

January 14, 2014

BY ELECTRONIC FILING

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

Re: The Southeastern Regional Transmission Planning Process
Order No. 1000 Regional Compliance Filing
Filing Submitted Under Protest As Discussed Herein

Duke Energy Carolinas, LLC and Duke Energy Progress, Inc.,
Docket No. ER13-83

Kentucky Utilities Company and Louisville Gas and Electric Company
Docket No. ER13-897

Ohio Valley Electric Corporation, including its wholly owned subsidiary Indiana-Kentucky Electric Corporation
Docket No. ER13-913

Southern Company Services, Inc.
Docket No. ER13-908

Dear Ms. Bose:

Pursuant to Section 206 of the Federal Power Act; the Federal Energy Regulatory Commission's ("Commission" or "FERC") order issued in *Louisville Gas and Electric Co., et al*, 144 FERC ¶ 61,054 (2013) (the "July 18th Order" or "Order"); the Commission's order issued in *Duke Energy Carolinas LLC, et al.*, 145 FERC ¶ 61,252 (2013) ("Duke Order"); and the Commission's October 17, 2013 Letter Order granting an extension of time to submit this compliance filing,¹ Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, Inc. ("DEP") (collectively, "Duke"); Louisville Gas and Electric Company and Kentucky Utilities Company ("LG&E/KU"); Ohio Valley Electric Corporation, including its wholly owned subsidiary Indiana-Kentucky Electric Corporation ("OVEC"); and Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power

¹ Letter Order, 145 FERC ¶ 61,059 ("October 17th Letter Order").

Company, and Mississippi Power Company (collectively “Southern Companies”), hereby provide their compliance filing to the July 18th Order and certain aspects of the Duke Order.²

I. INTRODUCTION

A. Background

Duke, LG&E/KU, OVEC, and Southern Companies (collectively, the “Jurisdictional SERTP Sponsors” or “Jurisdictional Sponsors”) are all public utility transmission providers that sponsor the Southeastern Regional Transmission Planning process (“SERTP”). As explained in several recent filings made with the Commission, the SERTP has greatly expanded over the course of the last few years to become one of the largest regional transmission planning processes in the United States, with Duke becoming the most recent addition, as accepted by the Commission in the Duke Order. In addition to the Jurisdictional SERTP Sponsors, the SERTP is also supported by the following nonjurisdictional transmission owners and service providers: Associated Electric Cooperative Inc. (“AECI”), Dalton Utilities (“Dalton”), Georgia Transmission Corporation (“GTC”), the Municipal Electric Authority of Georgia (“MEAG”), PowerSouth Energy Cooperative (“PowerSouth”), and the Tennessee Valley Authority (“TVA”) (collectively, the “Nonjurisdictional SERTP Sponsors”) (the Jurisdictional SERTP Sponsors and Nonjurisdictional SERTP Sponsors collectively are referred herein as the “SERTP Sponsors”).

This filing involves the SERTP Sponsors’ proposals to comply with Order No. 1000’s³ regional transmission planning and cost allocation requirements.⁴ The SERTP Sponsors submitted their initial compliance filing to address those requirements on February 8, 2013 in Docket Nos. ER13-897, ER13-908, and ER13-913 (the “February 8th Filings”), with Duke essentially adopting the substance of those filings when Duke joined the SERTP, as explained in Duke’s May 22, 2013 submittal in Docket No. ER13-83. In the July 18th Order, the Commission approved parts of the SERTP Sponsors’ regional compliance proposals but also required a further compliance filing to address over fifty specific directives made in the Order. In the Duke Order, the Commission accepted Duke’s joining the SERTP, thereby clarifying that Duke

² Duke is not submitting its compliance tariff records at this time. Rather, it is submitting the transmittal letter and the non-tariff attachments to reflect its full support for the tariff changes being proposed and the substance of this letter. Duke will submit its revised tariff records within 60 days of the Duke Order.

³ *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) (“Order No. 1000”).

⁴ While the SERTP Sponsors respectfully submit that these OATT revisions satisfy the requirements of the July 18th Order, the Jurisdictional SERTP Sponsors are making this filing under protest, as to compliance with the Order’s directives with regard to which they sought rehearing. Southern Companies are likewise making this filing under protest in consideration of Southern Companies’ request for rehearing of Order No. 1000 and Petition for Review of Order No. 1000, which is pending before the United States Court of Appeals for the District of Columbia Circuit and consolidated with other appeals of Order No. 1000. See *Request for Rehearing of Southern Company Services, Inc.*, Docket No. RM10-23, filed August 22, 2011; see also *South Carolina Public Service Authority v. Federal Energy Regulatory Commission*, Consolidated Case Nos. 12-1232, 12-1233, 12-1250, 12-1276, 12-1279, 12-1280, 12-1290, 12-1292, 12-1293, 12-1294, 12-1296, 12-1299, 12-1300, 12-1304, *et al.*

likewise is subject to the requirements of the July 18th Order. By means of the instant filing, the Jurisdictional SERTP Sponsors are filing their compliance filings to the requirements of the July 18th Order, and this filing is also consistent with the Duke Order's recognition that Duke has become an SERTP Sponsor.

The common tariff language being filed herein by the Jurisdictional Sponsors to comply with the July 18th Order was developed through extensive collaborative efforts and reflects the consensus of the SERTP Sponsors. Importantly, the Nonjurisdictional SERTP Sponsors have authorized the Jurisdictional Sponsors to inform the Commission that the Nonjurisdictional SERTP Sponsors support this filing as the appropriate approach to comply with the requirements of the July 18th Order.⁵

With regard to Stakeholder involvement, the Commission's providing of the extension of time in the October 17th Letter Order allowed an opportunity for the SERTP Sponsors to vet an initial draft of their compliance proposals with Stakeholders.⁶ Specifically, on December 13, 2013, the SERTP Sponsors posted on their regional website a draft of their Attachment K containing proposed revisions to comply with the July 18th Order and conducted a webinar on December 19, 2013 with Stakeholders to discuss those proposals.⁷ Representatives of state public service commissions, transmission developers, market participants, transmission dependent utilities, and nongovernmental organizations participated in those discussions. Meetings notes generally summarizing those discussions are available on the SERTP website.⁸ As shown by a review of those meeting notes, the SERTP Sponsors provided an overview of the proposed draft, with Stakeholders raising a few questions. Stakeholders were invited to provide written comments by January 3, 2014, with the SERTP Sponsors receiving only one set of comments from the Public Interest Organizations ("PIOs").⁹ Those comments led to a tariff revision (discussed further below). A brief response is also provided below in response to the PIOs' comments.

⁵ For ease of reference and consistent with the convention adopted by the Commission in the July 18th Order, all tariff references in this letter are to Southern Companies' OATT; numbering and/or lettering varies slightly among the tariffs being submitted in the relevant dockets. The substance of each filing with respect to the SERTP's regional transmission planning process to comply with Order No. 1000 is the same in all material respects.

⁶ The July 18th Order did not require the SERTP Sponsors to provide outreach to Stakeholders.

⁷ The draft Attachment K language that was posted on the SERTP website may be found at:
http://www.southeasternrtp.com/general_documents.asp

⁸ The meeting notes are available at: <http://www.southeasternrtp.com/General/2013/December-19th-InterimMeeting-Order-1000Notes.pdf>

⁹ Those comments are available on the SERTP website at:
<http://southeasternrtp.com/General/2014/PIO%20comments%20on%20SERTP%2012.13%20draft%20FINAL.pdf>

B. The SERTP Processes Were Developed to Fully Comply with Order No. 1000's Requirements While Being Consistent with the SERTP's Regional Characteristics

The Jurisdictional SERTP Sponsors have striven to develop transmission planning and cost allocation processes that fully meet the Commission's requirements while at the same time remaining consistent with this region's unique characteristics - - most notably its physical transmission service markets, often state-regulated Integrated Resource Planning ("IRP") processes, and the significant roles played by nonjurisdictional utilities that own approximately forty percent (40%) of the circuit miles of transmission within this region. In order for the implementation of Order No. 1000 to prove beneficial in the SERTP, it is critical for the resulting transmission planning and cost allocation processes to complement (and not conflict with) these key regional characteristics, particularly since these characteristics underlie much of the historical success that the SERTP Sponsors have had in the planning and expansion of their transmission system.¹⁰ In this regard, Order No. 1000 appropriately commits to provide regional flexibility and respect regional differences,¹¹ with Commissioner Clark (in particular) raising the concern in his dissent that the July 18th Order "fails to accommodate the characteristics of this non-market, non-RTO region." July 18th Order, Commission Clark, dissenting at p. 2.

These relatively unique aspects of the SERTP region have shaped many of the compliance proposals that are being hereby submitted to comply with the July 18th Order's requirements. In particular, reference is made to the following:

- **Nonjurisdictional Governance and Legal Limitations - The SERTP's Enrollment Provisions:** As discussed in section II.A.1 of this transmittal letter herein, the enrollment proposals are largely crafted with the intent to both comply with the Commission's directives while at the same time respecting the specific governance requirements and legal limitations that nonjurisdictional transmission owners face so as to allow them to enroll into the SERTP.
- **The SERTP's Physical Transmission Service Markets - the Definition of Transmission Needs:** As discussed in section II.C.1 of this transmittal letter, a definition of "Transmission Needs" has been adopted in the Jurisdictional SERTP Sponsors' Attachment Ks to clarify that the SERTP is characterized by physical transmission service whereby customers with firm transmission service have the right to use the underlying physical transmission capacity associated with their long-term commitments. Under this physical transmission market structure, transmission customers do not make congestion payments. Instead, the transmission system is planned and expanded to address congestion in advance of the commencement of a particular

¹⁰ Department of Energy ("DOE"), *2009 National Electric Transmission Congestion Study*, at 61 ("There is little economic or reliability congestion within the [Southeast].")

¹¹ See e.g., Order No. 1000-A, P 267.

transmission service commitment with the goal that those who have made such long-term firm transmission commitments will be able to access their resources *without congestion*, constraint, or curtailment. Accordingly, the definition being adopted hereunder of “Transmission Needs” recognizes that the SERTP Sponsors’ transmission systems are planned and expanded to meet those long-term firm transmission commitments. Those “Transmission Needs” may be driven by a host of considerations, including by public policy requirements and reliability and economic considerations, with those drivers (as discussed below) often being established by state-regulated IRP processes.

- **The SERTP’s Bottom-Up, IRP-Driven Planning Process - the Definition of Transmission Needs and the Use of an Avoided Cost Allocation Metric:** Transmission planning in the SERTP is a bottom-up process that begins with IRP processes. As discussed in the Department of Energy-funded study entitled, “Market Structures and Transmission Planning Processes in the Eastern Interconnection,”¹² in non-RTO regions such as the SERTP, IRP is the process used to

[I]dentify the load-serving utility’s incremental needs, including load growth, and then set forth plans for providing or procuring the needed capacity at the lowest overall cost to consumers *given all supply- and demand-side capacity options* as well as the transmission costs associated with those options. IRPs also consider critical factors such as reliability, *public policy requirements*, fuel diversity and stability, and environmental attributes.¹³

Turning to how this critical, bottom-up nature of the SERTP region is incorporated into the SERTP Attachment K proposals being filed herein:

- **Definition of Transmission Needs:** As previously discussed, the results of those IRP processes plus those third party, long-term OATT commitments constitute the above described definition of “Transmission Needs” that is hereby being proposed to be adopted. Consistent with the SERTP’s market structure, those “Transmission Needs” therefore drive the SERTP Sponsors’ transmission planning that is performed under the Jurisdictional SERTP Sponsors’ Attachment Ks.

¹² The DOE Market Structure Report is available at <http://communities.nrri.org/documents/68668/9b2a7452-0061-4c45-9a64-a5c2dec0058f?version=1.5>, (2012) (“DOE Market Structure Report”).

¹³ DOE Market Structure Report, at 26 (emphasis added).

