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July 13, 2007

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

Re: Entergy Services, Inc., Order No. 890 Compliance Filing, Docket No. OA07- -000

Dear Secretary Bose:

Pursuant to Section 206 of the Federal Power Act (“FPA”), Part 35 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) regulations, and the procedures established in the Commission’s February 16, 2007 Order in Docket Nos. RM05-17-000 and RM05-25-000, *Preventing Undue Discrimination and Preference in Transmission Service*,¹ Entergy Services, Inc. (“ESI”), on behalf of the Entergy Operating Companies,² hereby submits this compliance filing incorporating Order No. 890’s non-rate terms and conditions into a reformatted “Third Revised Volume No. 3” of ESI’s Open Access Transmission Tariff (“OATT”).³ Consistent with Paragraph 139 of Order No. 890 and the Commission’s Order granting extension of compliance action dates, ESI requests that this filing be accepted effective July 13, 2007.⁴

I. BACKGROUND

On February 16, 2007, in Docket Nos. RM05-17-000 and RM05-25-000, FERC issued Order No. 890, which revises the *pro forma* OATT originally established in Order No. 888.

¹ Order No. 890, 72 Fed. Reg. 266 (March 15, 2007), 118 FERC ¶ 61,119 (2007) (“Order No. 890” or “Final Rule”), *reh’g pending*.

² The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

³ In Order No. 890, the Commission gave transmission providers the option of filing individual tariff sheets incorporating Order No. 890’s terms and conditions or re-filing their entire tariffs in order to ensure consistency of pagination and formatting related issues. Order No. 890 at P 135, n.106. ESI has elected the second option and therefore is re-filing a Third Revised Volume No. 3 of its OATT.

⁴ Order No. 890 at P 139; *Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 at P 25 n.14 (2007) (“Extension Order”).

In relevant part to this filing, Order No. 890 established a bifurcated compliance filing process for all transmission providers that have not been approved as an Independent System Operator (“ISO”) or a Regional Transmission Organization (“RTO”), and whose transmission facilities are not under the control of an ISO or RTO. In the first part of this process, non-ISO/RTO transmission providers had the option of re-justifying previously-approved variations from Order No. 888’s *pro forma* OATT to the extent that such variations were substantially affected by Order No. 890, within 30 days of publication in the Federal Register (“30-Day Compliance Filing”). ESI timely submitted its 30-Day Compliance Filing on April 16, 2007 in Docket No. OA07-17-000, and explained why certain provisions (as summarized below) of its then-current OATT affected by Order No. 890 are (or will be once revised in this filing) consistent with or superior to the applicable revised sections of the *pro forma* tariff.

In the second step of these compliance procedures, non-ISO/RTO transmission providers must make a separate filing by July 13, 2007 adopting the new Order No. 890 OATT’s non-price terms and conditions (“July 13 Compliance Filing”). Both the 30-Day Compliance Filing and the July 13 Compliance Filings must request the same effective date.⁵ The Commission explained that this procedure will “streamline the compliance process by allowing existing variations from terms and conditions of the *pro forma* OATT that have been modified by the Final Rule to remain in effect until further Commission action, while also providing the Commission with adequate time to act on the filings.”⁶

II. THE INSTANT FILING

This filing represents ESI’s July 13 Compliance Filing. Accordingly, ESI has incorporated Order No. 890’s conforming non-rate terms and conditions into its OATT, or has identified which Order No. 890 requirement ESI has requested additional time to implement. Moreover, this filing also includes the revisions that ESI committed to make in its 30-Day Compliance Filing in order to ensure that its previously-approved OATT variations that were substantially affected by Order No. 890 are consistent with or superior to Order No. 890’s requirements. ESI has also incorporated reformatted versions of ESI’s former (i) Available Flowgate Capability (“AFC”) Process Manual (“AFC Manual”), (ii) System Impact and Facilities Study Process Manual (“Study Manual”), and (iii) Transmission Service Processing Manual (“TSR Manual”) (collectively, the “Criteria Manuals”), into ESI’s OATT as attachments pursuant to the Commission’s April 4, 2007 Order in Docket No. ER05-1065-000, *et al.*⁷

Finally, ESI is including Notices of Termination for former Attachment J, Attachment R, and Schedule 1-A under the now superseded Second Revised Volume No. 2 of ESI’s OATT, which generally concerned ESI’s protocols to accommodate retail choice in Texas in the Entergy Settlement Region in Texas (“ESAT Protocols”). As explained below, the ESAT Protocols are no longer necessary in light of the indefinite suspension of retail open access in Texas.

