligations imposed by Order No. 1000. Puget Sound states that the protest erroneously equates a contractual provision contained in the Second Amended Order 1000 Agreement regarding withdrawal from that agreement with a nonexistent ability for public utilities to opt out of Order No. 1000 altogether. Puget Sound maintains that in the event the Second Amended Order 1000 Agreement no longer facilitates Puget Sound's effective performance of its Order No. 1000 obligations, it must have an acceptable replacement to facilitate its compliance.¹⁸

e. Commission Determination

13. We find that ColumbiaGrid Public Utilities' proposed revisions partially comply with the Commission's directives in the Third Compliance Order. As directed, ColumbiaGrid Public Utilities removed the language that allows an eligible Enrolled Party to convert to a Governmental Non-Enrolled Party, and the provision defining an Enrolled Party as an Order 1000 Party that "has not converted to being a Governmental Non-Enrolled Party pursuant to section 14.17."

14. However, we find that ColumbiaGrid Public Utilities' proposed new withdrawal provision does not comply with Order No. 1000. The proposed withdrawal provision specifies that a withdrawing Enrolled Party will not have any obligation to make any payment pursuant to section 3 of the Order 1000 Agreement if such payment was not due on or before the date upon which the withdrawal or deemed withdrawal of such Order 1000 Party is effective. Thus, the proposed withdrawal provision would exempt the withdrawing transmission provider from responsibility for costs that it is allocated while it is still enrolled in the transmission planning region, but which have a payment due date after the date of withdrawal.¹⁹ To be consistent with the Commission's

¹⁸ Puget Sound Answer at 9.

¹⁹ The subsequent sentence of the provision accurately states that "all obligations and liabilities of such Order 1000 Party accrued under the Order 1000 Agreement through the date upon which the withdrawal or deemed withdrawal of such Order 1000 Party is effective are to be preserved until satisfied." *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, § 1.10; Second Amended Functional Agreement § 13.2.

discussion of withdrawal provisions in Order No. 1000-A,²⁰ the proposed withdrawal provision must require that a withdrawing enrollee continue to pay any costs it is allocated pursuant to the regional or interregional cost allocation method for any transmission project that was selected in the regional transmission plan for purposes of cost allocation while it is enrolled, until the prudently incurred cost of the transmission facility has been recovered.²¹ We therefore require ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings to modify their respective OATTs to state “No Order 1000 Party that has withdrawn or has been deemed to have withdrawn pursuant to section 13 of the Order 1000 Agreement is to have any obligation to make any payment pursuant to section 3 of the Order 1000 Agreement if such payment was not due for any transmission facility that was selected in the regional transmission plan for purposes of cost allocation by the ColumbiaGrid Board of Directors on or after ~~before~~ the date upon which the withdrawal or deemed withdrawal of such Order 1000 Party is effective.”

15. Moreover, upon further consideration, we find that ColumbiaGrid Public Utilities’ provision in their OATTs and Second Amended Functional Agreements that deems an Order 1000 Enrolled Party to have withdrawn from the ColumbiaGrid transmission planning region if it is enrolled in another transmission planning region is unjust and unreasonable because it could preclude a nonincumbent transmission developer that already owns and operates transmission facilities in another transmission planning region from proposing a regional transmission project for selection in the regional transmission plan for purposes of cost allocation in the ColumbiaGrid region. In addition, it precludes an Order 1000 Enrolled Party from acting as a nonincumbent transmission developer in any other transmission planning region. We therefore direct ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings to revise the withdrawal provision in their respective OATTs and Second Amended Functional Agreements as follows:

²⁰ Order No. 1000-A, 139 FERC ¶ 61,132, at P 622 n.734 (2012) (finding that, to accommodate the participation of non-public utility transmission providers, the relevant tariffs or agreements governing the regional transmission planning process could establish the terms and conditions of orderly withdrawal for non-public utility transmission providers that are unable to accept the allocation of costs pursuant to a regional or interregional cost allocation method). *See also*, First Compliance Order, 143 FERC ¶ 61,255, at PP 270, 273.

²¹ *See, e.g., Tampa Elec. Co.*, 148 FERC ¶ 61,172, at P 44 (2014).

...Any Order 1000 Enrolled Party that (i) at any time owns or operates existing transmission facilities in the Regional Interconnected Systems that are operating; and (ii) after the expiration of 90 days after such time is ~~either~~ not a signatory to the PEFA ~~or is Enrolled in an Order 1000 Planning Region other than ColumbiaGrid~~ shall be deemed to have withdrawn from this Order 1000 Agreement, which deemed withdrawal shall be effective upon the expiration of such 90-day period.²²

In addition, we direct ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings that also revise their OATTs as follows:

Order 1000 Enrolled Parties and ITP Proponents

Any Person ~~that is not Enrolled in any Order 1000 Planning Region~~ may Enroll in the Order 1000 ColumbiaGrid Planning Region by executing the Order 1000 Agreement and becoming an Order 1000 Party that is an Order 1000 Enrolled Party pursuant to section 14.17 of the Order 1000 Agreement...~~An entity that is Enrolled in an Order 1000 Planning Region other than ColumbiaGrid may be an Order 1000 Party and participate in ColumbiaGrid's Order 1000 transmission planning processes under the Order 1000 Agreement as an ITP Proponent.~~²³

16. Finally, we disagree with Eastside Citizens that ColumbiaGrid Public Utilities' revisions permit a public utility transmission provider to opt out of the compliance requirements of Order No. 1000. We reiterate that Order No. 1000 requires public utility transmission providers to participate in a regional transmission planning process that produces a regional transmission plan,²⁴ and find that the language in Attachment K of ColumbiaGrid Public Utilities' respective OATTs and the Second Amended Functional Agreement in no way supplants that requirement. Further, Order No. 1000 requires that public utility transmission providers include as part of their OATTs a list of parties that

²² *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §1.10; Second Amended Functional Agreement § 13.2.