- **Use of an Avoided Cost Metric:** While the SERTP Sponsors are broadening their cost allocation proposals in accordance with the July 18th Order such that they no longer solely use an avoided cost methodology, the avoided cost allocation metric remains a critical aspect of the SERTP Sponsors' compliance proposals that is necessary and appropriate to effectuate their IRP-driven planning processes. This is because rather than making a *de novo* determination of Transmission Needs at the regional-level, or otherwise second-guessing the decisions made in the IRP processes, the avoided cost methodology takes the Transmission Need determinations made in those IRP processes, combines them with the long-term transmission commitments made by market participants under the OATT, and then looks to see if there are more efficient or cost effective transmission solutions (in accordance with Order No. 1000) to meet those Transmission Needs.¹⁴ As discussed in the SERTP Sponsors' Request for Rehearing, additional cost allocation metrics that would engage in a *de novo* determination of transmission needs at the regional level, or that would second guess the results of those bottom-up determinations, would violate Order No. 1000's commitments to respect state-regulated IRP.¹⁵

And while the SERTP Sponsors hope that the Commission will generally grant the SERTP Sponsors' request for rehearing to the July 18th Order, they especially request that the Commission grant rehearing of its determination made at Paragraph 199 that rejected the SERTP Sponsors' original proposal that approval from all of the "jurisdictional and/or governance authorities of the Impacted Utilities" be obtained in order for a transmission project to be selected in a regional transmission plan for purposes of regional cost allocation. The importance of that provision, which the July 18th Order required to be removed, should not be underestimated. Prior to Order No. 1000, there was a seamless transition from state-regulated IRP planning (where the least-cost means to address system needs are adopted) and other state-regulated processes to transmission planning (which determines the appropriate transmission solutions to effectuate the results of such IRP planning plus long-term commitments made under the OATT). The "jurisdictional and/or governance" approval step in the original SERTP filing was the means by which the new FERC-regulated transmission planning processes would be reconciled with the existing state-regulated processes, in contrast to the current potential for conflicting federal and state transmission expansion processes. Moreover, the governance approval step would have allowed the Nonjurisdictional SERTP Sponsors to obtain their board

¹⁴ The SERTP Sponsors' request for rehearing to the July 18th Order further explains the major characteristics of their region and clarifications that the Commission could make to ensure that conflicts with IRP processes are avoided. *Request for Rehearing and Clarification of Associated Electric Cooperative, et al.*, filed August 19, 2013 in Docket Nos. ER13-897, ER13-908, and ER13-913, at pp. 1-29, 48, 54-58 ("SERTP Sponsors' Request for Rehearing").

¹⁵ *Id.*

and other requisite legal approvals so as to be able to participate in the specific application of a regional cost allocation.

C. The Jurisdictional SERTP Sponsors' Filing of Their Respective Tariff Records

While the Jurisdictional SERTP Sponsors are submitting this common transmittal letter, each Jurisdictional SERTP Sponsor is individually submitting the relevant revised provisions to its respective open access transmission tariff ("OATT"), through eTariff, to comply with the Commission's filing requirements. In each of the filings, the relevant Jurisdictional SERTP Sponsor, other than Duke, is including the relevant tariff records that are being amended and/or added to their OATTs along with Clean and Marked Tariff Attachments only for the OATT that is in such Jurisdictional Sponsor's database. Put another way, each Jurisdictional Sponsor will include in its filing its specific tariff records and corresponding Clean and Marked Tariff Attachments, but not the tariff records to be filed by the other Jurisdictional Sponsors. Additionally, it is important to note that the tariff records and Clean and Marked Tariff Attachments will not be absolutely identical across all four filings as they reflect differing local planning processes and slight variations in terminology used in the corresponding OATTs.

In addition, it should be noted that the starting point for each of the tariff records being submitted is the version of Attachment K that was submitted with the interregional compliance filings on July 10, 2013 by the SERTP Jurisdictional Sponsors in Docket Nos. ER13-1928, ER13-1930, ER13-1940, and ER13-1941 ("Interregional Filings"). In the Interregional Filings, the Jurisdictional Sponsors each filed the tariff record(s) that comprise the main body of their Attachment K's local and regional process ("local/regional tariff records"), as well as additional tariff records that addressed only interregional compliance matters ("interregional tariff records"). The Interregional Filings included relatively few edits to the local/regional tariff records, with the primary changes being: 1) "directions" to tariff readers as to where to locate interregional planning provisions (*i.e.*, in the provisions listed in the new interregional tariff records); 2) the elimination of provisions relating to the Southeast Inter-Regional Participation Process ("SIRPP"); and 3) a reference in the regional benefit-to-cost provision (found in Section 17.2.1(2)(C) of the Attachment K being filed herein) noting that for interregional projects, the costs of the project to be used for regional purposes are those allocated to the SERTP in the applicable interregional cost allocation process. In the case of Southern Companies, certain provisions relating to economic studies conducted with the Florida Reliability Coordinating Council also were eliminated.

What is being submitted here is only the local/regional tariff records, which as noted, are intended to take effect on June 1, 2014. Although an official effective date has not been proposed for the interregional tariff records, they are not expected to take effect until 2015. Nonetheless, it is appropriate that the local/regional tariff records that presumably will be effective June 1, 2014 include not only the changes being proposed here, but also those relatively few changes relating to the interregional coordination process proposed in the Interregional Filings. Doing so is appropriate since it will have no practical effect and will facilitate the implementation of Order No. 1000's requirements. As a result of this approach, the Marked

Tariffs reflect a redline against the pending July 10, 2013 versions of the local/regional tariff records. In addition, each Jurisdictional Sponsor is adding a single new tariff record providing the list of enrollees in the SERTP.

With regard to the termination of the SIRPP planning process, its last planning cycle concludes in August 2014. While this completion date is subsequent to the June 1, 2014 effective date for the relevant tariff records that would terminate the SIRPP, the SERTP Sponsors participating in the SIRPP commit to complete the current planning cycle notwithstanding the proposed June 1, 2014 effectiveness of the underlying tariff records. Therefore, allowing its termination to be effectuated by this filing should not have any practical effect other than facilitating the orderly implementation of Order No. 1000 by the SERTP Sponsors.

II. REVISIONS TO ATTACHMENT K TO COMPLY WITH THE JULY 18TH ORDER

Given the scope of the Commission's directives in the July 18th Order, the SERTP Sponsors undertook a comprehensive review of the entirety of the Jurisdictional SERTP Sponsors' Attachment Ks in order to further compliance and the viability of the SERTP transmission planning process. In performing this review, the SERTP Sponsors also noted several revisions that are appropriate for clarity and internal consistency purposes, as well as to address typographical and stylistic issues.

As previously noted, for ease of reference, the citations below to the Jurisdictional SERTP Sponsors' Attachment Ks are to that of Southern Companies.

A. Regional Transmission Planning Requirements¹⁶

1. Transmission Planning Region

Under this heading, the July 18th Order addresses enrollment, the transmission facilities subject to the SERTP's planning process, and the effective date for the SERTP to implement Order No. 1000's regional requirements. With regard to enrollment, the July 18th Order required the elimination of the requirement in the February 8th Filings that to be eligible to enroll, the applicant had to be a public utility or non-public utility transmission provider having a "statutory or OATT obligation to ensure that adequate transmission facilities exist within a portion of the SERTP region." July 18th Order, P 29. In accordance with that requirement, Section 13.1 has been revised to remove that language. The Commission also required the Jurisdictional SERTP Sponsors to remove language that provided that the Jurisdictional SERTP Sponsors were "deemed to have enrolled ... through this Attachment [K or M]" and to instead include in their Attachment K a list of enrollees. Section 13.1 has been revised to remove that quoted language, and the Jurisdictional SERTP Sponsors have added a List of Enrollees as Exhibit K-9. The July

¹⁶ To facilitate the Commission's review of the proposals made herein, the headings under this Section II of the transmittal letter generally follow the topic headings in the July 18th Order.

18th Order also essentially recognized that the SERTP is an integrated region, but stated that based upon the list of enrollees that would need to be filed, if the SERTP proved to “no longer” be integrated, then “the Commission directs Filing Parties to make further filings as necessary to comply with Order No. 1000’s regional scope requirements.” July 18th Order, P 30. As shown in the Exhibit K-9 being filed hereunder, the SERTP remains integrated, as the following Enrollees’ electric systems are electrically integrated to one another: AECI, Dalton Utilities, Duke, LG&E/KU, MEAG, OVEC, PowerSouth, Southern Companies, and TVA.

As noted above, in order to allow the Nonjurisdictional SERTP Sponsors to enroll in the SERTP, additional revisions to the enrollment provisions of Attachment K have been made. But before turning to those specific compliance proposals, the importance of the Nonjurisdictional SERTP Sponsors to the continued viability of the SERTP should again be emphasized. The SERTP is somewhat similar to the Pacific Northwest in that both regions are characterized by the presence of significant nonjurisdictional transmission providers and owners. Indeed, the Nonjurisdictional SERTP Sponsors own about forty percent (40%) of the miles of transmission located in the SERTP, with TVA (in particular) providing a key role in integrating the SERTP Sponsors given TVA’s central location geographically. Moreover, through SERC planning processes and bilateral arrangements, the Jurisdictional SERTP Sponsors and the Nonjurisdictional SERTP Sponsors have a long history and continued practice of engaging in highly coordinated transmission planning efforts. In order for Order No. 1000 to promote (and not harm) the transmission planning and development processes found in the SERTP, and to respect Order No. 1000’s commitment to provide regional flexibility, the ability of the Nonjurisdictional SERTP Sponsors to continue to participate fully in the SERTP should be fostered and encouraged.

The enrollment provisions adopted by the Jurisdictional SERTP Sponsors have been developed in an effort to allow for the continued participation of the Nonjurisdictional SERTP Sponsors. In order that the Nonjurisdictional Sponsors know exactly what they are enrolling in, Section 13.5.1 has been revised to add a condition precedent that their enrollment is only effective should the Commission accept this filing without condition, modification, or suspension and without setting the matter for hearing; provided, however, if any such action is taken, the Nonjurisdictional SERTP Sponsors have 60 days to notify the Jurisdictional SERTP Sponsors whether they will enroll notwithstanding such action. In addition, and as explained to the Commission in the SERTP Sponsors’ request for rehearing filed to the July 18th Order,¹⁷ the Nonjurisdictional SERTP Sponsors must comply with their legal requirements and obtain their requisite governance approvals before being subject to cost allocation in any particular instance. To reflect this fact, Section 13.6 has been revised to provide that a Nonjurisdictional SERTP Sponsor may withdraw its enrollment from the SERTP upon providing notice to the Jurisdictional SERTP Sponsors, with that withdrawal to be effective as of the date such notice is provided to the Jurisdictional SERTP Sponsors. Conforming changes are made to other subsections within Section 13. This withdrawal process is consistent with Order No. 1000 directives. *See Avista Corp. et al.*, 143 FERC ¶ 61,255, P 270 (2013) (stating, “as we have noted previously, to accommodate the participation by non-public utility transmission providers, the

¹⁷ SERTP Sponsors’ Request for Rehearing at 29-39, 44.

relevant tariffs or agreements governing the regional transmission planning process could establish accelerated withdrawal for nonpublic utility transmission providers that are unable to accept the allocation of costs”); *id.* at P 273 (adding, “the Commission also highlighted the flexibility provided to develop rules allowing for the withdrawal of an enrolled non-public utility transmission provider from the regional transmission planning process should it be unable to accept the allocation of costs.”); *and* Order No. 1000-A, P 622 (providing “for future applications of the method to actual new facilities, a non-public utility transmission provider could exercise any right it has in the regional transmission planning process to withdraw rather than accept the allocation of costs.”). A withdrawing enrollee will be subject to costs allocation determinations made in accordance with this Attachment K that determined that the enrollee was a beneficiary of a transmission projected selected in a regional plan for RCAP during the period that the withdrawing enrollee was enrolled. Attachment K, Section 13.7.

