

125 FERC ¶ 61,124  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern Indiana Gas & Electric Co.

Docket Nos. EL08-82-000  
ER08-1468-000

DECLARATORY ORDER GRANTING INCENTIVES, AND ORDER ACCEPTING  
PROPOSED RATE FORMULA MODIFICATIONS, SUBJECT TO CONDITIONS

(Issued October 30, 2008)

1. Southern Indiana Gas & Electric Co. d/b/a Vectren Energy Delivery of Indiana, Inc. (Southern Indiana) petitioned the Commission, under Rule 207 of the Commission's Rules of Practice and Procedure,<sup>1</sup> for a declaratory order granting its request for two Order No. 679<sup>2</sup> transmission rate incentives for the proposed Gibson-Brown-Reid 345 kV Project (Project). Southern Indiana later filed, under section 205 of the Federal Power Act (FPA),<sup>3</sup> proposed modifications to its transmission rate formula under Attachment O of the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) Open Access Transmission and Energy Markets Tariff (Tariff). In accordance with Order No. 679, Southern Indiana seeks to modify its formula rate to permit two types of incentive rate treatments for the project: (1) inclusion of 100 percent of prudently incurred Construction Work in Process (CWIP) in rate base (CWIP Recovery), and (2) recovery of 100 percent of prudently incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond Southern Indiana's control (Abandoned Plant Recovery).

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<sup>1</sup> 18 C.F.R. § 385.207 (2008).

<sup>2</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

<sup>3</sup> 16 U.S.C. § 824d (2000).

2. For the reasons discussed below, we will grant Southern Indiana's request for incentive rate treatment for the Project. Also, we will accept Southern Indiana's proposed modifications to its Attachment O rate formula to implement the incentives, to become effective October 31, 2008, as requested.

## **I. Background**

### **A. Description of Southern Indiana**

3. Vectren Corporation is an investor-owned energy holding company based in Evansville, Indiana. It owns three utility companies: Southern Indiana, Indiana Gas Company, Inc., and Vectren Energy Delivery of Ohio, Inc. These utilities provide electric transmission and distribution services to nearly 140,000 customers in seven counties in southwestern Indiana, and natural gas service to more than 900,000 customers in adjoining service territories covering two-thirds of Indiana and west central Ohio.

4. Southern Indiana has approximately 1850 MW of generation with approximately 1850 MW of load in its balancing authority area. The transmission system includes about 350 miles of 138 kV lines and about 525 miles of 69 kV lines. Southern Indiana does not have any transmission lines above 138 kV. Its customer base is approximately 25 percent residential and 75 percent commercial, industrial and other. Southern Indiana is a member of the Midwest ISO, Reliability First Corporation, and the North American Electric Reliability Corporation.

### **B. Description of the Gibson-Brown-Reid Project**

5. The proposed Gibson-Brown-Reid Project is an approximately 70 mile 345 kV single-circuit transmission line that will provide additional transmission capacity between Duke Energy's Gibson Station in Gibson County, Indiana; Southern Indiana's Brown Power Plant in Posey County, Indiana; and Big Rivers Electric Corporation's Reid Station in Webster County, Kentucky. Approximately half of the Project will be in Indiana and half in Kentucky.<sup>4</sup> The Project has a scheduled in-service date of June 2011 and an estimated cost of \$68 to \$100 million, depending on the route of the Project.<sup>5</sup>

6. The Project is a Midwest ISO-approved Baseline Reliability Project, which means that Midwest ISO has found it to be necessary for regional grid reliability. Southern Indiana's 138 kV and lower transmission system is surrounded by 345 kV transmission lines to the north and the south, and is located electrically between a large quantity of

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<sup>4</sup> Petition Transmittal Letter at 4.

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

generation located on 345 kV transmission lines and load points.<sup>6</sup> The Midwest ISO has explained that approximately 7,000 MW of generation on these regional 345 kV transmission lines is contributing to the loading of Southern Indiana's 138 kV system during line contingencies on the 345 kV system.<sup>7</sup> When accepting the Project as a Baseline Reliability Project, the Midwest ISO explained that the loading of Southern Indiana's 138 kV transmission system contributes to Southern Indiana's inability under first contingency conditions to import energy during times of generation deficiencies on the Southern Indiana system, as needed to meet "loss of load probability" targets.<sup>8</sup> Essentially, when lines on the 345 kV systems of neighboring utilities go out of service, energy flows instead on Southern Indiana's 138 kV transmission system and may make it impossible for Southern Indiana to use its own transmission system to import energy to serve its load. For this reason, the Midwest ISO has described this Project as a 345 kV bypass to Southern Indiana's lower voltage transmission system.<sup>9</sup>

7. Order No. 679 requires an applicant to provide a technology statement that describes any advanced technology the project will use. Southern Indiana provides in its technology statement that the advanced technologies planned for the Project include microprocessor-based protective relays, microprocessor-based Supervisory Control and Data Acquisition equipment for real-time monitoring and control, Digital Fault Recorders, and fiber-optic technologies.<sup>10</sup> In addition, Southern Indiana states that it is considering using high-temperature, low-sag conductors where the Project will cross the Ohio River.<sup>11</sup>

### C. Proposed Incentive Rates

8. Southern Indiana requests approval of two incentive rate treatments under Order No. 679: CWIP Recovery and Abandoned Plant Recovery. Southern Indiana proposes to

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<sup>6</sup> *Id.*, citing Exhibit No. SIG-1, pp. 5, 7.

