

119 FERC ¶ 61,007
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ColumbiaGrid

Docket No. ER07-523-000

ORDER ACCEPTING PLANNING AGREEMENT

(Issued April 3, 2007)

1. On February 2, 2007, ColumbiaGrid, acting on behalf of Avista Corporation (Avista) and Puget Sound Energy, Inc. (Puget), and pursuant to section 205 of the Federal Power Act (FPA), filed a Planning and Expansion Functional Agreement (Planning Agreement) under which ColumbiaGrid proposes to coordinate transmission planning and expansion for its members. As discussed below, we accept the Planning Agreement, effective April 4, 2007.

I. Background

A. Description of ColumbiaGrid

2. ColumbiaGrid is a non-profit membership corporation formed in March of 2006.¹ ColumbiaGrid states that it will coordinate the use and expansion of the networks of participating transmission owners through transparent processes and thereby improve the operational efficiency, reliability, and planned expansion of the Pacific Northwest transmission grid. It states that it will achieve this coordination through functional agreements offered to its members and other qualified non-member parties. ColumbiaGrid states that the Planning Agreement is one such functional agreement. ColumbiaGrid defines its “footprint” as covering the entire Pacific Northwest subregion of the Western Electricity Coordinating Council (WECC), including Washington,

¹ According to the transmittal letter, ColumbiaGrid’s members include Avista; Puget; Bonneville Power Administration (BPA); Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 2 of Grant County, Washington; the City of Seattle; the Public Utility District No. 1 of Snohomish County, Washington; and the City of Tacoma, Department of Public Utilities. The Second Amended ColumbiaGrid Bylaws (sections 6.2.3 and 8.2) state that the Board of Directors, Officers and staff must be independent of any market participant, member (or any affiliate thereof). See at <http://www.columbiagrid.org>. The three member Board of Directors was elected in August 2006.

Oregon, Idaho, the part of Montana in the Western Interconnection, Utah, Wyoming, Nevada, British Columbia, Alberta, and those parts of BPA's statutory service area not included in the foregoing area.²

B. Description of the Planning Agreement

3. ColumbiaGrid states that it will conduct a number of services under the Planning Agreement, including: (1) performing annual assessments of members' transmission systems in accordance with WECC and the North American Electric Reliability Corporation (NERC) requirements; (2) convening study teams to address the needs identified by the annual assessments or in response to requests for transmission service or interconnection service affecting multiple systems; (3) drafting and approving Biennial Transmission Plans; (4) facilitating coordinated planning of multi-system projects;³ (5) developing Facilities Agreements to effectuate certain transmission projects;⁴ and (6) assuming certain WECC reporting obligations for WECC-based case development on behalf its members.⁵

4. Specifically, under the Planning Agreement, ColumbiaGrid proposes to prepare a draft transmission plan every two years (Biennial Plan) for approval by its Board of

² See ColumbiaGrid February 2, 2007 Filing, Docket No. ER07-523-000 at 1-2 (ColumbiaGrid Filing).

³ Appendix A to the Planning Agreement is ColumbiaGrid's proposed Planning Process. See Original Sheet Nos. 44-58.

⁴ Appendix B to the Planning Agreement is a *Pro Forma* Facilities Agreement (Facilities Agreement) for projects that address an identified inability to serve native load or long-term firm obligations whose transmission solutions will impact the Regional Interconnected System and must be implemented on a coordinated basis. See Planning Agreement, Original Sheet Nos. 59-85. According to sections 1.13, 6.1 and 6.2 of the Planning Agreement, ColumbiaGrid will offer the Facilities Agreement to Designated Persons. See Original Sheet Nos. 7, 19, and 20. In the event that a Designated Person does not execute a Facilities Agreement for those transmission projects identified as necessary for a Party to serve its native load and long-term firm obligations, a Facilities Petition may be brought to the Commission, "seeking relief in respect of a refusal or failure, [of such party] . . . to enter into such agreement or to build or pay for the facilities identified in such Facilities Agreement in accordance with the terms thereof." Planning Agreement, Original Sheet No. 8, section 1.19.

