

154 FERC ¶ 61,075  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southwest Power Pool, Inc.	Docket Nos. ER13-1937-002
Midcontinent Independent System Operator, Inc.	ER13-1938-001
Southwest Power Pool, Inc.	ER13-1939-001 (not consolidated)

ORDER ON COMPLIANCE FILINGS

(Issued February 2, 2016)

1. On February 19, 2015, the Commission issued an order<sup>1</sup> conditionally accepting, subject to additional compliance filings, the filings made by Southwest Power Pool, Inc. (SPP) and Midcontinent Independent System Operator, Inc. (MISO) to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000.<sup>2</sup>
2. On August 18, 2015, pursuant to section 206 of the Federal Power Act (FPA),<sup>3</sup> SPP and MISO separately submitted in Docket No. ER13-1937-002 and Docket No. ER13-1938-001, respectively, revisions to the interregional transmission

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<sup>1</sup> *Sw. Power Pool, Inc.*, 150 FERC ¶ 61,093 (2015) (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*, 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).

<sup>3</sup> 16 U.S.C. § 824e (2012).

coordination and cost allocation procedures of Article IX (Coordinated Regional Transmission Expansion Planning) to the SPP-MISO Joint Operating Agreement (SPP-MISO JOA)<sup>4</sup> to comply with the First Compliance Order (Second Compliance Filings).

3. On May 18, 2015, SPP submitted, in Docket No. ER13-1939-001, a filing related to its compliance with the interregional transmission coordination and cost allocation requirements of Order No. 1000 with respect to the Southeastern Regional Transmission Planning (SERTP) region (Second SPP-SERTP Compliance Filing). SPP included in its Second SPP-SERTP Compliance Filing information related to the proposed cost allocation for SPP's share of interregional transmission project costs, specifically with respect to transmission facilities below 300 kV. In the order addressing SPP's Second SPP-SERTP Compliance Filing, the Commission noted that the information SPP included in the Second SPP-SERTP Compliance Filing with respect to transmission facilities below 300 kV is not applicable to SPP-SERTP and is instead applicable to SPP-MISO. Therefore, the Commission stated that it would address any arguments regarding SPP's proposed cost allocation for SPP's share of costs for interregional transmission projects between 100 kV and 300 kV in the SPP-MISO proceeding (i.e., the proceeding we address in this order).<sup>5</sup>

4. For the reasons discussed below, we conditionally accept the Second Compliance Filings and require SPP and MISO to submit an additional compliance filing within 30 days of the date of issuance of this order.

## **I. Background**

5. 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, the Commission determined that the transmission planning requirements of

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<sup>4</sup> SPP, FERC Electric Tariff, Rate Schedules and Seams Agreements, Rate Schedule 9, Art. IX (Coordinated Regional Transmission Expansion Planning); MISO, FERC Electric Tariff, MISO Rate Schedules, Joint Operating Agreement Midwest ISO and SPP, Art. IX (Coordinated Regional Transmission Expansion Planning) (collectively, SPP-MISO JOA). Unless otherwise noted, citations to the SPP-MISO JOA in this order refer to the SPP version filed in Docket No. ER13-1937-002.

<sup>5</sup> *Sw. Power Pool, Inc.*, 152 FERC ¶ 61,172, at P 29 (2015) (Second SPP-SERTP Compliance Order).

Order No. 890<sup>6</sup> were too narrowly focused geographically and failed to provide for adequate analysis of benefits associated with interregional transmission facilities.<sup>7</sup> Therefore, in Order No. 1000, the Commission required that each public utility transmission provider: (1) establish further procedures with each of its neighboring transmission planning regions to coordinate and share the results of the respective regional transmission plans to identify possible interregional transmission facilities that may address transmission needs more efficiently or cost effectively than separate regional transmission facilities and jointly evaluate those identified interregional transmission facilities;<sup>8</sup> and (2) describe the methods by which it will identify and evaluate interregional transmission facilities, include a description of the type of transmission studies that will be conducted to evaluate conditions on neighboring systems, and explain in its OATT how stakeholders and transmission developers can propose interregional transmission facilities for the public utility transmission providers in neighboring transmission planning regions to evaluate jointly.<sup>9</sup>

6. The interregional cost allocation reforms in Order No. 1000 also required each public utility transmission provider, together with the public utility transmission providers in its own transmission planning region and a neighboring transmission planning region, to have a common method or methods for allocating the costs of a new interregional transmission facility among the beneficiaries of that transmission facility in the two neighboring transmission planning regions in which the transmission facility is located.<sup>10</sup> The Commission required that each public utility transmission provider's

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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).

<sup>7</sup> The Commission defined an interregional transmission facility as one that is located in two or more transmission planning regions. Order No 1000-A, 139 FERC ¶ 61,132 at P 494 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 482 n.374).

<sup>8</sup> Order No 1000-A, 139 FERC ¶ 61,132 at P 494 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 493 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 396)).

<sup>9</sup> Order No 1000-A, 139 FERC ¶ 61,132 at P 493 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 398) and P 522.

<sup>10</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 578, 582 and Order No. 1000-A, 139 FERC ¶ 61,132 at P 626.

interregional cost allocation method or methods satisfy six interregional cost allocation principles.<sup>11</sup> To be eligible for interregional cost allocation, an interregional transmission facility must be selected in the relevant transmission planning regions' regional transmission plans for purposes of cost allocation.<sup>12</sup>

## **II. Notice of Filing and Responsive Pleadings**

7. Notice of SPP's compliance filing, in Docket No. ER13-1937-002, and MISO's compliance filing, in Docket No. ER13-1938-001, were published in the *Federal Register*, 80 Fed. Reg. 52,044 (2015) and 80 Fed. Reg. 51,544 (2015), respectively, with interventions and protests due on or before September 8, 2015. Sustainable FERC Project and Natural Resources Defense Council (jointly) and Midcontinent MCN LLC filed timely motions to intervene. American Wind Energy Association, the Wind Coalition, and the Sustainable FERC Project (collectively, Wind Parties) and International Transmission Company, Michigan Electric Transmission Company, ITC Midwest LLC, and ITC Great Plains, LLC (collectively, ITC Companies) filed timely protests.

8. On September 23, 2015, in Docket Nos. ER13-1937-002 and ER13-1938-001, SPP filed an answer to Wind Parties' protest, and SPP and MISO together filed an answer to ITC Companies' protest. On October 8, 2015, in Docket No. ER13-1937-002, Wind Parties filed an answer to SPP's answer, and ITC Companies filed an answer in Docket Nos. ER13-1937-002 and ER13-1938-001 to SPP and MISO's joint answer.

## **III. Discussion**

### **A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities filing them parties to these proceedings. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by SPP, SPP and MISO, Wind Parties, and ITC Companies because they have provided information that has assisted us in our decision-making process.

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<sup>11</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 603.

<sup>12</sup> *Id.* P 400.

**B. Substantive Matters**

10. As discussed below, we find that SPP's and MISO's Second Compliance Filings partially comply with the directives in the First Compliance Order and require SPP and MISO to make additional compliance filings within 30 days of the date of issuance of this order.

**1. Interregional Coordination General Requirements – Definition of an Interregional Project****a. First Compliance Order**

11. In the First Compliance Order, the Commission found that, while SPP's and MISO's proposals to allow only interconnecting interregional transmission facilities to be eligible for interregional cost allocation is consistent with the requirements of Order No. 1000, limiting this interconnection to only interregional transmission facilities that interconnect to transmission facilities under the control of SPP and MISO is unduly limiting. The Commission explained that Order No. 1000 did not limit stakeholders and transmission developers to proposing only interregional transmission facilities that would interconnect to *existing* transmission facilities. Thus, the Commission found that SPP's and MISO's proposed language would preclude interregional transmission facilities from interconnecting with transmission facilities that are selected in the regional plan for purposes of cost allocation but that are currently under development and therefore not yet under the control of SPP or MISO. Accordingly, the Commission directed SPP and MISO to revise their definition of an Interregional Project to be consistent with Order No. 1000, which defines an interregional transmission facility as one that is located in two or more transmission planning regions.<sup>13</sup>

**b. Second Compliance Filings**

12. In the Second Compliance Filings, SPP and MISO propose to amend the SPP-MISO JOA to state that an Interregional Project is a project that “may interconnect to facilities in both the MISO and SPP regions or be wholly within the MISO or SPP region.”<sup>14</sup> SPP and MISO also propose language stating that “[t]he facilities to which the

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<sup>13</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 30 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 482 n.374).

