

125 FERC ¶ 61,130
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.

Pepco Holdings, Inc.

Docket No. ER08-1423-000

ORDER ON TRANSMISSION RATE INCENTIVES AND PROPOSED RATE
FORMULA MODIFICATIONS

(Issued October 31, 2008)

1. On August 18, 2008, Pepco Holdings, Inc. (PHI), on behalf of its transmission-owning public utility affiliates,¹ filed revised tariff sheets to the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff pursuant to section 205 of the Federal Power Act (FPA),² Part 35 of the Commission's regulations,³ and Order Nos. 679 and 679-A⁴ to implement certain transmission rate incentives for its Mid-Atlantic Power Pathway (MAPP) Project. The MAPP Project was identified in the PJM Regional Transmission Expansion Plan (RTEP) as a baseline project and has been approved by the PJM Board of Managers (PJM Board). PHI requests an effective date of November 1, 2008, for the tariff sheets submitted. For the reasons discussed below, we grant PHI's

¹ PHI's transmission-owning public utility affiliates are: Atlantic City Electric Company, Delmarva Power & Light Company, and Potomac Electric Power Company (collectively, the PHI Companies).

² 16 U.S.C. § 824d (2006).

³ 18 C.F.R. § 35 (2008).

⁴ *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).

request for transmission rate incentives for the MAPP Project, to be effective November 1, 2008.

I. Background

A. Description of the Company

2. Atlantic City Electric Company and Delmarva Power & Light Company are wholly-owned subsidiaries of Conectiv which in turn is a wholly-owned subsidiary of PHI. Potomac Electric Power Company is a wholly-owned subsidiary of PHI. The PHI Companies provide electric transmission and distribution, and gas distribution services to several states along the Atlantic seaboard and are regulated by the Commission and various state commissions.⁵

B. The MAPP Project

3. The MAPP Project is a 500 kV, 230-mile transmission line that begins at Virginia Electric and Power Company's Possum Point substation in Virginia, crosses southern Maryland (including an above-ground crossing of the Potomac and Patuxent Rivers), includes a 10-12 mile submarine crossing of the Chesapeake Bay, traverses the Delmarva Peninsula crosses the Delaware River, and ends in southern New Jersey.⁶

4. The MAPP Project was approved as a PJM RTEP baseline project with a projected construction cost of nearly \$1.05 billion, for which PHI is responsible to construct approximately \$950 million. PHI explains that line construction will be completed in segments, and as each segment is completed, it will be placed into service. PHI states that the full line is expected to be placed into service by 2013.⁷

5. In describing the reliability benefits, PHI explains that the prevailing flows of electricity in PJM are from west to east, and are restricted at three main points: the eastern interface, the central interface, and the western interface. These interfaces impose binding constraints on PJM's ability to import power to the eastern Mid-Atlantic and Baltimore/Washington/Northern Virginia load centers, often resulting in congestion charges and out-of-merit generation dispatch.⁸

⁵ PHI August 18, 2008 Transmittal Letter at 4.

⁶ William M. Gausman Testimony (Gausman Test.) Ex. No. PHI-1 at 14-16.

⁷ Gausman Test. Ex. No. PHI-1 at 14.

⁸ Gausman Test. Ex. No. PHI-5B at 17.

6. The PJM 2007 RTEP includes four major backbone transmission lines: the Susquehanna-Roseland Line, the Amos - Beddington - Kemptown Line (the PATH Project),⁹ the 502 Junction-Loudoun 500kV Line (the TRAIL Project),¹⁰ and the MAPP Project.¹¹ PJM made a determination as part of the 2007 RTEP that the MAPP Project is one of the major backbone transmission line solutions needed to resolve numerous NERC reliability criteria violations that would be encountered beginning in 2012.¹²

7. PHI states that PJM has made reliability findings that the MAPP Project will resolve 33 overloads on several interfaces in the Mid-Atlantic region,¹³ and will bring congestion relief and reliability benefits to the Baltimore-Washington area despite the retirement of Benning and Buzzards Point Generating units. The MAPP Project will improve reactive performance equivalent to approximately 2,500 MVARs in Eastern PJM,¹⁴ and create a new west to east path across the PJM interface providing a conduit for energy from new generation in northern Virginia and Southern Maryland into the Baltimore-Washington area.¹⁵

8. PHI states that the MAPP Project will provide a second 500 kV transmission line supplying the Delmarva Peninsula, lessening the potential for blackouts and brownouts as a result of reliance on one transmission source into the peninsula.¹⁶ PHI also provides

⁹ This line is referenced in Commission proceedings as the PATH Project. *See Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 (2008) (*PATH*).

¹⁰ This line is referenced in Commission proceedings as the TRAIL Project. *See Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219, *order on reh'g*, 21 FERC ¶ 61,009 (2007) (*TRAIL*).

¹¹ Ex. No. PHI-5B at 18, Ex. No. PHI-5C at 54.

¹² PJM's RTEP 2007 analysis included the 2006-approved TRAIL Project in its base case studies. Ex. No. PHI-5B at 18.

¹³ Gausman Test. Ex. No. PHI-1 at 28.

¹⁴ Gausman Test. Ex. No. PHI-1 at 32.

¹⁵ Ex. No. PHI-5C at 71.

¹⁶ Gausman Test. Ex. No. PHI-1 at 30.

evidence that the MAPP Project will provide access to more than 1,300 MW of renewable wind generation in the western portion of PJM.¹⁷

9. In describing the economic benefits of the MAPP Project,¹⁸ PHI demonstrates that if the MAPP Project were constructed solely as an AC line, it would provide \$113 million of annual savings to the Mid-Atlantic region, and \$70 million of annual savings to the entire PJM region. If the portion of the MAPP Project crossing the Chesapeake Bay is built as a 640 kV HVDC line, the annual savings across the Mid-Atlantic region would increase to \$174 million and \$91 million for the entire PJM region, with production costs dropping by \$58 million annually for the entire PJM region.¹⁹

C. Technology Statement

10. Order No. 679 requires an applicant to provide a technology statement that describes any advanced technology the project will use. PHI provided a technology statement that proposes several different types of advanced transmission technologies mentioned in section 1223 of EPAct 2005. The proposed technologies include: advanced HVDC technology, underwater AC cable, phase angle regulators, switchable shunt reactors, advanced conductor materials, microprocessor-based relays, digital fault recorders, fiber optic protection and communication links, substation-wide area networks, integrated substation automation and equipment and line monitoring.²⁰

11. PHI states that they are awaiting a decision from PJM on whether to proceed with a 500 kV AC cable or a 640 kV Voltage Source Converter HVDC underwater crossing of the Chesapeake Bay. If the AC option is chosen, PHI states that the MAPP Project will likely be the highest capacity AC submarine cable system anywhere in the world. In the event the HVDC option is chosen, PHI states that the resulting cable will be completely unprecedented in its size and application. Under either option, the submarine line will be installed approximately six to fifteen feet below the bottom of the Chesapeake Bay.²¹

¹⁷ Gausman Test. Ex. No. PHI-1 at 35-37, Ex. No. PHI-14 at 1.

¹⁸ The economic benefit analysis was performed by a PHI consultant, ICF Resources.

¹⁹ Gausman Test. Ex. No. PHI-1 at 35.

²⁰ Ex. No PHI-19 at 2-11.

²¹ Ex. No PHI-19 at 10.

12. PHI states that the MAPP Project will utilize 1,000 MW phase angle regulators to control power flow on the system. Although similar in function to the existing phase angle regulators, PHI states that the size of these units make them uncommon. The project will also implement switchable shunt reactors which will be installed at substations to control voltage levels on high-voltage transmission lines. In addition, these units unlike others in the industry will employ self-monitoring devices.

13. PHI asserts that the MAPP Project will also utilize advanced conductor materials such as exotic metallurgical composites, non-metallic cores, and specialized hardware and materials in the manufacture and design of conductors. PHI states that these advanced conductors permit an increase in power flows across existing right of ways without an increase in tower height, maximize the existing width of rights of ways for the addition of new towers, and allow for optimized structure application. PHI also plans to use microprocessor-based relays and digital fault recorders that represent a digital enhancement of electromechanical relays and analog fault recorders. PHI claims that microprocessor-based relays and digital fault recorders provide a higher level of performance, reliability, and efficiency than their analog counterparts.