²³ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §16.

²⁴ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 146.

are enrolled in the transmission planning region;²⁵ thus, if an Enrolled Party withdraws from the ColumbiaGrid region, each ColumbiaGrid Public Utility must seek approval from the Commission under FPA Section 205 to remove the withdrawing party from the list of enrolled parties in each of their OATTs.²⁶ At that time, any public utility transmission provider that was formerly enrolled in the ColumbiaGrid transmission planning region will have to demonstrate how it continues to comply with each of the requirements of Order No. 1000.

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

a. Definition of Nonincumbent Transmission Developer

i. Third Compliance Order

17. In the Third Compliance Order, the Commission found that ColumbiaGrid Public Utilities' definition of an Order 1000 Nonincumbent Transmission Developer imposed a barrier for certain transmission developers and was inconsistent with Order No. 1000. ColumbiaGrid Public Utilities proposed to define an Order 1000 Nonincumbent Transmission Developer as an Enrolled Party that (1) proposes to, but does not currently, own or operate transmission facilities in ColumbiaGrid or any other transmission planning region; (2) is not enrolled in any transmission planning region other than ColumbiaGrid; and (3) is not a signatory to the PEFA.²⁷ The Commission found the proposed definition inconsistent with Order No. 1000, which defines a nonincumbent transmission developer as: (1) a transmission developer that does not have a retail distribution service territory or footprint; or (2) a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the incumbent for purposes of that project.²⁸ The Commission stated that Order No. 1000's definition of a nonincumbent does not exclude those transmission developers who do not own or operate transmission facilities or enroll

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

²⁶ *See Public Serv. Co. of Colo.*, 151 FERC ¶ 61,128, at P 108 (2015).

²⁷ *E.g.*, Avista, OATT, Attachment K (8.0.0), Appendix A; Amended Functional Agreement § 1.44.

²⁸ Third Compliance Order, 151 FERC ¶ 61,127 at P 67 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 225).

in a transmission planning region other than the transmission planning region in which they are proposing a transmission project, nor does the definition prevent a nonincumbent transmission developer from being enrolled in a transmission planning region other than the transmission planning region in which it is proposing a transmission project. The Commission further explained that a transmission developer that has signed the pre-Order No. 1000 PEFA, but either wishes to propose a transmission project outside of its retail distribution service territory or footprint or does not have a retail distribution service territory or footprint, would under the definition adopted in Order No. 1000 be considered a nonincumbent transmission developer. Accordingly, the Commission directed ColumbiaGrid Public Utilities to revise their OATTs and Amended Functional Agreement to revise the definition of an Order 1000 Nonincumbent Transmission Developer to be consistent with the definition of a nonincumbent transmission developer reflected in Order No. 1000.²⁹

ii. Summary of Compliance Filings

18. ColumbiaGrid Public Utilities state that the Commission previously accepted provisions that prohibit a transmission provider from enrolling in ColumbiaGrid if it is enrolled in a different transmission planning region.³⁰ ColumbiaGrid Public Utilities claim that this approach helps ensure that there is no ambiguity regarding the definition of the Order 1000 ColumbiaGrid Planning Region³¹ and that projects are properly characterized as regional or interregional and, therefore, obtain the appropriate cost allocation.³² ColumbiaGrid Public Utilities assert that transmission facilities proposed to be owned or operated by a transmission developer (other than a Non-Incumbent Transmission developer with respect to such facilities) that is enrolled in a neighboring Order No. 1000 transmission planning region, for example, can be an interregional transmission project but cannot be a regional transmission project in the ColumbiaGrid Order No. 1000 transmission planning region. Thus, ColumbiaGrid Public Utilities state

²⁹ Third Compliance Order, 151 FERC ¶ 61,127 at P 67.

³⁰ *E.g.*, Avista Transmittal Letter at 6 (citing First Compliance Order, 143 FERC ¶ 61,255 at P 43). ColumbiaGrid Public Utilities appear to have mistakenly cited the First Compliance Order here instead of the Second Compliance Order.

³¹ The Order 1000 ColumbiaGrid Planning Region is defined as the Order 1000 Transmission Systems of Order 1000 Enrolled Parties. *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.32.