The Jurisdictional SERTP Sponsors, therefore, respectfully submit that these enrollment provisions are just and reasonable because: they are consistent with Order No. 1000’s directives, correspond with the reality of the Nonjurisdictional SERTP Sponsors’ legal limitations; they are necessary for the Nonjurisdictionals to be able to enroll in the SERTP; and the participation of the Nonjurisdictional SERTP Sponsors is essential to the continued viability of the current configuration of the SERTP and are otherwise essential for the planning and expansion of the transmission system.¹⁸

The Commission also required the Jurisdictional SERTP Sponsors to explain to which transmission facilities the proposed OATT revisions will apply as of the effective date and how they will “evaluate or reevaluate ... those transmission projects currently under consideration.” July 18th Order, P 32. In response, the new Section 11 (addressing the July 18th Order’s “affirmative obligation to plan” requirements), the revised Section 17.1, Section 17.2.1, and Section 19.4 essentially provide that all new transmission projects under consideration remain potentially subject to evaluation and revaluation under this Attachment K “until it is no longer reasonably feasible to replace the proposed transmission project as a result of the proposed transmission project being in a material stage of construction and/or if it is no longer considered reasonably feasible for an alternative transmission project to be placed in service in time to address the underlying Transmission Need(s) the proposed transmission project is intended to address.”¹⁹ Furthermore, with Duke and LG&E/KU having separate local planning processes, new transmission projects developed through those processes would not be separately vetted with Stakeholders in the SERTP, although such transmission projects would be potentially subject to displacement by more efficient or cost effective transmission projects identified through the SERTP’s processes.

The July 18th Order’s regional transmission planning discussion also addresses the effective date for the Jurisdictional SERTP Sponsors’ Attachment K. Events have superseded that aspect of the July 18th Order because the October 17th Letter Order established June 1, 2014

¹⁸ See 16 U.S.C. § 824q(b)(4).

¹⁹ Attachment K, Section 19.4.

as the effective date for the Jurisdictional SERTP Sponsors to initiate their implementation of Order No. 1000's regional requirements.

B. Order No. 890 and other Regional Transmission Planning Process General Requirements

In the Order, the Commission required LG&E/KU and OVEC to revise their respective OATTs to "include the same definition of a SERTP 'stakeholder' as the one in Southern Companies' OATT." July 18th Order P 44. Accordingly, both LG&E/KU and OVEC have added the following to the definitions sections of their respective OATTs:

Stakeholder: Any party interested in the Southeastern Regional Transmission Planning Process, including but not limited to transmission and interconnection customers, generation owners/development companies, developers of alternative resources, or state commissions.

LG&E/KU and OVEC respectfully request that the Commission accept this as compliant with the requirements of the Order.

The July 18th Order also directed OVEC and Southern Companies "to explain the interaction between their local transmission planning process and the SERTP process and to revise their respective OATTs to provide Stakeholders sufficient information to understand" which aspects apply to local and which to regional transmission planning. Order, P 45. The Order expressed the concern that Stakeholders might be confused whether, for example, the reference to a "plan" in the SERTP process "is referring to a single local transmission plan, multiple local transmission plans, or the SERTP regional transmission plan." *Id.*

In response, the interaction between OVEC's and Southern Companies' local and regional planning processes is that OVEC and Southern Companies each, respectively, use the SERTP as its open, coordinated, and transparent transmission planning process for its local and regional transmission planning processes that satisfies the pertinent requirements of Order Nos. 890 and 1000. This includes both Order No. 890's seven transmission planning principles that the Commission clarified in Order No. 1000 apply to both local and regional transmission planning²⁰ and Order No. 1000's public policy requirements that also apply to local and regional transmission planning. OVEC's and Southern Companies' Attachment Ks are explicit in this regard, as the Attachment Ks specifically note under the headings of "Local Transmission Planning" and "Regional Transmission Planning" that the same aspects of the SERTP's planning process that satisfy those Order No. 890 requirements apply to both OVEC's and Southern Companies' local and regional transmission planning and that the same aspects of the SERTP's planning process also satisfy Order No. 1000's public policy requirements. Further clarification

²⁰ Order No. 1000, P 151 ("Specifically, the requirements of this Final Rule build on the following transmission planning principles that [the Commission] required in Order No. 890: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; and (7) economic planning.")

has been added to Southern Companies' and OVEC's respective "Local Transmission Planning" section as well. The added language specifies that Southern Companies and OVEC each uses "the SERTP as its open, coordinated, and transmission planning process for both its local and regional planning processes...." Southern Companies and OVEC submit that utilizing such a singular forum/process in which all of the transmission provider's planned transmission projects in the ten-year transmission expansion/regional plan are addressed provides a just, reasonable, and efficient approach to vet these issues with Stakeholders and otherwise address the Commission's transmission planning and cost allocation requirements. So long as the planning for a transmission project is vetted with Stakeholders and otherwise appropriately "coordinated" for purposes of those seven (7) Order No. 890 transmission planning principles and in accordance with Order No. 1000's public policy requirements, duplicating the exact same vetting and coordination under artificially bifurcated local and regional processes would only result in inefficiency and delay. Indeed, combining the local and regional processes where possible and feasible should facilitate Stakeholder participation by reducing the need for them to monitor multiple and duplicative processes and meetings.

Concerning potential confusion regarding the "transmission plans" raised in the July 18th Order, the Jurisdictional SERTP Sponsors have revised footnotes 1 and 5 of their Attachment K to provide that the Transmission Provider's ten year transmission expansion plan, which is referenced throughout Attachment K, along with the ten year transmission expansion plans of the other SERTP Sponsors, is expected to be included in the regional transmission plan that is required by Order No. 1000. A similar statement has also been added to Southern Companies' and OVEC's Attachment Ks under the heading of their respective "Local Transmission Planning" section. The intent being that for each transmission planning cycle, each SERTP Sponsor's ten year transmission expansion plan will ultimately be included in the regional transmission plan required by Order No. 1000.

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

1. Affirmative Obligation to Plan and the Definition of "Transmission Needs"

The Commission summarized the July 18th Order's "affirmative obligation to plan" requirements for the Jurisdictional SERTP Sponsors to be that they must "revise their respective OATTs to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements." July 18th Order, P 64.

To address these requirements, the Jurisdictional SERTP Sponsors have adopted a new Section 11 to their respective Attachment Ks.²¹ Section 11 discusses how the SERTP Sponsors will engage in regional transmission planning analysis to assess if the then-current regional

²¹ The addition of this new Section 11 has necessarily led to a renumbering of the subsequent sections of the Jurisdictional SERTP Sponsors' Attachment Ks.

transmission plan addresses their “Transmission Needs, including those of its Transmission Customers and those which may be driven, in whole or part, by economic considerations or Public Policy Requirements.” Attachment K, Section 11.1. This explanation introduces the newly defined term of their “Transmission Needs” that the Jurisdictional SERTP Sponsors have added to their Attachment Ks. This term is defined on the first page of the revised Attachment Ks as:

[T]he Transmission Provider’s physical transmission system delivery capacity requirements that it must fulfill on a reliable basis to satisfy long-term (*i.e.*, one year or more) firm transmission commitment(s) whether driven in whole or in part by public policy requirements or economic or reliability considerations. Such commitments consist of Transmission Customers’ long-term Service Agreements under the Tariff and the firm transmission capacity required to serve the long-term delivery service requirements of Native Load Customers.

The SERTP Sponsors felt that it was important to add this definition so as to clarify the nature of their electric markets and how their transmission system is planned and expanded. By way of explanation, the SERTP region is characterized largely by vertically integrated utilities providing “physical” transmission service, in that transmission customers committing to long-term firm service have the right to use the physical transmission capacity necessary to render that service, with the transmission system planned and expanded with the intent that such service will be provided without congestion or constraint. The SERTP Sponsors plan and expand their transmission system with the intent to provide service *without congestion* for those customers willing to commit to long-term service. For a more detailed description of the SERTP’s market structure, reference is made to the DOE Market Structure Report.²²

Given the SERTP Sponsors’ physical transmission service structure, the SERTP Sponsors’ transmission systems are planned and expanded to address “Transmission Needs,” as defined above. For native load customers, their “Transmission Needs” are largely established by often state-regulated IRP planning. Those IRP processes

[I]dentify the load-serving utility’s incremental needs, including load growth, and then set forth plans for providing or procuring the needed capacity at the lowest overall cost to consumers ***given all supply- and demand-side capacity options*** as well as the transmission costs associated with those options. IRPs also consider critical factors such as reliability, ***public policy requirements***, fuel diversity and stability, and environmental attributes.

²² See, e.g., DOE Market Structure Report at 25-27, 34-35, 42-43, 60-61, 64-65, 72-75.

DOE Market Structure Report at 26 (emphasis added). Presumably, the Transmission Provider's Transmission Customers' long-term firm transmission commitments likewise incorporate the results of their own IRP planning (if applicable) of the least-cost means of addressing (among other things) their economic considerations and public policy requirements.²³ Accordingly, by addressing their "Transmission Needs," the SERTP Sponsors "meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements." *Compare* July 18th Order, P 64.

Section 11.1.2 specifies the types of analyses that will be conducted as part of the SERTP Sponsors' affirmative regional transmission planning (*i.e.*, power flow, dynamic, and short circuit analysis, as necessary) and provides that Transmission Needs driven by Public Policy Requirements identified by Stakeholders will also be addressed. Section 11.2.1 provides that the affirmative regional planning "will look for potential regional transmission projects that may be more efficient or cost effective solutions to address Transmission Needs..." To further ensure that the SERTP addresses "economic considerations" as contemplated by Order No. 1000, Section 11.2.1 provides that the evaluation of alternatives will include an analyses of a transmission project's "[a]bility to reduce real power transmission losses..." with the July 18th Order specifically identifying transmission losses as an example of economic planning. July 18th Order, P 255.²⁴ In order for this regional evaluation process to parallel that performed for transmission projects submitted for potential selection for RCAP, Section 11.2.1 also copied the provision that the Commission allowed the SERTP to use at paragraph 204 of the July 18th Order, which provides that the evaluation will be in accordance with state law pertaining to transmission ownership, siting, and construction. Section 11.2.2 explains that Stakeholders will be able to provide input into this affirmative regional planning "throughout the SERTP planning process for each planning cycle in accordance with" the SERTP's open, transparent, and coordinated process.

2. Minimum Threshold Requirements

With regard to the SERTP Sponsors' proposed minimum threshold requirements for a transmission project to be eligible to be proposed for inclusion in a regional plan for regional cost allocation purposes ("RCAP"), the July 18th Order held that the following must be removed: i) "the proposed OATT language related to transmission lines needing to be located in two or more SERTP balancing authority areas" and ii) "the provision requiring transmission projects to be 'materially different' than project(s) that have been previously considered in the transmission planning process..." Order, P 83. Accordingly, those requirements have been so removed.

²³ In any event, the Transmission Provider does not and cannot second-guess the needs assumptions underlying the transmission service commitments made by its Transmission Customers, nor may the Transmission Provider second-guess the IRP determinations made in state-regulated processes.

²⁴ See also *PacifiCorp., et al.*, 143 FERC ¶ 61,151, P 240 (2013) (accepting the Northern Tier Transmission Group's ("NTTG") proposal to include electric losses in addition to avoided transmission costs as compliant with Cost Allocation Principle 1).

The July 18th Order also required the Jurisdictional SERTP Sponsors to either remove or justify the one-hundred (100) mile minimum threshold for a transmission project to be eligible to be proposed for RCAP. Order, P 77. The Commission further explained that if that criterion is to be retained, then the Jurisdictional SERTP Sponsors should “provide additional justification as to how the 100-mile threshold identifies transmission facilities that are likely to have regional benefits. For example, [the Jurisdictional SERTP Sponsors] could provide a historical analysis of which existing transmission facilities within the transmission planning region would have been eligible for evaluation for selection in the regional transmission plan for purposes of cost allocation under the proposed minimum threshold requirement.” *Id.*

The SERTP Sponsors propose to retain the 100 mile criterion, and have also provided an alternative criterion that a line that would be at least 50 miles and displace transmission projects in two or more balancing authority areas or states within the SERTP would also be acceptable. The use of these distances for the SERTP as threshold criteria is appropriate. As discussed in previous filings, the SERTP is expansive, constituting one of the largest regional planning processes in the country, with the SERTP Sponsors collectively having over 80,000 circuit miles of transmission. Furthermore, the SERTP encompasses a land mass more than roughly 700 miles north-to-south²⁵ and over 1200 miles east-to-west.²⁶ Therefore, in order for a transmission project to provide regional benefits commensurate with the scope of the SERTP, it necessarily must be a significant transmission line. Exhibit 1 illustrates that there are numerous transmission lines within the SERTP rated 300 kV or higher that would satisfy the SERTP’s proposed minimum threshold criteria. Specifically, that Exhibit identifies that there are 63 transmission lines terminating in the SERTP that are at least 50 miles in length, 32 such transmission lines that are at least 75 miles in length, and 15 that are at least 100 miles in length, demonstrating that the proposed 100 mile and 50 mile alternative criteria are reasonable.