14. Additionally, fiber optic protection and communication links will provide high-speed, reliable communications. PHI states that substation-wide area networks will be used to provide high-speed communication utilizing industry standard Ethernet capabilities at PHI's substations.²² These networks will allow for additional data gathering from across the network leading to increased information and feedback. PHI states that integrated substation automation and equipment and line monitoring refer to "smart" remote terminal units, "smart" sensors, and other sensors that permit the remote and at times automatic operation and monitoring of substations, equipment, and interconnecting circuits that will make up the MAPP Project.²³

15. PHI asserts that the combined effect of these advanced technologies will be to render the MAPP Project a "Smart Grid." PHI explains that at the transmission level, "smart grid" features should allow the grid operator considerably more control, and provide better optimization of resources, than a typical transmission system. Among other key goals of a "smart grid" at the transmission level, PHI lists the Project's abilities to: (1) optimize assets and operate efficiently; (2) minimize sags, spikes, and other disturbances; (3) correct any problems quickly and with a minimum of intervention by the grid operator; and (4) monitor, self-analyze and diagnose the health and condition of

²² Ex. No PHI-19 at 7.

²³ Ex. No PHI-19 at 8.

equipment, and predict the malfunction or failure of a device before the event occurs in order to take action to prevent the malfunction or failure from occurring.²⁴

16. PHI's filing includes significant discussion of this subject including its efforts to make its investments in the MAPP Project support interoperability of "smart grid" equipment and conformance with new or emerging standards in this area. As part of this interoperability effort, PHI has committed to ". . . provide a method of upgrading systems and firmware remotely (through the data network as opposed to local/site upgrades) and ensure that unforeseen problems or changes can be quickly and easily made by PHI engineers and system operators on short notice."²⁵

D. Incentive Rate Proposal

17. PHI requests Commission authorization for the following incentives: (1) a 150-basis point return on equity (ROE) adder for the MAPP Project to be added, not to a midpoint return, but rather to its previously-accepted 11.3 percent ROE, resulting in an overall ROE of 12.8 percent, (2) authorization to recover 100 percent of construction work in progress (CWIP); and (3) authorization to recover 100 percent of all prudently-incurred development and construction costs if the MAPP Project is abandoned or cancelled for reasons beyond the control of the PHI Companies. PHI also submits proposed amendments to the PJM Open Access Transmission Tariff necessary to permit the PHI Companies to recover the rate treatments requested in this filing.

18. PHI asserts that the MAPP Project ensures regional reliability by eliminating anticipated overloading of transmission facilities and preserves competition by improving import capability. PHI states that it is bound by its prior settlement to apply any requested ROE incentives to a base ROE of 10.8 percent.²⁶ According to the settlement provisions, multiple ROE incentives are added cumulatively to this base ROE of 10.8 percent. Since the settlement, PHI was also granted a 50 basis point adder for RTO participation, bringing the adjusted ROE from which to add incentives to 11.3 percent.²⁷ The resultant ROE for the MAPP Project if this application is granted will be 12.8 percent, which will be implemented through PHI Companies' individual formula rates.

²⁴ *Id.* at 66.

²⁵ Gausman Test. Ex. No. PHI-1 at 70-71.

²⁶ *See Baltimore Gas and Electric Co.*, Order Approving Uncontested Settlement, 115 FERC ¶ 61,066 (2006).

²⁷ *Pepco Holdings Inc.*, 121 FERC ¶ 61,169, at P 15 (2007).

19. In addressing incentive eligibility, PHI states that MAPP Project satisfies the Commission's requirements under Order No. 679 that "the facilities for which [a public utility] seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the requirements of section 219 [of the Federal Power Act] . . .,"²⁸ and that "the total package of incentives is tailored to address the demonstrable risks and challenges faced by the applicant in undertaking the project. . .."²⁹ PHI states that the requested incentives also fulfill Order No. 679's requirement that the "resulting rates are just and reasonable,"³⁰ as discussed in more detail below.

II. Notice of Filing and Responsive Pleadings

20. Notice of PHI's filing was published in the *Federal Register*, 73 Fed. Reg. 51,460-51,461 (2008), with interventions and protests due on or before September 8, 2008. Timely interventions were filed by Public Service Electric & Gas Co., PJM Interconnection, L.L.C. (PJM), Exelon Corporation, Old Dominion Electric Cooperative, Allegheny Power and Trans-Allegheny Interstate Line Co., "FPL Energy Generators,"³¹ and the New Jersey Board of Public Utilities.

21. The Public Service Commission of Maryland (Maryland Commission) filed a late notice of intervention and comments, and the Maryland Office of People's Counsel (Maryland People's Counsel) filed a late motion to intervene, protest, and request for hearing.³² The New Jersey Division of Rate Counsel and the Office of People's Counsel of the District of Columbia filed late motions to intervene. On September 19, 2008, PHI filed a motion for leave to answer and answer to the protests. On October 10, 2008, the Delaware Public Service Commission (Delaware PSC) filed a late motion to intervene and comments out of time. On October 16, 2008, PHI filed a motion for leave to answer and answer to the Delaware PSC protest.

²⁸ PHI Transmittal Letter at 8 (citing 18 C.F.R. § 35.35(d)).

²⁹ PHI Transmittal Letter at 9 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 48).

³⁰ PHI Transmittal Letter at 9 (citing 18 C.F.R. § 35.35(d)).

³¹ FPL Energy Generators consist of FPL Energy Marcus Hook, L.P., North Jersey Energy Associates, L.P., Doswell Limited Partnership, Backbone Mountain Windpower LLC, Mill Run Windpower LLC, Somerset Windpower LLC, Meyersdale Windpower LLC, Waymart Wind Farm, LP, and Pennsylvania Windfarms, Inc.

³² Both the Maryland Commission and Maryland People's Counsel cite technical difficulties with the Commission's E-Filing system.

III. Discussion

A. Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

23. In view of the early stage of this proceeding, the parties' interests and the interests of the citizens they represent, and the absence of undue prejudice or delay, the Commission grants the motions to intervene out-of-time of the Maryland Commission, Maryland People's Counsel, the Office of People's Counsel of the District of Columbia, the New Jersey Division of Rate Counsel, and the Delaware Public Service Commission, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers from PHI because they have provided information that assisted us in our decision-making process.

B. Incentives Request

1. Section 219 Demonstration

25. PHI states that the MAPP Project satisfies the rebuttable presumption and the requirements of section 219 by virtue of its approval in the PJM RTEP as a baseline project, and based upon the reliability and congestion issues that the MAPP Project will resolve.³³ PHI also asserts that "the MAPP Project will strengthen reliability *and* reduce congestion."³⁴ PHI provides a detailed listing of reliability benefits of the MAPP Project,³⁵ demonstrating reliability benefits throughout the PJM footprint.³⁶

26. PHI estimates that the MAPP Project will significantly improve the voltage profile and reactive performance equivalent to approximately 2,500 MVARs in the eastern PJM

³³ PHI Transmittal Letter at 1.

³⁴ PHI Transmittal Letter at n. 8, Ex. No. PHI-1 at 38.

³⁵ Ex. No. PHI-9.

³⁶ Gausman Test. Ex. No. PHI-1.

region.³⁷ PHI states the recent analysis from outside experts demonstrates that the project will allow a minimum of 2,500 MW of transfer capability across the eastern PJM region. PHI states that if it is authorized by PJM to incorporate HVDC technology into the MAPP Project, then the additional transfer capability will increase to 5,100 MW.³⁸

27. PHI states that there are also environmental benefits associated with the MAPP Project, giving the Mid-Atlantic region access to substantial wind resources in the western and southern portion of PJM.

28. PHI notes that the MAPP Project is also located within the Mid-Atlantic Area National Electric Transmission Corridor designated by the Department of Energy in October 2007.³⁹

a. Protests

29. No parties protest that the MAPP Project satisfies the rebuttable presumption.

b. Commission Determination

30. In the Energy Policy Act of 2005 (EPAct 2005), 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 set forth processes by which a public utility could seek transmission rate incentives pursuant to section 219.