<sup>14</sup> SPP-MISO JOA, art. IX, § 9.6.3.1(vi) (0.0.0).

project is proposed to interconnect may be either existing facilities or transmission projects that have been approved in a Party's regional transmission plan."<sup>15</sup>

**c. Commission Determination**

13. We find that SPP and MISO have partially complied with the Commission's directive in the First Compliance Order to define an Interregional Project consistent with the definition of an interregional transmission facility in Order No. 1000. We find that SPP and MISO's proposal to define an Interregional Project as a project that "may interconnect to facilities in both the MISO and SPP regions" is consistent with the definition of an interregional transmission facility in Order No. 1000.

14. In addition, while SPP and MISO's proposal to also include in the definition of an Interregional Transmission Project transmission facilities that are "wholly within the MISO or SPP region" goes beyond what the Commission required in Order No. 1000, we accept this proposed language because SPP and MISO have agreed to it voluntarily. Interregional Cost Allocation Principle 4 specifies that "costs cannot be assigned *involuntarily* to a transmission planning region in which that interregional transmission facility is not located."<sup>16</sup> The Commission noted in its discussion of Interregional Cost Allocation Principle 4 that "regions are free to negotiate interregional transmission arrangements that allow for the allocation of costs to beneficiaries that are not located in the same transmission planning region as any given interregional transmission facility."<sup>17</sup> Accordingly, we accept this proposal because SPP and MISO have voluntarily agreed to allow for the allocation of costs to beneficiaries that are not located in the same transmission planning region as a given interregional transmission facility.

15. However, we find that SPP and MISO's proposed language that permits an Interregional Project to connect to existing facilities or transmission projects that have been approved in SPP's or MISO's regional transmission plans does not comply with the Commission's directive in the First Compliance Order and, therefore, reject that proposed language. Specifically, we find that the phrase "transmission projects that have been approved in a Party's regional transmission plan" is vague and ambiguous because SPP and MISO have not defined the term "approved." Furthermore, in the First Compliance

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<sup>15</sup> SPP-MISO JOA, art. IX, § 9.6.3.1(vi) (0.0.0).

<sup>16</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 657, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 696 (emphasis added).

<sup>17</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 629 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 582).

Order, the Commission found that SPP's and MISO's then proposed language would preclude interregional transmission facilities from interconnecting with transmission facilities that are selected in the regional plan for purposes of cost allocation but that are currently under development and therefore not yet under the control of SPP or MISO.<sup>18</sup> The currently proposed language fails to adequately address this latter point. Accordingly, we direct SPP and MISO to submit, within 30 days of the date of issuance of this order, a further compliance filing that replaces the phrase "transmission projects that have been approved in a Party's regional transmission plan" with the phrase "transmission projects included in the regional transmission plan that are currently under development."<sup>19</sup>

## **2. Transparency and Stakeholder Participation**

### **a. First Compliance Order**

16. In the First Compliance Order, the Commission required that SPP and MISO clarify their Interregional Planning Stakeholder Advisory Committee voting process. The Commission noted that, while the proposed SPP-MISO JOA stated that Interregional Planning Stakeholder Advisory Committee participation is open to all stakeholders, the proposed SPP-MISO JOA did not define or otherwise explain the voting process for SPP or MISO. The Commission stated that, in the absence of such an explanation, it was unclear how that voting process would achieve the goal of enabling all stakeholders to participate fully in the Interregional Planning Stakeholder Advisory Committee, including which stakeholders will be participating in the voting process and how the votes of those that do participate will be considered. Therefore, the Commission found that, without transparency into how the voting process is defined, the potential for the voting process to lessen the value of input from particular stakeholder groups exists. Accordingly, the Commission directed SPP and MISO to explain how all stakeholders can participate in the Interregional Planning Stakeholder Advisory Committee, which stakeholders will participate in the Interregional Planning Stakeholder Advisory Committee voting process, and how their votes will be considered.<sup>20</sup>

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<sup>18</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 30.

<sup>19</sup> *See, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,247, at PP 15, 18 (2015); *Alabama Power Company, OATT, K-5*, § 4.1.A.(i) (2.0.0); *Sw. Power Pool, Inc.*, 152 FERC ¶ 61,172, at PP 10-11 (2015); *Alabama Power Company, OATT K-8*, § 2.1.A (1.0.0).

<sup>20</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 88.

**b. Second Compliance Filings**

17. To address the requirement to explain how all stakeholders may participate in the Interregional Planning Stakeholder Advisory Committee, SPP and MISO propose to add language to the SPP-MISO JOA stating that “[a]ll [Interregional Planning Stakeholder Advisory Committee] meetings will be public” and that, “[a]t an [Interregional Planning Stakeholder Advisory Committee] meeting any stakeholder may provide comments or ask questions.”<sup>21</sup>

18. To address the requirement to explain which stakeholders will participate in the Interregional Planning Stakeholder Advisory Committee voting process and how their votes will be considered, SPP and MISO propose to revise the portion of the SPP-MISO JOA pertaining to the voting process of the Interregional Planning Stakeholder Advisory Committee as follows:

~~Each Party shall define the voting process representing their stakeholders on items requiring votes in [Interregional Planning Stakeholder Advisory Committee] meetings.~~ Each Party’s defined voting group shall represent one vote, and each Party’s respective voting group may provide a recommendation to the [Joint Planning Committee] on behalf of the [Interregional Planning Stakeholder Advisory Committee]. The voting members of the SPP portion of the [Interregional Planning Stakeholder Advisory Committee] are the members of the SPP Seams Steering Committee, along with a representative from each SPP Transmission Owner that interconnects to MISO but does not have a representative on the Seams Steering Committee. The voting members of the MISO portion of the [Interregional Planning Stakeholder Advisory Committee] are the sector representatives from the MISO Planning Advisory Committee.<sup>22</sup>

19. SPP and MISO state that the proposed revisions identify the voting members of the Interregional Planning Stakeholder Advisory Committee for both SPP and MISO and

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<sup>21</sup> SPP-MISO JOA, art. IX, § 9.1.2.1. *See also* SPP Transmittal at 17-18 and MISO Transmittal at 16.

<sup>22</sup> SPP-MISO JOA, art. IX, § 9.1.2.3.

explain how the votes are aggregated for each RTO, as required in the First Compliance Order.<sup>23</sup>

**c. Protest**

20. Wind Parties contend that SPP's Interregional Planning Stakeholder Advisory Committee voting process is unduly discriminatory to certain stakeholders, encourages, rather than protects against, outcomes that favor one interest group and hampers the goal of achieving cost-effective solutions to transmission needs. Wind Parties also assert that SPP's proposed voting process will not enable all stakeholders to participate fully in the Interregional Planning Stakeholder Advisory Committee and request that the Commission instruct SPP to create membership criteria for the Interregional Planning Stakeholder Advisory Committee that more fully create a true balance among the votes of different interest groups.<sup>24</sup>

21. Wind Parties state that the SPP Seams Steering Committee is made up of two sectors: transmission owners and transmission users. However, Wind Parties argue that parties with different interests (such as transmission developers, generation owners who are not transmission owners, transmission users who do not own generation or transmission, and other market participants) are considered together in the transmission users sector and may not be represented because there is no requirement that different types of transmission users receive membership on the Seams Steering Committee, even if membership criteria are met. Wind Parties aver that, while SPP asserts that all stakeholders will have an opportunity to speak and participate in Interregional Planning Stakeholder Advisory Committee meetings, only the members of the Interregional Planning Stakeholder Advisory Committee will have a vote. Wind Parties contend that, by allowing only certain members of SPP to have a vote on the Interregional Planning Stakeholder Advisory Committee, other stakeholders are given "second-class status."<sup>25</sup>

22. Wind Parties contend that, contrary to SPP, MISO's representation on the Interregional Planning Stakeholder Advisory Committee consists of sectors representing a broad range of stakeholder groups. Wind Parties note that in MISO, the voting in each sector is weighted according to the votes cast and represents the opinions of all of the participating stakeholders in the MISO region. Wind Parties aver that, in contrast, SPP's process allows each company that is on the Interregional Planning Stakeholder Advisory

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<sup>23</sup> SPP Transmittal at 17-18 and MISO Transmittal at 16.