In addition, in order to provide regional benefits commensurate with the scope of the SERTP region, a regional transmission project should effectuate transfers between the major load areas in the SERTP region. Exhibit 2 further reinforces the appropriateness of the proposed threshold criteria in that this Exhibit provides a map showing the major load areas in the SERTP and the shortest distances to the next two major load areas located closest to each. Again, the SERTP is expansive. And not only is it expansive, but there are generally larger distances between load areas than in other portions of the US, such as the major load areas along the mid-Atlantic. Based upon the information presented in that Exhibit, the average mileage between a major load area in the SERTP and its closest other major load area is 91 miles and the average mileage between its second closest other major load area is 124 miles. Therefore, a regional transmission line effectuating transfers between major load areas should generally range between 91 to 124 miles in length. Furthermore, no major load area is within 50 miles of its next closest other major load area. Accordingly, given the geographic scope of the SERTP, the existing significant transmission infrastructure of expansive 300+kV transmission lines, and the relatively large distances between major load areas, the SERTP Sponsors submit that the 100 mile and 50

²⁵ Measured from the Florida Gulf coast to the northern Kentucky border.

²⁶ Measured from the North Carolina coast to Missouri’s western border.

mile alternative criteria are appropriate for the SERTP in identifying and encouraging transmission projects that are regional in nature.

As referenced above, the SERTP Sponsors are also proposing that certain transmission projects that are greater than 50 miles in length will also satisfy the minimum threshold requirements. By way of background, in the Jurisdictional SERTP Sponsors' February 8th Filings, pursuant to a recommendation from Commission Staff, the SERTP Sponsors included in their initial proposal an exception that even if a transmission project did not otherwise satisfy the minimum threshold criteria, the Jurisdictional SERTP Sponsors would consider such a project on a "case-by-case" basis so long as it provided significant regional transmission benefits. This case-by-case exception was to address a concern raised by Staff that a proposal might be slightly less than 100 miles in length. In the July 18th Order, however, the Commission expressed the concern that this exception might result in "unjust and unreasonable or unduly discriminatory outcomes," requiring additional detail to ensure that such result would not occur. Order, P 82. In response, the Jurisdictional SERTP Sponsors' intent behind the case-by-case exception was to allow for the consideration of lines less than 100 miles in length but that truly provide regional benefits commensurate to a 100 mile project (in terms of effectuating similar, significant bulk electric transfers and addressing similar significant, regional electric needs). Upon further review and to comply with the Order, the SERTP Sponsors submit that a transmission project that is over 50 miles in length that would displace transmission projects in two or more BAAs or states within the SERTP would provide sufficient regional benefits comparable to a 100 mile transmission project. Even though the project could be essentially half the length of a 100 mile (or greater) transmission project, the criteria that such a 50 mile project should also displace transmission projects in multiple BAAs or states within the SERTP would ensure that the project effectuates regional (as opposed to merely local) benefits in terms of effectuating significant electric transfers and addressing significant electric needs in a similar nature to a transmission project of at least 100 miles in length. Accordingly, the SERTP Sponsors are proposing to replace the "case-by-case" exception with this alternative that a transmission project would be eligible for RCAP if it is at least 50 miles in length and would displace transmission projects in two or more BAAs or states within the SERTP.

The July 18th Order also specified that the Jurisdictional SERTP Sponsors must either remove or justify their proposal that a transmission project proposed for RCAP must be materially different than projects already under consideration. Order, P 79. The SERTP Sponsors have retained that proposed requirement. For justification, if a proposal is not materially different than a project already under consideration, then it is axiomatic that the latter proposal of essentially the same project is not a "more efficient or cost effective" transmission alternative -- it is no alternative at all but is for all practical purposes the same project. In this regard, Order No. 1000 provides that its requirements have been adopted to "ensure that transmission planning processes . . . consider and evaluate . . . possible transmission *alternatives* . . ." Order No. 1000, P 4 (emphasis added). "[T]he various specific reforms adopted in this Final Rule are designed to work together to ensure an opportunity for *more transmission projects* to be considered in the transmission planning process . . ." *Id.* at P 11 (emphasis added). "Through the regional transmission planning process, public utility transmission providers will be required to evaluate, in consultation with Stakeholders, *alternative*

transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively *than solutions identified by individual public utility transmission providers* in their local transmission planning process.” *Id.* at P 148 (emphasis added). If a transmission project is already being evaluated in the transmission planning process, it is not a transmission project that has otherwise been missed or overlooked, as it is already being considered. Furthermore, Order No. 1000 encouraged the identification of ways to minimize disputes in evaluation. Order No. 1000, P 330. Ensuring that proposed solutions are materially different from one another should forestall unnecessary disputes and litigation that would almost certainly arise by allowing the submission of virtually identical transmission projects.

The Order also required the removal of the requirement that a transmission project must be able to be constructed and tied-in by the date needed but held that this basic consideration could be included in the evaluative step. July 18th Order, P 81. The Jurisdictional SERTP Sponsors have so removed that criteria from being a minimum threshold requirement and relocated it to be a consideration in the evaluation/selection of a project. *See* Section 17.5(e).

D. Considerations of Transmission Needs Driven by Public Policy Requirements

1. Considerations of Transmission Needs Driven by Public Policy Requirements in the Regional Transmission Planning Process

The July 18th Order requires the Jurisdictional SERTP Sponsors to adopt the definition of public policy requirements set forth in Order No. 1000-A that includes “local laws or regulations.” Order, P 113. Section 10.1 has been so revised. The July 18th Order requires the removal of the SERTP Sponsors’ original proposal that would have required Stakeholders to demonstrate that their proposed transmission need driven by a public policy requirement is not already addressed in the transmission planning process. Order, P 115. The pertinent language has been so removed from Section 10.2.1(2). The Order also requires the adoption of certain posting requirements pertaining to Stakeholder input regarding public policy requirements. Section 10.5 has been revised in compliance with those directives.

The Order requires the Jurisdictional SERTP Sponsors to revise their OATTs “to clearly state how Stakeholders can provide input in the regional transmission planning process regarding the identification of transmission needs driven by public policy requirements, and evaluation of potential solutions to those identified needs.” Order, P 116. Section 10.2.1 of Attachment K clearly states how Stakeholders may provide such input and what information should be provided. A new Section 10.4.2 has been added to explain how Stakeholders may provide input during the evaluation of public policy-driven transmission needs and possible solutions, with that Section discussing the regular planning meetings at which those considerations will be vetted with Stakeholders and the related postings on the SERTP website that will be made.

The Order also requires the Jurisdictional SERTP Sponsors to explain how they will identify, out of the larger set of transmission needs proposed by Stakeholders, “those transmission needs for which transmission solutions will be evaluated....” Order, P 116. To clarify, the SERTP Sponsors have added the above discussed definition of “Transmission Needs”

to the first page of their Attachment Ks. As previously discussed, that definition reflects that the transmission markets in the Southeast provide “physical” transmission service, in that transmission customers taking firm service have the right to use the underlying physical transmission capacity, with the system being planned and expanded to provide the physical capacity needed to satisfy long-term firm transmission commitments. Accordingly, Section 10.3.1(2) provides that a determination will be made of whether a Stakeholder-identified Public Policy Requirement has driven a Transmission Need(s), which (based upon the definition of Transmission Need) necessarily means a determination will be made whether the identified Public Policy Requirement has resulted in a long-term firm transmission commitment. If so, then Section 10.3.1(3) provides the SERTP Sponsors will determine whether that Transmission Need is already addressed or being evaluated in the then-current planning cycle.

The Order then requires the Transmission Provider to explain “how potential transmission solutions to identified transmission needs driven by public policy requirements will be evaluated.” Order, P 117. In this regard, Section 10.3.2 then provides that if that Transmission Need is not already being addressed, then the Transmission Provider will identify a transmission solution in accordance with how transmission solutions/alternatives are otherwise evaluated in the planning process. The Order then provides that the Jurisdictional SERTP Sponsors must describe “when and how Stakeholders may provide input during the evaluation of potential solutions to identified transmission needs driven by public policy requirements.” *Id.* In response, Section 10.3.2 also provides that the evaluation of such solutions will be performed consistent with the just discussed regional planning evaluative process provided in Section 11 and the existing Order No. 890 criteria provided at Section 6, with those referenced sections having their own respective provisions for vetting such evaluations with Stakeholders or otherwise describing how Stakeholders may participate in such processes. In other words, potential transmission solutions to Public Policy Requirement-driven Transmission Needs will be identified and evaluated (and alternatives may be proposed) consistent with the SERTP processes employed for all new transmission solutions proposed to address Transmission Needs. The Order also states that the required procedures must “include the evaluation of transmission facilities Stakeholders propose to satisfy an identified transmission need driven by public policy requirements....” Order, P 117. As just established, the revised Attachment K provides for Stakeholder input in the evaluative process of new transmission projects (including those driven in whole or part by public policy requirements.)

2. Considerations of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process: Southern Companies and OVEC

The Order directs Southern Companies and OVEC to provide “further compliance filings, including any necessary OATT revisions, explaining how their respective local transmission planning processes comply with the requirement of Order No. 1000 addressing transmission needs driven by public policy requirements.” July 18th Order, P 124. In response, as explained *supra* both OVEC and Southern Companies use the SERTP to apply a unified process to satisfy the seven (7) Order No. 890 planning principles that Order No. 1000 clarified apply to both local and regional transmission planning and to satisfy Order No. 1000’s public policy requirements.

With particular regard to Order No. 1000's public policy requirements, Stakeholders will be allowed to raise considerations of possible Transmission Needs driven by public policy requirements concerning OVEC's and Southern Companies' transmission planning, and all new transmission projects adopted by them in such planning will have been vetted with Stakeholders and evaluated in compliance with the Order No. 1000's public policy requirements.

3. Considerations of Transmission Needs Driven by Public Policy Requirements in the Local Transmission Planning Process: LG&E/KU

As the Order stated, LG&E/KU's process for the consideration of local transmission needs driven by public policy requirements is nearly identical to the SERTP process for the consideration of regional needs driven by public policy requirements. July 18th Order, P 125. In addition to requiring LG&E/KU to make changes to its local consideration of transmission needs driven by Public Policy Requirements that followed the modifications the Commission required at the local level (Order, P 126), the Commission also required LG&E/KU to include additional detail on the role that the Independent Transmission Organization ("ITO") and Stakeholder Planning Committee ("SPC") would play in this part of the local planning process.

In addition to the changes to LG&E/KU's local consideration of transmission needs driven by Public Policy Requirements that follow the changes to the SERTP regional consideration of transmission needs driven by Public Policy Requirements, LG&E/KU have modified this process to include both the ITO and the SPC. The Economic Expansion Planning Subcommittee of the SPC has been re-named the Economic Expansion Planning and Public Policy Requirements Subcommittee ("EP Subcommittee"). LG&E/KU, as the Transmission Owner, will consult with the EP in the identification of public policy-driven local transmission needs. The ITO is responsible for facilitating the local consideration of transmission needs driven by Public Policy Requirements in much the same manner that it facilitates the local economic planning study process, such as establishing a queue on OASIS for Stakeholders to submit requests, and posting to OASIS the explanation of which projects were not selected for further evaluation. LG&E/KU respectfully request that the Commission accept these changes as compliant with the Order.

E. Response to the PIOs' Comments

As explained in the background section of this transmittal letter, the PIOs are the only Stakeholders to provide written comments in response to the SERTP Sponsors' December 13, 2013 posting of draft Attachment K language and the related December 19, 2013 webinar with Stakeholders. The PIOs raised a few issues pertaining to the SERTP Sponsors' proposals to address the Order's requirements on public policy and affirmative obligation to plan.