³² *E.g.*, Avista Transmittal Letter at 6.

that consistent with Order No. 1000-A's clarification of the term "footprint,"³³ their proposed definition of Order 1000 Nonincumbent Transmission Developer includes language that clarifies that any Order 1000 Enrolled Party that currently owns or operates transmission facilities in the Order 1000 ColumbiaGrid Planning Region is not an Order 1000 Nonincumbent Transmission Developer.³⁴

19. Specifically, ColumbiaGrid Public Utilities propose to revise the definition of an Order 1000 Nonincumbent Transmission Developer in their respective OATTs and Second Amended Functional Agreement to state:

‘Order 1000 Non-Incumbent Transmission Developer’ means, with respect to transmission facilities proposed by an Order 1000 Enrolled Party, such Order 1000 Enrolled Party if such proposed transmission facilities are in the Order 1000 ColumbiaGrid Planning Region and either

(i) such Order 1000 Enrolled Party proposes to, but does not currently, own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region and does not have a retail distribution service territory or footprint in the Order 1000 ColumbiaGrid Planning Region; or

(ii) such Order 1000 Enrolled Party proposes to, but does not currently, own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region and such proposed transmission facilities are outside any retail distribution service territory or footprint of such Order 1000 Enrolled Party.³⁵

20. In addition, ColumbiaGrid Public Utilities propose to revise the sections of their respective OATTs and Second Amended Functional Agreements that address the status of parties under the Order 1000 agreement as follows:

³³ *E.g.*, Avista Transmittal Letter at 6 & n.31 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at P 420).

³⁴ *E.g.*, Avista Transmittal Letter at 6, n.31.

³⁵ *E.g.*, Avista OATT Attachment K (8.0.0) Appendix A; Second Amended Functional Agreement § 1.44.

Any Order 1000 Party that is Enrolled in an Order 1000 Planning Region other than the Order 1000 ColumbiaGrid Planning Region may only be an [Interregional Transmission Project] Proponent³⁶ under the Order 1000 Agreement and is to indicate in its signature block for the Order 1000 Agreement (i) that it is an [Interregional Transmission Project] Proponent and (ii) the name of the Order 1000 Planning Region in which it is Enrolled; provided that an Order 1000 Non-Incumbent Transmission Developer may be Enrolled in the Order 1000 ColumbiaGrid Planning Region with respect to the proposed transmission facilities of such Non-Incumbent Transmission Developer in the Order 1000 ColumbiaGrid Planning Region identified pursuant to section 14.17 of the Order 1000 Agreement and also Enrolled in another Order 1000 Planning Region. Any Order 1000 Enrolled Party that is an Order 1000 Non-Incumbent Transmission Developer is to advise ColumbiaGrid in writing of (i) any Order 1000 Planning Region other than the Order 1000 ColumbiaGrid Planning Region in which it is Enrolled and (ii) any proposed transmission facilities of such Order 1000 Enrolled Party in the Order 1000 ColumbiaGrid Planning Region.³⁷

21. ColumbiaGrid Public Utilities further propose to revise the definition of Order 1000 Enrolled Party in their respective OATTs and Second Amended Functional Agreement as follows:

For the avoidance of doubt, specifically excluded from being an Order 1000 Enrolled Party are (a) any Person that is Enrolled in any Order 1000 Planning Region in the [Regional Interconnected Systems] other than the Order 1000 ColumbiaGrid Planning Region, (b) any Person that has elected pursuant to section 14.17 of the ~~is~~ Order 1000

³⁶ “Interregional Transmission Project Proponent” is defined as an Order 1000 Party that (i) has pursuant to section 14.17 of the Order 1000 Agreement indicated that it is an ITP Proponent, (ii) is not Enrolled in the Order 1000 ColumbiaGrid Planning Region, and (iii) is Enrolled in an Order 1000 Planning Region (other than the Order 1000 ColumbiaGrid Planning Region). *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 14.17.

³⁷ *E.g.*, Avista OATT Attachment K (8.0.0), Part IV, § 1.8; Second Amended Functional Agreement § 14.17 (emphasis in original).

Agreement to be a Governmental Non-Enrolled Party, and (c) any Person that is pursuant to section 14.17 of the Order 1000 Agreement an ITP Proponent; *provided that an Order 1000 Non-Incumbent Transmission Developer may be Enrolled in the Order 1000 ColumbiaGrid Planning Region with respect to the proposed transmission facilities of such Non-Incumbent Transmission Developer in the Order 1000 ColumbiaGrid Planning Region identified pursuant to section 14.17 of the Order 1000 Agreement and also Enrolled in another Order 1000 Planning Region.*³⁸

iii. Commission Determination

22. We find that ColumbiaGrid Public Utilities' proposed revised definition of Order 1000 Nonincumbent Transmission Developer does not comply with the Commission's directive in the Third Compliance Order because it is not consistent with the definition of a nonincumbent transmission developer in Order No. 1000. The Commission stated in Order No. 1000 that a "nonincumbent transmission developer" refers to two categories of transmission developer: (1) a transmission developer that does not have a retail distribution service territory or footprint; or (2) a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the incumbent for purposes of that project.³⁹ The Commission also stated that an "incumbent transmission developer/provider" is an entity that develops a transmission project within its own retail distribution service territory or footprint.⁴⁰ ColumbiaGrid Public Utilities' revised definition of an Order 1000 Nonincumbent Transmission Developer would exclude an Order 1000 Enrolled Party that currently owns or operates transmission facilities in the ColumbiaGrid region, even when the Enrolled Party proposes a transmission facility outside of its retail distribution service territory or footprint. This is inconsistent with Order No. 1000 because an incumbent transmission owner that proposes to develop a transmission project outside its retail distribution service territory or footprint is considered a nonincumbent transmission developer for purposes of that project.