<sup>7</sup> Exhibit No. SIG-5, p. 15.

<sup>8</sup> *Id.* Loss of load probability is a measurement of the reliability of a utility's electrical system that is calculated in days per year. A utility that is meeting the loss of load probability target may be unable to serve its electrical load on one day or less over a period of ten years (referred to as 0.1 days per year).

<sup>9</sup> Midwest ISO's Vectren Area Baseline Reliability Project Recommendations on May 17, 2007, Exhibit SIG-6, p. 9.

<sup>10</sup> Exhibit No. SIG-1 at 20-21.

<sup>11</sup> *Id.* at 21.

modify its Attachment O transmission rate formula to include the requested incentives, and explains the necessary accounting treatment for these modifications.

9. Southern Indiana requests action on its petition for declaratory order by October 30, 2008, and requests an effective date for its section 205 filing of October 31, 2008.

## **II. Notice of the Filings and Responsive Pleadings**

10. Notice of Southern Indiana's petition for declaratory order was published in the *Federal Register*, 73 Fed. Reg. 50608 (2008), with interventions and protests due on or before September 12, 2008. Notice of Southern Indiana's section 205 filing was published in the *Federal Register*, 73 Fed. Reg. 53857 (2008), with interventions or protests due on or before September 19, 2008.

11. Motions to intervene in Southern Indiana's petition were timely filed by Consumers Energy Company and Midwest ISO Transmission Owners. Ameren Services Company, on behalf of Ameren Companies<sup>12</sup> (Ameren) filed a timely motion to intervene and protest. On September 24, 2008, Southern Indiana filed an answer to Ameren's protest. The Missouri Public Services Commission (Missouri Commission) filed a motion to intervene out-of-time and late-filed comments in support of Ameren's protest. On September 30, 2008, Southern Indiana filed an answer to Missouri Commission's late-filed comments.

12. A motion to intervene in Southern Indiana's section 205 filing was timely filed by Consumers Energy Company. A motion to intervene and comments were timely filed by Ameren. Midwest ISO Transmission Owners filed a motion to intervene out-of-time. On September 30, 2008, Southern Indiana filed an answer to Ameren's comments.

## **III. Discussion**

### **A. Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>13</sup> the timely, unopposed motions to intervene serve to make the entities that filed them, parties to these proceedings. In addition, we will grant the late interventions of the Missouri

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<sup>12</sup> For the purposes of this filing, the Ameren Companies are Central Illinois Light Company (d/b/a Ameren CILCO), Central Illinois Public Service Company (d/b/a Ameren CIPS), Illinois Power Company (d/b/a AmerenIP), and Union Electric Company (d/b/a AmerenUE).

<sup>13</sup> 18 C.F.R. § 385.214 (2008).

Commission and the Midwest ISO Transmission Owners in view of the early stage of the proceedings and the absence of undue prejudice or delay.

14. Rule 213(a) of the Commission's Rules of Practice and Procedure<sup>14</sup> prohibits an answer to a protest, unless otherwise permitted by the decisional authority. We will accept Southern Indiana's answers because they have provided information that assisted us in our decision-making process.

## **B. Requested Incentives**

15. Southern Indiana states that its proposed treatment of CWIP and abandoned plant complies with Order No. 679 and Commission precedent, since: (a) the facilities for which Southern Indiana seeks incentives satisfy the requirements of FPA section 219 – that is, they either ensure reliability or reduce the costs of delivered power by reducing congestion; (b) the total package of incentives is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project – that is, the incentives meet the “nexus” test; and (c) the resulting rates are just and reasonable.<sup>15</sup>

### **1. Section 219 Requirements**

16. In the Energy Policy Act of 2005 (EPAct 2005), Congress addressed the allowance of incentive-based rate treatments for new transmission construction.<sup>16</sup> Specifically, section 219 directs the Commission to establish, by rule, incentive-based (including performance-based) rate treatments.<sup>17</sup>

17. Order No. 679 provides that a public utility may file a petition for declaratory order or a section 205 filing to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of section 219, i.e., the applicant must demonstrate that the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion.<sup>18</sup> Order No. 679 established a rebuttable presumption that the standard in section 219 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

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<sup>14</sup> 18 C.F.R. § 385.213(a)(2) (2008).