⁵ Order No. 890 at P 137-39.

⁶ *Id.* at P 139.

⁷ *Entergy Servs., Inc.*, 119 FERC ¶ 61,009 at P 24 (2007) (“April 4 Order”).

A. Order No. 890's Required Revisions to ESI's OATT

1. Order No. 890's Non-Rate Terms and Conditions

The Final Rule required numerous revisions to Parts I-III, the Schedules and the Attachments of the Third Revised Volume No. 3 of ESI's OATT. Of particular significance, ESI has included new tariff language governing the following:⁸

(i) Planning Redispatch

In Order No. 890 the Commission continued to require that transmission providers offer planning redispatch to grant new long-term firm point-to-point transmission service when there otherwise is insufficient transmission capability available to grant requested transmission service.² The transmission provider remains obligated to provide planning redispatch when the service does not (a) degrade or impair the reliability of service to native load customers, network customers, and other firm transmission customers or (b) otherwise interfere with the transmission provider's ability to meet prior firm contractual commitments.¹⁰ Planning redispatch options are to be identified as part of the System Impact Study ("SIS") process, which is described in Attachment D of ESI's OATT.¹¹

ESI has amended Part II of its OATT and its SIS procedures consistent with these standards.¹² Under ESI's OATT as amended, a SIS for a customer that requests a study of planning redispatch options will (a) identify the system constraints requiring the planning redispatch, (b) identify all resources located within ESI's control area that can significantly contribute toward relieving those constraints, (c) provide a measurement of each resource's impact on the constraints, and (d) provide any information the Independent Coordinator of Transmission ("ICT") has relating to resources outside the ESI control area that can relieve the constraints. If planning redispatch is available, the SIS also will provide the customer with a

⁸ ESI notes that Order No. 890 includes certain requirements governing the use of Capacity Benefit Margin ("CBM") when calculating Available Transfer Capability ("ATC"). Order No. 890 at P 248-65, 332-39, 351-58. ESI does not use CBM when calculating ATC. Accordingly, Order No. 890's CBM obligations are not applicable to ESI. In Order No. 890, the Commission also required transmission providers, who have established "no earlier than" requirements for the submission of transmission requests, to establish windows within which requests for service are deemed to be submitted simultaneously and to adopt procedures for allocating transmission service among such requests if they exceed ATC. *Id.* at P 1419. Because the current *pro forma* tariff contains "no earlier than" requirements for non-firm requests, ESI interprets Order No. 890 to require the window and procedures be adopted only by transmission providers who impose "no earlier than" requirements with respect to firm point-to-point service or network service. Because ESI has not established such requirements for firm point-to-point and network service, it has not amended its tariff to include a simultaneous submission window.

² *Id.* at P 914, 978.

¹⁰ *Id.* at P 946.

¹¹ *Id.* at P 957, 986; *see also* ESI OATT, Attachment D.

¹² ESI OATT § 19.3; ESI OATT, Attachment D § 1.4.

non-binding estimate of the costs of redispatch and identify the relevant constrained flowgates for which redispatch will be provided.¹³

If a customer requests firm point-to-point service for more than two years, but does not commit to a Facilities Study or the payment of network upgrade costs, ESI will have a periodic right to reassess the planning redispatch required to continue providing firm service.¹⁴ This reassessment may occur every two years during the term of the service, but it may not occur during intervening periods. If, on the other hand, the transmission customer commits to paying the costs associated with upgrades necessary to provide the service on a fully firm basis, the redispatch solution identified in the SIS will remain in effect until such time as the upgrades have been completed.¹⁵

In addition to redispatch of ESI network resources, a transmission customer can request an analysis of its ability to redispatch its own resources in a manner that will allow for the new transmission service.¹⁶ A customer also can arrange for its own planning redispatch through bilateral markets and submit plans to the ICT for such redispatch. Postings of third-party offers on ESI's OASIS will be permitted in accordance with the requirements of Order No. 890 and subsequent Commission orders.¹⁷