⁵ See Planning Agreement, Original Sheet No. 18, section 4.6. This task was previously performed by BPA for many Northwest transmission owners.

Directors.⁶ The Biennial Plan includes both recommended and informational⁷ projects. Recommended projects are those which require modifications to the regional interconnected system, such as projects addressing an identified need or projects that are the result of a request for transmission or interconnection service submitted to a transmission provider. The Board will review the Biennial Plan in an open public process⁸ and will base its review and adoption of the Biennial Plan on the technical merits of the draft Biennial Plan developed, and consistency with the Planning Agreement. Its review will also consider comments and information provided during the review process.⁹

5. Under its planning process, ColumbiaGrid will perform an annual assessment of each Party's¹⁰ transmission system to determine the ability of each Party to serve its network load, native load obligations, and long term firm obligations. Using the system assessments, ColumbiaGrid will identify any inability to meet such obligations and will convene Study Teams¹¹ to address each identified need. ColumbiaGrid states that the

⁶ ColumbiaGrid states that it will adopt the first Biennial Plan no later than thirty months after the effective date of the Planning Agreement.

⁷ Projects which are included on an informational basis include: (1) those modifications to a single transmission system for meeting a single system need; (2) proposals to modify the regional interconnected system for the purpose of increasing capacity; and (3) those single system projects and capacity increase projects that are expanded in scope during the planning process. Planning Agreement, Original Sheet No. 15, section 2.3.2.

⁸ Planning Agreement, Original Sheet No. 55, section 10.2, stating, “. . . [in reviewing the Draft Plan], the Board shall make available study reports and electronic data files, subject to . . . Confidential Information and CEII . . . and provide the public an opportunity to supply information and provide written or oral comments to the Board . . . [and] may adopt additional procedures to carry out its review process.”

⁹ Planning Agreement, Original Sheet No. 56, section 10.3.

¹⁰ Party is defined as a signatory to this Agreement. Planning Agreement, Original Sheet No. 10, section 1.33.

¹¹ A Study Team is a team that is comprised of ColumbiaGrid and certain others who choose to participate. The role of the Study Team is defined for specific projects. For example, for those projects that are the result of an identified need, the Study Team will develop a solution(s) to meet the need. Likewise, the Study Team for a request for transmission service will develop a project to serve the request. For other projects such as capacity increase projects, the role of the Study Team is limited to the identification or mitigation of material adverse impacts resulting from such project. Planning Agreement, Original Sheet No. 13, section 1.53.

Study Teams will be the primary tool for participation by Planning Parties,¹² Affected Persons,¹³ and Interested Persons¹⁴ in the development of transmission projects included in the Biennial Plan. In identifying proposed solutions, ColumbiaGrid states that it will distinguish transmission solutions implemented by a Party on a single system basis, without adversely impacting other Parties, from those which impact the regional interconnected systems and must be implemented on a coordinated basis.¹⁵

6. ColumbiaGrid states that it intends for its planning process to be collaborative and to encourage agreement on needed transmission projects. In the event, however, that agreement cannot be reached on a needed project, ColumbiaGrid states that it will provide Designated Persons¹⁶ a Facilities Agreement to implement the transmission project. The Facilities Agreement stipulates a plan of service (including each modification to be made to the regional interconnected system and the party to make such modification), Designated Persons' allocated share of costs, payment schedules for such costs, and the Designated Persons' allocated share of transmission capacity added or maintained by the project. Should Designated Persons refuse to execute the Facilities Agreement, a Facilities Petition may be filed with the Commission seeking relief for the refusal or failure to enter into the Facilities Agreement or to build or pay for the facilities identified in such agreement.¹⁷

¹² Planning Party is defined as each Party other than ColumbiaGrid. Planning Agreement, Original Sheet No. 11, section 1.44.

¹³ Affected Persons is defined as parties that would bear material adverse impacts for a project or are otherwise materially affected by a project. Planning Agreement, Original Sheet No. 6, section 1.1.

¹⁴ Interested Person is defined as any person who has expressed an interest in the business of ColumbiaGrid and has requested notice of its public meetings. Planning Agreement, Original Sheet No. 8, section 1.21.

