145 FERC ¶ 61,263
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Midcontinent Independent System Operator, Inc. Docket No. ER13-2468-000

ORDER ON TRANSMISSION RATE INCENTIVES AND FORMULA RATE PROPOSAL

(Issued December 19, 2013)

1. On September 27, 2013, Midcontinent Independent System Operator, Inc. (MISO) and Central Minnesota Municipal Power Agency (Central Minnesota) filed a request for authorization for Central Minnesota to recover certain transmission incentive rate treatments pursuant to section 205 and 219 of the Federal Power Act (FPA)[1] and Order No. 679[2] for Central Minnesota's investment in the Big Stone South to Brookings County transmission project (the Big Stone South Project or Project). Central Minnesota also requests authorization to amend Attachments O-CMMPA and MM-CMMPA of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff or Tariff) to transition to a forward-looking formula rate and to implement the requested rate incentives.[3] As discussed below, we conditionally grant Central

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[1] 16 U.S.C. §§ 824d, 824s (2012).

[2] *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007). The Commission provided additional guidance regarding the application of its transmission incentive policies in *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (2012 Incentives Policy Statement).

[3] MISO joins this filing as the administrator of the Tariff, but takes no position on the substance of the filing and reserves the right to comment or protest.

Minnesota's request for transmission rate incentives and conditionally accept Central Minnesota's revised Attachments O and MM, effective January 1, 2014, as requested. We also direct Central Minnesota to submit a compliance filing within 30 days of the date of this order, as discussed below.

I. Background

2. Central Minnesota states that it is a member-owned municipal power supply agency with 12 members located in south central Minnesota that have a total load of 107 MW.[4] Central Minnesota states that although it is not subject to the Commission's jurisdiction, it is a MISO Transmission Owner and as such recovers the costs of its transmission investments through MISO rates. Central Minnesota explains that it performs resource and transmission planning on behalf of its members, and also assists its members and other cities with their resource planning and operations. Central Minnesota states that it invests in power supply and transmission projects that can benefit its members. As a project-based agency, Central Minnesota explains that its members can opt in or out of each project that Central Minnesota undertakes.

3. Central Minnesota states that it participates in a comprehensive regional planning initiative by 11 utilities in the region known as the Transmission Capacity Expansion Initiative by the Year 2020 (CapX2020 Initiative). Central Minnesota notes that it is a joint owner in the Brookings County, South Dakota to Hampton, Minnesota transmission project that is part of the CapX2020 Initiative, and that the Commission in 2011 granted Central Minnesota incentive rate treatment for its investment in that project.[5]

II. Description of the Filing

A. The Big Stone South Project

4. In its September 27, 2013 filing, Central Minnesota states that it is now considering participation in the Big Stone South Project, which is part of the CapX2020 Initiative. According to Central Minnesota, the Big Stone South Project will consist of a 78-mile transmission line extending from a connection near Big Stone, South Dakota to the Brookings County Substation near White, South Dakota. Approximately 76 miles

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[4] Its 12 members are the cities of Blue Earth, Delano, Fairfax, Glencoe, Granite Falls, Janesville, Kasson, Kenyon, Mountain Lake, Sleepy Eye, Springfield, and Windom, all in Minnesota.

[5] Central Minnesota Filing, Transmittal Letter at 3 (citing *Cent. Minn. Mun. Power Agency*, 134 FERC ¶ 61,115 (2011) (*Central Minnesota*)).

will be 345 kV and two miles will be 230 kV. The 345 kV portion of the transmission line will be constructed in a double circuit compatible configuration by using structures capable of supporting a second circuit in the future. Central Minnesota anticipates contributing $3.2 million (including Central Minnesota's development costs of about $250,000) to the Big Stone South Project, which will constitute approximately 1.8 percent of the total estimated cost of $165 million.[6] According to Central Minnesota, the Big Stone South Project is expected to enter service in 2017.

5. Central Minnesota explains that the Big Stone South Project has been approved by MISO as a Multi-Value Project (MVP) in the 2011 MISO Transmission Expansion Plan (MTEP). As the Commission has previously recognized, the MTEP is an open and transparent, stakeholder-driven process by which MISO annually identifies transmission projects required to address system needs and produces an annual MTEP report.[7] In its 2011 MTEP report,[8] MISO identified a portfolio of 17 MVPs costing a total of $5.2 billion, which MISO deemed necessary for a number of interrelated reasons such as increasing market efficiency by reducing congestion and fuel costs, delivering low-cost generation, reducing generation reserves, reducing transmission losses, deferring future transmission investment, maintaining reliability, and incorporating public policy requirements. As described in the 2011 MTEP Report, in aggregate all of the proposed MVPs will allow for the reliable integration and delivery of approximately 41 million MWh of wind energy to meet renewable energy mandates and goals and resolve a significant number of reliability issues throughout the MISO region.

B. Request for Incentives and Proposed Formula Rate

6. Central Minnesota requests approval for three incentive-based rate treatments pursuant to sections 205 and 219 of the FPA and Order No. 679. First, Central Minnesota requests that the Commission allow it to use a hypothetical capital structure of 50 percent equity and 50 percent debt for the life of the Project financing, which it anticipates to be 30 years. Central Minnesota argues that the hypothetical capital

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[6] Central Minnesota states that preliminary investment percentages between the anticipated joint owners are Otter Tail Power Company (50 percent), Xcel Energy Services, Inc. (37.5 percent), Great River Energy (8.2 percent), Missouri River Energy Services (2.5 percent), and Central Minnesota (1.8 percent).

[7] *Otter Tail Power Co.*, 137 FERC ¶ 61,255, at P 3 (2011) (*Otter Tail*).

[8] *MISO Transmission Expansion Plan 2011* (Sept. 22, 2011), *available at* https://www.midwestiso.org/Library/Repository/Study/MTEP/MTEP11/MTEP11%20Draft%20Report.pdf (2011 MTEP Report).

structure should be granted because it will attract financing, encourage investment by Central Minnesota's member-owners, enable the Big Stone South Project to achieve Central Minnesota's minimum credit rating, lower financing costs, and enable Central Minnesota to meet the debt obligations imposed by the Project.

7. Second, Central Minnesota seeks inclusion of 100 percent of prudently-incurred construction work in progress (CWIP) in rate base (100 percent CWIP recovery). Central Minnesota explains that 100 percent CWIP recovery will provide the cash flow necessary for Central Minnesota and its members to participate in the Big Stone South Project. Additionally, Central Minnesota states that 100 percent CWIP recovery will mitigate risk by providing up-front regulatory certainty and enhanced liquidity metrics for credit rating agencies and lenders.

8. Third, Central Minnesota seeks recovery of 100 percent of prudently-incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond Central Minnesota's control (abandoned plant recovery). Central Minnesota states that abandoned plant recovery would remove a potential disincentive for Central Minnesota to participate in the Big Stone South Project, by removing the risk that Central Minnesota would bear the costs of the Project in the event of cancellation. It would also provide assurance to credit rating agencies and lenders, according to Central Minnesota.