The pricing of planning redispatch is included in Attachment T to the ESI OATT. Under Attachment T, customers will have the option of paying (1) the higher of (a) actual incremental costs of redispatch or (b) the applicable embedded cost transmission rate on file with the Commission or (2) a fixed rate for redispatch to be negotiated by ESI and the customer, subject to a cap representing the total fixed and variable costs of the resources expected to provide the service. Such election must be made at the time the customer enters into a Service Agreement or requests the filing of an unexecuted Service Agreement, and will apply during the entire term of the service. If the customer selects the higher of incremental cost or the embedded-cost rate, ESI will calculate the costs of redispatch monthly and charge the higher of redispatch or the embedded cost rate each month.¹⁸ Monthly redispatch costs will be determined based on the Redispatch Rate calculated under Attachment V of ESI's OATT (addressing the Weekly Procurement Process ("WPP")) and the impacts of the scheduled point-to-point service on flowgates identified in the WPP process.¹⁹ This is the same methodology that is used to calculate redispatch costs applicable to Network Resource Interconnection Service resources used by Network Customers that do not participate in the WPP.²⁰

¹³ ESI OATT, Attachment D § 4.3; *see also* ESI OATT § 19.3; Order No. 890 at P 958, 978, 1003-04.

¹⁴ ESI OATT, Attachment D § 4.3.

¹⁵ *Id.*; *see also* ESI OATT §§ 13.5, 15.4; Order No. 890 at P 926, 958, 961, 980-81.

¹⁶ ESI OATT, Attachment D § 4.3.

¹⁷ ESI OATT § 4.3; ESI OATT, Attachment D § 4.3; *see also* Order No. 890 at P 1005-07, 1139, 1162.

¹⁸ ESI OATT, Attachment T §§ 6.2, 6.4; *see also* Order No. 890 at P 1024.

¹⁹ ESI OATT, Attachment T § 6.4.

²⁰ *Compare id.* to ESI OATT, Attachment V § 8.5.

(ii) Unreserved Use Penalties

Order No. 890 required transmission providers to devise a mechanism to credit penalties for unreserved use of point-to-point transmission service and network service to non-offending customers, including native load.²¹ Accordingly, ESI has revised Sections 13.7(c) and 28.6 of its OATT to provide that ESI will credit unreserved use penalties to non-offending long-term and short-term firm customers, as well as network service customers. For administrative efficiency, consistent with FERC precedent,²² ESI shall disburse accumulated penalty revenues, plus interest, to non-offending customers when the annual accumulated amount of unreserved use penalty revenues to be credited reaches \$100,000 rather than making payments every time that a penalty is collected by ESI. This annual accounting will commence on January 1 every year and end on December 31. Penalty revenues in one year will not be carried over into subsequent years.

(iii) Clustering Procedures

While Order No. 890 did not require transmission providers to study transmission service requests in clusters, the Commission did require transmission providers to honor requests for clustering when such requests may be reasonably accommodated.²³ Accordingly, the SIS procedures included in Attachment D of ESI's OATT provide that transmission service requests may be studied in clusters when such studies may be reasonably accommodated. In order to be eligible for clustering, all of the relevant transmission service requests must be in consecutive order in the transmission queue and be from the same source. The deadline for completing all SIS's and Facilities Studies shall be in accordance with Sections 19 and 32 of the OATT.

While transmission customers can opt out of a cluster and request an individual study (or inclusion in a new cluster), they can only do so during the period of time between the completion of the applicable SIS and the commencement of the applicable Facilities Study.²⁴ In the event that a transmission customer opts out of a cluster, the costs of the SIS will be allocated *pro rata* among the original transmission customers in the cluster. The costs associated with the Facilities Study will be allocated *pro rata* among the remaining transmission customers. A transmission customer that opts out of the cluster can elect to enter the study queue by requesting a new individual study or requesting to participate in a new cluster.

(iv) Attachment I

ESI has consolidated the lists of its point-to-point and network service customers formerly included in previous versions of Attachments E and I into Attachment I, and indicated

²¹ Order No. 890 at P 859–60.

²² *Carolina Power and Light Co.*, 95 FERC ¶ 61,429 (2001), *order on reh'g*, 103 FERC ¶ 61,209 (2003), *order on compliance filing*, 104 FERC ¶ 61,276 (2003).

²³ Order No. 890 at P 1370–71.