³⁸ *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.37 (emphasis in original).

³⁹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 225.

⁴⁰ *Id.*

23. ColumbiaGrid Public Utilities incorrectly claim that Order No. 1000-A's clarification of the term "footprint" dictates that parties that currently own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region cannot be nonincumbent transmission developers. In Order No. 1000-A, the Commission clarified that the term "footprint," as used in the definitions of incumbent transmission developer/provider, nonincumbent transmission developer and local transmission facility was intended to include, but not be limited to, the location of the transmission facilities of a transmission-only company that owns and/or controls the transmission facilities of formerly vertically-integrated utilities, as well as the location of the transmission facilities of any other transmission-only company.⁴¹ This clarification does not change the definition of a nonincumbent transmission developer, which includes a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint. Therefore, we direct ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings to revise their definition of an Order 1000 Nonincumbent Transmission Developer as follows:

'Order 1000 Non-Incumbent Transmission Developer'
means, with respect to transmission facilities proposed by an Order 1000 Enrolled Party, such Order 1000 Enrolled Party if such proposed transmission facilities are in the Order 1000 ColumbiaGrid Planning Region and ~~either are outside any retail distribution service territory or footprint of such Order 1000 Enrolled Party, or such Order 1000 Enrolled Party does not have a retail distribution service territory or footprint.~~

~~(i) such Order 1000 Enrolled Party proposes to, but does not currently, own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region and does not have a retail distribution service territory or footprint in the Order 1000 ColumbiaGrid Planning Region; or~~

~~(ii) such Order 1000 Enrolled Party proposes to, but does not currently, own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region and such proposed transmission facilities are outside any retail distribution~~

⁴¹ Order No. 1000-A, 139 FERC ¶ 61,132 at P 420.

~~service territory or footprint of such Order 1000 Enrolled Party.~~⁴²

24. Upon review of the revised provisions of the OATTs and Second Amended Functional Agreement, we find additional language in ColumbiaGrid Public Utilities' OATTs and Second Amended Functional Agreement that would similarly preclude Order 1000 Enrolled Parties that currently own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region and are proposing transmission facilities in the region, but outside of their retail distribution service territory or footprint, from being considered nonincumbent transmission developers. Therefore, we direct ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings to revise their OATTs and Amended Functional Agreements as follows:

~~Any Order 1000 Party that is Enrolled in an Order 1000 Planning Region other than the Order 1000 ColumbiaGrid Planning Region may only be an [Interregional Transmission Project] Proponent under this Order 1000 Agreement and must indicate in its signature block for this Order 1000 Agreement (i) that it is an [Interregional Transmission Project] Proponent and (ii) the name of the Order 1000 Planning Region in which it is Enrolled; *provided that an Order 1000 Non-Incumbent Transmission Developer may be Enrolled in the Order 1000 ColumbiaGrid Planning Region with respect to the proposed transmission facilities of such Non-Incumbent Transmission Developer in the Order 1000 ColumbiaGrid Planning Region identified pursuant to this section 14.17 and also Enrolled in another Order 1000 Planning Region.* Any Order 1000 Enrolled Party that is an Order 1000 Non-Incumbent Transmission Developer shall advise ColumbiaGrid in writing of (i) any Order 1000 Planning Region other than the Order 1000 ColumbiaGrid Planning Region in which it is Enrolled and (ii) any proposed~~

⁴² *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.44.

transmission facilities of such Order 1000 Enrolled Party in the Order 1000 ColumbiaGrid Planning Region.⁴³

25. We also find upon further consideration that ColumbiaGrid Public Utilities' definition of Order 1000 Enrolled Party is unjust and unreasonable as it is inconsistent with Order No. 1000. We thus direct ColumbiaGrid Public Utilities, within 30 days of the date of issuance of this order, to submit further compliance filings to revise their OATTs and Amended Functional Agreements as follows:

For the avoidance of doubt, specifically excluded from being an Order 1000 Enrolled Party are (a) ~~any Person that is Enrolled in any Order 1000 Planning Region in the RIS other than the Order 1000 ColumbiaGrid Planning Region,~~ (b) any Person that has elected pursuant to section 14.17 of the Order 1000 Agreement to be a Governmental Non-Enrolled Party, and (b) any Person that is pursuant to section 14.17 of the Order 1000 Agreement an ITP Proponent; ~~provided that an Order 1000 Non-Incumbent Transmission Developer may be Enrolled in the Order 1000 ColumbiaGrid Planning Region with respect to the proposed transmission facilities of such Non-Incumbent Transmission Developer in the Order 1000 ColumbiaGrid Planning Region identified pursuant to section 14.17 of the Order 1000 Agreement and also Enrolled in another Order 1000 Planning Region.~~⁴⁴

b. Definition of Interregional Transmission Project Proponent

26. We find upon further consideration that ColumbiaGrid Public Utilities' definition of Interregional Transmission Project Proponent is unjust and unreasonable because it would exclude a transmission developer that is not enrolled in any transmission planning region from being able to propose an interregional transmission project for purposes of cost allocation in the ColumbiaGrid transmission planning region, even if that transmission developer has no retail distribution service territory or footprint. As the

⁴³ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §1.8; Second Amended Functional Agreement § 14.17.