<sup>24</sup> Wind Parties Protest at 2.

<sup>25</sup> *Id.* at 3.

Committee to vote their company position without regard for the opinion of others who are not represented on the committee.<sup>26</sup>

**d. Answers**

23. SPP asserts that Wind Parties do not point to any requirement of the Commission or Order No. 1000 requiring the changes they request nor demonstrate that the SPP Interregional Planning Stakeholder Advisory Committee proposal will preclude the full stakeholder participation required by Order No. 1000. SPP states that representation on the Interregional Planning Stakeholder Advisory Committee is currently balanced between transmission owning members and transmission using members and that there is already general parity between these groups, although the exact number of transmission owning members and transmission using members may change from time to time as the membership of the Seams Steering Committee changes.<sup>27</sup> SPP also states that its Bylaws require that all stakeholder working groups “achieve a widespread and effective representation of the Membership” but that this requirement does not require an equal number of transmission owning members and transmission using members.<sup>28</sup> SPP further notes that there are already Seams Steering Committee members from the subcategories that Wind Parties assert are not represented (i.e., transmission developers, generation owners who are not transmission owners, and transmission users who do not own generation or transmission such as certain municipal utilities) and these members are therefore members of the Interregional Planning Stakeholder Advisory Committee.<sup>29</sup>

24. In addition, SPP states that the proposed Interregional Planning Stakeholder Advisory Committee process provides for full stakeholder participation and does not

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<sup>26</sup> *Id.* at 4.

<sup>27</sup> SPP states that the Seams Steering Committee currently has five transmission using members and four transmission owning members. SPP explains that the Interregional Planning Stakeholder Advisory Committee structure proposed in the SPP-MISO JOA (which will add transmission owners connecting to MISO) will result in an additional two transmission owners added to SPP’s representation on the Interregional Planning Stakeholder Advisory Committee, leading to a voting membership of six transmission owning members and five transmission using members. SPP September 23 Answer at 5.

<sup>28</sup> SPP September 23 Answer at 5, 5 n.15 (citing Southwest Power Pool, Inc., Bylaws, First Revised Volume No. 4 at § 3.1).

<sup>29</sup> *Id.* at 6.

relegate non-voting members to “second-class status,” as Wind Parties allege. SPP claims that the Interregional Planning Stakeholder Advisory Committee structure is similar to the structure of other SPP working groups, task forces, or committees, which are composed of a smaller representation of SPP Members but are open to participation by all members and stakeholders. SPP also notes that, because the Interregional Planning Stakeholder Advisory Committee’s vote to the Joint Planning Committee is advisory, the Joint Planning Committee is not limited to only considering the votes of the Interregional Planning Stakeholder Advisory Committee; the Joint Planning Committee can take into account the comments of all stakeholders. SPP stresses that this structure was approved by the Commission in the First Compliance Order and argues that, because it complied with the Commission’s directives in that order, further compliance is not required with respect to defining the membership of the Interregional Planning Stakeholder Advisory Committee.<sup>30</sup>

25. In their answer to SPP’s Answer, Wind Parties reiterate their claims that SPP’s proposal is unduly discriminatory. Wind Parties argue that, because the membership of the Seams Steering Committee is normally populated by at least 50 percent transmission owning members, the proposal ensures that the majority of the membership of the Interregional Planning Stakeholder Advisory Committee will be incumbent transmission owners and no stakeholder groups other than incumbent transmission owners have a guaranty of membership or to vote on the Interregional Planning Stakeholder Advisory Committee. In response to SPP’s assertion that the Interregional Planning Stakeholder Committee votes are considered as advisory by the Joint Planning Committee, Wind Parties state that SPP has made multiple public statements that the Joint Planning Committee will follow the recommendations of the Interregional Planning Stakeholder Advisory Committee.<sup>31</sup>

26. Wind Parties dispute SPP’s assertion that the Seams Steering Committee is currently balanced sufficiently to satisfy Wind Parties’ concerns. Wind Parties state that, of the eight members of the Seams Steering Committee, only three voting members are not transmission owners, only one of these is a generator owner that does not own its own transmission, and no voting members of the Seams Steering Committee represent renewable generation or consumer interests.<sup>32</sup> Wind Parties assert that, because SPP’s proposal makes membership in the Interregional Planning Stakeholder Advisory Committee conditioned on SPP membership, several stakeholder interests are not able to

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<sup>30</sup> *Id.* at 7-8.

<sup>31</sup> Wind Parties October 8 Answer at 2-3.

<sup>32</sup> *Id.* at 3 n. 3 (citing [http://www.spp.org/committee\\_detail.asp?commID=96](http://www.spp.org/committee_detail.asp?commID=96)).

participate as a member of the Interregional Planning Stakeholder Advisory Committee or to influence the actions of the Joint Planning Committee. Wind Parties state that SPP's Interregional Planning Stakeholder Advisory Committee proposal runs contrary to the Commission's policy and precedent, which encourages input and participation from multiple parties with varying interests. Wind Parties ask the Commission to require SPP to replace the membership requirement and voting right in the Interregional Planning Stakeholder Advisory Committee with a stakeholder process open to all who wish to express their opinions and suggestions to the Joint Planning Committee.<sup>33</sup>

**e. Commission Determination**

27. We find that SPP and MISO have complied with the Commission's directives in the First Compliance Order. We find that the interregional transmission coordination procedures that the Commission accepted in the First Compliance Order, along with the additional detail provided here, explain how all stakeholders can participate in the Interregional Planning Stakeholder Advisory Committee. In addition, the proposed revisions make clear which stakeholders will participate in the Interregional Planning Stakeholder Advisory Committee voting process and how the votes of each region will be considered. Therefore, we find that SPP and MISO's proposal complies with the transparency and stakeholder requirements of Order No. 1000.

28. We disagree with Wind Parties' assertion that the voting structure of the Interregional Planning Stakeholder Advisory Committee prevents stakeholders with diverse interests from participating in the SPP-MISO interregional transmission coordination process. Order No. 1000 requires that stakeholders have an opportunity to provide meaningful and timely input,<sup>34</sup> but it does not require a particular stakeholder voting structure for the Order No. 1000 interregional coordination process. As such, we disagree with Wind Parties' fundamental argument that stakeholders with varying interests will not be able to provide meaningful input into the SPP-MISO interregional transmission coordination process unless those stakeholders receive voting rights on the Interregional Planning Stakeholder Advisory Committee. Although an entity must be a member of the Interregional Planning Stakeholder Advisory Committee to potentially receive a vote in that committee, there is no restriction on who may attend and participate in meetings by asking questions and providing comments. While Wind Parties speculate that the restrictions on the ability to vote in the Interregional Planning Stakeholder Advisory Committee will lead to unduly discriminatory outcomes, they provide no

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<sup>33</sup> *Id.* at 4.

<sup>34</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 522.

evidence to support that assertion, and we have no reason to believe that an open and transparent interregional coordination process will lead to such outcomes.

### **3. Cost Allocation Method**

#### **a. First Compliance Order**

29. The Commission conditionally accepted SPP's and MISO's proposals to comply with the cost allocation requirements for interregional transmission facilities in Order No. 1000, subject to a further compliance filing.<sup>35</sup> Specifically, the Commission accepted SPP and MISO's proposal to use adjusted production costs as the basis to allocate the costs of interregional transmission facilities that address regional economic transmission needs.<sup>36</sup> In addition, the Commission accepted SPP's proposal to allocate the costs of an interregional transmission facility meant to address reliability needs based on a combination of avoided costs and adjusted production costs.<sup>37</sup> The Commission directed MISO to revise its version of the SPP-MISO JOA to adopt SPP's cost allocation method that applies to interregional transmission facilities addressing regional reliability needs.<sup>38</sup>

30. The Commission found the provision in SPP's version of the SPP-MISO JOA regarding the potential adverse impacts of interregional transmission projects on the systems of other neighboring transmission planning regions complied with Interregional Cost Allocation Principle 4. However, the Commission found that MISO did not include a similar provision in its version of the SPP-MISO JOA and therefore directed MISO to add a provision to MISO's version of the SPP-MISO JOA that matches the provision in SPP's version of the SPP-MISO JOA.<sup>39</sup>

31. Finally, the Commission found SPP's and MISO's proposals did not comply with Interregional Cost Allocation Principle 6 because SPP and MISO did not include an interregional cost allocation method that addresses regional transmission needs driven by public policy requirements.<sup>40</sup> Accordingly, the Commission directed SPP and MISO to

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<sup>35</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 148.