9. Although Central Minnesota is not seeking a stand-alone incentive return on equity adder for advanced technologies, it states that the Big Stone South Project will include advanced technologies, such as microprocessor-based protective relays, digital fault records, synchrophasor technology, programmable logic controller-based control and annunciation for substations, tubular steel structures, fiber-optic based communication and advanced conductor designs.[9]

10. In addition, Central Minnesota proposes to transition to a forward-looking transmission formula rate under Attachments O-CMMPA and MM-CMMPA of the MISO Tariff to recover its Annual Transmission Revenue Requirement (ATRR) using projected data. Central Minnesota also proposed to implement an annual true-up mechanism to compare the forecasted data with actual financial results for each year. Central Minnesota also proposes revisions to the MISO Tariff to adopt protocols governing its implementation of its forward-looking formula rate.

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[9] Central Minnesota Filing, Ex. CMMPA-1 (Thompson Test.) at 4.

C. Request for Waivers

11. Central Minnesota requests waiver of a number of the Commission's regulations. First, Central Minnesota requests waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3) (2013), to permit service to more than two designated service recipients. Second, Central Minnesota seeks waiver of the requirements of 18 C.F.R. § 35.13(d) (2013) (concerning Period I and Period II data) on the basis that the inputs for its formula rate are provided annually and that it proposes a change to the implementation of a formula rate rather than a change or increase in a stated rate.[10] Third, Central Minnesota seeks general waiver of the filing requirements of 18 C.F.R. § 35.25(c)(4) (2013) (forward-looking allocation ratios) as permitted in Order No. 679. Fourth, Central Minnesota seeks waiver of service requirements in Rule 2010 of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.2010 (2013). Lastly, Central Minnesota seeks waiver of any other Commission rule or regulation that may be necessary.

III. Notice of Filing and Responsive Pleadings

12. Notice of the September 27, 2013 filing was published in the *Federal Register*, 78 Fed. Reg. 61,943 (2013), with interventions or protests due on or before October 18, 2103. Consumers Energy Company filed a timely motion to intervene. The MISO Transmission Owners[11] and MISO filed timely motions to intervene and comments. The

[10] Central Minnesota Filing, Transmittal Letter at 33 (citing *Great River Energy*, 130 FERC ¶ 61,001, at P 48 (2010) (*Great River*)).

[11] The MISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITC Transmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie

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MISO Transmission Owners do not object to the proposed incentive rate treatments or the proposed transition to a forward-looking formula rate. MISO also takes no position on the justness and/or reasonableness of Central Minnesota's proposals. However, the commenters seek clarification on several issues, as described below. On November 4, 2013, Central Minnesota filed a response to the comments.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2013), prohibits an answer to protests unless otherwise ordered by the decisional authority. We will accept Central Minnesota's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

15. In the Energy Policy Act of 2005,[12] Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by Central Minnesota. Additionally, in November 2012, the Commission issued a Policy Statement providing additional guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.[13]

Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

[12] Pub. L. No. 109-58, § 1241 119 Stat. 594 (2005).

[13] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129.

1. Section 219 Requirement

16. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[14] Order No. 679 established a process for an applicant to follow to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.[15] Order No. 679-A clarifies the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (i.e., a regional planning process, a state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.[16]

17. Order No. 679, as modified by Order No. 679-A, provides that a rebuttable presumption can be applied to a transmission project that results from a fair and open regional planning process or one that has received construction approval from the appropriate state authority, if the process considers whether a project ensures reliability or reduces the cost of delivered power by reducing congestion.[17] Further, in Order No. 679, the Commission indicated that it would consider a request for incentive treatment for a project, which is still undergoing consideration in a regional planning process, but may make any requested rate treatment contingent upon the project being approved under the regional planning process.[18]

18. Central Minnesota contends that the Big Stone South Project is entitled to the rebuttable presumption under Order No. 679. Central Minnesota states that the Commission has already ruled that the Project qualifies for incentives under section 219.

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[14] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

[15] *Id*.

[16] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

[17] 18 C.F.R. § 35.35(i) (2013).

[18] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at n.39.

Specifically, in response to Otter Tail's request for transmission incentives for the Big Stone South Project, the Commission found that the Project was entitled to the rebuttable presumption because it had received approval through the MTEP process, whereby the MISO Board of Directors approved the Project under Criterion 1[19] on December 8, 2011 and placed it into Appendix A of the MTEP.[20] Central Minnesota also notes that the Commission found the project "non-routine" and determined that it was "expected to mitigate North American Electric Reliability Corporation (NERC) contingencies, improve reliability, and integrate new renewable generation."[21] Central Minnesota states that the Big Stone South Project facilitates the integration of more than 800 MW of new renewable generation into the MISO system. Additionally, according to Central Minnesota, there are currently only 10 miles of 345 kV transmission lines in South Dakota that are owned by MISO transmission owners and under MISO's functional control, such that the Big Stone South Project will contribute to the 345 kV backbone on the western side of the MISO footprint.[22]

19. The Commission has previously found that projects approved under Criterion 1 are entitled to the rebuttable presumption established in Order No. 679.[23] In this case, the

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[19] Under the MISO Tariff, for a project to be designated as an MVP, among other things, it must satisfy one of three functional criteria. To satisfy Criterion 1, "[an MVP] must be developed through the [MTEP] process for the purpose of enabling the Transmission System to reliably and economically deliver energy in support of documented energy policy mandates or laws that have been enacted or adopted through state or federal legislation or regulatory requirement that directly or indirectly govern the minimum or maximum amount of energy that can be generated by specific types of generation. The MVP must be shown to enable the transmission system to deliver such energy in a manner that is more reliable and/or more economic than it otherwise would be without the transmission upgrade." MISO, FERC Electric Tariff, ATTACHMENT FF, Transmission Expansion Planning Protocol (5.0.0).

[20] Central Minnesota Filing, Transmittal Letter at 13 (citing *Otter Tail*, 137 FERC ¶ 61,255 at P 31).

[21] *Id.* at 13-14 (citing *Otter Tail*, 137 FERC ¶ 61,255 at PP 39-40).

[22] *Id.* (citing Otter Tail Power Company, Request for Approval of Transmission Rate Incentives, Docket No. ER12-342-000, at 6-8 (filed Nov. 2, 2011)).

[23] *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121, at P 16 (2012) (finding that two Ameren projects qualified for the rebuttable presumption based on the MISO Board's approval of each project under Criterion 1 as part of

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Big Stone South Project has received approval through the MTEP process. The MISO board approved the Project under Criteria 1 on December 8, 2011 and placed it into Appendix A of the 2011 MTEP Report. Therefore, we find that the Big Stone South Project is entitled to the rebuttable presumption that it meets the section 219 requirement.

2. Hypothetical Capital Structure

a. Central Minnesota's Proposal

20. Central Minnesota requests authorization to use a hypothetical capital structure of 50 percent equity and 50 percent debt for the life of the Project financing, which it anticipates to be 30 years. Central Minnesota notes that the Commission previously concluded in Order Nos. 679 and 679-A that a hypothetical capital structure can be an important tool in promoting transmission investment and argues that authorization of this incentive is key to Central Minnesota's investment in the project.[24] Central Minnesota argues that as a relatively new agency with a small amount of generation assets, no current in-service transmission assets, and little track record regarding credit agencies,[25] Central Minnesota is viewed with additional risk by credit agencies. Central Minnesota contends that, as a result, the requested hypothetical capital structure and its impact on the risks and challenges related to key financial metrics are particularly important.[26]

21. In particular, Central Minnesota states that its own debt service coverage (DSC) ratio standards and the credit rating they support require a raised equity level that the requested hypothetical capital structure would provide. Central Minnesota states that it is a project-based agency, which means that each individual project must receive a credit rating in obtaining capital and financing terms. Accordingly, Central Minnesota states, it may not cross-collateralize cash flow from different projects and each project must stand

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Appendix A of the 2011 MTEP Report); *Ameren Servs. Co.*, 135 FERC ¶ 61,142, at P 31 (2011) (making the same finding regarding two other Ameren projects).