²⁴ *Id.* at P 1371; *see also* ESI OATT, Attachment D § 8.

that ESI complies with the requirement to identify specifically its OATT customers through compliance with its Electronic Quarterly Reporting obligation under Order No. 2001.²⁵

(v) Attachment J

On April 5, 2007, as amended on May 30, 2007, in Docket No. ER07-717-000, ESI submitted a letter to the Commission indicating that the Entergy Operating Companies were adopting Version 3 of the North American Electric Reliability Council's ("NERC") Transmission Loading Relief ("TLR") procedures as of the date approved by the NERC Board (August 2, 2006) and that ESI's OATT should be deemed to be modified to incorporate such TLR procedures ("April 5 Filing"). ESI explained that it submitted the April 5 Filing pursuant to a March 6, 2007 letter order issued in Docket No. ER06-1545-002 accepting NERC's revised TLR procedures compliance filing.²⁶ In its acceptance of NERC's compliance filing, the March 6 Order triggered an obligation for transmission-owning utilities in the Eastern Interconnection to make a compliance filing by April 5, 2007 indicating that their respective OATTs should be considered modified to adopt NERC's revised TLR procedures.

ESI's May 30, 2007 amendment to the April 5 Filing included an Attachment W which specifically incorporated NERC's revised TLR procedures into the ESI OATT effective August 2, 2006. ESI has moved the substance of Attachment W to Attachment J to be consistent with Order No. 890's revised *pro forma* tariff.

(vi) Attachment K

Order No. 890 imposed significant regional and sub-regional transmission planning obligations on transmission providers, including the development of an Attachment K to transmission providers' tariffs delineating the transmission planning procedures.²⁷ Transmission Providers must file this Attachment K with the Commission by October 11, 2007.²⁸ Like other transmission providers, ESI is currently developing its Attachment K and therefore has included a temporary placeholder for Attachment K in this filing until ESI submits this attachment in final form by October 11, 2007.

(vii) Miscellaneous Revisions

ESI has revised the Table of Contents of its OATT, and updated its Firm and Non-Firm Transmission Service Agreements ("TSA") (Attachments A and B), Network Integration Transmissions Service Agreement ("NITSA") (Attachment F), and Network Operating Agreement (Attachment G) for Order No. 890 compliance. For consistency with ESI's various ICT-related procedures now included as attachments to its OATT, ESI has also included language in its Firm and Non-Firm TSAs and NITSA that states that transmission customers are

²⁵ *Revised Pub. Util. Filing Requirements*, Order No. 2001, 99 FERC ¶ 61,107 (2002).

²⁶ *North American Elec. Reliability Council*, Docket No. ER06-1545-002 (2007) ("March 6 Order"); *see also North American Elec. Reliability Council*, 117 FERC ¶ 61,248, at P 13 (2006).

²⁷ Order No. 890 at P 437 n.246.

²⁸ *Id.* at P 140.

responsible for the ICT-related costs included in Schedules 9 and 10 of ESI's OATT. Finally, ESI has removed language from Schedule 7 and Attachment H of ESI's OATT referencing a two-year credit and certain rate exclusions from the calculation of ESI's long-term firm point-to-point transmission rate and network service rate that ESI's OATT customers were to receive for ESI's 2004 and 2005 formula rate update pursuant to an October 22, 2004 settlement agreement approved by the Commission on January 25, 2005 in Docket No. ER04-638-000. This two-year period has expired so the deleted language is no longer necessary.²⁹

2. ESI's Requested Extension of Time for Implementation of Reservation Priority for Pre-Confirmed Non-Firm and Short-Term Firm Point-to-Point Transmission Service Requests

In Order No. 890, the Commission required that transmission providers give priority to pre-confirmed non-firm and short-term firm point-to-point transmission service requests.³⁰ The Commission required compliance with this requirement by July 13, 2007.³¹ As part of ESI's internal review process to meet Order No. 890's compliance requirements and to develop work plans for meeting them, ESI initially determined that an upgrade to the AFC process's software would be the most effective and reliable way to evaluate pre-confirmed transmission service requests due to that software's complexity and the number of transmission service requests that ESI receives on a daily basis.