<sup>15</sup> Petition Transmittal Letter at 7-9, citing 18 C.F.R. § 35.35(d) (2007).

<sup>16</sup> Pub L. No. 109-58, 119 Stat 594, 961 (2005).

<sup>17</sup> 16 U.S.C. § 824s (2005).

<sup>18</sup> 18 C.F.R. § 35.35(i) (2008).

acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.<sup>19</sup> 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.<sup>20</sup>

18. Southern Indiana relies on the rebuttable presumption. It states that the Project has been identified as a Baseline Reliability Project in the Midwest ISO's Transmission Expansion Plan (MTEP) process.<sup>21</sup> Southern Indiana argues that the MTEP process is a fair and open regional planning process, and that it evaluates projects needed for reliability or to relieve congestion.

19. Southern Indiana also states that the two incentives requested are consistent and compatible with each other and that the resulting rates will be just, reasonable and not unduly discriminatory. It notes that for a transmission owner, participation in a Commission-approved Regional Transmission Organization (RTO) ensures that cost allocation and rate design are conducted in a manner to prevent undue discrimination or preference. Southern Indiana notes that the Commission has approved similar incentives for transmission owners within the Midwest ISO based in part on RTO participation.<sup>22</sup>

**a. Protests**

20. In Ameren's protest to Southern Indiana's petition it states that the Midwest ISO's determination that the Project qualifies as a Baseline Reliability Project is flawed and should be rejected. Ameren argues that the Midwest ISO Planning Staff did not consider generation re-dispatch alternatives when reviewing overloads during peak load conditions. It states that the decision to build additional lines instead of re-dispatching generation is an economic decision that is not required to meet North American Electric Reliability Corporation (NERC) reliability standards. It states that this Project could be evaluated as a Regionally Beneficial Project under Attachment FF and the Midwest ISO's Regional Expansion Criteria and Benefits (RECB) procedures, but does not qualify as a Baseline Reliability Project.

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<sup>19</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 58.

<sup>20</sup> *Id.* P 49.

<sup>21</sup> Petition Transmittal Letter at 11 and Exhibit No. SIG-8 at 17.

<sup>22</sup> Petition Transmittal Letter at 9 (citing *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284 (2007)).

21. Ameren also argues that the Midwest ISO Planning Staff used new tests and standards that were not subject to approval by NERC or relevant Regional Entity to determine that the Project is a Baseline Reliability Project. First, Ameren argues that the Midwest ISO Planning Staff reinterpreted NERC standards TPL-002 and TPL-003 in making their determination. These standards were reinterpreted to change from the need to include planned outages to a need to unconditionally enable any planned outage which might be scheduled. Ameren states that this change increases the number of contingencies applicable to each of the two standards by at least one. It also ignores the reality that scheduled outages are subject to coordination, review, and approval and fails to consider the fact that line and transformer maintenance outages, particularly for generator outlet facilities, are often scheduled to coincide with local generation outages to minimize their impact on the system.

22. Second, Ameren argues that the Midwest ISO Planning Staff redefined NERC standard TPL-002 so as to require a minimum level of first contingency incremental import capability into each Transmission Planner's system. Ameren states that TPL-002 does not impose import capability requirements. Imposition of this new criterion would mean that each Transmission Planner's portion of the system would have to meet the performance criteria for single contingencies, specified in Category B of Table 1 of the TPL standards, with outage of multiple local area generators.

23. Ameren states that the Midwest ISO's Planning Staff can not reasonably assert that its redefinitions are necessary to comply with NERC Standards. Ameren states that the Midwest ISO Planning Staff applied these new requirements to the Southern Indiana Project but has not consistently applied them to projects of other Transmission Owners, to generation interconnection studies, or to transmission service requests.

24. Ameren further argues that because Southern Indiana has indicated it has the option not to build the Project, the Project cannot be considered a Baseline Reliability Project. Ameren states that Southern Indiana indicates that it will face significant disincentives to complete the Project if it does not obtain relief sought in the petition. Ameren asserts that as a prudent transmission system operator, Southern Indiana would build all facilities that are required to ensure compliance with applicable NERC and Regional Entity standards. Ameren states that if Southern Indiana has the option to not build the Project, it cannot be required to ensure compliance with applicable NERC and Regional Entity standards, and thus does not meet the basic definition of a Baseline Reliability Project.

25. The Missouri Commission supports Ameren's protest of the petition. It is concerned about the costs that would be allocated to ratepayers in Missouri that are customers of Union Electric Company d/b/a AmerenUE (Ameren UE). For Missouri customers, it argues, the allocation to AmerenUE amounts to approximately 2.4 percent of the total cost of the Project (for \$100 million project this allocation would be approximately \$2.4 million or \$450,000 annually at an 18.75 percent fixed charge rate).