<sup>36</sup> *Id.* PP 149, 151, 153, 155, 158.

<sup>37</sup> *Id.* PP 150-156, 158.

<sup>38</sup> *Id.* P 158.

<sup>39</sup> *Id.* P 154.

<sup>40</sup> *Id.* PP 149-150, 156-159.

submit a further compliance filing to propose a new interregional cost allocation method that applies to interregional transmission facilities addressing regional transmission needs driven by public policy requirements.<sup>41</sup> The Commission noted that, to the extent SPP and MISO propose different interregional cost allocation method(s) for interregional transmission facilities addressing regional transmission needs driven by reliability, economics, and public policy requirements than were accepted in the First Compliance Order, the Commission would address those proposed interregional cost allocation method(s) in the instant order.<sup>42</sup>

**b. Second Compliance Filing**

32. SPP and MISO state that they have agreed to use the interregional cost allocation method that the Commission accepted in the First Compliance Order for interregional transmission projects meant to address economic issues.<sup>43</sup> Therefore, they do not propose changes to the interregional economic transmission project cost allocation method currently in the SPP-MISO JOA, which is based on adjusted production costs.

33. SPP and MISO state that they have agreed to use the interregional cost allocation method that SPP proposed and that the Commission accepted in the First Compliance Order for interregional transmission facilities meant to address regional reliability needs.<sup>44</sup> Specifically, SPP and MISO propose to calculate the benefits for an interregional transmission project identified by the joint planning committee as primarily addressing a reliability issue by using a combination of avoided costs and adjusted production costs.<sup>45</sup> However, SPP and MISO propose two changes to the interregional reliability cost allocation method that SPP initially proposed and that the Commission accepted in the First Compliance Order. First, SPP and MISO state that they have agreed to remove the calculation of benefits for delayed transmission projects. SPP and MISO explain that this change simplifies the metric and better aligns the SPP and MISO processes for calculating the reliability metric. The regions also state that removal of

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<sup>41</sup> *Id.* at P 159.

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

<sup>43</sup> SPP, SPP-MISO JOA, art. IX, § 9.6.3.1.1.a. *See also* SPP Transmittal at 14 and MISO Transmittal at 13.

<sup>44</sup> SPP Second Compliance Filing at 14-15; MISO Second Compliance Filing at 13-14. *See also e.g.*, First Compliance Order, 150 FERC ¶ 61,093 at P 150.

<sup>45</sup> SPP, SPP-MISO JOA, art. IX, § 9.6.3.1.1.b.ii., referencing art. IX, § 9.6.3.1.1.a.

transmission project deferment is not expected to be substantive, as over the 20-year benefit calculation of a transmission project, any transmission project deferment benefit is extremely minor.<sup>46</sup> Second, SPP states that, although the Commission accepted SPP's proposed language, SPP agreed to slight changes in order to reach agreement with MISO.<sup>47</sup> Specifically, SPP and MISO propose that the avoided cost provision that SPP initially proposed as part of the interregional reliability transmission project cost allocation method be revised as follows:

When an ~~i~~Interregional ~~p~~Project would replace ~~or defer~~ a Party's regional project to address a reliability issue, the reliability benefit is the avoided ~~or delayed~~ cost of each Party's regional project(s) addressing the reliability issue(s). By agreement of the [Joint Planning Committee], an Interregional Project shall be eligible to displace one or more regional projects in either SPP or MISO, as defined in their respective tariffs, if the Interregional Project is able to more efficiently or cost-effectively meet the identified need than the displaced project.<sup>[48]</sup>

34. SPP and MISO state that they have agreed to use avoided cost-only as the interregional cost allocation method for interregional transmission projects meant to address regional needs driven by public policy requirements. Specifically, SPP and MISO propose the following provision that applies to interregional transmission projects identified by the Joint Planning Committee as primarily addressing public policy issue(s):

When an Interregional Project would replace a Party's regional project to address a public policy issue, the public policy benefit is the avoided cost of each Party's regional project(s) addressing the public policy issue(s). By agreement of the [Joint Planning Committee], an Interregional Project shall be eligible to displace one or more regional projects in either SPP or MISO, as defined in their respective tariffs, if the Interregional Project is able to more

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<sup>46</sup> SPP Transmittal at 16 and MISO Transmittal at 14.

<sup>47</sup> SPP Transmittal at 14.

<sup>48</sup> SPP, SPP-MISO JOA, art. IX, § 9.6.3.1.1.b (0.1.0).

efficiently or cost-effectively meet the identified need than the displaced project.<sup>[49]</sup>

35. MISO also adds new section 9.3.3.4.1 (Evaluating Potential Impact of Proposed Interregional Projects to Other Transmission Planning Regions) to its version of the SPP-MISO JOA to include the language in SPP's version of the SPP-MISO JOA that the Commission found in the First Compliance Order to comply with Interregional Cost Allocation Principle 4.<sup>50</sup>

**c. Protests**

36. Wind Parties argue that the Commission should require SPP to use the same interregional cost allocation method for interregional public policy transmission projects that SPP proposed for interregional reliability transmission projects (i.e., a combination of avoided cost and adjusted production cost savings). Wind Parties argue that, like the proposed interregional reliability transmission project cost allocation method, interregional public policy transmission projects can also have economic benefits that can be captured through adjusted production cost savings. Wind Parties argue that SPP has not explained the discrepancy between the two proposed cost allocation methods.<sup>51</sup>

37. ITC Companies protest SPP and MISO's proposal to categorize interregional transmission projects into one of three segregated project categories, based on economic, reliability, or public policy benefits. ITC Companies argue that interregional transmission projects providing benefits sufficient to meet a cost-benefit threshold when all types of benefits are considered simultaneously will consistently be rejected simply because they do not provide a sufficient level of the benefit type specified by the project category measured in isolation.<sup>52</sup> ITC Companies argue that the costs of interregional transmission projects approved based on avoided project costs but that also provide benefits beyond avoided project cost will be allocated only to customers who would have paid for the avoided regional projects. According to ITC Companies, this allocation will give other beneficiaries a free ride, contrary to the Commission's cost causation principles.<sup>53</sup> ITC Companies assert that only the use of a single, unified interregional

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<sup>49</sup> SPP, SPP-MISO JOA, art. IX, § 9.6.3.1.1.c (0.1.0).

<sup>50</sup> MISO, SPP-MISO JOA, art. IX, § 9.3.3.4.1 (31.0.0.0).

<sup>51</sup> Wind Parties Protest at 1, 4-5.

<sup>52</sup> ITC Companies Protest at 9.

<sup>53</sup> *Id.* at 10.

project category and set of approval criteria across both regional planning processes and the joint interregional planning process can address this concern.<sup>54</sup>

**d. Answers**

38. SPP and MISO jointly filed an answer to ITC Companies' protest. SPP alone filed an answer to Wind Parties' protest.

39. With regard to the cost allocation methods applied to economic and reliability projects, SPP and MISO state that the Commission already approved the methods as proposed by SPP and directed MISO to file the same language. In addition, as directed by the Commission, SPP and MISO also filed a method for allocating the costs of public policy projects between SPP and MISO, which is based on avoided regional transmission project costs. They state that the use of this method to allocate costs between the two regions represents a joint agreement between SPP and MISO and that the Commission has found the avoided cost-only method to be just and reasonable and consistent with the interregional cost allocation requirements of Order No. 1000 in other regions, as well as between SPP and the SERTP region.<sup>55</sup>

40. SPP similarly states in its answer to Wind Parties that its proposed revisions accomplish the objectives of Order No. 1000 by establishing an interregional coordination process that evaluates whether transmission needs identified through the regional transmission planning processes in SPP and MISO can be addressed more efficiently or cost-effectively through an interregional transmission project, which complies with the requirements of Order No. 1000 and the First Compliance Order. SPP states, however, that to the extent Wind Parties have raised issues outside the compliance requirements in the First Compliance Order, SPP does not oppose Wind Parties raising any proposed modifications to the interregional process in the stakeholder process for consideration at a later time after a final order on Order No. 1000 compliance has been received.<sup>56</sup>

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<sup>54</sup> *Id.* at 9-10.