⁴⁴ *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.37.

Commission stated in Order No. 1000-A, an entity, including a non-public utility transmission developer, that has no load within a transmission planning region may propose a transmission project for evaluation and potential cost allocation without enrolling in that region, as long as the entity satisfies the transmission planning region's other requirements for doing so.⁴⁵ In addition, the Commission stated that it may lead to an unjust and unreasonable or unduly discriminatory or preferential result to allow a transmission developer, including a non-public utility transmission developer, to seek regional cost allocation for a proposed transmission project in a transmission planning region in which it has load, but where it has not enrolled in the region where its load is located.⁴⁶ The Commission stated that such a result would permit a transmission developer to allocate the costs of its project to other entities in the region under that region's cost allocation method – without first enrolling itself in the transmission planning region in which its load is located and potentially avoid being allocated costs for other transmission projects for which it is found to be a beneficiary.⁴⁷

27. It is therefore appropriate to exclude a transmission developer that is not enrolled in the transmission planning region in which it has a retail distribution service territory or footprint from being able to propose an interregional transmission project for cost allocation in the ColumbiaGrid transmission planning region. However, we find that ColumbiaGrid Public Utilities may not exclude a transmission developer that has no retail distribution service territory or footprint from proposing an interregional transmission project for purposes of cost allocation in the ColumbiaGrid transmission planning region. We thus direct ColumbiaGrid Public Utilities, within 30 days of the date of issuance of this order, to submit further compliance filings to revise their OATTs and Second Amended Functional Agreements as follows:

“Interregional Transmission Project Proponent” or “ITP Proponent” means an Order 1000 Party that (i) has pursuant to section 14.17 of the Order 1000 Agreement indicated that it is an ITP Proponent and (ii) is not Enrolled in the Order 1000 ColumbiaGrid Planning Region, and (iii) if it has a retail distribution service territory or footprint, is Enrolled in the Order 1000 Planning Region (other than the Order 1000

⁴⁵ Order No. 1000-A, 139 FERC ¶ 61,132 at P 419.

⁴⁶ *Id.* P 418.

⁴⁷ *Id.*

ColumbiaGrid Planning Region)- in which it has a retail distribution service territory or footprint.⁴⁸

28. Accordingly, we also direct ColumbiaGrid Public Utilities to remove the provisions requiring that a party seeking cost allocation or joint evaluation for an interregional transmission project must be “[e]nrolled in a relevant planning region.”⁴⁹ We thus direct ColumbiaGrid Public Utilities, within 30 days of the date of issuance of this order, to submit further compliance filings to revise their OATTS and Second Amended Functional Agreements as follows:

5.2 (Timely Request for Order 1000 Cost Allocation) Not later than 60 days after ColumbiaGrid has posted a description of any Order 1000 Eligible Project(s) pursuant to section 5.1 of Appendix A of the Order 1000 Agreement on the Website, an Order 1000 Enrolled Party(ies) or ITP Proponent(s) may request Order 1000 Cost Allocation for any such Order 1000 Eligible Project(s) for which such Order 1000 Enrolled Party(ies) or ITP Proponent(s) is a proponent; provided that an ITP Proponent may request an Order 1000 Cost Allocation for an Order 1000 Project only if such project is an ITP ~~and if such ITP Proponent is Enrolled in a Relevant Planning Region for such ITP~~. Not later than 60 days after ColumbiaGrid has posted a description of any Order 1000 Eligible Project(s) pursuant to section 5.1 of Appendix A of the Order 1000 Agreement on the Website, an Order 1000 Enrolled Party(ies) or ITP Proponent(s) may request Order 1000 Cost Allocation for any such Order 1000 Eligible Project(s) that is an Order 1000 Proposed Staff Solution; *provided that* an ITP Proponent(s) may request an Order 1000 Cost Allocation for an Order 1000 Project only if such project is an ITP ~~and if such ITP Proponent(s) is Enrolled in a Relevant Planning Region for such ITP~~. Any request for an

⁴⁸ *E.g.*, Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.25. An Order 1000 Enrolled Party can also propose an interregional transmission project and is referred to as a proponent of an ITP. *Id.*

⁴⁹ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §§ 5.2, 8.1, 8.2; Second Amended Functional Agreement, Appendix A §§ 5.2, 8.1, 8.2.

Order 1000 Cost Allocation for an Order 1000 Eligible Project is to be submitted in writing to ColumbiaGrid.

8.1 (Order 1000 Parties That May Submit an ITP for Joint Evaluation) Any Person that seeks to submit an ITP for joint evaluation pursuant to section 7.4 of Appendix A of the Order 1000 Agreement or seeks to request Interregional Cost Allocation pursuant to section 7.5 of Appendix A of the Order 1000 Agreement must either be an ITP Proponent that is a proponent of such ITP ~~and that is Enrolled in a Relevant Planning Region (other than the Order 1000 ColumbiaGrid Planning Region) for such ITP~~ or an Order 1000 Enrolled Party that is a proponent of such ITP.