The PIOs first argue that the SERTP Sponsors have not completely complied with the requirements of Paragraph 115 of the Order, which required the SERTP Sponsors to delete language at Section 10.2.1(2) that would have required Stakeholders to demonstrate that a proposed Transmission Need driven by a Public Policy Requirement is not already addressed in

the transmission planning process. As discussed above, that language has been so deleted. Nevertheless, the PIOs argue that even if a Transmission Need is being addressed in the current planning process, “the SERTP Tariff should not categorically bar the consideration of more efficient or cost effective regional solutions....” PIOs Comments at 1. Contrary to the PIOs’ concern, there is no such bar. The new Section 11 of Attachment K specifically provides that the Jurisdictional SERTP Sponsors will perform regional planning analyses to assess whether there may be more efficient or cost effective transmission solutions to address identified Transmission Needs, as well as providing that they will develop new solutions should the on-going planning processes be determined not to provide sufficient transmission capacity to address a Transmission Need(s). Stakeholders may also propose transmission alternatives for consideration in the transmission planning process in accordance with Sections 3.5.3 or 16 of Attachment K.

The PIOs also note that the draft Attachment K made reference to performing analyses regarding the Transmission Needs in the “*latest* regional transmission plan” and the “*then-current* regional plan.” PIOs Comments at 1. The intent of the SERTP Sponsors is to consider not only the Transmission Needs identified in the “regional plan” that would have been shared with Stakeholders at the Annual Transmission Planning Summit for the prior transmission cycle,²⁷ but also any other Transmission Needs that might be under consideration at that point in the then-current transmission planning cycle. Clarifying language has been added at Section 11.2.1 that the Transmission Provider will look for potential regional solutions that may be more efficient or cost effective than not only those included “in the *latest* regional plan,” but also those “otherwise under consideration in the then-current transmission planning process...” (emphasis added).

The PIOs then note that the language in the then-Section 11.3.1 (now Section 11.2.1 of the Attachment K being filed herein) pertaining to evaluating potential alternatives discussed the determination of their “effectiveness” in addressing Transmission Needs. The PIOs argue that this analysis should also include the complementary consideration of “relative cost.” PIOs Comments at 2. However, even the PIOs in their comments recognize that “relative transmission cost” is specifically enumerated as being encompassed by such analysis.²⁸ The PIOs next raise a concern about the relevant analysis being performed in accordance with “state law pertaining to transmission ownership, siting, and construction.” As discussed *supra*, suffice it to say that the Commission specifically allowed the Jurisdictional SERTP Sponsors to adopt such language for evaluative purposes at paragraph 204 of the July 18th Order.

Lastly, the PIOs argue that the definition of “Transmission Needs” should also include the consideration of Public Policy Requirements that “decrease or defer the need for additional transmission capacity.” PIOs Comments at 2. In response, there is no need to revise the term, because if there is no longer a need for transmission capacity, then there is no longer an underlying Transmission Need. Likewise, if there is a reduction in the need for transmission

²⁷ See Attachment K, Section 1.2.4.1.

²⁸ Stated somewhat differently, the SERTP Sponsors submit that “cost effectiveness” is a subset of the consideration of an alternative’s overall “effectiveness.”

capacity, then there will be corresponding diminution of that previously-identified Transmission Need.

F. Nonincumbent Transmission Developer Reforms

a. Federal Rights of First Refusal

The Order requires the removal of the SERTP Sponsors' proposed prohibition against a developer proposing to locate its project on the right-of-way ("ROW") of another absent the owner's consent. July 18th Order, P 136. However, the Commission clarified that it would be appropriate "to consider whether an entity has existing [ROW] as well as whether the entity has experience or ability to acquire [ROW] as part of the process for evaluating whether to select a proposed transmission facility in the regional plan for [RCAP]." *Id.* at P 137. In accordance with the foregoing, the identified language has been removed from Section 15 and the relevant consideration has been added to Section 17.5. The Order also requires a definition of upgrade be added that is consistent with that provided in Order No. 1000-A "so that it is clear which transmission facilities may fall with the definition of upgrade." *Id.* at P 138. Section 15.2 has been revised to provide more detail, including examples, regarding what constitutes an upgrade. In a further effort to avoid confusion, Section 15.2 clarifies that even though a transmission project proposed for RCAP may not constitute an "upgrade" to an existing transmission facility, "a transmission project proposed for potential selection in a regional transmission plan for RCAP may rely on the implementation of one or more transmission upgrades (as defined above) by the Impacted Utilities in order to reliably implement the proposed transmission project."²⁹

b. Qualification Criteria

i. Adoption of a Pre-Qualification Approach

As referenced at the beginning of this transmittal letter, the scope of the revisions required by the Order, along with the opportunity to further reflect upon Order No. 1000's requirements, led the SERTP Sponsors to take a holistic approach in revising the SERTP's planning processes. One significant change is that the SERTP Sponsors have revised their qualification criteria to now provide at Section 14 for a "pre-qualification" approach, under which an interested transmission developer first applies to demonstrate its general financial and technical capabilities, and if determined to satisfy the pre-qualification requirements, then the pre-qualified developer may propose transmission projects for potential selection in a regional transmission plan for RCAP. Such a developer would remain pre-qualified for a period of three years unless there is a material change in the developer's qualification criteria.

Several considerations prompted this adoption of a pre-qualification approach. The July 18th Order established additional qualification options that may require more time for the

²⁹ In such an event, the upgrades driven by the transmission project proposed for RCAP would be considered under Section 17.2.1 "additional projects within the SERTP on Impacted Utility transmission systems required to implement the proposal...."

Transmission Provider to review, such as the requirement to allow unrated developers to participate, meaning that the Transmission Provider now may need to develop a rating equivalent for any such developer prior to the commencement of the next transmission planning cycle for which the transmission developer seeks to qualify. The adoption of the proposed pre-qualified approach allows for the evaluation of qualification criteria without impacting the timeframe for project evaluation in any given planning cycle. Stakeholders have also sought such an approach. In this regard, LS Power advocated at an initial SERTP Stakeholder meeting concerning Order No. 1000 implementation for the adoption of a pre-qualification approach on the basis that transmission developers will be more likely to propose transmission projects if they know ahead of time that they are already qualified to so propose a transmission project for RCAP.³⁰ As an additional consideration, and as discussed further below, the July 18th Order required that “any entity” may submit a transmission project for RCAP purposes,³¹ and potentially have one or more pre-qualified developers who could implement such a proposal should facilitate the overall development process.

In terms of process, Section 14.1 requires a transmission developer seeking to be pre-qualified to submit a pre-qualification application by August 1st and specifies the materials and information that must be provided. Section 14.2 provides that the applicant will be notified by November 1st regarding whether it has or has not pre-qualified. For those found to not pre-qualify, Section 14.3 provides the applicant 15 calendar days to cure. Following resubmittal, the transmission developer will be notified within thirty (30) days of whether the developer has pre-qualified.

To pre-qualify, Section 14.1 requires a \$25,000 fee “to off-set the cost to review, process, and evaluate the transmission developer’s pre-qualification application.” This fee is reasonable, as other planning processes require additional amounts, with the FRCC, for example, requiring \$50,000 to pre-qualify.³² In addition, given the accounting complications that would be involved in attempting to track costs among the numerous SERTP Sponsors, the fee is proposed to be non-refundable, with no true-up, refund, or surcharge (as the Commission approved in the WestConnect Order.)³³

Section 14.2 provides that a list of pre-qualified transmission developers will be posted on the SERTP website.

³⁰ See Motion to Intervene and Protest of LS Power Transmission, LLC and LSP Transmission Holdings, LLC, Appendix 1, April 9, 2012: LS Power Transmission Initial Comments on SERTP Strawman Proposal at 2, filed March 25, 2013 in FERC Docket Nos. ER13-897, ER13-908, and ER13-913.

³¹ Order, P 152.

³² *Tampa Electric Co., et al.*, 143 FERC ¶ 61,254, P 147 (2013) However, it should be noted that the \$50,000 FRCC deposit is subject to refund of any of the unexpended amounts of the deposit, including interest if the evaluation does not require the full \$50,000 deposit to complete.

³³ *Public Service Co. of Colorado, et al.*, 142 FERC ¶ 61,206, PP 90 (2013) (“WestConnect Order”).

ii. Qualification Criteria Requirements From the July 18th Order

As just mentioned, the Order requires that the SERTP process be revised to provide that “any entity may submit a transmission project” for purposes of RCAP in the context of such an entity “not intend[ing] to develop the proposed project.” July 18th Order, P 152. In compliance with that requirement, Section 16 provides that “[a]ny entity may propose a transmission project for consideration ... for RCAP,” with an entity who intends to so propose but does not intend to be the developer may make such a proposal in accordance with Section 16.6. Section 16.6 in turn specifies when such proposal may be made and the requisite information describing the proposed project that would need to be provided, with the proposal then to be posted on the SERTP website. The entity proposing the project then may coordinate with a transmission developer to develop the project, with (as previously discussed) a list of pre-qualified transmission developers to be made available on the SERTP website. Should a pre-qualified developer decide to proceed with the project, then it is to provide the requisite project application and supporting materials in accordance with Section 16 within the window for submitting projects for RCAP pursuant to Section 16.3. In the event that no such project application is submitted within that window, then the project may be treated as a transmission expansion plan/enhancement/alternative for consideration with the planning cycle in accordance with Section 3.5.3.

The Order further notes that while the SERTP process “appear[s] to apply to both incumbent and nonincumbent transmission developers,” the Jurisdictional SERTP Sponsors must revise their Attachment Ks to make clear that “the qualification criteria apply to both incumbent ... and nonincumbent transmission developers.” July 18th Order, P 153. Section 14.1 has, accordingly, been revised to provide that in order to be eligible to propose a transmission project for RCAP, “a transmission developer (including the Transmission Provider and nonincumbents) ... must submit a pre-qualification application....”

The July 18th Order also requires the Jurisdictional SERTP Sponsors to clarify that “their proposed qualification criteria will only apply to a transmission developer that intends to develop a transmission project that it submits into the regional transmission planning process for purposes of cost allocation.” July 18th Order, P 152. In accordance with that requirement, the Jurisdictional SERTP Sponsors have revised Section 14.1 to make it expressly clear that its pre-qualification requirements only apply to a transmission developer that “intends to develop ... for RCAP ...”³⁴

The Order requires the Jurisdictional SERTP Sponsors to provide for “an appropriate alternative to investment credit ratings, such as financial statements.” July 18th Order, P 154. Related thereto, in the July 18th Order, the Commission notes that Southern Companies’ OATT Attachment Q provides for the evaluation of creditworthiness based on financial statements and other information for entities for which a senior unsecured debt (or similar) rating or issuer (or

³⁴ See Section 14.1 (“In order to be eligible to propose a transmission project (that the transmission developer intends to develop) for consideration for selection in a regional transmission plan for RCAP in the upcoming planning cycle...”).

similar) rating from any of the rating agencies is unavailable. *Id.* In accordance with the July 18th Order, the Jurisdictional SERTP Sponsors have revised Section 14.1 by adding a new subsection 2.C. to include provisions that permit the determination of a rating equivalent for an unrated transmission developer (“Rating Equivalent”).³⁵ As suggested by the Commission, the Rating Equivalent proposed to be determined and used as an alternative for entities without a credit rating in Section 14.1 is similar to the “Credit Score” option for unrated entities provided for in Southern Companies’ OATT Attachment Q³⁶ as referenced in the July 18th Order. An unrated transmission developer may qualify its project for RCAP if the SERTP Sponsors determine that the unrated developer has a Rating Equivalent of that required for rated companies. To cover the costs to the SERTP Sponsors of determining a Rating Equivalent for an unrated transmission developer, the unrated developer seeking to be pre-qualified is to provide annually a non-refundable fee of \$15,000.

The July 18th Order requires inclusion of “detailed provisions regarding the financial information that prospective transmission developers must provide.” July 18th Order, P 155. In accordance with that requirement, new Section 14.1(2)(C)(ii) details the types of financial and related information that an unrated developer would need to submit to allow the Transmission Provider to determine a “Rating Equivalent.”