As explained in more detail in ESI's concurrently filed *Motion for Extension of Time to Comply With Order No. 890 Compliance Requirement*,³² ESI has determined that is not able to implement and to test the necessary AFC software upgrades by July 13, 2007 that would allow that software to automatically grant pre-confirmed non-firm and short-term firm point-to-point transmission service requests reservation priority. ESI and the ICT have explored several manual "work-around" options, but both ESI and the ICT concluded that these options could not be implemented reliably due to the complexity of the AFC process and the sheer number of transmission service requests that the ICT must process daily. Therefore, while ESI has incorporated Order No. 890's required language governing reservation priority into ESI's revised OATT, ESI has requested an extension of time until December 1, 2007 to comply with Order No. 890's requirement that pre-confirmed non-firm and short-term firm point-to-point transmission service requests be given reservation priority.

²⁹ ESI Redlined OATT, Schedule 7 at Attachment 1; ESI Redlined OATT, Attachment H, Attachment 1.

³⁰ Order No. 890 at P 1401.

³¹ Although non-ISO/RTO transmission providers are required to comply with the Commission's requirements related to pre-confirmed TSRs by July 13, 2007, ISOs and RTOs do not need to make compliance filings implementing these same requirements until October 11, 2007. ESI is currently the only non-ISO/RTO transmission provider in the country that uses AREVA's OASIS automation. The other two transmission providers that utilize this software are the Midwest Independent Transmission System Operator and the Southwest Power Pool.

³² *Motion of Entergy Services, Inc. for Extension of Time to Comply With Order No. 890 Compliance Requirement*, Docket Nos., RM05-25-000, et al (filed July 13, 2007).

B. Revisions ESI Committed to Make In Its 30-Day Compliance Filing

In its 30-Day Compliance Filing, in relevant part to this filing, ESI explained why each of its current Schedule 4, Generator Imbalance Agreement (“GIA”), and creditworthiness provisions should be permitted to remain in effect because they are, or once revised in this filing would be, consistent with or superior to the Final Rule.³³ This filing includes the revisions that ESI committed to make to its Schedule 4, GIA and creditworthiness provisions in its 30-Day Compliance Filing.

(1) Schedule 4

In its 30-Day Compliance Filing, ESI explained why its current Schedule 4 satisfied Order No. 890’s policy objectives for imbalance services³⁴ and therefore should be permitted to remain in effect.³⁵

ESI also explained that while its current Schedule 4 includes mechanisms to credit imbalance penalty revenues to non-offending customers, ESI’s current Schedule 4 did not include mechanisms to credit imbalance penalty revenues to native load customers as required by Order No. 890.³⁶ ESI committed to include such a mechanism in its July 13 Compliance Filing. Accordingly, ESI has revised Section III of its Schedule 4 to provide that ESI will credit energy imbalance penalties to both non-offending customers and native load customers.³⁷

³³ ESI’s 30-Day Compliance Filing also included variations from the *pro forma* tariff’s Sections 17.2 and 18.2. These variations were approved by the Commission on November 4, 2005 in Docket No. ER06-162-000, and allow the owner of a generation facility to submit a written request to ESI for the identity of a transmission customer that has requested service from such owner’s generation facility. ESI’s 30-Day Compliance Filing explained that this language allows a generator to ensure that transmission reservations sourcing from its generation facility are legitimate without unmasking confidential source and sink information posted on OASIS. ESI also explained, however, that it did not believe that Order No. 890’s revisions to Sections 17 and 18 of the *pro forma* tariff affected this language, and that ESI was merely re-submitting it out of an abundance of caution. Therefore, ESI made no commitment to revise further Sections 17.2 and 18.2 of its OATT in its July 13 Compliance Filing.

³⁴ Order No. 890 explained that currently-effective energy imbalance provisions will be permitted to remain in effect if they satisfy three general principles: (a) their charges must be based on incremental cost or some multiple thereof; (b) their charges must provide an incentive for accurate scheduling, such as by increasing the percentage of the adder above (and below) incremental cost as the deviations become larger; and (c) they must account for the special circumstances presented by intermittent generators and their limited ability to precisely forecast or control generation levels, such as waiving the more punitive adders associated with higher deviations. *See* Order No. 890 at P 627-33, 663-72. Because Schedule 4 concerns load imbalances, ESI’s 30-Day Compliance Filing explained that Order No. 890’s third policy objective regarding intermittent generation resources does not apply to ESI’s re-justification of its current Schedule 4.

³⁵ *See* 30-Day Compliance Filing at 5–7 (discussing ESI’s current Schedule 4); *see also id.* at 7-11 (discussing ESI’s GIA).