The Missouri Commission agrees that the Midwest ISO Planning Staff improperly applied reliability standards in the determination that Southern Indiana's Project qualifies as a Baseline Reliability Project. Furthermore, it is critical to the integrity of the cost allocation process that there are proper decisions as to what regional transmission upgrades are needed for reliability.

**b. Answers**

26. Southern Indiana states that the MTEP process is a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion. It argues that the designation of the Project as a Baseline Reliability Project demonstrates that the Midwest ISO has found that the Project is needed to ensure reliability, and thus that it is entitled to the rebuttable presumption under Order No. 679.

27. Southern Indiana states that Ameren and the Missouri Commission's concerns regarding the Midwest ISO's Baseline Reliability Project process in general, and the specific determination regarding this Project, are beyond the scope of this proceeding. It states that the Commission routinely rejects attempts by parties to inject issues beyond the scope of a proceeding through protests. Furthermore, Southern Indiana asserts that any such concerns that Ameren has should be raised through Midwest ISO's stakeholder processes.

**c. Commission Determination**

28. We find that Southern Indiana is entitled to a rebuttable presumption of eligibility for incentive rate treatment as a result of the approval of its Project as a Baseline Reliability Project by the Midwest ISO. The arguments of the protestors challenging how the Midwest ISO made this determination are outside of the scope of this proceeding, and do not rebut the presumption of eligibility. As the Commission noted in Order No. 679-A, the rebuttable presumption was created to avoid duplication in determining whether a project maintains reliability or reduces congestion.<sup>23</sup>

29. Ameren argues that the Midwest ISO Planning Staff has used incorrect or new tests and standards for determining whether Southern Indiana's Project is a Baseline Reliability Project. However, as the Commission has stated previously, the rebuttable presumption does not require any specific standards to be used by regional entities in making their determinations.<sup>24</sup> Instead, each regional entity may base its own conclusions on the needs and requirements of the particular region. The rebuttable

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<sup>23</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 46.

<sup>24</sup> *Southern California Edison Co.*, 123 FERC ¶ 61,293, at P 23 (2008).



presumption requires only that the project be vetted through an open and fair regional process that considers and evaluates projects for reliability and/or congestion.<sup>25</sup> Although Ameren argues with the standards used for determination, it presents no evidence that the Midwest ISO process is not open or fair.

30. This proceeding is not the proper place to challenge the mechanics of the Midwest ISO planning process. The Commission has found that Midwest ISO's planning process clearly identifies the details of how planning will be coordinated with interested parties. The Commission found that the Midwest ISO's process is fair and open, and, subject to a further compliance filing, complies with the Commission's Order No. 890 requirements.<sup>26</sup> Interested parties had the opportunity to file comments with the Commission during this review. Additionally, the Midwest ISO provides a variety of forums where interested parties can be involved with the determination on what projects are found to be Baseline Reliability Projects, and to challenge the determination once it is made. Meetings are held throughout the planning process where stakeholders may provide input into planning decisions.<sup>27</sup> This input may be provided during meetings of the Planning Advisory Committee or Planning Subcommittee, which consist of representatives of many different stakeholder groups.<sup>28</sup> The Midwest ISO tariff also provides for a more formal dispute resolution process including informal negotiation, mediation, and arbitration.<sup>29</sup> It includes provisions for the formation of an Alternate Dispute Resolution Committee, along with procedures for Expedited Dispute Resolution.<sup>30</sup> If parties differ over interpretation of reliability standards, they may also file comments at NERC using a Standard Authorization Request.<sup>31</sup>

31. Accordingly, we see no reason to reopen the Midwest ISO's determination that Southern Indiana's Project qualifies as a Baseline Reliability Project in this proceeding.

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

<sup>26</sup> *Midwest Indep. Transmission Sys. Operator*, 123 FERC ¶ 61,164, at P 28 (2008).

<sup>27</sup> *See* Midwest ISO Tariff at Attachment FF at section I.i.2, Original Sheet No. 1834C.

<sup>28</sup> *See id.*

<sup>29</sup> *See id.* at Attachment HH, Original Sheet No. 1887.

<sup>30</sup> *See id.* at Original Sheet No. 1888.

<sup>31</sup> NERC Reliability Standards Development Procedure, Mar. 12, 2007, available at: [http://www.nerc.com/fileUploads/File/Standards/RSDP\\_V6\\_1\\_12Mar07.pdf](http://www.nerc.com/fileUploads/File/Standards/RSDP_V6_1_12Mar07.pdf).