[24] Central Minnesota Filing, Transmittal Letter at 15-16 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 21).

[25] Central Minnesota states that the Brookings to Hampton transmission project currently under construction is the only Central Minnesota project with its own credit rating. Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test) at 21.

[26] *Id.* at 20-22.

on its own.[27] In evaluating projects on an individual basis, Central Minnesota states that its board has a minimum required credit rating for all potential investments, noting that without such a rating it would be unduly challenging to obtain capital at reasonable credit terms.[28] Central Minnesota states that without the requested hypothetical capital structure, its investment in the Project will not obtain the DSC ratio necessary to achieve this required credit rating.[29] Central Minnesota also notes that the Commission granted it the same hypothetical capital structure incentive for its Brookings to Hampton transmission project, which received the required credit ratings.[30]

22. Central Minnesota states that the DSC ratio resulting from the requested hypothetical capital structure will also provide target cash levels set by the Central Minnesota board and liquidity levels necessary for Central Minnesota's required credit rating.[31] Central Minnesota states that the requested hypothetical capital structure will result in a cash on hand level of 53 days, which approaches Central Minnesota's target liquidity level of 60 days and is consistent with Moody's liquidity requirements of an A3 rating for take-or-pay joint action agencies.[32] Central Minnesota states that its actual equity ratio, absent use of hypothetical capital structure, is projected to be 10 percent,[33] which would not produce sufficient cash to cover the debt service and would result in negative cash on hand.[34]

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[27] *Id.* at 8-9.

[28] Central Minnesota states that the Central Minnesota board's minimum required credit rating is an A- from Standard & Poor's Rating Services and an A3 from Moody's Investor Services, Inc. Central Minnesota Filing, Ex. CMMPA-3 (Blaine Test.) at 3.

[29] Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 9.

[30] Central Minnesota Filing, Transmittal Letter at 17.

[31] *Id.* at 18.

[32] Central Minnesota explains that, as a project-based agency, its members can choose whether or not to participate in each project, such that each participant is responsible for paying the debt service and operating costs of its respective share of the investment. Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test) at 8; and Ex. CMMPA-3 (Blaine Test) at 3.

[33] Central Minnesota Filing, Ex. CMMPA-3 (Blaine Test.) at 3

[34] Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 28-29.

23. Central Minnesota contends that the hypothetical capital structure should extend for the life of the Project's financing because, unlike investor-owned utility recipients of the hypothetical capital structure incentive, Central Minnesota cannot issue common stock to raise its equity ratio once its transmission investment enters service.[35] Central Minnesota states that without extending the hypothetical capital structure through the Big Stone South Project's life-cycle, Central Minnesota will not achieve the necessary DSC ratio to support its required credit rating.[36] Central Minnesota argues that in similar circumstances, the Commission has concluded that absent a hypothetical capital structure throughout the period of financing, public power entities would not be able to receive a meaningful return on their investments after construction ceases.[37]

24. Central Minnesota argues that in addition to addressing the risks and challenges of the Project, authorization of the requested hypothetical capital structure would further the Commission's goal, stated in Order No. 679, of encouraging public power participation. Central Minnesota asserts that the use of hypothetical capital is particularly important for public power entities such as Central Minnesota, as member-owners face the additional risk through their take-or-pay contracts of ensuring that the debt service on the Project is paid. Central Minnesota argues that, here, encouraging Central Minnesota's participation, along with its lower revenue requirements, will advance the goals of section 219 by reducing the Project's costs as a whole for MISO ratepayers.[38]

b. <u>Commission Determination</u>

25. We find that Central Minnesota has made a sufficient showing that the requested hypothetical capital structure is tailored to address the risks of its investment in the Big Stone South Project. We find that Central Minnesota has demonstrated that its hypothetical capital structure will address Central Minnesota's risks and challenges related to its credit metrics including the DSC ratio and its lack of assets. We find that the hypothetical capital structure will assist in providing cash flows needed to meet

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[35] Central Minnesota Filing, Transmittal Letter at 19.

[36] Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 31-32.

[37] Central Minnesota Filing, Transmittal Letter at 19 (citing *Mo. River Energy Servs.*, 138 FERC ¶ 61,045, at P 38 (2012) (*Missouri River*); *Dairyland Power Coop.*, 142 FERC ¶ 61,100, at P 27 (2013) (*Dairyland*); *WPPI Energy*, 141 FERC ¶ 61,004, at PP 31-32 (2012)).

[38] Central Minnesota Filing, Transmittal Letter at 20-21 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 354).

Central Minnesota's required project-specific debt service coverage ratios and project-specific credit rating. Accordingly, we will grant Central Minnesota use of a hypothetical capital structure for the Project's entire financing period, and we find use of the proposed 50 percent equity and 50 percent debt appropriate.

3. 100 Percent CWIP in Rate Base

a. Central Minnesota's Proposal

26. Central Minnesota seeks to include 100 percent of CWIP associated with the Big Stone South Project in its transmission rate base. Central Minnesota explains that 100 percent CWIP recovery will provide the cash flow necessary for Central Minnesota and its members to participate in the Big Stone South Project. Central Minnesota states that without 100 percent CWIP recovery, it would incur cash outflows until 2017, requiring additional debt to finance its portion of the construction costs. Central Minnesota contends that it has limited municipal resources, and its members cannot presently increase rates to their municipal customers in order to finance the Project during its construction. Central Minnesota also explains that the 100 percent CWIP recovery incentive will result in lower nominal rates to MISO customers due to lower capitalized interest expense by avoiding the compounding effect of accumulating an allowance for funds used during construction (AFUDC).[39]

27. Central Minnesota argues that its contribution to the Big Stone South Project of $3.2 million will be large (37 percent) relative to its total transmission-related assets of $7.7 million at the close of 2012.[40] Central Minnesota notes that the Commission has granted 100 percent CWIP recovery to other CapX2020 investors for investments constituting a much lower percentage of their net plant assets.[41] For instance, Central Minnesota notes that the Commission awarded 100 percent CWIP recovery for the Big Stone South Project to Otter Tail Power Company when Otter Tail's estimated stake in the Project was 14 percent of its net electric plant.[42]

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[39] Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 12.

[40] Central Minnesota states that this amount is related to CWIP from the Brookings to Hampton project approved in *Central Minnesota*, 134 FERC ¶ 61,115 at P 21. Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 10.

[41] Central Minnesota Filing, Transmittal Letter at 22.

[42] *Id.* at 23.