31. 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. That is, 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.⁴⁰ 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: (i) the

³⁷ Gausman Test. Ex. No. PHI-1 at 31.

³⁸ Gausman Test. Ex. No. PHI-1 at 34.

³⁹ Gausman Test. Ex. No. PHI-1 at 39, citing National Electric Transmission Congestion Report, Docket Nos. 2007-OE-01 and -02, issued by the U.S. Department of Energy, October 5, 2007, 72 Fed. Reg. 56,922.

⁴⁰ 18 C.F.R. § 35.35(i).

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 (ii) a project has received construction approval from an appropriate state commission or state siting authority.⁴¹ Order No. 679-A clarifies the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (such as a regional planning process, state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.⁴²

32. We find that the MAPP Project meets the requirements of section 219 as a result of the rebuttable presumption established in Order No. 679. It was included in the PJM RTEP as a baseline project, which means that PJM determined that the project is regional in nature and will mitigate congestion or ensure PJM's ability to continue to serve load reliably.

2. Nexus Demonstration

33. PHI states that the Commission has clarified that the 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, and that in evaluating whether the applicant has met this test it has found the question of whether a project is "routine" to be particularly probative.⁴³ PHI notes that in considering whether a project is routine the Commission stated that it will consider all relevant factors presented by the applicant, including project's scope, effect, and the challenges or risks faced by the project.⁴⁴

34. On scope, PHI states that the MAPP Project is the largest infrastructure project ever undertaken by PHI, and forms the core of its transmission expansion plans over the next decade. PHI states that annual MAPP construction expenditures will average \$180 million/year, which is triple the PHI Companies' historic annual average investment

⁴¹ Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 58.

⁴² *Id.* P 49.

⁴³ PHI Transmittal Letter at 3 (citing *Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084, at P48 (2007) (*BG&E*)).

⁴⁴ *Id.* at 46 (citing *PPL Elec. Utils. Corp.*, 123 FERC ¶ 61,068, at P 31, *reh'g denied*, 124 FERC ¶ 61,229 (2008)).

levels. PHI further states that the MAPP Project will virtually double the PHI Companies' transmission rate base of \$942 million.⁴⁵

35. In terms of effect, PHI demonstrates that the MAPP Project will significantly improve voltage profile and reactive performance equivalent to approximately 2,500 MVARs in the eastern PJM region.⁴⁶ PHI states the recent analysis from outside experts demonstrates that the project will allow a minimum of 2,500 MW of transfer capability across the eastern PJM region. PHI states that if it is authorized by PJM to incorporate HVDC technology into the MAPP Project, then the additional transfer capability will increase to 5,100 MW.⁴⁷ Further, PHI asserts that the project will provide access to renewable energy.

36. PHI presents that it faces risks and challenges that merit the full incentives in terms of financial risk, regulatory risk, environmental risk, and technology risk. PHI explains that the size, complexity, and risk inherent in the MAPP Project are larger than any other project the PHI Companies have undertaken in history, and the incentives are vital to PHI's ability to access capital markets on reasonable terms.⁴⁸ PHI explains that the largest source of funding will be from external sources and will include corporate debt and PHI's issuances of common equity.⁴⁹

37. On financial risk, PHI states that the substantial outlay of cash could weaken PHI's credit rating over the near- and mid-term.⁵⁰ PHI cites one debt coverage metric, FFO/Debt.⁵¹ PHI states that for 2007 PHI's FFO/Debt ratio was 16.1 percent. Without incentives, the FFO/Debt would decline to 13.5 percent by 2011. Granting all of the incentives reduces PHI's FFO/Debt ratio to 15.4 percent during the construction period,

⁴⁵ Anthony J. Kamerick Test. Ex. No. PHI-21 at 6.

⁴⁶ Gausman Test. Ex. No. PHI-1 at 31.

⁴⁷ Gausman Test. Ex. No. PHI-1 at 34.

⁴⁸ Kamerick Test. Ex. No. PHI-21 at 3-4.

⁴⁹ Kamerick Test. Ex. No. PHI-21 at 7.

⁵⁰ Kamerick Test. Ex. No. PHI-21 at 11-13.

⁵¹ FFO/Debt is Funds Flow from Operations as a ratio of Total Debt and is a measure of a company's ability to repay debt.

but it keeps it within the acceptable range, thereby protecting PHI's credit rating from being downgraded to below investment grade.⁵²

38. Moody's benchmark FFO/Debt ratio for utilities such as PHI is a range of 13 percent to 25 percent. However, PHI cites to several reports by Moody's Investors Service and Standard and Poor's, indicating that both Moody's and Standard and Poor's will take a negative rating action if the PHI Companies are unable to maintain *higher than average* debt coverage metrics during its intensive capital investment program.⁵³ PHI stresses therefore, that it cannot afford for the FFO/Debt ratio to weaken any further.

39. PHI explains that companies with non-investment grade credit rating bear higher costs of borrowing, less access to capital, and in unfavorable market periods, they can be effectively shut out of the capital markets - an unacceptable result for a capital intensive company like PHI.⁵⁴

40. Additionally, PHI concludes that "including CWIP in rate base would ease the financial pressure on the PHI Companies associated with the MAPP Project by improving cash flow and providing greater regulatory certainty, both of which are instrumental in supporting the PHI Companies financial integrity and ability to attract new capital."⁵⁵

41. PHI states that CWIP incentive treatment will result in lower transmission rates for customers over the life of the MAPP Project,⁵⁶ while providing \$125 million in additional cash flow during the construction phase.⁵⁷ PHI further notes the increased financial stresses of the project are due to the substantial financial outlay required and the long lead-time, as the projected completion date is in 2013.

⁵² Kamerick Test. Ex. No. PHI-21 at 14-15.

⁵³ Kamerick Test. Ex. No. PHI-21 at 10 and 15 (internal citations omitted).

⁵⁴ Kamerick Test. Ex. No. PHI-21 at 10.

⁵⁵ Gausman Test. Ex. No. PHI-1 at 26.

⁵⁶ Alan C. Heintz Test. Ex. No. PHI-30 at 6.

⁵⁷ Kamerick Test. Ex. No. PHI-21 at 13.

42. PHI states that the abandonment incentive will provide for certainty of cost recovery to investors and consumers alike for such a large-scale high-risk project such as the MAPP Project.⁵⁸

43. On regulatory risk, PHI states that the MAPP Project requires numerous federal and state regulatory approvals in Virginia, Maryland, Delaware, and New Jersey. In particular, because it will be the first-ever crossing of the Chesapeake Bay, the MAPP Project will require approvals for new rights-of-way.⁵⁹ PHI provides a working list of more than 30 regulatory approvals that will be needed for the MAPP Project,⁶⁰ an additional list of more than 70 government agencies that will need to be consulted for the MAPP Project,⁶¹ and a list of more than 50 additional non-governmental agencies that PHI will solicit input from during the MAPP permitting process.⁶²

44. On environmental risks, PHI states that approximately 20 percent of the MAPP Project will traverse new rights-of-way over wetlands and similarly-sensitive areas, requiring field studies on threatened and endangered species, possibly causing significant delays in the project schedule. PHI illustrates several environmental approvals that are required as part of the project, taking into consideration such issues as oyster beds, subaqueous vegetation, shipwrecks, essential fish habitats, bathymetry, and wetlands.⁶³

45. On technology risks, PHI states that some of the technologies that it is proposing to use are unprecedented, requiring specialized personnel and equipment. PHI states that the underwater portion of the MAPP Project is without precedent, whether AC or DC technology is used; it will be the highest capacity submarine cable system in the world.⁶⁴

46. PHI argues the record supports a finding that the MAPP Project is material in scope, non-routine, faces identifiable financing and completion risks, and will address

⁵⁸ Kamerick Test. Ex. No. PHI-21 at 21.

⁵⁹ Gausman Test. Ex. No. PHI-1 at 43-44.

⁶⁰ Ex. No. PHI-15.

⁶¹ Ex. No. PHI-16.

⁶² Ex. No. PHI-17.

⁶³ Gausman Test. Ex. No. PHI-1 at 48-51.