8.2 (Submission for Joint Evaluation) ...An ITP Proponent that is a proponent of an ITP ~~and that is Enrolled in a Relevant Planning Region (other than the Order 1000 ColumbiaGrid Planning Region) for such ITP~~ or an Order 1000 Enrolled Party that is a proponent of an ITP may seek to have such ITP evaluated in the Order 1000 ColumbiaGrid Planning Region pursuant to section 7.4.2 of Appendix A of the Order 1000 Agreement by submitting a written request for such evaluation to ColumbiaGrid; provided that ColumbiaGrid is to deem such written request properly submitted to ColumbiaGrid only if, and at such time as, ColumbiaGrid receives the written request: (i) such written request specifically references section 7.4 of Appendix A of the Order 1000 Agreement, and (ii) such written request includes a list of all other Relevant Planning Regions to which the ITP is being submitted for joint evaluation.⁵⁰

c. Scope of Projects Eligible for Regional Cost Allocation

i. Comments

29. Bonneville Power asserts that the Second Amended Functional Agreement and Attachment K of ColumbiaGrid Public Utilities' OATTs inappropriately exclude from

⁵⁰ *E.g.*, Avista, OATT, Attachment K (8.0.0), Part IV, §§ 5.2, 8.1, 8.2; Second Amended Functional Agreement, Appendix A §§ 5.2, 8.1, 8.2.

Order No. 1000 cost allocation any proposed transmission projects that interconnect with a non-public utility transmission provider that is not enrolled in the ColumbiaGrid transmission planning region. Specifically, Bonneville Power states that an Order 1000 Enrolled Party or proponent may request cost allocation only for an Order 1000 Eligible Project, which is defined as an Order 1000 Proposed Project that ColumbiaGrid Staff has determined is a more efficient or cost-effective solution to an Order 1000 Need and is either an Interregional Transmission Project or a project located within the Order 1000 ColumbiaGrid planning region. Bonneville Power explains that the definition of Order 1000 Proposed Project excludes projects that interconnect to transmission facilities located outside the Order 1000 ColumbiaGrid Planning Region and that the Order 1000 ColumbiaGrid Planning Region includes only the Order 1000 Transmission Systems of Order 1000 Enrolled Parties. Thus, a proposed transmission project inside the ColumbiaGrid transmission planning region that interconnects with a non-public utility transmission provider that has not enrolled in ColumbiaGrid would not be eligible for regional cost allocation because it would interconnect outside the Order 1000 ColumbiaGrid Planning Region.⁵¹

30. Bonneville Power asserts that, for example, in compliance orders concerning the WestConnect transmission planning region, which, like ColumbiaGrid, has a significant level of interconnection between public and non-public utility transmission providers, the Commission rejected proposals to exclude from regional cost allocation transmission projects solely on the basis that they interconnect with non-public utility transmission providers that have not enrolled in WestConnect.⁵² Bonneville Power states that its transmission system is an integral part of the Pacific Northwest transmission system and a major system within the Western Interconnection, and thus transmission projects that meet ColumbiaGrid regional needs are likely to interconnect with Bonneville Power's system.⁵³ Thus, Bonneville Power argues, excluding transmission projects that interconnect with its system from eligibility for regional cost allocation may "unduly restrict consideration of transmission facilities that nonetheless may have regional benefits and are determined to be more efficient or cost-effective transmission solutions to regional transmission needs."⁵⁴

⁵¹ Bonneville Power Comments at 1-2.

⁵² *Id.* at 3 (citing *Pub. Serv. Co. of Colo.*, 148 FERC ¶ 61,213, at P 56 (2014); *Pub. Serv. Co. of Colo.*, 151 FERC ¶ 61,128, at PP 28, 32 (2015)).

⁵³ *Id.* at 3-4.

⁵⁴ *Id.* at 4 (quoting *Pub. Serv. Co. of Colo.*, 148 FERC ¶ 61,213 at P 56).

ii. Answer

31. In its answer, Avista asserts that Bonneville Power's comments constitute an impermissible collateral attack on prior Commission orders because the definition of Order 1000 Proposed Project with which Bonneville Power takes issue was filed with the Commission in December 2013 and no changes were required or made to that definition in subsequent compliance filings submitted in September 2014 and June 2015. Avista argues that the appropriate procedure for seeking redress of prior Commission orders was to timely request rehearing of those orders and that the Commission will not ordinarily consider a protest in a compliance filing that is directed at matters which were not the subject of revisions in the compliance filing.⁵⁵

32. Avista argues that unlike the proposal at issue in the WestConnect orders, the ColumbiaGrid Public Utilities' compliance filings do not categorically eliminate a proposed transmission project from consideration for regional cost allocation when that transmission project provides quantifiable benefits to a non-enrolled non-public utility transmission provider's facilities. Avista further argues that Bonneville Power may become an enrolled party and then those proposed transmission projects that interconnect with Bonneville Power would be eligible for regional cost allocation. Avista claims that the revisions Bonneville Power suggests would allow a transmission project that is outside the ColumbiaGrid Planning Region to be eligible for regional cost allocation and would violate Regional Cost Allocation Principle No. 4. Avista also argues that the suggested revisions would not motivate non-public utility transmission providers to enroll in any Order No. 1000 transmission planning region and would be contrary to the Commission's goal of addressing free ridership through cost allocation reforms. According to Avista, public utility transmission providers could be forced to bear the costs of developing non-public utility transmission providers' transmission projects while the non-public utility transmission providers who sponsor, develop, and significantly benefit from such projects are, by electing not to enroll, insulated from any cost allocation for such projects.⁵⁶

iii. Commission Determination

33. Upon further consideration of the issue as fully aired and addressed on the record by Bonneville Power and Avista, we find that excluding from potential regional cost allocation transmission facilities that interconnect with facilities that are located within

⁵⁵ Avista Answer at 5-6.