<sup>55</sup> SPP-MISO September 23 Answer at 5, 5 n.11 (citing *ISO New England Inc.*, 151 FERC ¶ 61,133, at P 175 (2015) and *Southwest Power Pool, Inc.*, et al., 150 FERC ¶ 61,210 (2015); *see also* SPP Answer at 8, 8 n.20.

<sup>56</sup> SPP September 23 Answer at 8.

e. **Commission Determination**

41. We find that SPP and MISO's proposed interregional cost allocation methods comply with the requirements of Order No. 1000 and the directives in the First Compliance Order. We also find that SPP and MISO have complied with Order No. 1000's requirements that neighboring transmission planning regions propose a common interregional cost allocation method.<sup>57</sup>

42. In the First Compliance Order, the Commission accepted without revision SPP and MISO's interregional cost allocation method for interregional transmission projects to address regional economic needs.<sup>58</sup> SPP and MISO have not proposed changes to this interregional cost allocation method, which is based on adjusted production costs, and we find this method continues to be consistent with Interregional Cost Allocation Principles 1, 2, 3, and 5. As discussed below, we also find that the proposed interregional cost allocation method for economic-related needs is now also consistent with Interregional Cost Allocation Principle 4.

43. In the First Compliance Order, the Commission accepted without revision SPP's interregional cost allocation method for interregional transmission projects to address regional reliability needs, and in its compliance filing MISO has proposed to adopt SPP's approach. While SPP and MISO propose to remove from the previously-accepted avoided cost calculation the costs of delayed transmission projects, we find that SPP and MISO's interregional cost allocation method for reliability-related needs, which relies on a combination of avoided costs and adjusted production costs, is consistent with Interregional Cost Allocation Principles 1, 2, 3, and 5. We find convincing SPP and MISO's explanation that the removal of costs related to transmission project delay or deferment is not expected to be substantive because, over the 20-year benefit calculation of an interregional transmission facility, any transmission facility deferment benefit is likely to be extremely minor. As discussed below, we also find that the proposed reliability interregional cost allocation method is now also consistent with Interregional Cost Allocation Principle 4.

44. SPP and MISO propose an avoided cost-only interregional cost allocation method for interregional transmission facilities to address regional transmission needs driven by public policy requirements. As discussed below, we find that this proposal is consistent with Interregional Cost Allocation Principles 1, 2, 3, 4, and 5. We also find that, by proposing a cost allocation method to address transmission needs driven by reliability,

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<sup>57</sup> We address ITC Companies' arguments in section III.B.7 below.

<sup>58</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 158.

economic, and public policy-related needs, SPP and MISO's proposal is consistent with Interregional Cost Allocation Principle 6, as discussed below.

45. We find that SPP and MISO's proposal to use avoided cost as the cost allocation method for interregional transmission facilities driven by public policy requirements complies with Order No. 1000's Interregional Cost Allocation Principles. SPP and MISO propose to quantify the regional benefits of a proposed interregional transmission facility to address transmission needs driven by public policy requirements based upon the cost of regional transmission projects driven by public policy requirements in each of their regional transmission plans that could be displaced by the proposed interregional transmission facility that addresses such needs.<sup>59</sup> Such a proposal is an "avoided cost-only method," meaning a cost allocation method that relies exclusively on avoided-costs to account for benefits associated with transmission needs driven by public policy requirements. The Commission has previously concluded that an avoided cost-only method was not permissible as the sole cost allocation method for *regional* transmission projects proposed for selection in the regional transmission plan for purposes of cost allocation. As explained below, we conclude that an avoided cost-only method is permissible as the cost allocation methodology for *interregional* transmission projects proposed for interregional cost allocation to address transmission needs driven by public policy projects.

46. As an initial matter, we find that the interplay between the regional transmission planning and interregional coordination requirements of Order No. 1000 address, at the interregional level, the Commission's concerns regarding use of the avoided cost-only method at the regional level. The Commission previously found that an avoided cost-only method for allocating the costs of new regional transmission facilities selected in the regional transmission plan for purposes of cost allocation at the regional level did not comply with Regional Cost Allocation Principle 1.

47. Specifically, the Commission stated that using one regional cost allocation method that relies solely on avoided costs to capture the potential benefits associated with transmission needs driven by regional reliability, economic, and public policy requirements does not allocate costs in a manner that is at least roughly commensurate with estimated benefits because it does not adequately assess the potential benefits provided by that transmission facility. Rather, an avoided cost-only cost allocation method when used at the regional level would consider as benefits only the cost savings that result when a *local* transmission project is avoided due to the selection of a regional

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<sup>59</sup> We note that transmission projects eligible to be displaced must include transmission projects SPP and MISO have selected in their regional transmission plans for purposes of cost allocation.

transmission facility in the regional transmission plan for purposes of cost allocation, failing to account for benefits that were not identified in the local transmission planning processes but that could be recognized at the regional level through a regional analysis of more efficient or cost-effective solutions to regional transmission needs.<sup>60</sup> Additionally, in rejecting an avoided cost-only cost allocation method at the regional level, the Commission stated that a regional transmission facility that resulted in a more efficient or cost-effective transmission solution than what was included in the roll-up of local transmission plans would not be eligible for regional cost allocation if there was no transmission facility in the local transmission plans that it would displace.<sup>61</sup> A key consideration in the Commission's finding, therefore, was the interplay between the scope of local and regional transmission planning.

48. However, we conclude that the regional transmission planning and interregional transmission coordination reforms required by Order No. 1000 address these concerns regarding the use of an avoided cost-only method at the interregional level. Through the reforms implemented by Order No. 1000, we expect that the regional transmission planning process will result in the identification of regional transmission facilities that potential interregional transmission facilities may displace. In Order No. 1000, the Commission required reforms to existing transmission planning processes to ensure that public utility transmission providers "adequately assess the potential benefits of alternative transmission solutions at the regional level that may meet the needs of a transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process."<sup>62</sup> For instance, the Commission required public utility transmission providers to work within a transmission planning region to create a regional transmission plan that identifies transmission facilities needed to meet reliability, economic, and public policy requirements, and reflects fair consideration of transmission facilities proposed by incumbent and non-incumbent transmission developers, as well as interregional transmission facilities.<sup>63</sup> Thus, in contrast to the concerns that the Commission had with

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<sup>60</sup> *Louisville Gas & Electric Co.*, 144 FERC ¶ 61,054, at PP 249-250 (2013) (SERTP First Regional Compliance Order).

<sup>61</sup> SERTP First Regional Compliance Order, 144 FERC ¶ 61,054 at P 251.

<sup>62</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 81.

<sup>63</sup> *See e.g., id.* P 11.

an avoided cost-only cost allocation method when used at the regional level,<sup>64</sup> we expect there will be regional transmission facilities identified in the regional transmission planning process that are needed to meet transmission needs driven by reliability, economic, and/or public policy requirements that potential interregional transmission facilities may displace.