⁶⁴ Gausman Test. Ex. No. PHI-1 at 65-66.

regionally-identified reliability and/or economic objectives as determined independently by the regional planning entity.

a. Protests

47. Maryland People's Counsel's witness Peter J. Lanzalotta asserts that because the PJM RTEP requires PHI to construct the MAPP Project, incentives are not a necessary condition for PHI to build. Maryland People's Counsel states that PHI has failed to demonstrate that there is a valid nexus between the incentives sought and the investment made.

48. The Delaware PSC states that while PHI asserts that ratepayers would save approximately \$200 million over the term of the MAPP Project as well as avoid rate shock by including CWIP in rate base, PHI provides no support for this analysis, nor does this analysis take into account the fact that the project will be completed and placed into service in stages.⁶⁵

49. The Delaware PSC states that PHI has not made an adequate showing as to whether the incentive rate treatment is warranted, or whether it will result in just and reasonable rates.

b. Answers

50. PHI asserts that Maryland People's Counsel ignores the essential elements of the Commission's nexus standard and its protest should therefore be rejected. According to PHI, the essential question in a nexus analysis is whether or not a proposed project is routine. To determine whether a project is routine, PHI states that the Commission examines three factors: (1) the scope of the project; (2) the effect of the project; (3) the challenges faced by the project – and the MAPP Project meets all these factors. In contrast, PHI answers that Maryland People's Counsel disregards all these factors and states that the package of incentives has been appropriately adjusted commensurate with the risks of the project.

51. PHI asserts that for the aforementioned reasons the Commission should accept its application in this proceeding without condition or hearing.

c. Commission Determination

52. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant must

⁶⁵ Delaware PSC October 10, 2008 Protest at 3.

demonstrate that there is a nexus between the incentive sought and the investment being made. In Order No. 679-A, the Commission clarified that the 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.”⁶⁶ As part of our evaluation of whether the incentives requested are tailored to address the demonstrable risks or challenges faced by the applicant, the Commission has found the question of whether a project is “routine” to be particularly probative. In *BG&E*,⁶⁷ the Commission clarified how it will evaluate projects to determine whether they are routine. Specifically, to determine whether a project is routine, the Commission will consider all relevant factors presented by the applicant. For example, an applicant may present evidence on: (i) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (ii) the effect of the project (e.g., improving reliability or reducing congestion costs); and (iii) the challenges or risks faced by the project (e.g., siting, internal competition for financing with other projects, long lead times, regulatory and political risks, specific financing challenges, other impediments).

53. As discussed below, we find that PHI has sufficiently demonstrated a nexus by demonstrating that the MAPP Project is not routine, based on the project’s scope, effects, and risks and challenges.

54. As to the scope of the project, an applicant may, as in *Duquesne Light Company*,⁶⁸ compare the total investment in a range of projects to some other aggregate measure of investment, such as total rate base or recent annual investment levels, as delineated in *BG&E*.⁶⁹ Here, PHI has taken the approach delineated in *BG&E*, comparing its investment to recent annual investment levels. PHI indicates that the PHI Companies’ project will require significant capital investments, up to \$950 million, which will virtually double the combined PHI Companies’ transmission rate base.

55. We find that the MAPP Project will improve import capability, reduce congestion, and improve reliability in the mid-Atlantic region. We agree with PHI that the incentives will promote those goals by recognizing the importance of these new facilities and the risks inherent in bringing them to completion.

⁶⁶ Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

⁶⁷ *BG&E*, 120 FERC ¶ 61,084 at P 52-55.

⁶⁸ 118 FERC ¶ 61,087, at P 52 (2007) (*Duquesne*)

⁶⁹ *See BG&E*, 120 FERC ¶ 61,084 at P 53.

56. We reject Maryland People's Counsel's assertion that because PHI has an obligation to build the facilities that PJM requires in RTEP, it should not be granted incentives. PHI has made a sufficient demonstration that this Project is not a routine investment made in the ordinary course of expanding its system. Moreover, it has demonstrated that it will face multiple risks and challenges in constructing the project, and that the requested package of incentives is necessary to preserve PHI's financial health.

57. In *BG&E*, we found that the challenges or risks faced by a project can include: siting, internal competition for financing with other projects, long lead times, regulatory risks, specific financing challenges and other similar impediments.⁷⁰ Incentives help to counter these risks and thereby send the correct message to transmission owners and the investors who supply the capital to build transmission. PHI has demonstrated similar challenges and risks here. We agree that PHI will face competition for financing of the project while at the same time maintaining positive financial metrics and credit ratings to avoid increased borrowing costs.⁷¹ We also agree that the incentives will address financial, technology-related, regulatory, and construction risks.

58. As noted above, the project will require input from more than 100 agencies and cross multiple states; an important factor in consideration of risk in Order No. 679.⁷² This project also presents an unprecedented capital investment for the PHI Companies.

59. We also find that the abandonment incentive will be an effective means to encourage the MAPP Project's completion. For example, in addition to challenges presented by its scope and size, the MAPP Project requires approvals from multiple municipalities, multiple state siting authorities, and various federal approvals. Moreover, the MAPP Project risks cancellation should it fail to receive siting authority. These factors introduce a significant element of risk; authorizing abandonment will help ameliorate this risk by providing PHI with some degree of certainty as it moves forward.

60. 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.⁷³ It noted that this rate treatment will further the goals of section 219 by

⁷⁰ *Id.*

⁷¹ Ex. No. PHI-21 at 12-18.

⁷² Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 94; Gausman Test. Ex. No. PHI-1.

⁷³ *Id.* P 29, 117.

providing up-front regulatory certainty, rate stability, and improved cash flow for applicants, thereby reducing the pressures on their finances caused by investing in transmission projects.⁷⁴ We find that the PHI Companies have shown a nexus between the proposed CWIP incentive and their investment in the MAPP Project.

61. Consistent with Order No. 679, we find that authorizing 100 percent of CWIP treatment for the MAPP Project will enhance the PHI Companies' cash flow, reduce interest expense, assist with financing, and improve coverage ratios used by rating agencies to determine credit quality by replacing non-cash Allowance for Funds Used During Construction (AFUDC) with cash earnings. PHI has also committed to employ appropriate accounting controls in place to prevent charging customers for both capitalized AFUDC and CWIP for the MAPP Project, as discussed further herein.⁷⁵

62. Cash flow projections provided in Exhibit PHI-21 indicate a CWIP recovery to total over \$125 million during the construction period from 2008 to 2012 for the MAPP Project.⁷⁶ The Commission believes this substantial increase in cash flow will greatly assist PHI's ability to obtain financing for the project because it will lower the amount of debt PHI would need to issue by improving PHI's FFO/Debt ratio.⁷⁷ This, in turn, will reduce the risk of a downgrade in the PHI Companies' corporate credit and debt ratings.

63. We also find that allowing PHI to recover 100 percent of CWIP in its rate base for this project will result in better rate stability for customers. As we have explained in prior orders,⁷⁸ we find that, without CWIP in rate base, a new project has no direct effect on consumer prices until it begins being used to provide service. The MAPP Project is estimated to cost \$1.05 billion, with PHI having a responsibility for \$950 million, and has a lead time of several years. If the Commission does not permit PHI to recover CWIP in rate base, all of its MAPP Project borrowing costs will be accrued over several years, and then capitalized after the MAPP Project goes into service, along with a return of the investment cost through depreciation. Such a process has the potential to produce a rate shock for consumers. By permitting PHI to recover CWIP, the Commission is mitigating this rate shock to consumers. For example, PHI has demonstrated that over the life of the

⁷⁴ *Id.* P 115.

⁷⁵ Smiley Test. Ex. No. PHI-36 at 2.

⁷⁶ Kamerick Test. Ex. No. PHI-21 at 13.

⁷⁷ *Id.* at 14.