¹⁵ If ColumbiaGrid identifies a need on a single transmission system, it will notify the transmission owner or operator of such need and the information (including the transmission owner or operator's resolution) will be included in the Biennial Plan for informational purposes. ColumbiaGrid may convene a Study Team if an "affected person" asserts that such single system project creates an unmitigated material adverse impact. Planning Agreement, Original Sheet No. 51, section 7.1.

¹⁶ A Designated Person is named in the Facilities Agreement as a person to bear the costs of the project or a person to receive a share of the transmission capacity, if any, added or maintained by the project. Planning Agreement, Original Sheet No. 7, section 1.13 and Original Sheet No. 19, section 6.1.

¹⁷ See Planning Agreement, Original Sheet Nos. 20-21, section 6.3.

7. A Study Team may also be formed in response to requests for transmission service or interconnection service received by a transmission owner member of ColumbiaGrid that the member believes will affect multiple transmission systems.¹⁸ ColumbiaGrid shall notify Affected Persons and the Study Team will develop a study agreement in accordance with the transmission owner member's policies and procedures.¹⁹ If the transmission or interconnection requesting customer agrees to assume the costs of the study and instructs the transmission owner to proceed, the Study team shall develop a solution to provide sufficient capacity to serve the request.²⁰ Although a Study Team shall collaboratively develop a proposed project in response to the request, each transmission owner member of ColumbiaGrid retains all obligations under its OATT to perform studies.²¹

8. ColumbiaGrid states that the funding for activities it performs under the Planning Agreement will be allocated among the Parties based on a formula comprised of the sum of three components: a fixed fee, a fee calculated based on a Party's pro rata share of total transmission assets, and a fee calculated based on a Party's pro rata share of total firm transmission rights.²² ColumbiaGrid anticipates the initial funding for the first two-year period is \$4,200,000.²³

9. The Planning Agreement also expresses the Parties' intent to develop separate agreements to establish a common queue for transmission service requests and interconnection requests as soon as practicable after the effective date of the Planning Agreement. Section 5 of the Planning Agreement further states that implementation of a common queue will, "probably require modification of the Open Access Transmission Tariffs [(OATTs)] of the [transmission owners or operators] that have such OATTs."²⁴

10. ColumbiaGrid states that although it is filing the Planning Agreement on behalf of Puget and Avista, who are Parties to the Planning Agreement, it does not believe that such filing deems ColumbiaGrid a public utility under the FPA. ColumbiaGrid requests

¹⁸ *Id.* at Original Sheet No. 49, section. 6.2.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at Original Sheet No. 50, section 6.3.

²² *See id.* at Original Sheet Nos. 23-25, section 8.4.

²³ *See* Planning Agreement, Original Sheet No. 22, section 8.1.1.

²⁴ *Id.*, at Original Sheet No. 18.

that its submission be deemed withdrawn should the Commission find that ColumbiaGrid is a public utility.

II. Procedural Matters

11. Notice of the ColumbiaGrid filing was published in the *Federal Register*, 72 Fed. Reg. 8366 (2007), with interventions and protests due on or before February 23, 2007. Timely motions to intervene and protests/comments were filed by the Washington Utilities and Transportation Commission (Washington Commission); the Northwest and Intermountain Power Producers Coalition (NIPPC); and PacifiCorp, Idaho Power Company and NorthWestern Energy (collectively, Utility Interveners). BPA filed a motion for leave to intervene out of time and comment. Additional motions to intervene were timely filed by Avista, Puget, Powerex Corporation, and Calpine Corporation. The Public Utility Commissions of Idaho and Oregon, and the Public Service Commissions of Montana, Utah and Wyoming (collectively, State Commissions) and the Montana Consumer Counsel each filed timely comments. On March 12, 2007, ColumbiaGrid filed an answer to the comments filed by interveners in this proceeding. On March 19, 2007, NIPPC filed a response to ColumbiaGrid's March 12, 2007 answer.