⁵⁶ *Id.* at 7-9.

the area that would normally be considered a geographic part of the ColumbiaGrid transmission planning region, but owned by entities that have not enrolled in an Order No. 1000 transmission planning region, would unduly restrict consideration of transmission facilities that nonetheless may have regional benefits and are determined to be more efficient or cost-effective transmission solutions to ColumbiaGrid's regional transmission needs.⁵⁷ Pursuant to our authority in this FPA section 206 proceeding, we find that the current provision excluding these facilities from potential regional cost allocation is unjust and unreasonable. Given the level of interconnection between the non-public utility and public utility transmission providers' systems in the ColumbiaGrid region, excluding from consideration for regional cost allocation any transmission facility that interconnects with a non-enrolled transmission provider in the geographic area of the ColumbiaGrid region would likely disqualify a significant number of transmission projects that would provide meaningful regional benefits to enrolled transmission providers.⁵⁸ Accordingly, we direct ColumbiaGrid Public Utilities to submit, within 30 days of the date of issuance of this order, further compliance filings that revise the definition of Order 1000 Proposed Project to eliminate the following sentence from the definition: "Proposed transmission facilities in a plan of service that are not an [Interregional Transmission Project] and that would directly interconnect electrically with existing or planned transmission facilities that are not in the Order 1000 ColumbiaGrid Planning Region are specifically excluded from being an Order 1000 Proposed Project."

34. Contrary to Avista's assertion, broadening the scope of transmission projects eligible for regional cost allocation to include facilities that interconnect with the facilities of non-enrolled parties in the geographic area of the ColumbiaGrid region will not require ColumbiaGrid to bear the cost of projects that only or primarily benefit Bonneville Power or any other non-enrolled transmission provider. We note that non-enrolled transmission providers located within the geographic area of the ColumbiaGrid region may not propose transmission projects for evaluation and potential selection in

⁵⁷ See *Pub. Serv. Co. of Colo.*, 148 FERC ¶ 61,213 at P 56 (finding that to the extent a transmission project otherwise satisfies the region's evaluation metrics, that project should not be categorically excluded from potential selection in the regional transmission plan for purposes of cost allocation simply because the facility interconnects with or provides benefits to a transmission owner that is not enrolled in the WestConnect region).

⁵⁸ See *Pub. Serv. Co. of Colo.*, 151 FERC ¶ 61,128 at P 32.

ColumbiaGrid's transmission plan for purposes of cost allocation.⁵⁹ Moreover, under ColumbiaGrid Public Utilities' respective OATTs and Second Amended Functional Agreement, if the Order 1000 Enrolled Parties and Governmental Non-Enrolled Parties have not reached an agreement to fund a transmission project selected in the regional transmission plan for purposes of cost allocation, then ColumbiaGrid staff will re-run the preliminary cost allocation using the benefits associated with only the enrolled beneficiaries.⁶⁰ Thus, a transmission project that interconnects with a non-enrolled entity's transmission facilities located in the geographic area of the ColumbiaGrid region will be selected in the ColumbiaGrid regional transmission plan for purposes of cost allocation only if it provides sufficient benefits to enrolled beneficiaries to be selected. In addition, Avista's assertion that including in the regional transmission plan projects that interconnect with the facilities of non-enrolled parties violates Cost Allocation Principle No. 4 is inapposite, as making the aforementioned projects eligible for binding cost allocation will not require that ColumbiaGrid include in its regional transmission plan transmission projects that are located in another transmission planning region. As to Avista's argument that Bonneville Power's comments are beyond the scope of this compliance filing and constitute a collateral attack on the Commission's prior orders, we disagree. The issue that Bonneville Power raises is within the scope of compliance with Order No. 1000 and is closely related to the other issues on compliance here regarding the participation of non-public utilities and cost allocation.

3. Energize Eastside Project

35. In addition to protesting the proposed withdrawal provisions as discussed above, Eastside Citizens filed comments reiterating elements of its complaint in Docket No. EL15-74-000 against Puget Sound, ColumbiaGrid, Seattle City Light, and Bonneville Power regarding the Energize Eastside project.⁶¹ Specifically, Eastside Citizens referenced their complaint regarding Puget Sound's classification of the proposed Energize Eastside project as a local transmission project that is not subject to Order

⁵⁹ See Order No. 1000-A, 139 FERC ¶ 61,132 at P 419 (finding that a transmission developer that has load or an affiliate "within an area that would normally be considered a geographic part of a transmission planning region" must be enrolled in that region in order to propose transmission projects for evaluation and potential selection in that region's transmission plan for purposes of cost allocation).

⁶⁰ Avista, OATT, Attachment K (8.0.0), Part IV, § 6(b); Second Amended Functional Agreement, Appendix A § 6(b).

⁶¹ Eastside Citizens Protest at 2.