⁷⁸ *See, e.g., American Electric Power Co.*, 116 FERC ¶ 61,059, at P 59 (2006), *on reh'g*, 118 FERC ¶ 61,041, at P 27 (2007).

project customers will experience overall revenue savings of \$200 million as a result of the CWIP incentive and cessation of AFUDC.⁷⁹

3. Total Package

64. PHI states that there is no need for the Commission to reduce the 12.8 percent ROE in light of the non-ROE incentives for several reasons. First, PHI states that the Commission has concluded that, “in some instances, where the risks and challenges faced by a new investment are substantial, we may grant an ROE at the top end of the zone of reasonableness.”⁸⁰

65. PHI concludes that the MAPP Project is such a project. PHI states that the high end of the zone of reasonableness here is 15.6 percent and therefore, were PHI requesting only an ROE incentive, it would be appropriate to receive a 15.6 percent ROE in light of the substantial risks and challenges presented in this case.⁸¹

66. PHI claims, however, in light of the package of incentives, that it has adjusted its request to a 12.8 percent ROE rather than the high end of the zone. PHI asserts that the ROE “is already significantly below the high end of the ROE zone of reasonableness.” PHI states that “the incentive ROE requested by the PHI Companies falls below the middle of the upper end of the [discounted cash flow analysis] range,” and therefore, has already been adjusted downward.⁸²

67. PHI also asserts that inclusion of 100 percent of CWIP in rate base, while supporting the PHI Companies’ credit standing, will not have a measurable effect on investment risk.⁸³ PHI states that the Commission distinguished between incentives that reduce risk, and CWIP in Order No. 679-A at P 38. PHI argues that while the abandonment incentive may reduce risk, this reduction is offset by the uncertainties inherent in the future section 205 filing requirement if abandonment recovery is sought.

⁷⁹ Heintz Test. Ex. No. PHI-30 at 6-7.

⁸⁰ Dr. William E. Avera Test. (Avera Test.) Ex. No. PHI-24 at 89 citing Order No. 679-A at P 67.

⁸¹ Avera Test. Ex. No. PHI -24 at 89.

⁸² Avera Test. Ex. No. PHI -24 at 89-91, referencing the discounted cash flow analysis (DCF) provided in its application.

⁸³ Avera Test. Ex. No. PHI -24 at 90.

68. PHI states that the Commission should also take into consideration the extensive use of advanced technologies and smart grid technology in this case, in keeping with the Commission's past willingness to grant incentives for the use of advanced technologies.⁸⁴

69. PHI states that "[t]he MAPP Project incorporates far more advanced technology than any other project that has been submitted to the Commission for incentive rates, even those that have attempted to incorporate substantial advanced technology."⁸⁵ For example, PHI compares the advanced technologies in the MAPP Project with those that the Commission approved for the Southern California Edison projects in Docket No. EL08-62-000 and the PATH Project in Docket No. ER08-386-000. PHI states that the technologies incorporated in the MAPP Project far exceed both the Southern California Edison and PATH Projects.⁸⁶

70. Finally, PHI asserts that "the 12.8 percent ROE requested by the PHI Companies falls below the return approved by the Commission for other similarly situated transmission projects, which also included multiple incentives."⁸⁷ PHI concludes that therefore, "[t]here is no basis for a downward adjustment."⁸⁸

a. Protests

71. The Maryland Commission states that while it supports the use of appropriate rate incentives for transmission investment providing regional benefits the resulting rates must be just and reasonable. The Maryland Commission, the Delaware PSC, and Maryland People's Counsel argue that the level of PHI's requested ROE incentive adder does not take into account the reduction in risk associated with PHI's formula rate recovery, PHI's proposed recovery of 100 percent CWIP, and PHI's proposed recovery of 100 percent of abandonment costs.

72. The Maryland Commission acknowledges that the direct testimony of PHI witness Kamerick,⁸⁹ appears to address a need for both ROE and CWIP stating that "[t]hough an

⁸⁴ Avera Test. Ex. No. PHI-24 at 91 (internal citations omitted).

⁸⁵ Avera Test. Ex. No. PHI-19 at 20.

⁸⁶ Ex. No. PHI 19 at 20-21.

⁸⁷ Avera Test. Ex. No. PHI-24 at 92.

⁸⁸ Avera Test. Ex. No. PHI-24 at 6, and 90.

⁸⁹ Kamerick Test. Ex. No. PHI-21 at 22.

incentive ROE and CWIP in rate base provides some similar benefits both are critically needed and complement one another.” However, the Maryland Commission states that “In contrast, the PHI filing does not appear to address the connection between the guarantee of 100 percent recovery of abandonment costs and the level of the requested [ROE] incentive.”⁹⁰

73. Maryland People’s Counsel cites to the direct testimony of its witness, Peter J. Lanzalotta, who argues, “[F]ormula rates that track current costs accurately reduce a disincentive to construct transmission and were a factor that was considered by at least one state regulatory agency in supporting the PHI Companies’ request at FERC for formula rates.”⁹¹ Maryland People’s Counsel also cites to the assurance of cost recovery in Delaware through a settlement in the Delaware Standard Offer Service Docket No. 04-391. For these reasons, parties assert that the ROE incentive should either be denied or more narrowly tailored to reflect the reduced risk faced by PHI.⁹² The Maryland Commission and the Delaware PSC request settlement and hearing proceedings to ensure that the incentives will not result in transmission charges that are unjust and unreasonable. Further, the Delaware PSC requests that the Commission consider suspension because of the extraordinary 100 percent increase in rate base that will result from inclusion of the MAPP Project in rates when the MAPP Project goes into service.

b. Answers

74. PHI disputes Maryland People’s Counsel’s contention that cost-recovery in retail transmission rates are guaranteed. PHI states that its subsidiary companies are load-serving entities in PJM with an obligation to provide Standard Offer Service with a corresponding purchase of supply and network transmission service from PJM. Each jurisdiction requires a filing and state commission approval to allow recovery of these costs and therefore, PHI asserts that timely cost recovery could be at risk.

c. Commission Determination

75. PHI has sufficiently demonstrated that the MAPP Project faces risks and challenges that warrant the full package of incentives including the ROE incentive. We are not persuaded by the parties’ protests that the 150 basis point incentive is unreasonable. The 150 basis point adder is reasonable in light of the risks of this project. The MAPP Project is a high voltage 500 kV line, extending 230 miles, crossing through

⁹⁰ Maryland Commission Protest at 3.

⁹¹ Aff. Peter J. Lanzalotta at 7-8.

⁹² *Id.*, Maryland Commission at 3.

four states, and providing access to more than 1,300 MW of renewable wind generation in the western portion of PJM.⁹³ The projected cost of this project is substantial, with the PHI's share amounting to \$950 million, creating financial risks for PHI. PHI also faces regulatory and other risks, as fully explained above.

76. We further find that PHI's use of advanced technology warrants the 150 basis point adder. The MAPP Project will incorporate the only 500 kV underwater cable in the world with 2,500 MW of transfer capability.⁹⁴ PHI is also incorporating smart grid technology, to improve reliability and efficiency of the electric system. In particular, PHI is utilizing advanced sensors and controls across the entirety of the project, as well as the high-speed communications and IT infrastructure needed to make full use of this level of data and control options, and is committed to interoperability of smart grid equipment and conformance with new or emerging standards in this area.

77. This project provides significant regional benefits both from an economic and reliability standpoint. PJM has found that the MAPP Project will resolve 33 overloads on several interfaces in the Mid-Atlantic region,⁹⁵ and will provide a minimum of 2,500 MW of transfer capability. In addition to providing needed transmission capacity, the use of this advanced technology will improve the reliability and efficiency of the electric system. We also note that the ROE incentive granted here is not near the high end of the zone of reasonableness.

78. We find that this combination of factors merits the package of incentives requested and granted herein.⁹⁶ We also find that the requested incentives and the formula rate are

⁹³ Gausman Test. Ex. No. PHI-1 at 35-37, Ex. No. PHI-14 at 1.

⁹⁴ Further, we note that PJM is considering an alternative proposal from PHI to use a 640 kV HVDC underwater cable. If this option is adopted, the MAPP Project will be the first project using such an underwater cable.

⁹⁵ Gausman Test. Ex. No. PHI-1 at 28.