³⁶ *See* Order No. 890 at P 727-28.

³⁷ ESI OATT, Schedule 4, at § III.

(2) GIA

ESI's 30-Day Compliance Filing explained why ESI's GIA satisfied the Final Rule's policy objectives for imbalance services.

In Order No. 890, the Commission exempted intermittent resources from the *pro forma* Schedule 9's third, and highest-priced, tier for imbalance penalties. In ESI's 30-Day Compliance Filing, it therefore indicated that it would revise its GIA to be consistent with the Final Rule's treatment of intermittent resources. ESI has therefore revised its GIA to exempt intermittent resources from its highest imbalance deviation bandwidth for Excess Energy (*i.e.*, for deviations above 150% of Schedules prices at 50% of Avoided Cost). As a result of this change, intermittent resources will be paid no less than 75% of Avoided Costs for Excess Energy when they deviate from their schedules by more than 120 percent. For under-deliveries of energy, however, there is no highest deviation bandwidth applicable to intermittent resources to be exempted from and no need to revise the GIA to reflect such.³⁸

(3) Creditworthiness

ESI included its existing creditworthiness procedures in its 30-Day Compliance Filing and explained why they should be permitted to remain effective. Accordingly, ESI has included these procedures in Section 11 of its revised OATT and supplemented them in Attachment L with certain credit-related procedures that were previously included in ESI's TSR Manual (now Attachment E). The procedures now appearing in Attachment L of ESI's OATT include ESI's: (1) credit evaluation procedures for customers that are not rated by either Standard & Poor's or Moody's Investor Services, Inc.;³⁹ (2) prepayment procedures; and (3) credit-related suspension of service procedures.

C. ESI's Criteria Manuals

Order 890 does not require transmission providers to file transmission business practices under Section 205 of the FPA or otherwise include such business practices as part of the July 13 Compliance Filing submitted to the Commission. Instead, Order No. 890 only requires these

³⁸ ESI notes that its GIA also provides for Generator Regulation Service. While Order No. 890 did not address this type of service, ESI has also exempted intermittent resources from the highest tiered penalties that apply for Generation Regulation Service as well. ESI OATT, Attachment P, at § V.

³⁹ While the standards that ESI applies to evaluate creditworthiness for transmission customers that are not rated by either S&P or Moody's have been included in ESI's TSR Manual as it is pending in Docket No. ER05-1065-000, those standards were expressly approved by the FERC when ESI initially filed its creditworthiness procedures in Docket Nos. ER03-1140 and ER04-207. *Entergy Servs., Inc.*, 106 FERC ¶ 61,142 at P 8 (2004); *Entergy Services, Inc.*, 106 FERC ¶ 61,039 (2004); see Request for Clarification, Or In The Alternative, Request for Rehearing of Entergy Services, Inc., Docket Nos. ER03-1140-000, et al. at 7 (filed Oct. 29, 2004); Transmittal Letter of Floyd L. Norton to Magalie R. Salas, Docket Nos. ER03-1140-000, et al. at 4 (filed Oct. 29, 2004). In the Order accepting ESI's October 29, 2003 compliance filing in Docket No. ER03-1140, the Commission stated that ESI's "proposed list of reviewable items ... for purposes of determining a customer's creditworthiness and the equivalency of the customer's financials with those supporting ratings by Standard & Poor's and Moody's is acceptable." *Entergy Servs., Inc.*, 106 FERC ¶ 61,142 at P 8 (2004).

business practices be posted on OASIS as of July 13, 2007.⁴⁰ Order No. 890 also does not require transmission providers to include revisions to Attachment C in the July 13 compliance filings. Instead, revisions to Attachment C to comply with Order No. 890 must be filed on September 11, 2007.⁴¹ As discussed further below, ESI is nevertheless submitting new versions of Attachments D and E (formerly ESI's Study Manual and TSR Manual, respectively) and Attachment C (formerly ESI's AFC Manual) with this compliance filing due to the unique filing requirements that apply to ESI under the Commission's orders approving the ICT.