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the Washington Commission, NIPPC, Utility Interveners, Avista, Puget, Powerex, and Calpine parties to this proceeding. We will grant BPA's late-filed motion to intervene and comment given its interest in these proceedings, the early state of the proceedings, and the absence of undue prejudice or delay.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest or an answer/response to an answer unless otherwise ordered by the decisional authority. We will accept ColumbiaGrid's answer because it has provided information that assisted us in our decision-making process. We are not persuaded to accept NIPPC's response to ColumbiaGrid's answer, and will, therefore, reject it.

III. Discussion

A. Comments and Protests

14. The Washington Commission offers strong support for ColumbiaGrid, highlighting its independence, comprehensive coverage, cost-effectiveness, and consistency of proposed operation. The Washington Commission further states that ColumbiaGrid's proposal: (1) is appropriately focused on a regional approach for transmission planning; (2) encourages and facilitates broad participation by all persons with an interest in transmission projects, including those dependent on reliable service and those with an environmental or other policy interest in transmission planning; (3) is

system-wide and therefore may identify cost-effective alternatives to projects otherwise built to solve only the needs of one utility; and (4) sets out clear milestones for regular assessments and revisions to the transmission plan. The Washington Commission further states that oversight of the planning process by ColumbiaGrid's Board of Directors achieves necessary independence.

15. BPA also believes that the planning process described in the Planning Agreement will provide great value to the region by providing an approach that is designed to assure that needed infrastructure will be built. BPA has further announced its intent to sign the Planning Agreement.

16. NIPPC states that ColumbiaGrid's assertion that it does "not control jurisdictional facilities but rather will administer the Planning Agreement on behalf of signatories to the Agreement"²⁵ is contrary to the provisions of the Planning Agreement. NIPPC argues that the Commission should find that ColumbiaGrid is subject to the Commission's jurisdiction because ColumbiaGrid will perform certain jurisdictional services including: system impact studies; facilities studies in response to transmission service requests; demanding and recovering study costs from transmission and interconnection applicants; allocating the costs of new transmission projects to applicants; and requiring payment for such costs. NIPPC also argues that a ruling by the Commission is necessary to consider whether ColumbiaGrid meets the requirements for a regional transmission organization (RTO).

17. NIPPC argues that section 6.1 of the Planning Agreement²⁶ constitutes an opt-out that would allow Avista, Puget and BPA to selectively decide when they will abide by the terms of their respective OATTs. NIPPC also argues that, in effect, the Planning Agreement allows Avista and Puget to delegate responsibilities under their respective OATTs without seeking prior approval from the Commission that the modifications, encompassed in the Planning Agreement, are consistent with or superior to the Commission's *pro forma* OATT.²⁷ Accordingly, NIPPC argues that the Planning Agreement is inconsistent with or contrary to the *pro forma* OATT because it: (1) fails to

²⁵ NIPPC February 23, 2007 Comments at 4, *citing* ColumbiaGrid Filing at 2.

²⁶ *See* Planning Agreement, Original Sheet No. 49, section 6.1.

²⁷ NIPPC February 23, 2007 Comments at 5, *citing Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, (1996). NIPPC also argues the standard should be "substantially conforms with or is superior to" the *pro forma* OATT for BPA as well.

address modifications required by Order No. 890;²⁸ (2) changes certain procedures under sections 18 and 19 of the *pro forma* OATT regarding processing and conducting studies for transmission service requests, including allegedly eliminating deadlines for responding to transmission service and interconnection requests and for the preparation of system impact and facilities studies; (3) permits overly broad participation in the interconnection study process, by including persons who may be opposed to the applicant's generating facility and those who do not have technical expertise regarding the studies; and (4) displaces the *pro forma* Large Generator Interconnection Agreement adopted by the Commission in Order No. 2003.²⁹ NIPPC also argues that under the Planning Agreement, transmission customers do not have a right to transmission or interconnection service.

18. Utility Interveners state that under the proposed Planning Agreement, ColumbiaGrid may force project participation and allocation of costs onto uninvolved third parties. Utility Interveners explain that the definition of Affected Person is too broad and may force unwilling participation in the planning process and participation in projects identified in the Biennial Plan regardless of any commercial relationship, and may force third parties to share some of the costs under the Planning Agreement.