28. Central Minnesota states that without 100 percent CWIP recovery cash returns would be delayed, short-term liquidity metrics would be adversely impacted, and the risk that investors would not be paid their debt service would increase. Consequently, Central Minnesota contends that bondholders and lenders could require higher interest on the debt. Central Minnesota also argues that this incentive addresses the risk of additional cash outflows associated with potential cost increases from escalating materials and labor costs, permit appeals, or delays in the acquisition of rights of way. Additionally, Central Minnesota claims that 100 percent CWIP recovery addresses the risk that the Big Stone South Project may be delayed by providing cost recovery during construction.

29. Central Minnesota explains that it will establish separate CWIP accounts for the Big South Project to ensure that no AFUDC is included in the rate base calculations for the project in the CMMPA Attachments O and MM. Further, Central Minnesota states that, because Central Minnesota will not include AFUDC in the CWIP accounts for the Big Stone South Project to begin with, it is not necessary to make accounting entries to remove pre-funded AFUDC.[43]

b. Commission Determination

30. We will grant Central Minnesota's request to include 100 percent of CWIP in rate base. In Order No. 679, the Commission established a policy that allows utilities to include, where appropriate, 100 percent of prudently incurred, transmission-related CWIP in rate base.[44] The Commission stated that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.[45]

31. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.[46] We find that Central Minnesota has shown a nexus between the proposed CWIP incentive and its investment in the Big Stone South Project. The Big Stone South Project is expected to cost $165 million, of which Central Minnesota will fund $3.2 million, and is not expected to go into service until 2017.[47] The

[43] *Id.* at 30-31.

[44] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 29, 117.

[45] *Id.* P 115.

[46] *Id.* P 117.

[47] Central Minnesota Filing, Transmittal Letter at 5, 22.

cost and timing for completing the Big Stone South Project will put pressure on Central Minnesota's finances, as the Project alone constitutes 37 percent of Central Minnesota's existing net plant assets.[48] As discussed above, Central Minnesota's arguments such as delayed cash flow, relative size of the investment, and adverse impacts to short-term liquidity metrics are all intertwined, and a CWIP incentive could alleviate some of the pressure the Big Stone South Project would create. The inclusion of CWIP in rate base will provide Central Minnesota with a steady cash flow during the construction period that will protect Central Minnesota's financial metrics, and as a result, relieve downward pressure on its credit rating. Furthermore, the CWIP incentive will help insulate Central Minnesota's customers from rate shock that might otherwise accompany use of AFUDC.[49]

32. Further, we find that the proposed accounting procedures that Central Minnesota filed in Exhibit CMMPA-3 generally provide that Central Minnesota does not intend to include any AFUDC in the CWIP accounts for the Big Stone South Project. However, Central Minnesota does not provide the specific controls and procedures it will implement to ensure transmission customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP proposed to be included in rate base. Accordingly, we will direct Central Minnesota to submit a compliance filing within 30 days of the date of this order fully explaining its accounting procedures and internal controls to protect customers from being charged both capitalized AFUDC and corresponding amounts of CWIP proposed to be included in rate base.[50] Additionally, we note that Central Minnesota's accounting procedures may be subject to scrutiny through Commission audit or rate review.

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[48] Central Minnesota Filing, Ex. CMMPA-1 (Thompson Test.) at 9.

[49] *See, e.g.*, *PJM Interconnection L.L.C.*, 135 FERC ¶ 61,229, at P 78 (2011); *Oklahoma Gas and Electric Co.*, 133 FERC ¶ 61,274, at P 48 (2010); *PPL Elec. Utils. Corp.*, 123 FERC ¶ 61,068, at PP 40-43 (2008); *American Elec. Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh'g*, 118 FERC ¶ 61,041, at P 27 (2007).

[50] Other utilities have satisfied this requirement by explaining, in detail, the procedures and related internal controls designed to prevent recovery of AFUDC to the extent CWIP has been allowed in rate base. *E.g.*, Midwest Independent Transmission System Operator, Inc., Application, Docket No. ER13-307-000, at 32 and Ex. No. MDU-11 (filed Nov. 2, 2012).

33. Central Minnesota also proposes to satisfy the annual filing requirement for applicants granted the CWIP incentive through its annual filing of its FERC-730 report.[51] The Commission has previously found that filing a FERC-730 form satisfies the Commission's requirement for an annual filing for recovery of a return on CWIP through a rate formula.[52] Accordingly, we find that the Central Minnesota's portion of the Big Stone South Project is eligible to receive the incentive for inclusion of 100 percent of prudently incurred CWIP in rate base. We will approve Central Minnesota's proposed accounting procedures, subject to it providing further explanation in a compliance filing and its proposal to annually file the FERC-730 report.

4. Abandoned Plant Recovery

a. Central Minnesota's Proposal

34. Central Minnesota requests the right to recover, pursuant to an FPA section 205 filing, 100 percent of prudently incurred costs in the event of project abandonment due to factors beyond its control. Central Minnesota states that abandoned plant recovery would remove a potential disincentive to Central Minnesota's participation in the Big Stone South Project by removing the risk that Central Minnesota would bear the costs of the Project in the event of cancellation. This incentive, according to Central Minnesota, also provides assurance to credit rating agencies and lenders. Central Minnesota also explains that the consequences of abandonment would be significant because of the large size of its investment in the Big Stone South Project in relation to its existing net electric plant.[53] Central Minnesota also notes that Otter Tail Power Company has already been granted the abandoned plant recovery incentive.[54] Central Minnesota points out that if the Big Stone South Project is abandoned, Central Minnesota's members would not only pay for their share of Project expenditures but also their load-ratio share of Otter Tail's costs.

35. Central Minnesota explains that it will be a minority investor in the Big Stone South Project, increasing its abandonment risks because it has limited control of the

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[51] Central Minnesota Filing, Transmittal Letter at 31.

[52] *MidAmerican Energy Co.*, 137 FERC ¶ 61,250, at P 56 (2012) (*MidAmerican*); *see also The United Illuminating Co.*, 119 FERC ¶ 61,182, at P 92 (2007); *Xcel Energy Servs., Inc.*, 121 FERC ¶ 61,284, at P 68 (2007) (*Xcel Energy*).

[53] Central Minnesota notes that the Project would increase its net electric plant by about 37 percent. Central Minnesota Filing, Transmittal Letter at 24.

[54] *Otter Tail Power Co.*, 129 FERC ¶ 61,287, at P 31 (2009).

planning and operations of the Project and is at risk if a major investor backs out. Central Minnesota also explains that there are abandonment risks related to the remaining approval needed from the South Dakota Public Utilities Commission for the southern half of the Big Stone South Project. Additionally, certain rights of way, constituting 15 percent of the length of the Project, have not been obtained. Finally, Central Minnesota notes that agreements that will set forth the operating and ownership have not been finalized.

b. Commission Determination

36. We will grant the requested incentive for Central Minnesota to have the opportunity to recover its prudently incurred costs for the Big Stone South Project if the Project is abandoned for reasons beyond Central Minnesota's control. In Order No. 679, the Commission found that the abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.[55] We find that Central Minnesota has demonstrated, consistent with Order No. 679, a nexus between the recovery of 100 percent of prudently incurred abandonment costs and its planned investment in the Project. In particular, we find persuasive Central Minnesota's argument that this incentive addresses financial risks and challenges that Central Minnesota could face with its lenders by assuring cost recovery for prudently incurred costs in the event of an abandonment that is beyond Central Minnesota's control. We are also persuaded by Central Minnesota's argument above that the consequences of project abandonment could be significant given the large size of the project investment in relation to Central Minnesota's existing electric plant and that the incentive would address such risks and challenges.