⁹⁶ We recognize in other cases that where similar packages of incentives were requested, the Commission has reduced the utility's requested ROE incentive. *Cf. Duquesne*, 118 FERC ¶ 61,087; *PPL Elec. Utils. Corp.*, 123 FERC ¶ 61,068 (2008); *Southern California Edison Co.*, 122 FERC ¶ 61,187 (2008). In those cases the Commission examined the entirety of the project and the requested incentives and determined that the package of incentives requested by the utilities were too high. Those cases do not stand for the proposition that whenever a utility requests CWIP, an ROE incentive, and abandonment that the utility's ROE request is automatically reduced. Such a conclusion would simply result in utilities requesting even larger incentives to offset a

(continued...)

not mutually exclusive but together will encourage investors to invest in the MAPP Project.⁹⁷

79. Regarding the request for a hearing, the parties have not presented an issue of material fact that warrants a hearing on whether to grant the incentives. The Commission stated in Order No. 679, “the Commission does not intend to routinely convene trial-type, evidentiary hearings to review ... [transmission incentive requests,] but will attempt to render a decision based on the paper submissions whenever possible.”⁹⁸ We further find no reason to suspend the collection of CWIP, because permitting such recovery will help expedite the construction of an important project needed for reliability.⁹⁹ Accordingly, the Commission will permit the incentives to become effective November 1, 2008, as requested.

C. Section 205 Demonstrations

1. Range of Reasonableness

80. PHI currently has an adjusted ROE of 11.3 percent, after applying the Commission-approved RTO participation adder to the 10.8 percent base ROE that was agreed upon as part of its formula rate settlement. When the 150 basis point incentive adder is added to the 11.3 percent ROE, the resulting ROE for the MAPP Project would be 12.8 percent. Pursuant to Order No. 679-A, any ROE must be within the range of reasonableness.¹⁰⁰ In this case, because the settled rate contains no range of reasonableness, PHI submitted testimony to establish a range of reasonable returns.

a. ROE

81. PHI submitted testimony supporting a zone of reasonable returns of 8.6 percent (set by PHI) to 15.61 percent (set by DPL, Inc.) after adjusting for risk by applying a

possible reduction. Each case must be analyzed on its merits to determine if the incentives requested are justified.

⁹⁷ *Duquesne Light Company*, 125 FERC ¶ 61,028, at P 57 (2008).

⁹⁸ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 79.

⁹⁹ *Cf.*, *Allegheny Power System Operating Companies*, 111 FERC ¶ 61,308, at P 51 (2005).

¹⁰⁰ Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 38.

corporate credit rating screen.¹⁰¹ PHI states that it is bound by prior settlement to apply any requested ROE incentives to a base ROE of 10.8 percent.¹⁰² According to the settlement provisions, multiple ROE incentives are added cumulatively to the base ROE of 10.8 percent. Since the settlement, PHI was also granted a 50 basis point adder for RTO participation, bringing the adjusted ROE from which to add incentives to 11.3 percent.¹⁰³ Based on PHI's analysis, its requested 150-basis point ROE adder for the MAPP Project would be within the range of reasonable returns produced by its DCF analysis.

82. PHI adds that its DCF calculation does not include an adjustment for the cost of "floating" new equity securities. Nevertheless, PHI states that the fact that flotation costs will be incurred should be recognized as a legitimate consideration that supports the reasonableness of the ROE. PHI asserts that a review of financial studies indicates that flotation costs can average between 3.6 percent to 10 percent additional on the return.¹⁰⁴

83. PHI explains that rather than developing annual estimates of cash flows into perpetuity, it has implemented the DCF model in its simplified "constant growth" form.¹⁰⁵ PHI states that the constant growth form of the DCF recognizes that the rate of return consists of two parts: dividend yield and growth. In other words, investors expect to receive a portion of their return on investment through dividends, and the remainder of their return on investment through price appreciation.

84. In addition, PHI explains that in developing the proxy group, the DCF model analysis focused on a group of 15 transmission-owning utilities in the Northeast.¹⁰⁶ PHI

¹⁰¹ Avera Test. Ex. No. PHI-27.

¹⁰² See *Baltimore Gas and Electric Co.*, Order Approving Uncontested Settlement, 115 FERC ¶ 61,066 (2006).

¹⁰³ *Pepco Holdings Inc.*, 121 FERC ¶ 61,169, at P 15 (2007).

¹⁰⁴ Avera Test. Ex. No. PHI-24 at 72-74 (internal citations omitted).

¹⁰⁵ *Id.* at 29.

¹⁰⁶ *Id.* at 32-34. The utilities are: American Electric Power Co., Central Vermont Public Service Corp., Consolidated Edison, Inc., Constellation Energy Group (Constellation), Dominion Resources Inc., Dayton Power Light Inc. (DPL Inc.), Exelon Corp. (Exelon), FirstEnergy Corp., Florida Power Light Group, Inc., Northeast Utilities, NSTAR, Pepco Holdings, Inc., PPL Corp., Public Service Enterprise Group (PSEG), and UIL Holdings Corporation.

states that this publicly-traded 15 company proxy group resulted by excluding companies based on the following screens: (1) companies who don't pay common dividends; (2) companies for whom no Institutional Brokers Estimation System (IBES) or Value Line data is available; (3) companies who were in the process of merger activity; and (4) companies whose business was comprised mainly of natural gas operations. PHI also states that it evaluated the proxy group based on three objective measures of investment risk: Standard and Poor's corporate credit rating, Value Line's Safety Rank, and Financial Strength Rating.¹⁰⁷ PHI points out that the PHI Companies have a corporate credit rating of "BBB." PHI filed two additional analyses to ensure the validity of and increase confidence in its results.¹⁰⁸

b. Protests

85. Maryland People's Counsel argues that in justifying its requested ROE, PHI includes companies within its proxy group that derive substantial revenues from unregulated business activities, such as Constellation, PSEG, and Exelon. Maryland People's Counsel also argues that PHI's expert testimony submitted by Dr. Avera used an unusually large proxy group of 15 companies in wide geographic regions with large variations in business risk and then removed companies from the proxy group subjectively.

86. Maryland People's Counsel argues that the best way to evaluate a business and its commensurate risks is to determine where its revenues are derived. Therefore, Maryland People's Counsel argues that utilities with a large portion of unregulated merchant generation revenues such as Constellation, PSEG and Exelon, should be excluded from a proxy group establishing an ROE for a transmission line. To support their proxy group argument, Maryland People's Counsel cites to Standard and Poor's rating of BGE, a regulated transmission and distribution subsidiary of Constellation Energy. Standard and Poor's notes that BGE's business risk is "influenced by the growing scope of parent Constellation Energy Group Inc.'s unregulated activities, which has resulted in accretion to the company's business risk in the past year."¹⁰⁹

¹⁰⁷ Avera Test. Ex. PHI-24 at 35 and Ex. No. PHI-29.

¹⁰⁸ PHI filed a DCF analysis resulting in a range of returns of 8.1 percent to 15.6 percent, which does *not* apply a corporate credit rating screen (Avera Test. Ex. No. PHI-26), and a capital asset pricing model analysis that results in a range of returns of 10.9 percent to 14.3 percent.

¹⁰⁹ Maryland People's Counsel September 10, 2008 Protest at 33 (internal citations omitted).

87. Similarly, Maryland People's Counsel argues that over the past three years, PSEG's revenues from competitive merchant generation have doubled from \$434 million to \$949 million, while its revenues from its largest regulated subsidiary, PSE&G,¹¹⁰ grew by only 10 percent. Maryland People's Counsel argues that it is clear in this case that PSEG's high growth rate, as well as its high implied cost of equity, are driven by the growth in revenues from its competitive merchant generation business, and not from its regulated transmission business.¹¹¹ Maryland People's Counsel states that PSEG should therefore be removed from a proxy group that is intended to assess risk on regulated transmission.

88. Maryland People's Counsel argues that because PHI's investment is assured cost recovery, these investments are no more risky than investment in a medium-grade corporate bond, and the return should be commensurate with this low risk investment.¹¹²

c. Answers

89. PHI asserts that Dr. Avera properly applied the DCF methodology and selected the correct proxy group in accordance with the *PATH* and *VEPCO* case precedent.¹¹³ PHI notes that the 15-utility proxy group identifies all transmission owning members of PJM, New York Independent System Operator, Inc., (NYISO) and ISO-New England Inc. (ISO-NE) with publicly traded stock and excludes firms that do not pay common dividends and firms that do not have Value Line data or IBES growth rate data.