The July 18th Order questions a provision in the Jurisdictional SERTP Sponsors’ February 8th Filing that provided that satisfying the minimum financial criteria to propose a project for RCAP alone would not satisfy the security/collateral requirement for a transmission project if selected for RCAP, and directs the Jurisdictional SERTP Sponsors “to explain in detail the additional financial and technical criteria that apply to a transmission project selected [for RCAP].” July 18th Order, P 156. Similarly, later in the Order, the Commission directs the Jurisdictional SERTP Sponsors to “revise their OATTs to clarify the security/collateral arrangements that a developer of a transmission project ... selected in a regional transmission plan for purposes of cost allocation must provide ... for its transmission project to remain in a regional transmission plan.” *Id.* at P 220. In response, and upon further review, the Jurisdictional SERTP Sponsors have concluded that the specific collateral/demonstration of more stringent creditworthiness probably would not be required at the time a project would be selected in a plan for RCAP in that it would be unlikely, at that point, that impacted utilities would suffer loss or incur damages should that developer abandon or delay its project at that time. Instead, such a point would likely arise subsequently in the implementation process. Accordingly, the above referenced Attachment K provision has been deleted, and instead the provision of specific collateral/demonstration of a project-specific creditworthiness is now expressly a milestone under Section 21.

Concerning this creditworthiness/security requirement applicable to projects that have been selected in a regional transmission plan for RCAP, the Jurisdictional SERTP Sponsors have

³⁵ Said subsection 2.C of Section 14.1 provides in part: “Upon an Unrated transmission developer’s request, a credit rating will be determined for such unrated developer comparable to a Rating Agency credit rating (‘Rating Equivalent’).”

³⁶ *See* Southern Companies OATT, Attachment Q, Section II.A.

added a new Section 22 to provide detailed, project(s)-specific credit and security requirements. Specifically, the transmission developer for such project or its parent company guarantor (“Parent Guarantor”) must have and maintain a Credit Rating³⁷ of BBB- or better or the transmission developer must have and maintain a Rating Equivalent of BBB- or better. Transmission developers who have and maintain a Credit Rating or Rating Equivalent of BBB+ or better generally will not be required to post any collateral subject to a maximum exposure limit.³⁸ Transmission developers not meeting that Credit Rating or Rating Equivalent requirement would have to provide eligible collateral in an amount equal to the total cost of the project that has been selected for inclusion in a regional plan for RCAP, with Section 22.4 providing the requirements for such collateral.

The July 18th Order also requires that a previously qualified developer be notified of whether it continues to satisfy the region’s qualification requirements and to allow the developers an opportunity to remedy identified deficiencies. Order, P 157. Sections 14.3 and 16.5.3 provide for such notifications and opportunities to cure. In addition, new Section 22.3.2 provides that the transmission developer will be notified if it is determined upon an annual review or the occurrence of a material adverse or other relevant change that additional collateral is required and transmission developer shall have five (5) business days to provide such additional collateral. In addition, new Section 22.5 provides that a transmission developer has ten (10) business days to remedy any failure to comply with the credit and security requirements before it is declared to be in default and an additional ten (10) business days to remedy any such failure before the transmission developer’s projects may be removed from consideration for selection or, if previously selected, from a regional plan for RCAP.

c. Information Requirements

The Order requires the removal of the requirement for a transmission developer submitting a transmission project for RCAP to provide documentation supporting the position that the proposed project addresses transmission needs more efficiently and cost-effectively than projects included in the latest transmission plan. July 18th Order, PP 168-170. The Order raises the concern that requiring the underlying technical studies “could be so cumbersome as to effectively prohibit transmission developers from proposing Projects.” *Id.* at P 168. The Order does provide, however, that the Jurisdictional SERTP Sponsors could clarify that while not required, a transmission developer could voluntarily perform such studies. *Id.* at P 170. In compliance with the foregoing, the referenced requirement has been replaced with a provision providing that a transmission developer may provide such information “[i]f available, and to

³⁷ As provided in subsection 2.A. of Section 14.1, the senior unsecured debt (or similar) rating for the relevant entity from the rating agencies will be considered the “Credit Rating.”

³⁸ However, if the relevant project costs exceed the lesser of (a) 10% of the transmission developer’s or parent guarantor’s tangible net worth if the transmission developer or its parent guarantor has a tangible net worth of less than one billion dollars or (b) \$250,000,000 (the “Cap”), collateral will be required to the extent the relevant project costs exceed the Cap. *See* Attachment K, Section 22.2.

facilitate the evaluation of the proposal and to mitigate the potential for disputes.” Section 16.1(6).³⁹

The SERTP Sponsors do note the removed provision from their Attachment Ks encompassed the primary means by which the transmission developer would have meaningfully identified the proposed project, provided the necessary data and files necessary for the Transmission Provider to be able to model the proposed transmission project, and identified why the project is needed. To ensure that these fundamental aspects of a proposed project are provided so that the SERTP Sponsors may adequately perform the requisite technical analysis, Section 16.1(4) has been revised to require the transmission developer to provide the data and/or files that would be necessary for the Transmission Provider to be able to model the proposed transmission project. In addition, to allow the SERTP Sponsors to evaluate whether the proposed project would actually serve the purpose for which it is being submitted, Attachment K has also been revised to specify that documentation is to be provided “of the specific Transmission Need(s) that the proposed transmission project is intended to address... includ[ing]... the technical analysis performed by the transmission developer to support that the proposed transmission project addresses the specified Transmission Need(s).” Section 16.1(5). That is, while no comparative analysis is required, the developer must provide a reason for submitting a project; it cannot propose a project that is not needed simply in the hope of receiving an unmerited return.

The SERTP Sponsors have also detailed other technical information that should be provided and have refined and clarified some of the other information requirements pertaining to a transmission developer’s technical and financial capabilities that will assist in determining whether the project merits inclusion in the regional plan. Those informational requirements are provided at Section 16.1(8)-(12).

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

In addressing the SERTP Sponsors’ evaluation of proposals, the Order repeats some of its earlier discussed requirements pertaining to the affirmative obligation to perform regional transmission planning. *See* Order, PP 195-196, 198. As previously discussed, the Jurisdictional SERTP Sponsors have adopted their new Section 11 to address this affirmative obligation to perform regional transmission planning. *See supra*. The Order also, again, specifies that additional OATT clarifications are necessary to ensure that the selection provisions pertaining to projects submitted for RCAP apply “to transmission projects developed by both incumbent and nonincumbent transmission developers.” July 18th Order, P 197. Sections 14.1, 15.1, and 16.1 have been so revised. The Order also requires the Jurisdictional SERTP Sponsors’ OATTs be

³⁹ Rather than having to provide technical analysis to support that the proposed transmission project is expected to be a more efficient or cost effective alternative, the transmission developer is now only required to provide a description of why it is expected to be such a superior alternative. The SERTP Sponsors submit that merely providing such a description should not prove overly “cumbersome” and should facilitate the Transmission Provider’s evaluation of the project by providing supporting context.

revised to use the phrase “more efficient *or* cost effective” rather than “more efficient *and* cost effective.” Order P 198. The Attachment Ks have been so revised. *See, e.g.*, Attachment K, Sections 11.2, 17.3.2.

The Order states that the Jurisdictional SERTP Sponsors must “explain[] how the region will consider the relative efficiency and cost-effectiveness of proposed transmission solutions.” July 18th Order, P 198. Again, reference is made to the proposed new Section 11 (particularly Section 11.2), which (among other things), specifies how more efficient or cost effective transmission project alternatives will be identified and evaluated. Section 17.1, in turn, specifies that the same evaluative process will apply to projects submitted for RCAP purposes, as that Section provides that the evaluation of such projects will be “consistent with the regional evaluations process described in Section 11.” The Order also requires that the evaluative process “will culminate in a determination that is sufficiently detailed for Stakeholders to understand why a particular transmission project was selected or not selected....” Order, P 198. To comply with this requirement, Section 17.5 was revised to adopt language from Order No. 1000 providing that the “Transmission Provider will document its determination in sufficient detail for Stakeholder to understand why a particular project was selected or not selected for RCAP and will make this supporting documentation available to the transmission developer or Stakeholders, subject to any applicable confidentiality requirements.” *Compare* Order No. 1000, P 328, Order No. 1000-A, P 267.

The Order then requires the Jurisdictional SERTP Sponsors “to remove the requirement that a transmission developer obtain approvals from all of the ‘jurisdictional and/or governance authorities of the [i]mpacted utilities’ as a precondition of its transmission facilities being selected in a regional plan for [RCAP].” Order, P 199. In accordance with that requirement, this approval precondition has been removed. The Order, however, provides that the Commission “encourages state entities ... to consult, collaborate, inform, and even recommend a transmission project....” *Id.* at 200. Consistent with this statement, Section 17.4 has been revised to provide that “the state jurisdictional and/or governance authorities ... will be provided an opportunity to ... consult, collaborate, inform, and/or provide recommendations to the Transmission Provider.” Accordingly, Section 17.4 has been revised to replace jurisdictional/governance authority *approval* with jurisdictional/governance authority *review*, with that review being provided to “inform the Transmission Provider’s selection decisions.” Attachment K, Section 17.4. In this regard, the Order emphasizes that “the public utility transmission providers in the region [must] ultimately decide which transmission projects are selected.” Order, P 201, *see also id.* P 200. Section 17.5 has been revised to clarify that the Transmission Provider will make the selection decision and provides criteria that would drive such a selection determination.

The Order then requires the elimination of the proposed provisions that the detailed financial terms associated with a project proposed for RCAP must be “acceptable to each identified beneficiary.” *Id.* at P 202. That provision, along with other previous references in Attachment K related to the need to have reached an agreement with the beneficiaries, have been removed.

The Order requires the Jurisdictional SERTP Sponsors “to clarify the methods they will use to determine the transmission project costs of the transmission facilities that they will evaluate ... and to confirm that incumbent and nonincumbent costs will be scrutinized in the same manner.” *Id.* at Order, P 203. To clarify, the Jurisdictional SERTP Sponsors’ process for evaluating projects proposed for RCAP provides for two types of benefits-to-costs (“BTC”) analyses to be performed. The first is a high-level analysis that is performed when the proposal is first introduced. In keeping with the initial nature of this analysis (along with the assumption that the transmission developer would not have developed the detailed cost components for the proposal at such an initial juncture), the analysis is based upon high-level transmission planning cost estimates. *See* Attachment K, Section 17.2. To ensure that the cost components are calculated on the same basis, “the Transmission Provider will develop [the] planning level cost estimates....” Attachment K, Section 17.2.2. Should the proposed project pass that initial BTC analysis and otherwise remains a valid proposal for RCAP, then a detailed BTC analysis would be performed. Given the competitive nature of the Commission’s Order No. 1000,⁴⁰ the detailed cost components for a transmission project proposed for RCAP are to be provided by the transmission developer. Section 17.3.1 specifies the type of cost components that should be detailed, and then those total costs are compared against the projects that the proposed project would displace. To further confirm that the costs components will be comparable and that the costs will be scrutinized in a fair manner, Section 17.3.3 has been adopted, which emphasizes that:

To provide for an equitable comparison, the costs of the transmission projects that would be displaced and/or required to be implemented in such a detailed benefit-to-cost analysis will include comparable costs components as provided in the proposed project’s detailed financial terms (and vice-versa), as applicable. The cost components of the transmission projects that would be displaced will be provided by the Transmission Provider and/or other Impacted Utilities who would own the displaced transmission project. The cost components of the proposed transmission project and of the transmission projects that would be displaced will be reviewed and scrutinized in a comparable manner....

e. Revaluation Process for Proposals for Selection in the Regional Transmission Plan for Purposes of Cost Allocation

With regard to reevaluation, the Order directs the Jurisdictional SERTP Sponsors to clarify that they will “undertake a reevaluation of the regional transmission plan, rather than only transmission projects.” July 18th Order, P 216. Section 19.1 of Attachment K has been so revised.