## 2. The Nexus Requirement

32. In addition to satisfying the section 219 requirement, an applicant for an incentive rate must show that there is a nexus between the incentive sought and the investment being made. The Commission has stated that in evaluating whether an applicant has satisfied the required nexus test, the Commission will examine the total package of incentives being sought, the interrelationship between the incentives, and how any requested incentives address the risks and challenges faced by the project.<sup>32</sup> Applicants must provide sufficient explanation and support to allow the Commission to evaluate the incentives. In addition, the Commission has clarified that it retains the discretion to grant incentives that promote particular policy objectives unrelated to whether a project presents specific economic risks or challenges.<sup>33</sup>

33. 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.”<sup>34</sup> The nexus test is fact-specific and requires the Commission to review each application individually. Notably, the Commission chose not to adopt a list of criteria or characteristics that must be met by every applicant before an incentive would be approved. The Commission recognized that it would be impossible to identify every conceivable challenge or risk faced by an applicant, or to develop a menu of incentives that would or would not be appropriate given a particular set of risks and challenges.<sup>35</sup>

34. Southern Indiana states that the Project faces substantial regulatory, multi-party, construction and engineering challenges and risks.<sup>36</sup> According to Southern Indiana, these include: the fact that the company does not have eminent domain in Kentucky; the Project will likely require partnerships with utilities in Kentucky; the Project crosses the Ohio River; the Project will require coordination with neighboring utilities; the Project requires coordination with two Reliability Coordinators; the Project requires work on

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<sup>32</sup> 18 C.F.R. § 35.35(d); Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26. *See also* Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 21 (“By this we mean that the incentive(s) sought must be tailored to address the demonstrable risks and challenges faced by the applicant in undertaking the project.”).

<sup>33</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at n.37.

<sup>34</sup> *Id.* P 40.

<sup>35</sup> *Id.* P 24.

<sup>36</sup> Petition Transmittal Letter at 13-18.

energized lines; the Project's corridor requires most of the transmission line route to be inaccessible by road and a portion will cross environmentally sensitive areas; and the Project will require completion of multiple, simultaneous permitting processes involving federal, state and perhaps local authorities.

35. Southern Indiana states that the Project has a scheduled in-service date of June 2011 and an estimated cost of \$68 to \$100 million, depending on the route of the Project. Allowing CWIP recovery will result in lower construction costs; reduce charges to ratepayers; provide a more gradual increase in transmission costs to ratepayers; and result in stronger net cash flow, reducing downward pressure on Southern Indiana's credit metrics.<sup>37</sup> In addition, Southern Indiana states that the Abandoned Plant Recovery incentive will remove a potential disincentive to undertaking the Project by eliminating the risk that shareholders may have to bear the costs of transmission projects that are cancelled for reasons outside Southern Indiana's control.

36. We find that Southern Indiana has demonstrated that the Project is not a routine construction project and presents special risks. As discussed below, we find that each incentive sought by Southern Indiana is designed to address a distinct set of risks associated with the Project. Thus, we find that the total package of incentives is just and reasonable.

**a. CWIP Recovery**

37. Order No. 679 allows utilities to include, where appropriate, 100 percent of prudently-incurred transmission-related CWIP in rate base.<sup>38</sup> The Commission noted that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow for applicants, thereby reducing the pressure on their finances caused by investing in transmission projects.<sup>39</sup> As discussed below, we find that Southern Indiana has shown a nexus between the proposed CWIP incentive and its investment in the Project.

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<sup>37</sup> Petition Transmittal Letter at 13. Southern Indiana includes with its Petition an affidavit of the Vice President and Treasurer of Vectren Corporation and its subsidiaries with analysis showing the impacts of CWIP on their cash flow position using both the \$68 million and \$100 million scenario and analysis showing that they expect to face a negative cash flow position while undergoing the project.

<sup>38</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 29, 117.

<sup>39</sup> *Id.* P 115.

38. Consistent with Order No. 679, we find that authorizing 100 percent of CWIP treatment for the Project would enhance Southern Indiana's cash flow, reduce interest expenses, assist Southern Indiana with financing, and improve Southern Indiana's coverage ratios used by rating agencies to determine credit quality by replacing non-cash Allowance for Funds Used During Construction (AFUDC) with cash earnings. This, in turn, will reduce the risk of a downgrade in Southern Indiana's, or its holding company Vectren Corporation's, corporate credit and debt ratings.

39. Southern Indiana has demonstrated that due to the size and the scope of the proposed Project, there is an increased risk to its credit rating. The Project has a long lead time, with a scheduled in-service date in June of 2011, and the overall magnitude of the investment is significant (\$68 to \$100 million) compared to Southern Indiana's current investment in existing transmission plant of \$155 million. These factors are comparable to those that the Commission has taken into consideration in authorizing CWIP in rate base for other utilities.

40. The increased cash flow resulting from a CWIP incentive will be used in calculating a utility's coverage ratio,<sup>40</sup> a ratio that Standard and Poor's considers in deciding what credit rating to give a utility.<sup>41</sup> Southern Indiana has secured debt and its current credit rating is A from S&P. In addition, Southern Indiana obtains the majority of its additional debt from its immediate parent, which has an unsecured current credit rating of A- from S&P.<sup>42</sup> These credit ratings allow Southern Indiana to secure borrowed money at the lowest possible cost and with the most flexible borrowing terms and conditions.