90. PHI also disputes the Maryland People's Counsel's assertion that sources of revenue is an appropriate criterion to judge the proxy group based on recent Commission precedent. PHI notes that the Commission rejected a similar argument made by the

¹¹⁰ Public Service Enterprise Group, Inc. (PSEG) is the parent company of subsidiary Public Service Electric and Gas Company (PSE&G).

¹¹¹ Maryland People's Counsel Protest at 34 (internal citations omitted).

¹¹² Maryland People's Counsel Protest at 36. For example, Moody's Credit Perspectives reports a public utility corporate bond yield index of 6.32 percent for "A" rated bonds, and 6.42 percent for "Baa" rated bonds, after averaging the 6 months ending September 2008.

¹¹³ See PHI September 19, 2008 Answer at 6 nn.13 & 14 (citing *PATH*, 122 FERC ¶ 61,188 at P 105 and *Virginia Electric & Power Co.*, 123 FERC ¶ 61,098, at P60 (2008) (*VEPCO*)).

Maryland People's Counsel regarding the appropriateness of including PSEG in a proxy group because of its revenue sources.¹¹⁴

d. Commission Determination

91. We find that PHI's proposed ROE analysis demonstrates that its requested 150 basis point ROE incentive, when added to the 10.8 percent base ROE that was agreed upon as part of PHI's formula rate settlement and the previously approved 50 basis point RTO participation adder, produces an ROE that is within the range of reasonable returns.

92. We have previously found that it is reasonable to use a proxy group of entities within the interrelated RTO markets operated by PJM, ISO-NE, and NYISO, as PHI proposes for its DCF analysis. We find that the DCF presented in Exhibit PHI-27 has applied the following screening criteria to exclude companies consistent with Commission precedent: (1) companies who don't pay common dividends; (2) companies for whom no IBES or Value Line data is available; (3) companies who were involved in merger activities; (4) companies whose business was comprised mainly of natural gas operations; (5) companies whose corporate credit ratings are outside the band of BBB- to BBB+, (in consideration of PHI's BBB corporate credit rating); and (6) companies whose growth rates are considered outliers – those that “fail the economic test of logic,” or whose implied cost of equity is “unsustainable.”¹¹⁵

93. Maryland People's Counsel argues that PHI includes companies within its proxy group, including PHI, that derive substantial revenues from unregulated business activities, and that we should, therefore, exclude several of these companies from the analysis. We deny Maryland People's Counsel's protest as inconsistent with Commission precedent. We have previously found that in cases where these entities will ultimately raise funds for the subject utility, these entities' cost of capital should be considered.¹¹⁶ Even if we excluded the companies that the Maryland People's Counsel

¹¹⁴ See PHI September 19, 2008 Answer at 7 (citing *Pepco Holdings Inc.*, 124 FERC ¶ 61,176 (2008) (citing *PATH*, 122 FERC ¶ 61,188 at P 105)).

¹¹⁵ *Bangor Hydro-Electric Co.*, Opinion No. 489, 117 FERC ¶ 61,129, at P 24-28, 53-60 (2006), *order on reh'g*, 122 FERC ¶ 61,265 (2008).

¹¹⁶ See *Id.* See also *Midwest Independent Transmission System Operator, Inc.*, Initial Decision, 99 FERC ¶ 63,011, at P 9, 15-16, Order Approving Initial Decision with Modification, 100 FERC ¶ 61,292, at P 12 (2002) (rejecting a proposal to restrict a proxy group for transmission owners to the use of generation-divested utilities, permitting the inclusion of parent companies with some generation and unregulated revenues in the proxy group), *order on reh'g*, 102 FERC ¶ 61,143 (2003), *order on remand*, 106 FERC (continued...)

protests from the analysis, the ROE of 12.8 percent would still be within the range of reasonable returns.

94. Based on the proxy group presented in Exhibit PHI-27 and the scope, effect, risks, and challenges of the MAPP Project, we will grant PHI's requested return to result in an ROE of 12.8 percent.¹¹⁷ PHI is directed to file revised tariff sheets to reflect this ROE incentive.

2. CWIP Accounting Procedures and Regulations

95. Order No. 679 and 18 C.F.R. §35.25(f) require that a company requesting CWIP in its rate base must propose accounting procedures that ensure that customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP in rate base. Additionally, to promote comparability of financial information between entities,¹¹⁸ 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.¹¹⁹

96. PHI provides several submissions to demonstrate that it is in compliance with the Commission's regulations for CWIP. PHI submits a Construction Program Statement, consistent with the requirements of 18 C.F.R. §35.13 (h)(38), demonstrating that the program adopted is prudent and consistent with a least-cost energy supply program.

97. PHI describes the procedural controls that it will use to prevent capitalization of AFUDC associated with the MAPP Project prior to and after the project goes into

¶ 61,302,(2004), *aff'd in pertinent part and rev'd in other parts sub nom. Publ. Serv. Comm'n of Ky. v. FERC*, 397 F.3d 1004 (D.C. Cir. 2005).

¹¹⁷ An ROE of 12.8 percent is the summation of 10.8 percent (settled rate) + 50 basis points (RTO participation) + 150 basis points we are granting herein.

¹¹⁸ The Commission's Uniform System of Accounts (USofA), Electric Plant Instruction No. 3, requires AFUDC to be capitalized as a component cost of construction and depreciated over the service life of the asset. 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 USofA.

¹¹⁹ See, e.g., *American Transmission Co. LLC*, 105 FERC ¶ 61,388 (2003), *order on reh'g*, 107 FERC ¶ 61,117 (2004); *TRAIL*, 119 FERC ¶ 61,219; *Southern California Edison Co.*, 122 FERC ¶ 61,187 (2008).

service, consistent with the Commission's regulations for CWIP.¹²⁰ Specifically, PHI explains that it has accounting procedures to ensure that all costs will be properly classified in its accounting records using both the SAP Project and the PowerPlant asset accounting systems. PHI also states that it will incorporate unique project identification and work order numbers to accumulate MAPP construction costs in accordance with Electric Plant Instruction 3 and its capitalization policy.¹²¹ PHI explains that PowerPlant allows the user to determine if and when AFUDC should be capitalized on work orders. According to PHI, the PowerPlant system will recognize the unique identifiers and will not calculate or capitalize AFUDC on the MAPP Project as a component of the costs to be recorded in Account 101, Electric Plant in Service. PHI states that this process will ensure that the CWIP included in the formula rate filing will not include AFUDC for the MAPP Project. Finally, PHI states that its independent auditor will verify this planned CWIP in rate base accounting, as determined necessary by the auditor.

a. Protests

98. Maryland People's Counsel claims that PHI does not expressly detail the accounting procedures that it will use to ensure that it does not double recover AFUDC and CWIP in rate base, including any unique project numbering system to be used and any procedures to prevent double counting of expenditures as CWIP and additions to plant once the project, or portion thereof, goes into service. Maryland People's Counsel also argues that PHI should be required to segregate all work orders for the MAPP Project from those for other projects, whether incentive or non-incentive, and to prepare monthly reports summarizing all costs incurred under the MAPP Project, and showing, at a minimum, additions to CWIP and plant in service.

99. The Delaware PSC states that it is not clear from the application that PHI would provide any support in its annual report to document whether amounts of CWIP that would be put into plant-service have accurately reduced the balance of CWIP.¹²²

100. The Delaware PSC argues that PHI's requested waiver of certain portions of § 35.13(h)(38) is dependent on the fact that PHI owns no generation projects that serve wholesale requirements. The Delaware PSC states that there is no consideration of the possibility that this will continue through the life of the MAPP Project for Delmarva, or any of the other affiliates of the PHI Companies.

¹²⁰ 18 C.F.R. §§35.25(e) and (f)(1).

¹²¹ See Appendix G – Affidavit of Warren Smiley (Smiley Aff.) Ex. PHI-36.