49. As noted above, the relationship between the regional transmission planning and interregional transmission coordination requirements of Order No. 1000 is central to our finding here. Order No. 1000's interregional transmission coordination requirements build upon and complement the reforms required in the regional transmission planning processes; as a result, use of an avoided cost-only cost allocation method at the interregional level would consider as benefits the cost savings that result when a regional transmission project selected in a regional transmission plan for purposes of cost allocation is avoided due to the selection of a more efficient or cost-effective interregional transmission facility. Whereas Order No. 1000 requires public utility transmission providers to evaluate through the regional transmission planning process alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than transmission solutions identified by individual public utility transmission providers in their local transmission planning process,<sup>65</sup> Order No. 1000 does not require public utility transmission providers to conduct interregional transmission planning, nor does it require public utility transmission providers to produce an interregional transmission plan that considers transmission solutions to meet interregional transmission needs identified separately at the interregional level.<sup>66</sup> Rather, Order No. 1000's interregional transmission coordination requirements obligate public utility transmission providers to identify and jointly evaluate interregional transmission facilities that may more efficiently or cost-effectively address the individual needs identified in their respective local and regional transmission planning processes.<sup>67</sup> Since the interregional transmission coordination

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<sup>64</sup> As noted above, in the SERTP First Regional Compliance Order, the Commission stated that a regional transmission facility that resulted in a more efficient or cost-effective transmission solution than what was included in the roll-up of local transmission plans would not be eligible for regional cost allocation if there was no transmission facility in the local transmission plans that it would displace. SERTP First Regional Compliance Order, 144 FERC ¶ 61,054 at P 251.

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

<sup>66</sup> *See id.* P 399.

<sup>67</sup> *Id.* P 393.

procedures do not require an interregional analysis of more efficient or cost-effective solutions to interregional transmission needs, but only a joint evaluation of interregional transmission facilities that may more efficiently or cost-effectively address regional transmission needs, the selected interregional transmission facility will address transmission needs driven by regional reliability, economic, and/or public policy requirements that have already been identified and evaluated for potential transmission solutions at the regional level. Thus, an avoided cost-only cost allocation method, when used at the interregional level, will account for benefits that were identified in the regional transmission planning processes and therefore complies with Interregional Cost Allocation Principle 1. We also find that SPP and MISO's proposal complies with Interregional Cost Allocation Principle 2 because it ensures that SPP and MISO are not involuntarily allocated the costs of the interregional transmission facilities from which they do not benefit.

50. Regarding Interregional Cost Allocation Principle 3, we find that SPP and MISO's proposed interregional transmission cost allocation method to address regional transmission needs driven by public policy requirements complies with Interregional Cost Allocation Principle 3 because they do not propose to apply an interregional benefit-to-cost ratio. In Order No. 1000, the Commission stated that Interregional Cost Allocation Principle 3 did not require the use of a benefit-to-cost ratio threshold.<sup>68</sup>

51. Regarding Interregional Cost Allocation Principle 4, the Commission found in the First Compliance Order that the provision in the SPP version of the SPP-MISO JOA regarding an interregional transmission project's potential adverse impacts on the systems of other neighboring transmission planning regions complies with Interregional Cost Allocation Principle 4.<sup>69</sup> MISO has proposed to include the same provision in MISO's version of the SPP-MISO JOA.<sup>70</sup> Therefore, we find that SPP and MISO's interregional cost allocation methods for interregional transmission facilities meant to address regional reliability needs, economic needs, and transmission needs driven by public policy requirements are consistent with Cost Allocation Principle 4.

52. We find that SPP and MISO's proposed interregional cost allocation method to address transmission needs driven by public policy requirements complies with Interregional Cost Allocation Principle 5. We find that the allocation and benefit

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<sup>68</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 647, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at P 693.

<sup>69</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 154.

<sup>70</sup> MISO, SPP-MISO JOA, art. IX, § 9.3.3.4.1 (31.0.0.0).

determination methods are specified in the SPP-MISO JOA, there are numerous opportunities for stakeholder participation, and the analysis of projected benefits are documented through studies and are published in the Coordinated System Plan, which is posted on the interregional planning websites. For these reasons, we find that SPP and MISO's proposals are consistent with Interregional Cost Allocation Principle 5.

53. With respect to Interregional Cost Allocation Principle 6, we find that SPP and MISO have now proposed to use a different cost allocation method for different types of interregional transmission facilities (addressing regional reliability, economic, and public policy-related needs), have designated only one cost allocation method for each type of interregional transmission facility, and each interregional cost allocation method is set out clearly and explained in detail in the SPP-MISO JOA.<sup>71</sup> Therefore, we find that SPP and MISO's proposed interregional cost allocation methods are consistent with Interregional Cost Allocation Principle 6.

54. We disagree with Wind Parties' assertion that an avoided cost-only interregional cost allocation method for transmission projects driven by public policy requirements fails to sufficiently consider all of the benefits that may accrue. For the reasons discussed above, we find that an avoided cost-only method is permissible as the cost allocation method for *interregional* transmission projects proposed for interregional cost allocation to address transmission needs driven by public policy projects.<sup>72</sup>

#### **4. Ownership Rights**

##### **a. First Compliance Order**

55. In their comments on the First Compliance Filing, the SPP Transmission Owners expressed concern that sections 9.7 and 9.7.1 of the SPP-MISO JOA could be read to provide that the benefits calculation in SPP-MISO JOA section 9.6.3.1.1 will be used to determine not only whether to build a project, but also the proportion of the project that will be built and operated under each RTO's tariff. They requested confirmation that the benefits test will be used only to determine the proportion of an Interregional Project to be built and operated by each RTO, rather than which RTO Tariff will govern the entire

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<sup>71</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 685.

<sup>72</sup> *See supra* at P 45.

project.<sup>73</sup> In their answers, SPP and MISO provided the requested clarification of sections 9.7 and 9.7.1<sup>74</sup> and provided examples of how ownership would be determined.<sup>75</sup>

56. The Commission accepted the clarification provided in SPP and MISO's answers and directed SPP and MISO to submit revisions to sections 9.7 (Network Upgrade Construction and Ownership) and 9.7.1 (Interregional Project Construction and Ownership) of the SPP-MISO JOA to provide the additional detail and examples provided in their answers.<sup>76</sup>

**b. Second Compliance Filing**

57. SPP and MISO propose to comply with this directive by adding the additional detail and examples to SPP-MISO JOA section 9.7.1 (Interregional Project Construction

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<sup>73</sup> Comments of the SPP Transmission Owners, Docket Nos. ER13-1937-000 and ER13-1938-000 (Sept. 9, 2013) at 13.

<sup>74</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 164 (citing MISO Answer, Docket No. ER13-1938-000, at 18 (filed Nov. 4, 2013); SPP Answer, Docket No. ER13-1937-000, at 12 (filed Nov. 4, 2013)):

SPP and MISO explain that, when a tie-line interregional project interconnects with transmission facilities that are under the respective functional control of the neighboring RTOs and are respectively owned by adjacent transmission owners in each RTO, pursuant to section 9.6.3.1.1 of the [SPP-MISO] JOA, the benefits calculation would be used to determine the ownership shares of such transmission owners. SPP and MISO add that the ownership shares of such transmission owners would determine the tariff applicable to the portion respectively owned by the relevant MISO transmission owner and SPP transmission owner. SPP and MISO state that majority ownership does not determine the tariff that will govern the entire project or line [. . . and] instead, the portion of the transmission project owned by a transmission owner will be governed by the tariff of that transmission owner's RTO.

<sup>75</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 164.

<sup>76</sup> *Id.* P 166.

and Ownership) that the Commission accepted in the MISO Answer and the SPP Answer.<sup>77</sup> In addition, SPP and MISO propose to further clarify the SPP-MISO JOA by providing additional detail to section 9.6.3.2 explaining that a replaced transmission project's estimated costs shall be determined by the parties in accordance with their respective procedures for defining estimated transmission project costs and that both parties shall work to ensure that their cost estimates for displaced projects are determined in a similar manner.<sup>78</sup> SPP and MISO assert that these changes will help avoid disputes regarding the choice of whose Commission-accepted formula should apply to determine an interregional transmission project's displaced cost and, thus, promote the consistent, joint evaluation of Interregional Projects presented to the parties for consideration.<sup>79</sup>

**c. Commission Determination**

58. We find that SPP and MISO's proposed revisions to SPP-MISO JOA section 9.7.1 (Interregional Project Construction and Ownership) partially comply with the directive of the First Compliance Order by including the examples that SPP and MISO proposed in their answers. While not a directive of the First Compliance Order, we find that SPP and MISO's proposed revision to clarify SPP-MISO JOA section 9.6.3.2 is consistent with the directive in the First Compliance Order. However, the Commission ordered SPP and MISO to revise SPP-MISO JOA section 9.7.1, not just to include the examples, but also the "additional detail" that SPP and MISO provided in their answers.<sup>80</sup> We therefore direct SPP and MISO, within 30 days of the date of issuance of this order, to revise SPP-MISO JOA section 9.7.1 to include the additional detail as the Commission required in the First Compliance Order.