41. Southern Indiana provides a statement of cash flows for the years during the Project's construction (2008-2011).<sup>43</sup> Under a \$68 million scenario, the company faces a projected net cash flow deficit of \$46 million over the four year period. Under a \$100 million scenario, the company faces a projected net cash flow deficit of \$78 million. CWIP recovery will improve the company's cash flow position while the Project is being constructed. Southern Indiana has demonstrated that without CWIP in rate base, it will have negative cash flows, with a converse increase in interest expenses from debt and a potential negative effect on its credit rating and ability to procure debt at a low cost.<sup>44</sup>

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<sup>40</sup> A coverage ratio is a measurement of a utility's ability to repay debt obligations.

<sup>41</sup> See Standard and Poor's Encyclopedia of Analytical Adjustments for Corporate Entities, available at: [www.standardandpoors.com/ratingsdirect](http://www.standardandpoors.com/ratingsdirect).

<sup>42</sup> Exhibit SIG-10 at 7.

<sup>43</sup> Exhibit SIG-13.

<sup>44</sup> See Exhibit. SIG-13.

This showing is similar to the demonstrations made by other companies that have received authorization to include CWIP in rate base.<sup>45</sup>

42. In addition, we also find that allowing Southern Indiana to recover 100 percent of CWIP in its rate base will provide better rate stability for customers. As we have explained in prior orders,<sup>46</sup> when large-scale transmission projects come on line, consumers may experience “rate shock” if CWIP is not permitted in rate base. By allowing CWIP in rate base, the rate impact of the Project can be spread over the entire construction period and will help consumers avoid a return on and of capitalized AFUDC.

43. For the reasons discussed above, the Commission finds that Southern Indiana should be granted the 100 percent CWIP Recovery incentive for the Project.

**b. Abandoned Plant Recovery**

44. In Order No. 679, the Commission found that allowing abandoned plant recovery is an effective means to encourage transmission development by reducing the risk of non-recovery of costs.<sup>47</sup> We will grant Southern Indiana’s request for recovery of 100 percent of prudently-incurred costs associated with abandonment of the Project, provided that the abandonment is a result of factors outside of the control of Southern Indiana, which must be demonstrated in a subsequent section 205 filing for recovery of abandoned plant.<sup>48</sup>

45. We find that Southern Indiana has shown, consistent with Order No. 679, a nexus between the recovery of prudently-incurred costs associated with abandoned transmission projects and its planned investment. Besides the scope, size, and long lead-time, the Project presents special risks because it requires approval from multiple jurisdictions. Accordingly, the Commission finds Southern Indiana should be granted Abandoned Plant Recovery incentive for the Project.

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<sup>45</sup> See Xcel Energy Services application filed in Docket No. ER07-1415-000, Ex XES-18; *Xcel Energy Services*, 121 FERC ¶ 61,284 (2007).

<sup>46</sup> See, e.g., *American Electric Power Service Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh’g*, 118 FERC ¶ 61,041, at P 27 (2007); *PPL Electric Utilities Corp.*, 123 FERC ¶ 61,068, at P 40- P 43 (2008).

<sup>47</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.

<sup>48</sup> *Id.* P 163, 165-66; see also *Alleghany Energy, Inc.*, 116 FERC ¶ 61,058, at P 122 (2006).

### 3. Revisions to RECB Procedures

46. Ameren also argues that because the Midwest ISO is considering revisions to the costs allocation methodologies established under its RECB procedures, the Commission should make it clear that nothing in this proceeding precludes application of any new procedures that are adopted to the Project.

47. In response, Southern Indiana argues that RECB procedures should not affect the eligibility of the Project for incentives and that any changes in RECB procedures should be prospective. Retroactively applying changes in the RECB procedures would harm Midwest ISO transmission owners making transmission investment and negatively impact the development of much-needed transmission.

48. We agree with Southern Indiana that any potential changes in the RECB procedures in the future do not affect the eligibility of the Project for incentives. We are basing our decision to approve the requested incentives on the facts and the law as they are today, and this decision will not be affected if RECB procedures are revised. However, to the extent Ameren requests clarification regarding the effect of our decision here on the application to the Project of future revisions to cost allocation methodologies within the Midwest ISO, we grant Ameren's request. We clarify that nothing in this order is intended to prejudge whether Southern Indiana's project should be subject to revised cost allocation methodologies in the future.