These requirements originated in the Commission's April 24, 2006, order conditionally approving ESI's proposal to establish the ICT.⁴² Of specific interest here, the Commission required that "any criteria used by ESI to grant and deny transmission service, including calculating AFC, must be filed under Section 205 of the FPA and accepted by the Commission."⁴³ On November 16, 2006, ESI submitted its Criteria Manuals for Commission review. On April 4, 2007, the Commission accepted the Criteria Manuals, subject to certain conditions. Among other things, the April 4 Order required ESI to resubmit the Criteria Manuals as attachments to its OATT, rather than as rate schedules.⁴⁴ The Commission also required ESI to vet the Criteria Manuals through an additional stakeholder process and to file any revisions resulting from that process within 120 days of the April 4 Order's issuance (*i.e.*, August 2, 2007).⁴⁵ On May 18, 2007, ESI submitted its revised Criteria Manuals and requested that the Commission allow it to re-file the Criteria Manuals as OATT Attachments in the Order 890 compliance filing due on July 13, 2007.

Although Order No. 890-compliant business practices only have to be posted on OASIS for purposes of Order No. 890, ESI is submitting revised versions of the TSR Manual and Study Manual in order to meet the Section 205 filing requirement found in the ICT orders. ESI has revised these manuals to be Order No. 890-compliant (with coordinated input by the ICT) and has reformatted them as Attachments C, D and E to the revised OATT included herein, consistent with its commitment in the May 18 Filing referenced above.⁴⁶ Likewise, although Order No. 890 does not require Transmission Providers to file revisions to Attachment C until September 11, 2007, ESI is submitting a revised version of the Attachment C with this compliance filing in order to meet the Section 205 filing requirement found in the April 24 Order. The revisions to Attachment C fall into two categories. First, Attachment C has been revised to incorporate the provisions of the AFC Manual so that these provisions are included in an attachment to the ESI OATT as required under the Commission's April 4, 2007 order in

⁴⁰ Order No. 890 at P 1649-53.

⁴¹ Order No. 890 at P 140.

⁴² See generally *Entergy Servs., Inc.*, 115 FERC ¶ 61,095 (2006) ("April 24 Order").

⁴³ *Id.* at P 62.

⁴⁴ *Entergy Servs., Inc.*, 119 FERC ¶ 61,009 at P 29 n.21 (2007) ("April 4 Order").

⁴⁵ The Commission also stated that if Entergy is unable to meet this 120-day deadline, it shall instead submit a report on the progress it is making in revising the transmission service criteria through the stakeholder process. *Id.* at P 24.

⁴⁶ Attachment 3 to this filing includes redlines comparing the versions of the Criteria Manuals included in the May 18 Filing to Attachments C, D and E of the revised ESI OATT.

Docket No. ER05-1065-000, *et al.*⁴⁷; and (ii) to comply with the additional requirements regarding Attachment C imposed on all Transmission Providers under Order No. 890.

ESI is requesting that the Commission accept Attachments C, D, and E for filing purposes, subject to the outcome of the Commission proceeding that will be initiated once the stakeholder review process is completed. ESI does not believe that it would be an efficient use of the resources of all parties involved (the Commission, the ICT, ESI or the stakeholders) to resolve substantive issues with respect to Attachments C, D, and E as part of this proceeding due to the ongoing stakeholder process and future Commission proceeding. As required by the April 4, 2007 order, ESI and the ICT released drafts of these attachments to the stakeholders on July 3, 2007. The attachments will be the subject of stakeholder and ICT review, including a three-day stakeholder conference that will be hosted by the ICT in Little Rock, Arkansas from July 23–25, 2007. Once the stakeholder review process is completed, ESI will take into account input from stakeholders and the ICT as to whether the attachments should be revised further and will then will re-file Attachments C, D and E for Commission review as required by the April 4 Order.⁴⁸ Thus, the versions of Attachment C, D, and that are now being filed with the Commission in this compliance filing ultimately will be superseded by versions of these attachments that are submitted for Commission review once the stakeholder process is completed. Many of the issues that would be raised in this proceeding regarding the attachments may ultimately be resolved as part of the stakeholder process and the subsequent filing. To the extent any issues have not been resolved, individual stakeholders or the ICT may raise those issues with the Commission at the time of the subsequent filing. For these reasons, ESI requests that the Commission defer the consideration of substantive issues with respect to Attachments C, D, and E and accept the attachments for filing purposes, subject to the outcome of the Commission proceeding that will be initiated once the stakeholder review process is completed.

⁴⁷ April 4 Order, at P 26–29.