19. Utility Interveners, Montana Consumer Counsel and the State Commissions argue that ColumbiaGrid overstates and inaccurately represents its footprint as extending beyond the service territories of its participants. They argue that the ColumbiaGrid members' service territory is limited to the State of Washington and those areas served by Avista and BPA outside Washington while the members of the Northern Tier Transmission Group (NTTG)³⁰ operate transmission in Oregon, Montana, Idaho, Utah and Wyoming; they further note that the NTTG membership footprint is complementary to the ColumbiaGrid membership footprint.

²⁸ NIPPC February 23, 2007 Comments at 7, *citing Preventing Undue Discrimination in Transmission Service*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ ____ at P 435 (2007).

²⁹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005). NIPPC states that the Facilities Agreement includes services required by the Commission's interconnection procedures.

³⁰ NTTG membership includes Deseret Power Electric Cooperative, Idaho Power Company, NorthWestern Energy, PacifiCorp and Utah Associated Municipal Power Systems. *See* Montana Consumer Counsel February 20, 2007 Comments at 2; State Commissions February 14, 2007 Comments at 1-2.

20. Montana Consumer Counsel and the State Commissions state that the Commission should recognize that NTTG and ColumbiaGrid can function effectively as subregional planning entities for their members. The Washington Commission states that the efforts of both NTTG and ColumbiaGrid should be complementary and should lead to an expanded scope for comprehensive regional planning.

B. ColumbiaGrid Answer

21. ColumbiaGrid states that NIPPC's arguments concerning compliance with OATT requirements should be rejected because the Planning Agreement does not delegate or modify the OATT procedures in any way. ColumbiaGrid states also that the process set forth in the Planning Agreement should not be judged by the requirements for transmission planning in Order No. 890. ColumbiaGrid states that the Planning Agreement is a process under which transmission providers may comply with the requirements of Order No. 890. It further commits to adjust the Planning Agreement, as necessary, to conform to the Commission's regional planning requirements and to work closely with the Commission throughout the Order No. 890 compliance process.

22. ColumbiaGrid refutes the assertion by Utility Interveners that the proposed Planning Agreement may force project participation and allocation of costs onto uninvolved third parties. To the contrary, ColumbiaGrid states that there is no ability to "force" participation because there is no contractual obligation to build under the Planning Agreement. ColumbiaGrid further characterizes its role in a Facilities Petition process as, "an impartial provider of documentation and data underlying the decision to tender a Facilities Agreement."³¹

23. ColumbiaGrid asserts that NIPPC's concerns regarding jurisdiction and the definition of a public utility stem from a misunderstanding regarding the independence requirements of Order No. 2000. ColumbiaGrid submits that it does not intend to become an RTO and therefore Order No. 2000 concerns are inapposite. Furthermore, ColumbiaGrid affirms that it is not a jurisdictional entity under the FPA because it is (1) not a new entity but merely a contractual arrangement of existing entities, and (2) will not administer the contract with the level of control the Commission has previously found as jurisdictional.³²

24. Lastly, in response to issues raised regarding the description of its footprint, ColumbiaGrid states that the Planning Agreement was drafted to encourage and accommodate broad participation and therefore the definition of a qualified planning

³¹ ColumbiaGrid March 12, 2007 Answer at 6.

³² *See id.* at 12-15.

party includes any entity in the Pacific Northwest. It further notes that its application does not seek designation as the only planning process for the Pacific Northwest.

C. Commission Determination

25. We accept the Planning Agreement for filing. Under the Planning Agreement, ColumbiaGrid will coordinate various planning activities among transmission owners, acting on its members' behalf by assuming certain responsibilities currently performed by each transmission owner individually. This includes transmission owners subject to the Commission's ratemaking jurisdiction, *i.e.*, public utilities with an OATT, as well as those that are not. The Commission supports this effort to coordinate planning activities on a regional basis and, in particular, implementation of a single planning process for both public utility and non-public utility transmission providers. The increased coordination and transparency contemplated by the Planning Agreement have the potential to improve reliability, operational efficiency, and expansion of the transmission grid. The Commission therefore finds that the Planning Agreement is just and reasonable, and not unduly discriminatory, as it relates to Avista and Puget, the two transmission owner members of ColumbiaGrid which are subject to the Commission's jurisdiction under section 205 of the FPA.