#### C. Attachment O Modifications

49. Southern Indiana filed under section 205, proposed modifications to Attachment O of the Midwest ISO Tariff to incorporate the incentives it requests. Southern Indiana proposes to add Line No. 18a – 100 percent CWIP recovery for Commission-accepted or Commission-approved Order No. 679 transmission incentive projects – to page 2 of the Midwest ISO's formula rate template.<sup>49</sup> The year-end CWIP balances for the Project from the previous calendar year would be entered on this line and added to Rate Base on Line 30, page 2, of the formula rate.<sup>50</sup> This modification will allow Southern Indiana to earn a current return on 100 percent of year-end CWIP balances for this Project.<sup>51</sup>

50. Southern Indiana is also proposing to add Line No. 23a – Unamortized Balance of Cancelled or Abandoned Plant – as a placeholder to page 2 of the formula rate in the

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<sup>49</sup> Section 205 Transmittal Letter at 4.

<sup>50</sup> *Id.*

<sup>51</sup> Section 205 Exhibit No. SIG-1, at 6.

event that the Project should ever be cancelled or abandoned due to circumstances outside of Southern Indiana's control.<sup>52</sup> The unamortized plant balance associated with any such cancelled or abandoned plant would be entered on this line and added to the Total Adjustment to Rate Base shown on Line 24, page 2, of the formula rate. Southern Indiana is also proposing to add Line No. 9a – Cancelled or Abandoned Plant Amortization – as a placeholder to page 3 of the formula rate.<sup>53</sup> Annual amortization expenses associated with the canceling or abandonment of the Project for reasons outside of Southern Indiana's control would be entered on this line and added to Total Depreciation expenses shown on Line 12, page 3, of the formula.<sup>54</sup> At this time Southern Indiana is only seeking these placeholders for Abandoned Plant Recovery and would have to make a separate section 205 filing to obtain prior Commission acceptance or approval for the specific amounts that Southern Indiana would propose. Note W to Attachment O makes this clarification.<sup>55</sup>

51. Southern Indiana will also recover costs from the Project through Attachment GG of the Midwest ISO Tariff, which sets forth a method for calculating and collecting carrying charges associated with Network Upgrades identified in the MTEP, developed annually.<sup>56</sup>

### **1. Protests and Answers**

52. Ameren filed a protest to Southern Indiana's section 205 filing restating its objections to Southern Indiana's petition. Ameren continues to believe that the Project should not be considered a Baseline Reliability Project or be subject to the Baseline Reliability Project cost sharing procedures. Therefore, it states, the Commission should reject Southern Indiana's rate formula template as improper to the extent it would allow any of the costs of the Project to be allocated to other pricing zones within the Midwest ISO, or accept the section 205 filing subject to the outcome of the proceedings in the petition.

53. Southern Indiana states in response that in Order No. 679, the Commission approved a procedure in which an applicant may file its request for transmission rate incentives in a petition for declaratory order and make a separate, single-issue rate filing

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<sup>52</sup> Section 205 Transmittal Letter at 4.

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

<sup>54</sup> Section 205 Exhibit No. SIG-1, at 7.

<sup>55</sup> *Id.*

<sup>56</sup> Section 205 Transmittal Letter at 5.

to implement its request for transmission rate incentives. If an applicant's petition for declaratory order shows that it qualifies for transmission rate incentives, the separate, single-issue section 205 filing will be limited to review of the applicant's implementation of the transmission rate incentives.<sup>57</sup>

## **2. Commission Determination**

54. We deny Ameren's protest in the section 205 docket as outside the scope of the proceeding.<sup>58</sup> The arguments Ameren raises in its protest relate to whether Southern Indiana should receive incentives, not how those incentives should be implemented in its rates. We address Ameren's arguments on the determination of Baseline Reliability Projects in our discussion above.

55. After our review of the proposed rates and the proposed treatment in Attachment O, and based on the reasons discussed above, we find that Southern Indiana's proposed modifications are just and reasonable and not unduly discriminatory.

### **D. Other Issues**

#### **1. Accounting Treatment**

56. Under Order No. 679 and the Commission's regulations,<sup>59</sup> a company must propose accounting procedures that ensure that customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP in rate base.<sup>60</sup> To satisfy this requirement, Southern Indiana explains that its proposed accounting procedures and tracking mechanisms will allow it to track, segregate, and record the capital costs of the

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<sup>57</sup> Southern Indiana Section 205 Answer at 2, citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 76-78.

<sup>58</sup> See *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219, at P 67 (2007).

<sup>59</sup> 18 C.F.R. § 35.25 (2008) (recovery of CWIP in rate base).

<sup>60</sup> Accounting procedures that have satisfied this burden have provided internal procedures, processes, and/or journal entries intended to prevent costs recovered in current rates from being included in future rates. For example, entities have provided detailed narratives and illustrations showing modifications to the accounting system to identify and segregate work orders associated with projects that include CWIP in rate base. These accounting procedures also explain the manner in which the costs of a work order will be traced to specific FERC accounts based on the appropriate accounting treatment. Other entities have provided accounting procedures showing and explaining specific accounting journal entries that ensure that no improper capitalization occurs.