⁴⁰ *E.g.*, Order No. 1000-A, P 87 (stating that Order No. 1000 allows “nonincumbent transmission developers to compete in the proposal of more efficient or cost-effective transmission solutions.”).

The Order also requires the Jurisdictional SERTP Sponsors to adopt the following from Order No. 1000 regarding reevaluation due to the delay of transmission project selected in a regional transmission plan for RCAP:

- (1) allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint if an evaluation of alternatives is needed; and
- (2) if the proposed solution is a transmission facility, provide for the facility's evaluation for possible selection in the regional transmission plan for [RCAP].

July 18th Order, P 217. Section 20.1 has been revised to address these requirements.

The Order further provides that while the SERTP Sponsors generally identify the circumstances and procedures for when they reevaluate the regional plan to determine if delays in the development of a projected selected for RCAP require the evaluation of alternatives, the Commission directed that revisions be made to “explain the basis upon which [the Jurisdictional SERTP Sponsors] will retain or remove a transmission project ... selected in a regional transmission plan for purposes of cost allocation, or select an alternative transmission solution.” July 18th Order, P 218. In compliance with that requirement, Section 20.2 has been added that provides that the Jurisdictional SERTP Sponsor will remove a delayed project from being selected in a regional transmission plan for RCAP if the project no longer:

1. Adequately addresses underlying Transmission Needs by the required Transmission Need dates and/or;
2. Remains more efficient or cost effective based upon a reevaluation of the detailed benefit-to-cost calculation. The BTC calculation will factor in any additional transmission solutions required to implement the proposal (*e.g.* temporary fixes) and will also compare the project to identified transmission project alternatives.

The Order also notes a provision in the Jurisdictional SERTP Sponsors' original proposal that provided that a transmission developer would be responsible to the impacted utilities for any increased costs due to such a delay or abandonment. July 18th Order, P 219. The Commission expressed a concern about “the lack of clarity ... particularly regarding what costs may be included ... or how those costs would be calculated ... could create uncertainty regarding a transmission developer's exposure to future costs and could be a barrier to entry...” *Id.* If the Jurisdictional SERTP Sponsors retain this provision, the Order directs the Jurisdictional SERTP Sponsors to “revise their OATTs to provide additional detail to explain what costs may be included in the impacted utilities' increased costs, how such costs would be calculated, and how [the Jurisdictional SERTP Sponsors] would implement the proposal.” *Id.*

The SERTP Sponsors have retained and clarified this proposed requirement that a transmission developer would be responsible for increased costs to the Impacted Utilities due to

delay or abandonment by the developer. The primary justification for this requirement is that it is fundamentally necessary to protect ratepayers. As referenced by Commissioner Moeller in his separate statement to Order No. 1000, Order No. 1000 contemplates “long transmission lines.” Order No. 1000, Commissioner Moeller, dissenting in part at 1. Should a transmission developer delay or abandon such a proposed “long transmission line,” particularly once the development process reaches a more advanced stage such that Impacted Utilities rely upon it becoming operational and otherwise plan and build their systems such that the project would be operational, should that project be abandoned or materially delayed, then significant costs could (and likely would) be incurred to cover that abandonment or delay by the developer so as to allow the electric grid to satisfy Transmission Needs. In such an instance, the transmission developer should bear those costs (as the entity whose actions or inactions caused such increased costs or damages to be incurred) and not ratepayers or other customers of the SERTP Sponsors. Moreover, requiring the developer to bear those costs should provide the funding to take the requisite actions that would be necessary “to cover” the developer’s abandonment and to “make whole” those adversely affected by such abandonment or delay, particularly since the SERTP Sponsors are proposing appropriate creditworthiness/security requirements in their new Section 22.

Holding the transmission developer responsible for the increased costs caused by its delay or abandonment is also necessary to provide Order No. 1000’s financial/qualification provisions meaning and to also effectuate Order No. 1000’s commitments to protect reliability. Order No. 1000-A explains that the purpose of its qualification criteria is to ensure that the developer “has the necessary financial resources ... to develop, construct, own, operate, and maintain facilities.”⁴¹ Apparently based largely upon these qualification criteria, Order No. 1000-A further explains that there should not be additional costs associated with reliability problems due to Order No. 1000’s nonincumbent requirements because “the selection criteria for project developers are an appropriate means of providing assurances that all project developers will be in a position to fulfill their commitments.”⁴² In the context of transmission developers, “fulfill[ing] their commitments” necessarily includes the commitment to not delay development or abandon the project.⁴³ Likewise, establishing minimum financial requirements is largely meaningless unless such financial/creditworthiness requirements serve to protect against potential “default,” with again the potential “default” obviously being the possibility that the developer will delay or abandon its project. Therefore, holding the transmission developer responsible for the increased costs that would result from its delay or abandonment is

⁴¹ Order No. 1000-A, P 439.

⁴² *Id.* at P 95.

⁴³ And it bears emphasis that a nonincumbent developer and the SERTP Sponsors are fundamentally different and not similarly situated in that if a nonincumbent developer delays or abandons a transmission project, the nonincumbent may have no duty to serve or any other obligation to ratepayers but could just walk away. Absent the adoption of appropriate protections (such as this proposal), ratepayers could be at risk, which would lead to Order No. 1000 resulting in ratepayers facing higher risks and costs rather than the rate reduction intended by Order No. 1000. In sharp contrast, should an SERTP Sponsor delay or abandon, the SERTP Sponsor still remains “on the hook” to render reliable, safe, and economic service to their customers, with state regulatory authorities often having jurisdiction over the Jurisdictional SERTP Sponsors’ remaining regulatory assets.

appropriate in terms of equity since the developer's delay or abandonment caused the increased costs to be incurred and to protect ratepayers, and holding the developer responsible for such costs is not only consistent with Order No. 1000 but is needed to provide meaning to Order No. 1000's qualification criteria and to effectuate the Commission's assurances to protect reliability.

To provide the requisite detail regarding what costs may be included, Section 20.3 has been revised to provide further clarification that they could include: (1) damages or increased costs to have someone else complete the project; (2) damages or increased costs incurred to pursue and/or complete alternative solutions to address the underlying transmission needs; (3) damages or increased costs associated with the impacted utilities' having abandoned plant due to the transmission developer's delay or abandonment; (4) damages or increased costs associated with the implementation of operational remedies and measures attributable to the transmission developer's delay or abandonment; (5) financing, labor, equipment and capital costs to implement interim and alternative solutions; and (6) any other documentable damages, increased costs, expenses, penalties, and/or fines to the Impacted Utilities attributable to the transmission developer's delay or abandonment.

The total costs would be calculated by summing the foregoing. In terms of how this proposal would be implemented, Section 20.3 references the new Section 22 (discussed *supra*) that specifies the collateral that the developer would have to provide as a milestone for a project selected for RCAP, with the reference providing that such collateral would "secure and support the transmission developer's payment obligations under this Section 20.3." Attachment K, Section 20.3.

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

The Order directs the Jurisdictional SERTP Sponsors to establish a mechanism for "unsponsored transmission projects." Order, P 228. In this regard, reference is made to the above discussion at section II.F.b.ii of this transmittal letter regarding Section 16.6 of Attachment K, which addresses projects proposed for RCAP where the entity making the proposal does not intend to be the developer of the project.

The SERTP Sponsors' original proposal included as a milestone that the transmission developer and the beneficiaries would need to enter into a contractual agreement. The Order held that a *pro forma* agreement would need to be filed to cover this milestone. Order, P 229. The SERTP Sponsors have removed that post-selection, implementation milestone, thereby removing the predicate for including such a *pro forma*. As a practical matter, as the Jurisdictional SERTP Sponsors have no experience with nonincumbent transmission developers developing a regional transmission project, preparing such a *pro forma* in a vacuum would be problematic. As a legal matter, such a post-selection, implementation contract goes beyond transmission planning and could address interconnection, operation and maintenance ("O&M"),

system restoration and cost recovery issues going far beyond the scope of Order No. 1000,⁴⁴ potentially crossing the line into matters that might be subject to FPA Sections 202(b), 210, and 211, with a mutually agreeable contract addressing such matters potentially proving unobtainable or even such an interconnection not proving feasible or legally required or appropriate. In addition, should a Nonjurisdictional SERTP Sponsor be the transmission developer, then such a contract may not even be Commission-jurisdictional. Finally, the fact that the Commission has approved regional transmission planning processes under which a developer is not even selected at all to construct a project or recover its costs⁴⁵ demonstrates that a contract addressing the relationship between the beneficiaries and the developer is outside the scope of Order No. 1000.

3. Cost Allocation

The Order expresses the concern that under the Jurisdictional SERTP Sponsors' original cost allocation proposal, "a regional transmission facility that results in a more efficient or cost-effective transmission solution than what is included in the roll-up of local transmission plans would not be eligible for regional cost allocation if there is no transmission facility in the local transmission plans that it would displace." July 18th Order, P 251. To address this concern, the Jurisdictional SERTP Sponsors have revised Section 17.1(3) to provide that if the proposed "transmission project addresses a Transmission Need(s) for which no transmission project is currently included in the latest ten (10) year expansion plans and/or regional transmission plan.... the Transmission Provider will identify alternative transmission project(s) which would be required to fully and appropriately address the same Transmission Needs(s) (*e.g.*, otherwise considered to be the more efficient or cost effective alternative). The costs of such an alternative transmission project then will be used for comparison purposes in making the BTC determinations under the SERTP's process. The revised Section 18(3) likewise notes that any cost allocation made under the Jurisdictional SERTP Sponsors' Attachment Ks would also include any such alternative transmission project that would have been required in lieu of the regional transmission project.

Identifying and assessing such alternative transmission projects in such a circumstance is also consistent with the SERTP Sponsors' general duty to serve requirements to demonstrate prudence and to gather support in any related state-regulated proceedings (*e.g.*, IRP or certification proceedings). The SERTP process compares the costs of implementing an RCAP project to meet Transmission Needs with the combined total costs of all transmission projects that are currently in the transmission expansion and/or regional transmission plans, plus all

⁴⁴ See *e.g.*, Order No. 1000-A, P 105 (discussing how Order No. 1000 makes clear that its transmission planning and cost allocation provisions are process-focused and do not force substantive decisions concerning matter such as those "relevant to siting, permitting and construction.")

⁴⁵ *E.g.*, WestConnect Order, P 269 ("we reject LS Power's assertion that to the extent a qualified entity that proposed a transmission project selected in the regional transmission plan for purposes of cost allocation seeks to develop that project, the entity must be selected as the entity to construct and own the project. The determination of which transmission developer may use the regional cost allocation method for a selected transmission project does not necessarily confer rights to construct the project. In Order No. 1000 the Commission declined to adopt a requirement for public utility transmission providers to revise their OATTs to include a regional transmission planning process that provides a right to construct and own a transmission facility.").

additional transmission projects that are otherwise needed to satisfy Transmission Needs. Identifying and assessing alternative transmission options for previously unidentified Transmission Needs, thus, provides both a basis to fully quantify the benefits of the RCAP proposal and also demonstrate prudence on the part of the transmission provider that potentially more efficient or cost effective transmission project alternatives have been investigated.

The Order otherwise held that the SERTP Sponsors' sole use of an avoided cost metric does not satisfy Order No. 1000's cost allocation requirements. The Order states that "a regional cost allocation method that includes, but does not rely solely upon, avoided cost could be a reasonable approach.... For example, in addition to identifying as benefits the costs of avoided transmission facilities ... a regional cost allocation method could also identify economic benefits, such as costs savings resulting from reduced losses, production cost savings, or congestion relief and benefits associated with addressing public policy-related transmission needs." Order, P 255 (footnotes omitted).