37. However, we note that, if the Big Stone South Project is cancelled before it is completed, Central Minnesota would be required to make a filing under section 205 of the FPA to demonstrate that the costs were prudently incurred before it can recover any abandoned plant costs, as Central Minnesota commits to doing in the filing. Central Minnesota must also propose in its section 205 filing a just and reasonable rate to recover such costs. Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.[56]

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[55] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 163-166.

[56] *Id.* P 166.

5. Nexus Test and Total Package of Incentives

38. Central Minnesota contends that, consistent with Order Nos. 679 and 679-A, each requested incentive is tailored to the risks and challenges of the Big Stone South Project. Central Minnesota asserts that the incentives cumulatively result in lower financing costs for Central Minnesota and thus a lower revenue requirement paid by MISO ratepayers. Central Minnesota notes that the Commission has found that the Big Stone South Project is "non-routine" and that it is "expected to mitigate NERC contingencies, improve reliability, and integrate new renewable generation."[57] Central Minnesota also points out that the Commission has previously concluded that granting incentives for the Big Stone South Project was "consistent with the Commission's recognition in Order No. 679 of the importance of encouraging investors to take the risks associated with constructing large new transmission projects that can integrate new generation and otherwise reduce congestion and increase reliability."[58]

39. Central Minnesota also argues that the Big Stone South Project has many of the characteristics that the 2012 Incentives Policy Statement found to be indicative of the types of projects that are suitable for incentives.[59] Specifically, Central Minnesota contends that the Big Stone South Project is an integral part of the MISO MVP portfolio of projects that relieve chronic or severe grid congestion and the Project unlocks location-constrained generation resources (including renewables to meet state renewable standards) that previously had limited or no access to the wholesale electricity markets. Central Minnesota points out that the Big Stone South Project enables the integration of more than 800 MW of new renewable generation and expands on the 345 kV network in South Dakota, which currently features only 10 miles of such lines that are under the functional control of MISO.[60] Central Minnesota also cites MISO's recent Northern Area Study, which confirmed the ongoing need for transmission in western Minnesota and the Dakotas to transmit energy from renewable energy resources to the eastern part of the country.[61]

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[57] Central Minnesota Filing, Transmittal Letter at 13-14 (citing *Otter Tail*, 137 FERC ¶ 61,255 at P 31).

[58] *Id.* at 14 (citing *Otter Tail*, 137 FERC ¶ 61,255 at P 40).

[59] *Id.* (citing 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 21).

[60] *Id.*

[61] *Id.* at 14-15; Ex. CMMPA-1 (Thompson Test.) at 5:8-10 (citing MISO, Northern Area Study Technical Review Group Presentation at 83-84 (May 2, 2013), *available at*

(continued…)

40. Central Minnesota further states that it has tailored the requested incentives to meet the risks and challenges of the Project. Central Minnesota states that all three incentives are needed to attract bond purchasers at a reasonable cost of debt.[62] Central Minnesota states that its proposed hypothetical capital structure and 100 percent CWIP recovery incentives would enable Central Minnesota to secure financing at reasonable rates and to ensure that Central Minnesota obtains minimum cash flow metrics and achieves the debt service coverage ratio required to ensure at least an A- credit rating. Central Minnesota states that CWIP alone would not allow it to obtain the required debt service coverage. Central Minnesota states that the abandoned plant recovery incentive will lower the risks that its members face in taking on significant debt for a project which they have limited influence to ensure. Central Minnesota contends that without the hypothetical capital structure to ensure a sufficient return, investors will not pursue the Big Stone South Project regardless of whether they may be able to recover abandoned plant costs. Further, Central Minnesota asserts that the abandoned plant and 100 percent CWIP recovery incentives will give assurance to credit rating agencies and bond purchasers of the certainty of cost recovery. Central Minnesota notes that the Commission has previously approved combined incentive packages to other investors in the Big Stone South Project and for other similar transmission investment projects.[63]

41. An applicant for a transmission rate incentive must demonstrate a nexus between the incentives being sought and the investment being made. In Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant.[64] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package.[65] The Commission noted that this nexus test is fact-specific and

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https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/Planning%20Materials/Northern%20Area%20Study%20TRG/20130502%20Northern%20Area%20Study%20TRG%20Presentation.pdf).

[62] Central Minnesota Filing, Transmittal Letter at 27.

[63] Central Minnesota Filing, Ex. CMMPA-15 (Pardikes Test.) at 46.

[64] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40; 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10.

[65] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40).

requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test.[66] This is consistent with Order No. 679[67] and our interpretation of section 219 authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219 and that there is a nexus between the incentives proposed and the investment made.

42. We find that Central Minnesota's request for incentives satisfies the nexus test for the Big Stone South Project, which, Central Minnesota has shown, represents a substantial financial risk for Central Minnesota. For purposes of the nexus test, the Big Stone South Project mitigates NERC contingencies and improves reliability, which is consistent with the Commission's recognition in Order No. 679 of the importance of encouraging investors to take the risks associated with constructing new transmission projects that can reduce congestion and increase reliability. The Commission has previously granted participants in the Big Stone South Project CWIP and abandoned plant incentives, and we conclude that Central Minnesota's requests for those incentives are similarly warranted here, as discussed above.[68]

43. We also find that the total package of incentives that we are approving is tailored to address the risks and challenges that Central Minnesota faces in constructing the Big Stone South Project. As discussed above, Central Minnesota has demonstrated that each of the requested incentives will reduce the risks that it faces and will remove potential obstacles to the construction of the Project.

6. <u>Forward-Looking Formula Rate</u>

a. <u>Central Minnesota's Proposal</u>

44. Central Minnesota proposes to revise its Attachments O-CMMPA and MM-CMMPA to transition from a historic to a forward-looking formula rate to recover its

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[66] *E.g.*, *Central Minnesota*, 134 FERC ¶ 61,115 at P 34 (finding that inclusion of 100 percent of construction work in progress in rate base, abandoned plant recovery, and use of a hypothetical capital structure were tailored to the unique challenges faced by the applicant).

[67] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 55.

[68] *Otter Tail*, 137 FERC ¶ 61,255 at P 41.

ATRR. Central Minnesota contends that the Commission has approved similar proposals from other MISO transmission owners.[69] Central Minnesota states that it will use forecasted data to develop its ATRR, effective January 1 of each year. Central Minnesota explains that in October of each year, it will post revenue requirements for both Attachment O-CMMPA and Attachment MM-CMMPA, along with supporting schedules that document forecasted data, on the Central Minnesota public page of the MISO Open Access Same-Time Information System website. According to Central Minnesota, it will hold a meeting the following December to respond to any questions regarding the ATRR.[70]

45. Central Minnesota states that the forward-looking formula rate is needed to alleviate the cash flow strain that currently results from the transmission recovery lag in Central Minnesota's historic formula rate process.[71] Central Minnesota notes that the cash flow strain is exacerbated because Central Minnesota is a small, project-based agency whose transmission investments are large in relation to its total net plant.