26. We disagree with NIPPC that the Planning Agreement allows for any public utility to opt-out of its obligations under its respective OATT. No Party to the Planning Agreement has proposed to amend its OATT or safe harbor tariff and, thus, the Parties' obligations under those tariffs remain unchanged. In addition, section 6.3 of the Planning Agreement states that each transmission owner or operator, "that receives a transmission service or interconnection request shall retain its obligation under its OATT to perform studies, with participation of the requestor as appropriate" ³³ ColumbiaGrid will undertake transmission or interconnection studies only to the extent they relate to transmission or interconnection requests impacting multiple transmission systems, and even then only with the agreement of the transmission provider and transmission customer. ³⁴ Specifically, ColumbiaGrid will convene a Study Team in response to a request for transmission or interconnection service affecting multiple transmission systems only if the transmission or interconnection customer is willing to assume the cost of the study and instructs the transmission owner to proceed. ³⁵ Participation in Study Teams also may be limited by ColumbiaGrid to the extent consistent with the relevant transmission owner's OATT. ³⁶ While participation in the ColumbiaGrid process may

³³ Planning Agreement, Original Sheet No. 50.

³⁴ *Id.* at Original Sheet No. 49, section 6.2.

³⁵ *Id.*

³⁶ *Id.*

facilitate compliance with a transmission owner's obligations under the *pro forma* OATT, it does not replace those obligations. Nothing in the Planning Agreement changes the requirements of the *pro forma* OATT regarding reservation or processing of transmission service requests, participation in the interconnection study process, the Commission's interconnection rules, nor eliminates a customer's right to transmission or interconnection service, as claimed by NIPPC.

27. We also disagree with assertions raised by NIPPC regarding the jurisdictional status of ColumbiaGrid. Under the Planning Agreement currently before the Commission, ColumbiaGrid is not providing services pursuant to the Puget and Avista OATTs. The current Planning Agreement does not cause ColumbiaGrid to own, operate or control jurisdictional facilities.³⁷ Although Parties to the Planning Agreement state their intention to engage in additional services, including the establishment of a common queue for transmission service requests and interconnection requests, there is no provision for those services in the current Planning Agreement and, thus, those matters are not before us in this proceeding. Moreover, we are not evaluating the Planning Agreement in the context of Order No. 2000's requirements as ColumbiaGrid has not proposed to operate as an RTO.

28. We also disagree with NIPPC that this filing should be rejected for failure to address the requirements set forth in Order No. 890. Among other things, Order No. 890 amended the *pro forma* OATT to require coordinated, open, and transparent transmission planning on both a regional and local level and established specific compliance procedures for implementing those planning processes. It is premature for the Commission to address the Planning Agreement under the requirements of Order No. 890 outside of that compliance process. Indeed, ColumbiaGrid acknowledges in its Answer that "parties to the agreement expect that additional compliance filings will be necessary in order to meet the standard for regional planning set forth by the Commission" in Order No. 890.³⁸

29. We also disagree with assertions raised by Utility Interveners that the Planning Agreement's "Affected Persons" definition³⁹ will force unwilling participation in ColumbiaGrid's planning process. Section 4.1.2 of the Planning Agreement permits, but

³⁷ See e.g., *Mid-Continent Area Power Pool*, 91 FERC ¶ 61,353, *order on reh'g*, 92 FERC ¶ 61,229 (2000) (The Commission found that MAPP COR was not a public utility subject to the Commission's jurisdiction because it did not own or control jurisdictional facilities, even though it administered a pool-wide tariff.).

³⁸ ColumbiaGrid March 12, 2007 Answer at 7. See also *id.* at 2 ("The . . . parties recognize that additional changes or steps may be necessary to conform to the Commission's regional planning requirements set forth in Order No. 890.").