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<sup>77</sup> SPP Second Compliance Filing at 18; MISO Second Compliance Filing at 17 (both citing to Proposed SPP-MISO JOA § 9.7.1). SPP and MISO state that their agreed changes to SPP-MISO JOA section 9.7.1 substantially track the language provided in their answers. SPP Second Compliance Filing at 18 n.88; MISO Second Compliance Filing at 17 n.85.

<sup>78</sup> *E.g.*, SPP Second Compliance Filing at 17; MISO Second Compliance Filing at 15 (citing SPP, SPP-MISO JOA, art IX, § 9.6.3.2).

<sup>79</sup> *E.g.*, SPP Second Compliance Filing at 17; MISO Second Compliance Filing at 15 (citing SPP, SPP-MISO JOA, art IX, § 9.6.3.2).

<sup>80</sup> *See supra* at n.74 (quoting the additional detail that SPP and MISO included in their answers but have failed to add to the JOA).

## 5. SPP Regional Cost Allocation

### a. Second SPP-SERTP Compliance Order

59. In the Second SPP-SERTP Compliance Order, the Commission acknowledged SPP's assertion that its proposed cost allocation method for SPP's portion of costs for interregional transmission facilities below 300 kV does not apply to SPP and SERTP but does apply to SPP and MISO. Specifically, SPP proposed that SPP's portion of the costs for all selected interregional transmission facilities, regardless of voltage level, will be recovered on a 100 percent regional basis though the highway method pursuant to SPP's Highway/Byway cost allocation method.<sup>81</sup> In the Second SPP-SERTP Compliance Order, the Commission stated that it would address any arguments regarding the application of SPP's proposed cost allocation method for SPP's portion of costs for interregional transmission facilities below 300 kV in this SPP-MISO Order No. 1000 interregional compliance proceeding.<sup>82</sup>

### b. SPP Second Compliance Filing in SPP-SERTP Proceeding

60. SPP asserts that the Commission-accepted Order No. 1000 interregional coordination process between SPP and MISO, which includes evaluation by two separate independent RTOs and provides opportunity for stakeholder input and comments, ensures that approved interregional transmission facilities will have quantifiable benefits to both regions. According to SPP, this assurance of benefits justifies applying a single method (i.e., the Highway regional cost allocation method) to SPP's portion of the costs for any SPP-MISO interregional transmission facility above 100 kV.<sup>83</sup>

61. SPP also contends that, regardless of voltage level, interregional transmission facilities along the SPP-MISO seam are likely to provide benefits to the entire SPP region. SPP claims that over 80 percent of the existing interconnections between SPP and MISO are less than 300 kV and that interregional transfer capability restrictions are likely due to the limiting effect of these lower voltage elements. According to SPP, this restricted interregional transfer capability can negatively impact all SPP market participants, even those not along the seam. SPP argues that relieving constraints between SPP and MISO may also alleviate congestion, improve reliability, and increase opportunities for the sale of additional transmission service within SPP. SPP further

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<sup>81</sup> Second SPP-SERTP Compliance Order, 152 FERC ¶ 61,172 at P 27.

<sup>82</sup> *Id.* P 29.

<sup>83</sup> SPP Transmittal, Docket No. ER13-1939-001, at 17.

asserts that, even “small” interregional transmission facilities between 100 kV and 300 kV, may enable more economic transfers of energy between SPP and MISO and provide regional benefits throughout the SPP region.<sup>84</sup>

**c. Commission Determination**

62. We find that SPP’s proposal to use its Highway regional cost allocation method for its portion of the costs of SPP-MISO Order No. 1000 interregional transmission facilities 100 kV or above is just and reasonable. SPP has demonstrated that an SPP-MISO interregional transmission facility of 100 kV or above provides sufficient regional benefits to support Highway regional cost allocation. In order for an interregional transmission facility to receive SPP’s Highway regional cost allocation, it must be jointly evaluated and is subject to stakeholder input as part of the Order No. 1000-compliant SPP-MISO interregional transmission coordination procedures. Further, SPP and MISO will each conduct an independent analysis of the interregional transmission facility under their separate Order No. 1000-compliant regional transmission planning processes before each RTO selects the facility in its regional transmission plan for purposes of cost allocation.

**6. Additional Compliance Directives**

63. In the First Compliance Order, the Commission directed SPP and MISO to include “Transmission Issue” as a defined term in the SPP-MISO JOA and required that the definition include issues related to regional transmission needs driven by reliability, economics, and public policy requirements.<sup>85</sup> In the Second Compliance Filings, SPP and MISO propose to define “Transmission Issues” in the SPP-MISO JOA as “transmission needs driven by reliability, economic, and/or public policy requirements.”<sup>86</sup>

64. In the First Compliance Order, the Commission directed SPP and MISO to remove the requirement that third parties must provide the analysis to support recommended Transmission Issues.<sup>87</sup> In the Second Compliance Filings, SPP and MISO propose to

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<sup>84</sup> *Id.* at 17-18.

<sup>85</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 50.

<sup>86</sup> SPP-MISO JOA at § 2.2.56. SPP and MISO state that the phrase “Transmission Issue” had also been capitalized throughout the SPP-MISO JOA in order to reference this definition. SPP Second Compliance Filing at 12 and MISO Second Compliance Filing at 11.

<sup>87</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 52.

remove the requirement that third parties must provide the analysis to support a recommended Transmission Issue and instead propose to require that a third party provide a detailed description of the recommended Transmission Issue.<sup>88</sup>

65. In the First Compliance Order, the Commission directed SPP and MISO to revise their proposed interregional transmission coordination procedures so that an interregional transmission facility that may resolve regional reliability needs (which MISO's proposal lacked) and transmission needs driven by public policy requirements (which both SPP's and MISO's proposals lacked) can be considered by each respective regional transmission planning process.<sup>89</sup> In the Second Compliance Filings, SPP and MISO propose a new definition of Transmission Issue, which includes the consideration of transmission needs driven by reliability, economic and/or public policy requirements.<sup>90</sup> Additionally, SPP and MISO propose to identify public policy-driven expansions or enhancements as part of Coordinated System Planning and to include needs related to public policy requirements in the scope, models, and analysis of the Coordinated System Plan study.<sup>91</sup> SPP and MISO also propose to remove the requirement that interregional transmission projects qualify as Market Efficiency Projects in MISO and, instead, allow for the consideration of any type of transmission project that is approved in each RTO's regional transmission planning process.<sup>92</sup>

66. In the First Compliance Order, the Commission directed SPP and MISO to revise section 9.6.3.1(iii) (Criteria for Project Designation as an Interregional Project) of the SPP-MISO JOA to state that an Interregional Project must be "approved by both Parties in their respective regional transmission planning processes as outlined in their respective tariffs."<sup>93</sup> In the Second Compliance Filings, SPP and MISO revise section 9.6.3.1(iii) (Criteria for Project Designation as an Interregional Project) of the SPP-MISO JOA to state the project must be "approved by both Parties in their respective regional planning processes as outlined in their respective OATTs."

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<sup>88</sup> SPP-MISO JOA, art. IX, § 9.3.2.1.

<sup>89</sup> First Compliance Order 150 FERC ¶ 61,093 at 75.

<sup>90</sup> SPP-MISO JOA, art. IX, § 2.2.56.

<sup>91</sup> SPP-MISO JOA, art. IX, §§ 9.3, 9.3.3.1.

<sup>92</sup> SPP-MISO JOA, art. IX, § 9.6.3.1(iii).

<sup>93</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 132.