46. Central Minnesota also states that it will implement a true-up mechanism to correct for any over- or under-recovery of revenue under Attachments O-CMMPA and MM-CMMPA. Central Minnesota explains that the true-up mechanism will calculate the difference between the net ATRR using forecasted financial data and the net ATRR using actual data.[72] Any true-up for differences between actual net ATRR and the forecasted net ATRR for a particular year would be included in subsequent rate calculations, including interest. Central Minnesota does not propose to true up load in this mechanism because it does not have any load in its Attachment O in the way that other transmission owners do.[73] Central Minnesota also explains that interest will be calculated for

[69] Central Minnesota Filing, Transmittal Letter at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,274 at P 39; *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121, at P 77 (2012); *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,147, at P 33 (2012); *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,043, at P 28 (2012); *MidAmerican*, 137 FERC ¶ 61,250 at P 70).

[70] Central Minnesota Filing, Transmittal Letter at 9-10.

[71] Central Minnesota states that this recovery lag may last up to 29 months. Central Minnesota Filing, Transmittal Letter at 7.

[72] Central Minnesota Filing, Ex. 3 (Blaine Test.) at 22.

[73] *Id.*

discrepancies between forecasted and actual revenue requirements over a two-year period. According to Central Minnesota, if it has over-recovered during the rate year, interest will be calculated in accordance with 18 C.F.R. § 35.19a. If Central Minnesota has under-recovered during the rate year, Central Minnesota states that interest will be calculated based on the annual average of the one-month London Interbank Offer Rate (LIBOR) capped at the applicable refund interest rate as provided in 18 C.F.R. § 35.19a. Additionally, Central Minnesota requests the option to accelerate refunds of over-collected revenue to customers by one year to reduce the amount of interest due. Central Minnesota argues that this proposal is consistent with Commission precedent and is rate reducing.[74]

47. Central Minnesota commits to making a separate section 205 filing by October 31, 2013 seeking Commission approval to recover costs assigned to Central Minnesota's regulatory asset account for certain pre-commercial expenses of the Brookings to Hampton line and other transmission-related expenses.[75] After receiving a Commission order, Central Minnesota plans to recover amortized regulatory asset costs through its ATRR beginning on January 1, 2014, based on 2014 forecasted costs. Central Minnesota also states that it will follow any applicable protocols established by MISO in response to the Commission's directives in the pending proceeding involving the Commission's investigation of MISO's formula rate protocols.[76]

48. Central Minnesota states that it has provided sufficient information to satisfy the requirements in sections 35.25(c)(4) and (g) of the Commission's regulations dealing with potential anti-competitive effects of including generation-related CWIP in rates. Further, according to Central Minnesota, the anticompetitive concerns addressed by these requirements are less significant with respect to the inclusion of transmission related CWIP in rates. In this filing, Central Minnesota has supplied information regarding its request for 100 percent CWIP recovery including a comparison of the rate impact of 100 percent CWIP recovery versus traditional AFUDC recovery.[77] Central Minnesota requests waiver of any additional requirements in sections 35.25(c)(4) and (g) to the extent necessary.

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[74] Central Minnesota Filing, Transmittal Letter at 11.

[75] *Id.* at 9.

[76] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (May 16 Order).

[77] Central Minnesota Filing, Transmittal Letter at 32.

b. Comments

49. The MISO Transmission Owners do not object to the proposed transition to a forward-looking formula rate. With regards to Central Minnesota's proposed inclusion of a line item for the regulatory asset account, the MISO Transmission Owners request that the Commission clarify that Central Minnesota cannot include amounts from its regulatory asset account in its rates until it makes a section 205 filing and obtains a favorable Commission order.[78] Additionally, with respect to Central Minnesota's proposed inclusion of a line item for the regulatory asset account, the MISO Transmission Owners state that because Central Minnesota is a non-jurisdictional entity and is therefore not subject to the Commission's refund authority, it must commit to use the true-up process to refund any amounts the Commission ultimately finds to be imprudent, unjust, or unreasonable. The MISO Transmission Owners also question the proposal to implement a true-up mechanism by calculating the difference between the net ATRR using the forecasted financial data and the net ATRR using the actual data. They state that the true-up should compare actual ATRR to actual revenues.[79]

50. MISO takes no position on the justness and/or reasonableness of Central Minnesota's proposals, but seeks clarification on several issues. MISO first notes that Central Minnesota must make a separate section 205 filing in order to gain approval of the costs included in the regulatory asset prior to any amounts being reported in the Attachment O-CMMPA and/or reflected in the projected rates effective January 1, 2014.[80] However, in the event that a Commission order approving the creation of a regulatory asset account is not obtained prior to January 1, 2014, MISO requests clarification regarding whether the regulatory asset can be included in Central Minnesota's projected requirement effective January 1, 2014 or if Central Minnesota must wait until the Commission approves the regulatory asset amount and related amortization amount.[81]

51. MISO requests clarification regarding the impact of Central Minnesota's filing on the settlement agreement approved by the Commission in Docket Nos. ER11-2700-000

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[78] MISO Transmission Owners Comments at 4-5.

[79] *Id*. at 6.

[80] MISO Comments at 3.

[81] *Id*. (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,186, at P 9 (2011)).

and ER12-427-000 (Settlement Agreement).[82] For instance, MISO states that the Settlement Agreement contemplates a historic test year with a one year lag. MISO requests guidance on whether it is necessary to update the settlement. MISO further requests that certain provisions of the Settlement Agreement be incorporated into Central Minnesota's proposed protocols either by reference or other appropriate method, as the Settlement Agreement is the only Commission-approved document that memorializes the contents of the agreement.

52. MISO also requests clarification with respect to Central Minnesota's proposed true-up mechanism. First, MISO notes that Central Minnesota has not yet provided MISO with historical Attachment O-CMMPA and accompanying documentation.[83] MISO asks how it should proceed if Central Minnesota does not provide an Attachment O during a true-up year in order to recover the costs of its transmission assets. MISO also disagrees with Central Minnesota's statement that there is no need to true up load because Central Minnesota does not have any load in its Attachment O. MISO states that other MISO Transmission Owners with forward-looking test years have implemented formula rates with mechanisms that true up the revenue requirement and the load, even when the entities have no load of their own.[84] MISO argues that including a load adjustment in the true-up mechanism ensures that Central Minnesota will recover from customers no less, and no more, than its actual transmission costs for the year.

53. Additionally, MISO seeks clarification on which formula rate items Central Minnesota seeks to calculate based on a 13-month average, as this information is not specified in Central Minnesota's proposed formula rate revisions.[85] MISO also asks for clarification regarding whether certain of Central Minnesota's workpapers containing populated formula rates were filed for illustrative purposes or with the intent that those rates become effective on January 1, 2014.

c. Central Minnesota's Answer

54. Central Minnesota argues that none of the clarification requests or other comments presented by MISO or the MISO Transmission Owners should prevent the prompt

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[82] *Id.* at 4-5.

[83] *Id.* at 5.

[84] *Id.* at 6 (citing *Midwest Indep. Transmission Sys. Operator, Inc. and Ameren Transmission Co. of Illinois,* 138 FERC ¶ 61,147).