³⁹ See discussion *supra* note 13.

does not require, participation in a Study Team.⁴⁰ Although those transmission owners and operators who are Parties to the Planning Agreement are required to participate,⁴¹ others who are unwilling are not forced to participate. Moreover, there is no contractual obligation under the Planning Agreement to build facilities even for those entities that do participate in the ColumbiaGrid planning process.

30. Utility Interveners assert that third parties may be forced to share some of the costs under the Planning Agreement. As noted above, under the Planning Agreement, no studies for interconnection or transmission service are conducted by ColumbiaGrid without agreement between the party requesting the service and the transmission provider and the execution of a separate agreement. We also note that section 8 of the Planning Agreement contains a formula rate for recovery of the costs of services provided under the Planning Agreement.⁴² Any rate recovery by Parties that are subject to the Commission's ratemaking jurisdiction shall require a separate filing under section 205 of the FPA. Therefore, we do not decide here whether any particular costs are appropriate for inclusion in jurisdictional transmission rates.

31. We note that sections 1.19 and 6.3 of the Planning Agreement relate to ColumbiaGrid's participation in proceedings before this Commission initiated in response to a Facilities Petition filed when a Party refuses to enter into a Facilities Agreement. To the extent a Facilities Petition relates to applicable tariff obligations, the Commission will have jurisdiction to entertain the complaint under section 206 of the FPA. The Commission thus interprets sections 1.19 and 6.3 of the Planning Agreement to merely establish procedural mechanisms for ColumbiaGrid's participation in proceedings in which the Commission would otherwise have jurisdiction under FPA section 206.

32. With regard to arguments that ColumbiaGrid has overstated its footprint, ColumbiaGrid acknowledges that it is not attempting to speak for the entire Pacific Northwest and is not seeking to be the sole planning entity in the region.⁴³ Regardless of the statements in its transmittal letter, the Planning Agreement governs only the footprint of the ColumbiaGrid members. Though we are encouraged by ColumbiaGrid's intention to conduct transmission assessments and identify and develop projects to address

⁴⁰ Participation in a Study Team may be limited due to tariffs or applicable law. See Planning Agreement, Original Sheet No. 47, section 4.1.2.

⁴¹ Planning Agreement, Original Sheet No. 16, section 4.1.

⁴² Section 8.9.1 states that “. . . payments received under this Agreement are intended to be the primary source of payment for ColumbiaGrid's planning activities.” Original Sheet Nos. 27-28.

⁴³ ColumbiaGrid March 12, 2007 Answer at 2 and 5.

necessary transmission expansion for its member transmission owners and operators, we note that the Planning Agreement does not address coordination with other subregions in the WECC that may be necessary. We expect that issues related to the coordination of planning efforts among ColumbiaGrid members, NTTG participants, and others will be raised in the Staff technical conference required by Order No. 890 in the context of the regional planning requirements and addressed in the subsequent Order No. 890 compliance filings.⁴⁴

33. The Planning Agreement is hereby accepted for filing, effective April 4, 2007, and designated as ColumbiaGrid FERC Electric Rate Schedule No. 1, Original Sheet Nos. 1-91. This designation does not change our determination that ColumbiaGrid is not a public utility for purposes of conducting activities under this Planning Agreement. The designation provides: (1) a single reference for the Planning Agreement, rather than separate designations for Avista and Puget; and (2) a single reference for amendments to the Planning Agreement, any subsequent agreements by ColumbiaGrid, and the addition of member utilities to ColumbiaGrid.

The Commission orders:

The ColumbiaGrid Planning agreement is hereby accepted, effective April 4, 2007, as discussed herein.

By the Commission. Commissioners Moeller and Wellinghoff concurring with separate statements attached.

(S E A L)

Philis J. Posey,
Acting Secretary.