Transmission projects are generally intended to provide two physical benefits; they can create physical transmission capacity to address delivery constraints and enable reliable delivery, and they can reduce the effective impedance of the transmission system which may result in reduced power losses. To capture the physical benefits associated with potentially reduced impedance, the SERTP Sponsors have revised their cost allocation methodology to include also a transmission loss metric to evaluate potential savings/additional costs in system transmission energy losses associated with implementing a transmission project proposed for RCAP purposes. Importantly, reduced losses is one of the economic considerations specifically identified by the Commission in the above quoted language as being appropriate. *See id.* Under this proposal, the SERTP Sponsors will evaluate whether such a proposal "reduces and/or increases real power transmission losses on the transmission system within the SERTP region." Attachment K, Section 17.1(5). Under the BTC analysis, Section 17.2.1(3) provides that "[i]f the initial BTC calculation results in a ratio equal to or greater than 1.0, then the Transmission Provider will calculate the estimated change in real power transmission losses on the transmission system(s) of the Impacted Utilities." In that updated BTC analysis, both the cost savings associated with reduced real power energy losses as well as cost increases associated with real power energy losses due to the adoption of the proposed transmission project would be calculated. *Id.* Section 17.2.3 also details how the cost components in such an energy loss determination would be calculated. Section 18(4) then provides that any cost allocation performed under the Jurisdictional SERTP Sponsors' Attachment Ks would also include the reduction of real power transmission losses on the transmission system.

The use of the SERTP's avoided cost (as modified in this compliance filing) and real power energy transmission losses metrics satisfies Order No. 1000's regional cost allocation requirements. Order No. 1000's Regional Cost Allocation Principle 1 specifies that the cost of transmission facilities must be allocated to those that benefit from the facilities in a manner roughly commensurate with estimated benefits. In this regard, the Commission approved the Northern Tier Transmission Group's ("NTTG") use of a single avoided cost metric to address the

allocation to beneficiaries of both reliability and public policy benefits.⁴⁶ Furthermore with regard to public policy benefits, the addition in this compliance filing to identify transmission solutions for Transmission Needs that may not have already been identified in the existing planning process necessarily means that all Public Policy benefits will be encompassed by the use of the avoided cost methodology. This is so because all Transmission Need driven by a Public Policy Requirement will be addressed in the planning process and thereby potentially displaceable by an alternative project proposed for RCAP. With regard to the allocation of beneficiaries of economic benefits, the use of a real power transmission losses metrics is one of the specific examples of an economic metric that the Commission specifically enumerated as being acceptable. Order, P 55; Order No. 1000-A, P 562. Moreover, as discussed in the SERTP Sponsors' request for rehearing to the July 18th Order and in the supporting affidavits, the SERTP Sponsors' avoided cost methodology does in fact address reliability, economic, and public policy benefits.⁴⁷ And the SERTP Sponsors' Attachment Ks clearly establish and identify the "Beneficiaries" who would be allocated such costs. See Attachment K, Section 18. Accordingly, the SERTP Sponsors' cost allocation methodology/metrics satisfies Regional Cost Allocation Principle 1.

Regional Cost Allocation Principle 2 specifies that those that receive no benefit from transmission facilities must not be involuntarily allocated any of the costs of the transmission facilities. The SERTP Sponsors' proposed cost allocation methodology/metrics satisfy this principle because only those who receive benefits in the form of displaced transmission costs and reduced transmission losses would be allocated the costs of the proposed project. See Section 18. The SERTP's proposal also satisfies Regional Cost Allocation Principle 3, which provides that if a BTC threshold is used, then it must not exceed a 1.25 ratio unless otherwise approved. In accordance with that principle, the SERTP Sponsors have adopted a 1.25 threshold, BTC requirement. See Attachment K Section 17.2.1. Regional Cost Allocation Principle 4 provides that the allocation method must allocate costs solely with the transmission planning region unless an external entity agrees to bear an allocation. In compliance with that requirement, the SERTP Sponsors' cost allocation methodology only allocates within the SERTP the costs of a project selected in a regional transmission plan for purposes of RCAP.

Regional Cost Allocation Principle 5 specifies that the cost allocation method and supporting data must be transparent with adequate documentation to allow a Stakeholder to determine how the cost allocation methodology was applied to a proposed transmission facility. The SERTP Sponsors' cost allocation methodology/metrics satisfy this principle. The July 18th Order reaffirmed that the SERTP transmission planning process complies with Order No. 890's transmission planning principles,⁴⁸ meaning that the SERTP Sponsors' new proposals to satisfy Order No. 1000's requirements will be vetted with Stakeholders in accordance with the SERTP Sponsors' existing open, transparent, and coordinated planning processes. In addition, Section 17.5 has been revised to specifically provide that the Jurisdictional SERTP Sponsors will post on

⁴⁶ NTTG Order at PP 239 *et seq.*

⁴⁷ SERTP Sponsors' Request for Rehearing at Section III.D.

⁴⁸ Order, PP 41-46.

the SERTP website its determination of whether a proposed project will be selected for inclusion in a regional plan for RCAP, and that they will document their “determination in sufficient detail for Stakeholders to understand why a particular project was selected or not selected for RCAP....”

Regional Cost Allocation Principle 6 specifies that a transmission planning region “*may*” choose to use a different cost allocation method for different types of transmission facilities, such as transmission facilities needed “for reliability, congestion relief, or to achieve Public Policy Requirements.” Order, P 241 (emphasis added). Since this is not a mandatory provision, the SERTP Sponsors’ cost allocation methodology/metrics satisfies this principle.⁴⁹

V. Request for Waiver

The Jurisdictional SERTP Sponsors are making this filing in compliance with, but under protest as previously discussed, to, the Commission’s directives in July 18th Order. By making this filing in compliance with that Order, the Jurisdictional SERTP Sponsors understand that they have hereby satisfied any of the Commission’s filing requirements that might apply. Should any of the Commission’s regulations (including filing regulations) or requirements that we may not have addressed be found to apply, the Jurisdictional SERTP Sponsors respectfully request waiver of any such regulation or requirement.

VI. Effective Date

The October 17th Letter Order established June 1, 2014 as the effective date for the SERTP Sponsors’ compliance with Order No. 1000’s regional transmission planning and cost allocation requirements.

VII. Service

The Jurisdictional SERTP Sponsors are serving an electronic copy of this filing to their respective OATT customers for whom they have e-mail addresses and to their respective State Commissions. In addition, this filing is being posted on the SERTP website, and the Jurisdictional SERTP Sponsors are posting an electronic copy of this filing on their OASIS or websites.

VIII. List of Documents

The following is a list of documents submitted with this filing:

⁴⁹ In addition, it also bears noting that a “congestion relief” metric for the SERTP would not be meaningful since a primary goal of the SERTP’s physical market structure is to plan and expand the system so that there is *no* congestion for those making long-term firm transmission commitments. *See generally* “Market Structures and Transmission Planning Processes in the Eastern Interconnection”; DOE, 2009 National Electric Transmission Congestion Study at 61 (“Because the southeastern utilities build aggressively in advance of load, there is little economic or reliability congestion within the region.”).

- (a) This transmittal letter;
- (b) Exhibit 1: Major SERTP Transmission Lines;
- (c) Exhibit 2: Distances Between Major SERTP Load Areas;
- (d) A Clean Tariff Attachment for Attachment K for posting in eLibrary;⁵⁰
- (e) A Marked Tariff Attachment for Attachment K;
- (f) A Clean Tariff Attachment for Exhibit K-9 for posting in eLibrary;⁵¹
- (g) A Clean Tariff Attachment for LG&E/KU and OVEC, respectively, for posting in eLibrary, to adopt a definition of “Stakeholder;” and
- (h) A Marked Tariff Attachment for LG&E/KU and OVEC, respectively, to adopt a definition of “Stakeholder.”

IX. Communications

Communications concerning this filing should be directed to the undersigned attorneys or following representatives of the Jurisdictional SERTP Sponsors:

Duke Energy Carolinas, LLC and Duke Energy Progress, Inc.,
Docket No. ER13-83

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⁵⁰ As noted, Duke will not include the Clean and Marked Tariff Attachments until it submits its filing due in February, 2014. In addition, for OVEC, the SERTP regional transmission planning and cost allocation processes are found in Attachment M, so OVEC’s Attachment M is also being filed, along with a Marked Tariff Attachment.

⁵¹ For LG&E/KU, the list of enrollees is found at Appendix 11, and for OVEC the list is found at Attachment M-6. Accordingly, LG&E/KU’s Appendix 11 and OVEC’s Attachment M-6 are also being filed.

Hon. Kimberly D. Bose

January 14, 2014

Page 37

Kentucky Utilities Company and Louisville Gas and Electric Company

Docket No. ER13-897

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Ohio Valley Electric Corporation, including its wholly owned subsidiary Indiana-Kentucky Electric Corporation

Docket No. ER13-913

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Southern Company Services, Inc.

Docket No. ER13-908

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January 14, 2014
Page 38

Sincerely,

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Exhibit 1

Major SERTP Transmission Lines

The following table provides a list of “as built” transmission lines built to operate at a voltage of 300 kV or higher, span at least 50 miles in length, and terminate in the SERTP region.

No.	Transmission Line Name	Approximate Mileage
1	Vogle - Thalmann 500 kV	161
2	Vogle - Scherer 500 kV	155
3	Daniel - McKnight 500 kV	151
4	Hatch - Duval 500 kV	126
5	Widows Creek - Bulls Run 500 kV	138
6	Kyger - Pierce 345 kV	120
7	Jocasee - McGuire 500 kV	120
8	Johnsonville – Cordova 500 kV	119
9	Browns Ferry - West Point 500 kV	118
10	N Tifton - Fortson 500 kV	117
11	Browns Ferry - Union 500 kV	112
12	Wake - Carson 500 kV	109
13	Oconee - Newport 500 kV	108
14	Jackson Ferry - McGuire 500 kV	108
15	Norcross - Oconee 500 kV	102
16	Farley - Snowdoun 500 kV	97
17	Farley - North Tifton 500 kV	94
18	Klondike - Bonaire 500 kV	94
19	Volunteer - Watts Bar 500 kV	94
20	South Bessemer - Snowdoun 500 kV	93
21	Blackberry - Sportsman 345 kV	93
22	Bonaire - Hatch 500 kV	90
23	West Garrku - Pineville 345 kV	90
24	Browns Ferry - Maury 500 kV	87
25	Widows Creek - East Point 500 kV	87
26	McGuire - Pleasant Garden 500 kV	83
27	Hatch - North Tifton 500 kV	82
28	Richmond - Newport 500 kV	81
29	Thalmann - Duval 500 kV	79
30	Marshall KY - Cumberland 500 kV	78
31	Miller - Lowndes 500 kV	76
32	Fairport - Cooper 345 kV	75
33	Pierce - Department of Energy X-530 #1 345 kV	72
34	Pierce - Department of Energy X-530 #2 345 kV	72
35	Brown North - Hardin County 345 kV	70
36	Clifty Creek - Pierce #1 345 kV	70

37	Clifty Creek - Pierce #2 345 kV	70
38	Bowen - Bradley 500 kV	68
39	Cumberland - Wake 500 kV	67
40	Fletcher - Gobbler Knob 345 kV	67
41	Hardin County - Smith 345 kV	66
42	Volunteer - Phipps Bend 500 kV	65
43	Hatch - Thalmann 500 kV	65
44	Maury TN - Franklin TN 500 kV	64
45	Franklin TN - Sequoyah NP 500 kV	63
46	Fortson - Wansley 500 kV	60
47	Clifty Creek - Buffington 345 kV	58
48	Bowen - Union City 500 kV #1	58
49	Cumberland - Richmond 500 kV	57
50	Bowen - Union City 500 kV #2	56
51	New Madrid - Dell AECC 500 kV	55
52	McCredie - Thomas Hill 345 kV	55
53	Alcalde - Brown North 345 kV	54
54	Weakley TN - Lagoon Creek SS 500 kV	54
55	Franks - Huben 345 kV	53
56	Paradise - Montgomery 500 kV	52
57	West Lexington - Ghent 345 kV	52
58	O'Hara - Scherer 500 kV	52
59	Shawnee FP - East West Frankfort 345 kV	52
60	O'Hara - Wansley 500 kV	51
61	Kyger Creek - Department of Energy X-530 #1 345 kV	50
62	Kyger Creek - Department of Energy X-530 #2 345 kV	50
63	Pleasant Garden - Parkwood 500 kV	50

Exhibit 2

Distances Between Major SERTP Load Areas

The following map depicts the locations of the major load areas located within the SERTP region as well as the approximate shortest distances to the next two major load areas within the SERTP region.