[85] *Id.* at 7.

acceptance and conditional approval of Central Minnesota's filing and that no commenter has opposed Central Minnesota's transition to a forward-looking formula rate.[86] Central Minnesota states that it is committed to working with MISO in addressing any concerns MISO might have. Central Minnesota further states that each of MISO and the MISO Transmission Owners' concerns can easily be addressed as part of a compliance filing or through a separate filing.

55. In response to MISO and the MISO Transmission Owners' concerns surrounding Central Minnesota's regulatory asset, Central Minnesota states that its September 27 filing does not request approval of recovery of the regulatory asset and that it made the appropriate section 205 filing to do so in a separate docket on October 31, 2013 (Oct. 31 Filing).[87] Central Minnesota states that like other estimates used in its forward-looking rate, it will true-up the difference between forecasted and actual amounts recovered from the regulatory asset. To the extent MISO and the MISO Transmission Owners find Central Minnesota's intentions to issue refunds related to the regulatory asset unclear, Central Minnesota commits to refund any amounts the Commission ultimately finds to be imprudent, unjust, or unreasonable through the true-up and states that interest on refunds will be provided at rates specified at 18 C.F.R. § 35.19a.[88] Central Minnesota states that it sought to clarify with the MISO Transmission Owners what triggering event would allow the inclusion of the regulatory asset amount in rates. Central Minnesota states that if the Commission accepts the Oct. 31 Filing, the MISO Transmission Owners do not object to the inclusion of the regulatory asset in Central Minnesota's proposed forward looking formula rate, but reserve the right to submit comments or protests in that docket. Additionally, Central Minnesota argues that the inclusion of the regulatory asset in 2014 MISO rates should coincide with January 1, 2014 requested effective date. Central Minnesota contends that inclusion of the regulatory asset at a later date would result in higher rates for consumers, noting the regulatory asset would continue to grow at a pace reflecting the capital structure and return previously approved by the Commission.[89]

56. Additionally, Central Minnesota argues that the terms and conditions of the Settlement Agreement do not require updating to allow Central Minnesota to transition to

[86] Central Minnesota Answer at 1.

[87] Central Minnesota filed its request to recover its regulatory asset in Docket No. ER14-246-000.

[88] Central Minnesota Answer at 4.

[89] *Id*. at 5 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,021, at P 22 (2012)).

a forward-looking rate. Central Minnesota contends that the Settlement Agreement is not a filed rate which must be updated with subsequent section 205 submissions.[90] According to Central Minnesota, the Settlement Agreement contemplates future just and reasonable changes to Central Minnesota's cost recovery formula and, thus, does not bar the present filing.[91] Central Minnesota asserts that requiring an update to the Settlement Agreement would be pointless and unduly burdensome. Central Minnesota notes that the tariff sheets accompanying the Settlement Agreement have already been updated in separate section 205 filings without the Settlement Agreement, itself, being revised.[92] Central Minnesota states that the present filing is no different.

57. With regard to incorporating certain Settlement Agreement paragraphs into Attachment O-CMMPA protocols, Central Minnesota argues that such action is unnecessary, but has no objection to doing so. Central Minnesota states that it has already committed to updating its protocols to track revisions made to the MISO-wide protocols in Docket No. ER13-2379-000, and upon resolution of that proceeding, it will also propose revisions to incorporate MISO's requested Settlement Agreement references in Attachment O-CMMPA protocols.[93]

58. Based on concerns from MISO and the MISO Transmission Owners, Central Minnesota states that it will further revise its formula rate protocols such that the true-up will compare its actual net revenue requirement to the actual revenue it received for the true-up year. Central Minnesota states that it would be pleased to submit (or allow MISO to submit) this change to the Attachment O-CMMPA protocols as part of a compliance filing.[94]

59. Additionally, Central Minnesota states that it has now provided prior years' Attachment O-CMMPA inputs by including its FERC Form No. 1 accounting

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[90] *Id.* at 7 (citing *Richmond Power & Light v. FPC*, 481 F.2d 490, 493-501 (D.C. Cir. 1973)).

[91] *Id.* at 7-8 (citing *Midwest Transmission System Operator, Inc.*, Settlement Agreement, Docket Nos. ER11-2700-000 and ER12-427-000, at para. 3.13 (filed May 25, 2012)).

[92] *Id.* at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER13-896-000 (2013) (delegated letter order)).

[93] *Id.* at 9.

[94] *Id.* at 9-10.

information for 2009-2012 in the Oct. 31 Filing. According to Central Minnesota, there is now no basis for concern that such information will be absent in a future year as the Attachment O-CMMPA protocols specifically provide dates when Central Minnesota will release this information.

60. In response to MISO's request for clarification of which line items Central Minnesota seeks to calculate based on a 13-month average, Central Minnesota states that it would be pleased to include a footnote or other appropriate language in a compliance filing indicating that it will utilize 13-month average balances for gross plant, land held for future use, material and supplies, prepayments, CWIP, unamortized plant balance on abandoned plant, outstanding long-term debt, proprietary capital, and the regulatory asset balance.[95] Regarding Ex. Nos. CMMPA-11, CMMPA-12, and CMMPA-13, Central Minnesota clarifies that these work papers concern the basis on which it will compute initial rates subject to true-up. Central Minnesota states that because the formula is the filed rate, the inputs to Central Minnesota's first rate collection are not being submitted for Commission review; rather, the exhibits demonstrate the workings of the proposed formula with the intention of supporting them as just and reasonable.[96]

d. <u>Commission Determination</u>

61. We will conditionally accept Central Minnesota's proposed revisions to Attachment O-CMMPA and Attachment MM-CMMPA to transition Central Minnesota from a historical formula rate to a forward-looking formula rate. The Commission has approved similar forward-looking formula rates for other transmission-owning members of MISO.[97] However, we find that Central Minnesota has not properly supported certain aspects of its request and we will direct Central Minnesota to resubmit its Attachment O-CMMPA with supporting information in a compliance filing. Specifically, we find that as proposed, the true-up mechanism, by comparing its actual net revenue requirement to its projected net revenue requirement, would not accurately reflect revenue over-or-under-recovered by Central Minnesota. In its answer, Central Minnesota proposes revisions to its true-up, to compare its actual net revenue requirement to the actual revenue it received for the true-up year, which will address such concerns. Accordingly,

[95] *Id.* at 11.

[96] *Id.* at 11-12.

[97] *See, e.g., Otter Tail Power Co.*, 129 FERC ¶ 61,287; *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121; *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,147; *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,274.

we direct Central Minnesota to file such proposed revisions to its formula rate and protocols in its compliance filing to be made within 30 days of the date of this order.

62. With respect to the use of 13-month average balances, we direct Central Minnesota to amend its Attachment O to specify that it will utilize 13-month average balances for certain line items, as agreed to in its answer in its compliance filing to be made 30 days of the date of this order.[98] Additionally, we will conditionally accept Central Minnesota's proposed inclusion of a line item for its regulatory asset. Any amounts entered into this line item must first be approved by the Commission, and Central Minnesota's filing seeking approval of its regulatory asset amount is currently pending in Docket No. ER14-246-000.