⁴⁴ See Order No. 890 at P 443. Under Order No. 890, each public utility transmission provider is required to submit a compliance filing establishing a coordinated and regional planning process that complies with the planning principles and other requirements in Order No. 890, along with a “strawman” of that proposal in advance of technical conferences to be held by Commission Staff. *Id.* at P 442-43. The Commission also stated its expectation that non-public utility transmission providers participate in the planning processes required in Order No. 890. *Id.* at P 441.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

ColumbiaGrid

Docket No. ER07-523-000

(Issued April 3, 2007)

MOELLER, Commissioner *concurring*:

I support today's decision to accept ColumbiaGrid's Planning and Expansion Functional Agreement (Planning Agreement) because I support the corporation's efforts in coordinating planning activities on a regional basis and, in particular, implementing a single planning process that accommodates the different types of transmission providers in the Northwest.

ColumbiaGrid argues, and this order agrees, that ColumbiaGrid's planning activities do not make it a jurisdictional utility. The Northwest and Intermountain Power Producers Coalition (NIPPC) argue that the Commission should find ColumbiaGrid to be a jurisdictional entity because this will facilitate a competitive electric power supply marketplace in the Pacific Northwest and Intermountain United States. However, since ColumbiaGrid does not own, operate or control transmission facilities, we decline to do so. The Commission's response, among others, that this Planning Agreement does not relieve ColumbiaGrid members from their open access transmission tariff (OATT) requirements, unfortunately, will not reassure these independent power producers because under their OATTs, transmission owners are only obligated to build for native load and existing firm service contracts. For instance, without an enforceable regional transmission plan, the consumers in the Northwest that expect to receive delivery of renewable resources, especially wind resources, in the near future, may not be able to do so unless additional transmission infrastructure is built.

With regard to the regional transmission planning requirements of Order No. 890,¹ ColumbiaGrid admits that its filing does not meet them.² The order, however, accepts ColumbiaGrid's filing because it increases coordination and transparency that has the

¹ *Preventing Undue Discrimination in Transmission Service*, Order No. 890, 72 Fed. Reg. 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ _____ (2007).

² ColumbiaGrid March 12, 2007 Answer at 2-3.

potential to improve reliability, operational efficiency, and expansion of the transmission grid. Entities required to comply with the Commission's Order No. 890 regional transmission planning requirements have to make their compliance filings later this year. As noted in the order, the Commission expects the members of ColumbiaGrid to submit such compliance filings, but I would prefer accepting ColumbiaGrid's Planning Agreement conditioned upon our acceptance of its members' compliance filings. Such a conditional acceptance will provide the Commission and other interested parties an opportunity to reevaluate more readily whether ColumbiaGrid's regional planning efforts conform (or not) to the standardized guidelines laid out in Order No. 890.

Finally, I am looking forward to the discussion of the issues relating to coordination of planning efforts among ColumbiaGrid, Northern Tier Transmission Group and others at the regional conference required by Order No. 890.

Philip D. Moeller
Commissioner

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Docket No. ER07-523-000

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WELLINGHOFF, Commissioner, concurring:

With regard to the regional transmission planning requirements of Order No. 890,¹ ColumbiaGrid states that its filing in this proceeding was not intended to meet them.² Indeed, the Planning Agreement does not satisfy the requirements of Order No. 890. For example, the Planning Agreement does not treat all Non-Transmission Alternatives on a comparable basis.

The order accepts ColumbiaGrid's filing as a rate schedule because it increases coordination and transparency and, thus, has the potential to improve reliability, operational efficiency, and expansion of the transmission grid. I support the efforts of ColumbiaGrid and its members to advance those goals. Nonetheless, I would prefer accepting ColumbiaGrid's Planning Agreement conditioned upon our acceptance of its members' Order No. 890 compliance filings. Such a conditional acceptance would clarify that while the Planning Agreement addresses an issue that is also relevant to Order No. 890 compliance filings, our acceptance of the Planning Agreement in no way shifts the burden of the entity submitting such a compliance filing to demonstrate that its regional planning efforts conform to the guidelines set forth in Order No. 890.

For this reason, I respectfully concur.

Jon Wellinghoff
Commissioner

¹ *Preventing Undue Discrimination in Transmission Service*, Order No. 890, 72 Fed. Reg. 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ _____ (2007).

² ColumbiaGrid March 12, 2007 Answer at 2-3.