67. In the First Compliance Order, the Commission stated that it expects that, if an interregional transmission facility is considered in both regional transmission planning processes, SPP and MISO will analyze the interregional transmission facility in the interregional transmission coordination process.<sup>94</sup> In the Second Compliance Filings, SPP and MISO state that interregional transmission projects considered in the regional transmission planning processes of both RTOs will also be considered in the interregional transmission coordination process.<sup>95</sup>

68. In the First Compliance Order, the Commission stated that SPP and MISO must post a list of all interregional transmission facilities that are proposed for potential selection in the regional transmission plans for purposes of cost allocation but that are found not to meet the relevant thresholds, as well as an explanation of the thresholds the proposed interregional transmission facilities failed to satisfy.<sup>96</sup> In the Second Compliance Filings, SPP and MISO commit to include this information in the Coordinated System Planning Study Report that they are required to produce<sup>97</sup> and to post the Coordinated System Planning Study Report with this information on their respective websites.<sup>98</sup>

### **Commission Determination**

69. We find that SPP and MISO's proposals comply with these directives of the First Compliance Order.

## **7. Miscellaneous**

### **a. Protests and Comments**

70. ITC Companies argue that interregional transmission planning has been defeated by the "triple hurdle" approval process, in which proposed interregional transmission

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<sup>94</sup> *Id.* P 70 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 439).

<sup>95</sup> SPP Second Compliance Filing at 19; MISO Second Compliance Filing at 17.

<sup>96</sup> First Compliance Order, 150 FERC ¶ 61,093 at P 133.

<sup>97</sup> SPP-MISO JOA, art. IX, § 9.3.3.5.1 (Coordinated System Planning Study Report and IPSAC Recommendation).

<sup>98</sup> SPP Second Compliance Filing at 19-20; MISO Second Compliance Filing at 18.

projects, upon meeting the requisite interregional criteria, must then again qualify under each RTO's regional planning criteria.<sup>99</sup> Specifically, ITC Companies state that arbitrary voltage and cost thresholds preclude the possibility of approving certain interregional transmission projects and that the existing regional project categories for SPP and MISO are not appropriate for interregional transmission projects.<sup>100</sup> ITC Companies argue that the Commission should require SPP and MISO to use a single, unified set of interregional transmission project criteria instead.<sup>101</sup>

**b. Answers**

71. SPP and MISO contend that ITC Companies' protest seeks to generally challenge the SPP and MISO interregional planning process, including the Commission's acceptance in the First Compliance Order of SPP's proposal for economic and reliability projects, and the requirement that MISO implement the same requirements.<sup>102</sup> SPP and MISO argue that ITC Companies' criticisms of the interregional planning process go beyond the scope of this compliance proceeding and the requirements of Order No. 1000, raise objections that should have been made to the initial compliance filings in this and other dockets, and are a collateral attack on Order No. 1000 and previous compliance orders.<sup>103</sup>

72. SPP and MISO claim that, more fundamentally, through their protest and alternative compliance proposals, ITC Companies essentially argue that Order No. 1000 did not go far enough to resolve decade-long concerns with cross-seam planning and suggest a new rulemaking that ITC Companies find more to their liking. SPP and MISO state that such arguments should have been raised in the Order No. 1000 rulemaking docket or on appeal of that order and are outside the scope of these proceedings.<sup>104</sup>

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<sup>99</sup> ITC Companies Protest at 3.

<sup>100</sup> *Id.* at 12-14, 16.

<sup>101</sup> *Id.* at 16-18.

<sup>102</sup> SPP-MISO September 23 Answer at 5, 5 n.13 (citing First Compliance Order, 150 FERC ¶ 61,093 at PP 132, 159).

<sup>103</sup> *Id.* at 5.

<sup>104</sup> *Id.* at 7.

73. In its answer to SPP and MISO's joint answer, ITC Companies assert that the Commission should reject SPP and MISO's joint answer on the basis that SPP and MISO do not attempt to provide additional facts or other record evidence, but rather raise procedural arguments which mischaracterize the scope of the issues of these proceedings.<sup>105</sup> ITC Companies go on to state that the Commission did accept the avoided-cost cost allocation provisions, but the Commission also issued compliance directives regarding coordination and joint evaluation criteria with which SPP and MISO have failed to comply, and which the ITC Companies protest properly addresses. Specifically, ITC Companies argue that the First Compliance Order rejected MISO's proposal to consider only interregional projects driven by economic benefits and instead directed MISO to adopt SPP's proposed interregional criteria, under which an Interregional Project must be "approved by both [p]arties in their respective regional planning process as outlined in their respective [. . . Tariffs]." <sup>106</sup>

74. Additionally, ITC Companies assert that the Commission required SPP and MISO to resolve higher-level interregional planning issues that had already been ostensibly resolved in Order No. 1000. ITC Companies contend that SPP and MISO could (and should) have sought to fully comply with Order No. 1000 and the First Compliance Order by proposing a single, unified set of interregional project evaluation criteria and parallel, separate regional project categories for interregional projects to avoid the "triple hurdle" planning approach in the Order No. 1000 compliance process.<sup>107</sup> Lastly, ITC Companies state that the joint evaluation criteria submitted by SPP and MISO in the Second Compliance Filings are not properly structured to evaluate "whether transmission needs identified through the regional transmission planning processes in SPP and MISO can be addressed more efficiently or cost-effectively through an interregional transmission project."<sup>108</sup>

**c. Commission Determination**

75. Although styled as a motion to intervene out-of-time, we find that ITC Companies' intervention and protest amount to an impermissible out-of-time rehearing

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<sup>105</sup> ITC Companies October 8 Answer at 2.

<sup>106</sup> *Id.* Answer at 3, 3 n.7 (citing First Compliance Order, 150 FERC ¶ 61,093 at P 130).

<sup>107</sup> *Id.* at 4.

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

request of the First Compliance Order.<sup>109</sup> Therefore, we reject, as an out-of-time rehearing request, ITC Companies' protest regarding SPP's and MISO's interregional and regional project criteria.<sup>110</sup> As the Commission found in the First Compliance Order, SPP and MISO have complied with the requirements of Order No. 1000 for joint evaluation by providing that in order for a transmission project to be eligible for interregional cost allocation purposes, the project must meet the criteria for transmission projects in the respective regional transmission plans of both the SPP and MISO regions.<sup>111</sup> Moreover, we disagree with ITC Companies' argument that the "triple hurdle" that projects must pass (i.e., that interregional projects must qualify under interregional criteria, and also qualify under each RTO's regional planning criteria) will result in the rejection of beneficial interregional projects due to inconsistencies between regional project criteria. We also disagree that, because interregional project categories largely consider only single types of benefits, the full range of potential economic, reliability and public policy benefits of a proposed interregional project will not be considered.<sup>112</sup> Order No. 1000's Interregional Cost Allocation Principle 1 requires that the cost of a new interregional transmission facility must be allocated to each transmission planning region in which that transmission facility is located in a manner that is at least roughly commensurate with the estimated benefits of that transmission facility to each of the transmission planning regions.<sup>113</sup> For these reasons, we find that ITC Companies' argument on this issue is an impermissible collateral attack on Order No. 1000.

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<sup>109</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. *See* 16 U.S.C. § 8251(a) (2012). *See also* 18 C.F.R. § 713(b) (2015) (requiring that a request for rehearing "be filed not later than 30 days after issuance of any final decision . . ."). Because ITC Companies failed to timely raise these challenges, they are barred by the FPA from raising them here.

<sup>110</sup> The Commission made a similar finding in the second MISO-SERTP Order No. 1000 interregional compliance order. *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,247, at P 48 (2015).

<sup>111</sup> First Compliance Order, 150 FERC ¶ 61,093 at PP 130 (citing SPP-MISO JOA, art. IX, § 9.6.3.1(iii) (0.0.0)) and 132.

<sup>112</sup> ITC Companies Protest at 3, 8-9.

<sup>113</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622, *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 at PP 654, 681-682, 691.

The Commission orders:

(A) The request for rehearing is hereby denied, as discussed in the body of this order.

(B) The compliance filings of SPP and MISO are hereby rejected in part and conditionally accepted in part, subject to further compliance filings, as discussed in the body of this order.

(C) SPP and MISO are hereby directed to submit further compliance filings, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Document Content(s)

ER13-1937-002.DOCX.....1-33