63. We find that the Settlement Agreement does not require modification to effectuate the directives given in this order. Paragraph 3.15 of the Settlement Agreement contemplates future modifications to Attachment O-CMMPA, such as a transition to a forward-looking rate, stating that "if Central Minnesota wishes to make modifications to Attachment O-CMMPA, Attachment MM-CMMPA, or to use another Attachment O template, it will seek such changes through a FERC filing effectuated by MISO and receive FERC approval before any changes are allowed." Here, Central Minnesota has sought Commission approval as required by the Settlement Agreement. However, we find that Central Minnesota's offer to incorporate Settlement Agreement provisions into its protocols will provide additional clarity. Accordingly, we direct Central Minnesota to file such revisions within 30 days of the Commission's order on the pending compliance filings in the MISO-wide protocols proceeding in Docket No. EL12-35, or such other date that the Commission establishes for further compliance filings in that order, to both conform to the outcome of that proceeding and integrate MISO's requested Settlement Agreement references.

64. MISO in its comments also raises a concern regarding the timely provision of Attachment O-CMMPA data. MISO notes that it "has not encountered [the] situation before, in which a Transmission Owner has not provided an Attachment O in order to recover the costs of its transmission assets."[99] As an initial matter, we note that Central Minnesota has now submitted prior years' Attachment O-CMMPA inputs in its Oct. 31 Filing. Furthermore, we note that any future concerns regarding the timely provision of such data will be addressed by the outcome of the May 16, 2013 *Order on the Investigation of Formula Rate Protocols*, which directs MISO and the MISO

[98] *See* 18 C.F.R. § 35.13(h)(4).

[99] MISO Comments at 5.

Transmission Owners to make various revisions to their formula rate protocols.[100] Among those revisions, the May 16 Order requires MISO and the MISO Transmission Owners to revise their protocols to improve transparency in the formula rate data provided by transmission owners, such that Interested Parties can verify the data and rates.[101] The May 16 Order directs MISO and its Transmission Owners to propose provisions to the protocols specifying that Interested Parties can address any concerns with transmission owner inputs through informal or formal challenges. To ensure Central Minnesota complies with the directives of the May 16 Order, we will condition our acceptance of Attachment O-CMMPA subject to the outcome of MISO's compliance filing to the May 16 Order in Docket No. ER13-2379-000, to which Central Minnesota is a party.

65. We emphasize that formula rates are intended to allow for the timely recovery of costs to provide jurisdictional transmission service, with benefits to both transmission owners and customers by establishing an efficient process for such recovery. However, inputs to formula rates must be timely submitted to ensure transparency and ultimately rates that are just and reasonable and consistent with the transmission owner's filed formula rate. Because Central Minnesota is bound by the directives of the May 16 Order, MISO, as an Interested Party, could file a formal challenge at the Commission to address a situation where Central Minnesota fails to timely provide formula rate true-up data, as required by the protocols, and the Commission could take appropriate action in response to such a challenge brought before it.

7. <u>Request for Waivers</u>

66. We will grant Central Minnesota waiver of section 35.13(d)'s requirement to submit full Period I and Period II cost of service statements because Central Minnesota is changing the implementation of a formula rate rather than requesting any change or increase in a stated rate, and because Central Minnesota provides the inputs for its formula rate on an annual basis.[102] We will also grant waiver of the informational

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[100] May 16 Order, 143 FERC ¶ 61,149 (2013).

[101] The May 16 Order directs MISO and the MISO Transmission Owners to revise the formula rate protocols to include all interested parties in information exchange and review processes, including but not exclusive to customers under the Tariff, state utility regulatory commissions, consumer advocacy agencies, and state attorney generals. May 16 Order, 143 FERC ¶ 61,149 at P 34.

[102] *See Great River*, 130 FERC ¶ 61,001 at P 48; *Mich. Elec. Transmission Co., LLC*, 117 FERC ¶ 61,314, at PP 33-34 (2006). In addition, the Commission has granted waivers of the requirements to provide such data previously in a series of cases involving

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requirements under 18 C.F.R. § 35.25(c)(4) and (g), dealing with potential anti-competitive effects of including generation-related CWIP in rates, because Central Minnesota has provided sufficient information regarding its request for 100 percent CWIP recovery through the forward-looking formula rate.[103] Further, as the Commission stated in Order No. 679, the anti-competitive concerns addressed in section 35.25(c)(4) are less significant with respect to the inclusion of transmission-related CWIP in rates.[104] Additionally, we will grant Central Minnesota's request for waiver of Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3), to permit service to more than two designated service recipients. We will deny waiver of the service requirements under 18 C.F.R. § 385.2010 because Central Minnesota appears to have already met the requirements, which contemplate electronic service.[105]

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transmission formula rates. *See, e.g.*, *PPL Elec. Utils. Corp.*, 125 FERC ¶ 61,121, at PP 40-41 (2008); *Pub. Serv. Elec. & Gas Co.*, 124 FERC ¶ 61,303, at P 23 (2008); *Okla. Gas & Elec. Co.*, 122 FERC ¶ 61,071 (2008); *Commonwealth Edison Co.*, 119 FERC ¶ 61,238, at P 94 (2007) (*Commonwealth Edison*), *order on reh'g*, 122 FERC ¶ 61,037, *order on reh'g*, 124 FERC ¶ 61,231 (2008).

[103] Central Minnesota Filing, Transmittal Letter at 22-23; Ex. CMMPA-3 (Blaine Test.) at 9-12; Ex. CMMPA-15 (Pardikes Test.) at 10-11, 33-39. Central Minnesota has also provided a Statement BM as Exhibit CMMPA-5. This Statement BM gives a summary of the data and supporting assumptions relating to the economics of any construction program to replace or expand the utility's power supply that must be filed when a utility requests CWIP in rate base.

[104] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 119 (waiving the requirement in 18 C.F.R. 35.25(c)(4) as it pertains to preventing double whammy with regard to CWIP associated with new investment in transmission). Furthermore, the Commission has previously granted waivers of section 35.25 of the Commission's regulations when approving formula rates. *See, e.g.*, *Great River*, 130 FERC ¶ 61,001 at P 48; *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,274, at P 28 (2012); *Commonwealth Edison*, 119 FERC ¶ 61,238 at P 94.

[105] Central Minnesota states that its filing was posted electronically on MISO's website and that it electronically served a copy of the filing on all MISO Tariff customers, all MISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, MISO Advisory Committee participants, and state commissions in the region.

The Commission orders:

(A) Central Minnesota's request for authorization for the hypothetical capital structure and abandoned plant recovery incentives for the Big Stone South Project is hereby granted, as discussed in the body of this order.

(B) Central Minnesota's request for authorization for the 100 percent CWIP recovery incentive for the Big Stone South Project is conditionally accepted, subject to a compliance filing, as discussed in the body of this order.

(C) Central Minnesota's proposed use of a forward-looking formula rate and corresponding Tariff revisions are hereby conditionally accepted, effective January 1, 2014, subject to a compliance filing and the outcome of Docket No. ER13-2379-000, as discussed in the body of this order.

(D) Central Minnesota is hereby granted waiver of sections 35.13(d), 35.25(c)(4), 35.25(g), and 385.203(b)(3) and denied waiver of section 385.2010 of the Commission's regulations, as discussed in the body of this order.

(E) Central Minnesota is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.