No. 1000's regional transmission planning or cost allocation requirements.⁶² Eastside Citizens also argue that ColumbiaGrid needs to be replaced with a fully functioning Regional Transmission Organization.⁶³ We find that Eastside Citizens' protests are beyond the scope of this compliance filing and are appropriately addressed in Docket No. EL15-74-000.⁶⁴

4. Other Compliance Directives

36. In the Third Compliance Order, the Commission directed ColumbiaGrid Public Utilities to revise the provisions that allow for extension of the initial 60 day negotiation period for Order 1000 Projects involving one or more Governmental Non-Enrolled Party to limit any such extension to a period of no longer than six months.⁶⁵ In the Fourth Compliance Filings, ColumbiaGrid Public Utilities revised their respective Attachment Ks and Second Amended Functional Agreement to limit the provisions for extension of the 60 day negotiation period so that such extension is to be no longer than 180 days.⁶⁶

37. In the Third Compliance Order, the Commission rejected as outside the scope of the compliance proceeding ColumbiaGrid Public Utilities' proposed revisions to the definition of Order 1000 Need.⁶⁷ In the Fourth Compliance Filings, ColumbiaGrid Public Utilities revised each respective Attachment K and Second Amended Functional Agreement to remove the revisions to the definition of Order 1000 Need.⁶⁸

⁶² *Id.* at 7-8.

⁶³ *Id.* at 9-12.

⁶⁴ See *Coalition of Eastside Neighborhoods for Sensible Energy, et al. v. Puget Sound Energy, et al.*, 153 FERC ¶ 61,076 (2015).

⁶⁵ Third Compliance Order, 151 FERC ¶ 61,127 at P 45.

⁶⁶ *E.g.*, Avista Transmittal Letter at 3; Avista OATT Attachment K (8.0.0), Part IV, § 6.4; Second Amended Functional Agreement, Appendix A § 6.4.

⁶⁷ Third Compliance Order, 151 FERC ¶ 61,127 at P 49.

⁶⁸ *E.g.*, Avista Transmittal Letter at 4; Avista OATT Attachment K (8.0.0), Appendix A; Second Amended Functional Agreement § 1.40.

38. In the Third Compliance Order, the Commission rejected ColumbiaGrid Public Utilities' provisions requiring a person to execute the Amended Functional Agreement as an Enrolled Party within 30 days of the Order 1000 Needs Meeting.⁶⁹ In the Fourth Compliance Filings, ColumbiaGrid Public Utilities revised each respective Attachment K and Second Amended Functional Agreement to extend the point at which a person is required to execute the Second Amended Functional Agreement to 30 days after the posting of the Final System Assessment Report and the Order 1000 Need Statements.⁷⁰ Additionally, ColumbiaGrid Public Utilities revised each respective Attachment K and Second Amended Functional Agreement to provide that the Final System Assessment Report will be posted on the ColumbiaGrid website.⁷¹

39. In the Third Compliance Order, the Commission rejected MATL's proposed deletion from its OATT provisions that discuss the contents of the Draft Local Transmission Plan and stakeholder process for review and comment, finding the revisions were not directed in the Second Compliance Order, are unexplained, and are outside the scope of the proceeding.⁷² In response, MATL revised its OATT to restore the language that was deleted as part of the Third Compliance Filing.⁷³

40. In the Third Compliance Order, the Commission found that it was not clear whether there is a difference between the draft Local Transmission Plan and the draft Local Planning Report and that the draft Local Planning Report did not appear to include a description of any needs, the underlying assumptions, applicable planning criteria, and the methodology used to determine the transmission needs in a manner consistent with the draft Local Transmission Plan.⁷⁴ Accordingly, the Commission directed MATL to submit a further compliance filing revising its OATT to explain how the draft Local

⁶⁹ Third Compliance Order, 151 FERC ¶ 61,127 at P 59.

⁷⁰ *E.g.*, Avista Transmittal Letter at 5; Avista OATT Attachment K (8.0.0), Part IV, § 1.9; Second Amended Functional Agreement, Appendix A § 12.2.

⁷¹ *E.g.*, Avista Transmittal Letter at 5; Avista OATT Attachment K (8.0.0), Part IV, § 3.5; Second Amended Functional Agreement, Appendix A § 3.5.

⁷² Third Compliance Order, 151 FERC ¶ 61,127 at P 55.

⁷³ *E.g.*, MATL Transmittal Letter at 10; MATL, OATT Title Page, Attachment K (4.1.0), Part II, § 4.9.1.

⁷⁴ Third Compliance Order, 151 FERC ¶ 61,127 at P 56.

Planning Report is different from the draft Local Transmission Plan.⁷⁵ In response, MATL revised its OATT to delete references to the draft Local Planning Report and restore references to the draft Local Transmission Plan. MATL states that it did not intend to create any confusion in referring to a “report” and the intent was to develop a single “plan.”⁷⁶

41. We find that ColumbiaGrid Public Utilities’ proposed revisions, as described above, comply with the directives of the Third Compliance Order.

The Commission orders:

(A) ColumbiaGrid Public Utilities’ respective compliance filings are hereby conditionally accepted, effective January 1, 2015.

(B) ColumbiaGrid Public Utilities are hereby directed to submit further compliance filings, within 30 days of the 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.

⁷⁵ *Id.*

⁷⁶ *E.g.*, MATL Transmittal Letter at 10; MATL, OATT Title Page, Attachment K (4.1.0), Part II, § 4.9.3.

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