⁴⁸ In the April 4 Order, the Commission required ESI to amend the then-AFC Manual to comply with the Commission's determination in its January 3, 2006 Order, 114 FERC ¶ 61,002, that the four-step process used by ESI to remove flowgates from the AFC methodology was unclear. 119 FERC ¶ 61,009 at P 22. Specifically, ESI was required to clarify step two of that process to specify that facilities that do not exceed a specific percentage of their rating would not be designated as flowgates. January 3, 2006 Order, 114 FERC ¶ 61,002 at P 15. In compliance with the January 3, 2006 Order, ESI amended the second step of the process for removing flowgates in a February 2, 2006 compliance filing revising the previous version of Attachment C of ESI's OATT. This compliance filing amended step two as follows: "From the resulting list of flowgates identified in [step one], Transmission Provider will derive a subset of flowgates with loading levels that do not exceed a certain percentage 60 percent of their rating. This step will identify the Proposed Removal Candidate Flowgates." Compliance Filing, *Entergy Servs., Inc.*, Docket No. ER06-162-001, Attachment 2 (Feb. 2, 2006). The Commission accepted ESI's February 2, 2006 compliance filing in the April 27, 2006 order on compliance. *Entergy Services, Inc.*, Docket No. ER06-162-001 (April 27, 2006) (unpublished letter order). When preparing the May 18th Filing, ESI intended to amend the AFC Manual to be consistent with ESI's February 2, 2006 compliance filing. See May 18 Filing at 5. That correction, however, was not included with the AFC Manual when it was actually filed on May 18th. The amendment is included in Attachment C to the ESI OATT, filed herewith.

D. Termination of Former Attachment J, Attachment R and Schedule 1-A

ESI has included Notices of Termination for the Entergy Settlement Area in Texas (“ESAT”) Protocols (Attachment R), Former Attachment J and Schedule 1-A because of the indefinite suspension of retail open access (“ROA”) in Texas. The Commission approved the ESAT Protocols on December 22, 2004 in Docket No. ER04-35-000.⁴⁹ The ESAT Protocols, Attachment J and Schedule 1-A were originally filed to implement ROA in ESAT. ROA in ESAT in the form contemplated by the ESAT Protocols has been delayed indefinitely by the Public Utility Commission of Texas and, consequently, the inclusion of the ESAT Protocols is no longer necessary in the ESI OATT. ESI therefore requests that the Commission accept the Notices of Termination included herein effective as of July 13, 2007.

III. ATTACHMENTS INCLUDED WITH THIS FILING

- Attachment 1: Clean Third Revised Volume No. 3 of ESI’s OATT;
- Attachment 2: Redlined versions of the relevant pages of ESI OATT (except for Attachments C, D and E) that reflect: (a) Order No. 890’s required revisions to ESI’s OATT; (b) the revisions that ESI committed to include in this filing in its 30-Day Compliance Filing; and (c) other miscellaneous revisions to ESI’s OATT necessitated by this compliance filing.
- Attachment 3: Redlined versions of Attachments C, D and E compared to the versions of the Criteria Manuals filed on May 18, 2007 in Docket No. ER05-1065-004.
- Attachment 4: Notices of Termination for the Attachment J, Attachment R and Schedule 1-A..

IV. EFFECTIVE DATE

As required by Order No. 890, ESI requests that the Third Revised Volume No. 3 of its OATT be effective July 13, 2007. ESI further requests that the Notices of Termination become effective as of July 13, 2007.

V. SERVICE AND POSTING

ESI has posted a copy of this filing on its OASIS and has provided a copy of this filing to the state and local regulators of the Entergy Operating Companies. ESI requests that the Commission waive the requirement in 18 C.F.R. § 385.2010 (2006) for ESI to serve this filing on its customers, as ESI has posted the filing on its OASIS. A hard copy of this filing is also available at ESI’s corporate headquarters in New Orleans, Louisiana and its offices in Washington, D.C.

⁴⁹ *Entergy Servs., Inc.*, 105 FERC ¶ 61,318, *order on reh’g*, 109 FERC ¶ 61,216 (2004).

The Honorable Kimberly Bose
July 13, 2007
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Morgan Lewis
C O U N S E L O R S A T L A W

VI. COMMUNICATIONS

Should any additional information be required, please contact any of the following:

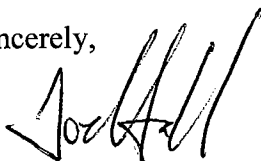
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Sincerely,



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