Project while it is under construction to prevent any double recovery of the Project costs.<sup>61</sup> Specifically, Southern Indiana will assign a project number to the Project that will be designated on all capital work orders for the Project. As construction costs are incurred on the Project, they will be recorded to the Project's assigned project number in the Company's projects accounting module and/or accounting ledger system. Further, Southern Indiana states that during the Project's construction, construction costs will be recorded to FERC Account No. 107, Construction Work in Process - Electric. Southern Indiana will use the FIS Projects Accounting Module to maintain the accounting records for Account No. 107 CWIP electric plant assets during the Project's construction and after the Project is placed into service. Southern Indiana states that this accounting process will ensure that it recovers CWIP in rate base for the Project and does not recover AFUDC.

57. The Commission finds that Southern Indiana's proposed accounting procedures in Exhibit No. SIG-16 of its filing demonstrate that Southern Indiana has accounting procedures and internal controls in place to prevent recovery of AFUDC to the extent it is allowed to include CWIP in rate base. However, public utilities that receive a current return on CWIP through rate base recover this cost in a different period than it would ordinarily be charged to expense under the general requirements of the Commission's Uniform System of Accounts. To promote comparability of financial information between entities, the Commission has required a specific accounting treatment or the use of footnote disclosures to recognize the economic effects of having CWIP in rate base.<sup>62</sup> Southern Indiana fails to address that requirement. The Commission therefore directs Southern Indiana to provide footnote disclosures in the notes to the financial statements of its annual FERC Form No. 1 and their quarterly FERC Form No. 3-Q that: (1) fully explain the impact of the transmission rate incentives it receives insofar as the incentives provide for a deviation from the general requirements of the Uniform System of Accounts; (2) include details of amounts not capitalized because of the transmission rate incentives for the current year, the previous two years, and the sum of all years beginning October 31, 2008; and (3) include a partial balance sheet consisting of the Assets and Other Debits section of the balance sheet to include the amounts not capitalized because of the transmission rate incentives.

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<sup>61</sup> Testimony of M. Susan Hardwick, Exhibit No. SIG-16.

<sup>62</sup> See, e.g., *American Transmission Company LLC*, 105 FERC ¶ 61,388 (2003), *order on reh'g*, 107 FERC ¶ 61,117 (2004); *Trans-Allegheny Interstate Line Company*, 119 FERC ¶ 61,219, *order on reh'g*, 121 FERC ¶ 61,009 (2007); and *Southern California Edison Company*, 122 FERC ¶ 61,187 (2008).

## 2. Request for Waivers

58. Southern Indiana requests that the Commission waive several regulations in 18 C.F.R. §§ 35.13 and 35.25.<sup>63</sup> Southern Indiana argues that its filing provides sufficient supporting information to ensure that CWIP is accounted for correctly and that no double recovery occurs. It also argues that it should not have to file Statements AA through BM because at this time it is only seeking approval to add a placeholder to its Attachment O concerning recovery of cancelled or abandoned plant. Southern Indiana also requests any other waivers required in connection with its petition.

59. We grant Southern Indiana's request for waivers of the specific regulations in 18 C.F.R. §§ 35.13 and 35.25. As we note above, subject to Southern Indiana complying with the required footnote disclosures, we find that Southern Indiana's proposed accounting procedures are adequate and sufficient to prevent double counting.<sup>64</sup>

## 3. Annual Filing Requirement

60. To comply with the requirement that an applicant seeking CWIP recovery in rate formulas make an annual filing with the Commission, Southern Indiana states that they will annually file the FERC Form No. 730 report.<sup>65</sup>

61. The Commission has previously found that filing a FERC Form No. 730 report would satisfy the Commission's requirement for an annual filing for CWIP recovery through a rate formula.<sup>66</sup> Accordingly, we will accept Southern Indiana's proposal.

### The Commission orders:

(A) Southern Indiana's petition for a declaratory order is hereby granted, as discussed in the body of this order.

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<sup>63</sup> The waivers sought are to the provisions in 18 C.F.R. §§ 35.13(a)(2)(iv), 35.13(c), 35.13(d) (with the exception of the corporate attestation requirement in 35.13(d)(6)), 35.13(e) and (h) (with respect to Statements AA through BM), and 35.25.

<sup>64</sup> See *Commonwealth Edison Co.*, 119 FERC ¶ 61,238 (2007), *order on reh'g* 122 FERC ¶ 61,037 (2008).

<sup>65</sup> Petition Transmittal Letter at 23.

<sup>66</sup> *The United Illuminating Co.*, 119 FERC ¶ 61,182, at P 92 (2007). See also *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284 (2007).

(B) Southern Indiana's proposed formula rate modifications are hereby accepted for filing, to become effective October 31, 2008, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.