¹²² Delaware PSC October 10, 2008 Protest at 2-3.

b. Answers

101. PHI asserts that Maryland People's Counsel ignored the testimony of PHI's witness Alan Heintz and the affidavit of Warren Smiley describing the changes needed in the formula to implement the CWIP recovery as well as the accounting procedures in place to ensure no double-recovery of MAPP-related CWIP and AFUDC. PHI states that it has supplied the appropriate information with the Commission, and will more fully explain Statement BM to the Delaware PSC to address their concerns if circumstances change such that Delmarva becomes a generation owner.

c. Commission Determination

102. There may be several reasonable approaches to the Delaware PSC's request for additional transparency regarding the amounts removed from CWIP and placed into plant in service related to the MAPP Project. In this particular case, PHI provides several forms of assurance that amounts will not recover a return on CWIP at the same time they are recovering a return on and of investment through plant-in-service. First, PHI explains that each work order for the MAPP Project will be given a unique identifier. PHI explains that the PowerPlant asset accounting system that they employ will recognize these unique identifiers, and not calculate the unique identifier to both accounts in the same time period.¹²³ Second, PHI provides a monthly calculation of the CWIP associated with the MAPP Project, as well as the monthly calculation of the plant-in-service associated with the MAPP Project as part of its formula rate.¹²⁴ Finally, PHI states that the PHI Companies' independent auditor has the ability to consider compliance with the accounting requirements of the Uniform System of Accounts, which also requires that work orders be cleared from the CWIP account and included in electric plant in service upon completion and readiness for service of the first unit.¹²⁵

103. The Commission also finds that PHI's proposed accounting procedures in Exhibit PHI-36 of its filing sufficiently demonstrate that it 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, contrary to the Maryland People's Counsel's assertions. 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 USofA. To promote comparability of financial

¹²³ Smiley Aff. Ex. PHI-36.

¹²⁴ PJM Interconnection, LLC, FERC Electric Tariff Sixth Rev. Vol. No. 1, First Rev. Sheet Nos. 298S-298R, 300V-300W, and 310S-310R,

¹²⁵ 18 C.F.R. Part 101, FERC Accounts 101 and 107.

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.

104. PHI has failed to address the Commission's requirement for comparability of financial information. The Commission therefore directs PHI to provide footnote disclosures in the notes to the financial statements of its annual FERC Form No. 1 and its quarterly FERC Form No. 3-Q which (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 USofA; (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; 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.

105. We reject the Delaware PSC's contention on generation-related requirements of § 35.13(h)(38) as inapposite. This provision, as adopted by Order No. 679, has its advent in Order No. 298.¹²⁶ The Commission determined that to "facilitate the review of the prudence of CWIP costs in rate cases" the Commission required "a general statement of the utility's program for providing reliable and economic power." If the filing utility did not have certain specified information available, the Commission allowed the filing utility to "submit instead any pertinent information upon which it relied in deciding to replace or expand its [] facilities."¹²⁷

106. PHI has done so here, stating that it has relied upon the PJM RTEP in deciding on this expansion.¹²⁸ PJM is responsible for considering 10 year load forecasts, congestion events, and operational performance of the transmission system as the FERC- approved Regional Transmission Organization, and therefore, is responsible for developing required transmission enhancements needed to maintain reliability on a least-cost basis.¹²⁹ Therefore, we find that PHI has sufficiently fulfilled the requirements of §

¹²⁶ *Construction Work In Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, 48 Fed. Reg., 24,323 (June 1, 1983), FERC Stats. & Regs. ¶ 30,455 at p. 30,516 (1983), *order on reh'g*, Order No. 298-B, 48 Fed. Reg. 55,281 (December 12, 1983), FERC Stat. & Regs. ¶ 30,524 (1983).

¹²⁷ Order No. 298, 48 Fed. Reg., 24,323 at p. 30,156-7.

¹²⁸ Heintz Test. Ex. No. PHI-33 at 1-3.

¹²⁹ *Id.* at 3.

35.13(h)(38).

3. Formula Rate Modifications

107. PHI modified its formula rates to include the data necessary to accommodate the requested ROE and CWIP incentives. It states that these revisions make its formula rates substantially similar to the formula rates of other transmission-owning utilities that operate within PJM.¹³⁰

108. PHI explains that in addition to showing the changes to the formula rates in redline, it has also populated the formula using 2007 Form No. 1 data for illustrative purposes.¹³¹

a. Protests

109. Maryland People's Counsel states that, because of the requested incentives, the circumstances under which the parties to the settlement agreed to the formula rate and related protocols in 2006 have changed dramatically. Maryland People's Counsel asserts that the formula rate and related protocols should be revised in light of these changes. Maryland People's Counsel requests several modifications:

- a. In-person meeting of interested parties regarding the review of the Annual Updates;
- b. Requiring more explanatory material with the Annual Updates;
- c. Removal of restrictions on challenges to the "appropriateness of the application of the formula rate" and to whether the formula rate has been "properly applied";
- d. Removal of restrictions on information requests concerning costs or cost allocations;
- e. Clarification of interest and true-up rules on any under- or over-recoveries;
- f. Requiring segregation of all work orders for the MAPP Project from other projects, and preparation of monthly reports summarizing all costs; and

¹³⁰ Heintz Test. Ex. No. PHI-30 at 4 (citing *TRAIL*, 119 FERC ¶ 61,219 and *Commonwealth Edison Co.*, 119 FERC ¶ 61,234 (2007)).

¹³¹ Heintz Test. Ex. PHI-30 at 4, and Appendix B.

- g. Requiring more detailed explanation of how affiliates will share costs and responsibilities.

110. Maryland People's Counsel states that PHI's existing formula rates were designed to apply to PHI Companies' existing transmission infrastructure and facilities. Maryland People's Counsel asserts that if the formula rates are applied to the large scale and long-term MAPP Project, the formula rates will cease to be just and reasonable, especially with the inclusion of added incentives such as CWIP in rate base. Specifically, Maryland People's Counsel takes issue with PHI's request for cost recovery of incentives for the MAPP Project under "Option 2" of PJM's Schedule 12.¹³² Maryland People's Counsel argues that by using Option 2 to recover the costs of the MAPP Project, PHI's amendments to its tariff sheets are materially insufficient to carry PHI's burden of proof.

b. Answers

111. In its answer, PHI urges the Commission to reject Maryland People's Counsel's protest as an impermissible collateral attack on the March 20, 2006 uncontested settlement.¹³³ PHI asserts that challenges to the mechanics and protocols of PHI's formula rates are irrelevant to whether PHI should receive incentive rates for the MAPP Project. Therefore, PHI asks the Commission to reject Maryland People's Counsel's challenges to the formula rates.

112. Specifically, PHI states that Maryland People's Counsel is incorrect that the terms, formula, and protocols apply to existing transmission infrastructure only. PHI states that the companies' formula rate is designed to apply to both new and existing transmission facilities. Moreover PHI asserts that Maryland People's Counsel cited to a dissent that did not apply to the March 20, 2006 settlement order, but rather applied to an order in the ER05-513 docket. PHI states that the "Option 2" method of establishing a revenue

¹³² Maryland People's Counsel Protest at 10-11. Maryland People's Counsel references the revisions accepted in *Allegheny Power System Operating Cos.*, 111 FERC ¶ 61,308 (2005). Schedule 12 of the PJM OATT lays out three cost recovery options which PJM transmission owners may use to recover the costs of constructing new transmission upgrades resulting from the RTEP process. Under Option 1, the transmission owner could defer recovering the costs of RTEP upgrades until it filed to make a general revision to its zonal transmission rates. Under Option 2, the TO could file under section 205 of the FPA to establish an incremental revenue requirement for the new transmission project without a general revision to its modified zonal transmission rates. Under Option 3, the transmission owner could establish a revenue requirement for both the new and existing transmission facilities under a formula rate.

¹³³ See *Baltimore Gas & Electric Co.*, 115 FERC ¶ 61,066 (2006).

requirement under Schedule 12 for new transmission facilities cost recovery does not apply to PHI. Instead, PHI states that “Option 3” applied to the PHI companies.¹³⁴

c. Commission Determination

113. We reject Maryland People’s Counsel’s protest in which it asks for revisions to the formula rate protocols governing disclosure of information about the costs and other inputs that go into the formula rate. The Commission accepted these protocols to apply to both existing rate base and new projects. PHI has not in this proceeding filed tariff revisions related to these protocols.¹³⁵ Unchanged tariff provisions are not subject to revision as part of an FPA section 205 filing.¹³⁶ Moreover, Maryland People’s Counsel has provided no reason for us to find that the same protocols that apply to existing rate-based projects and new projects that do not receive incentives are not appropriate for the review of the costs and inputs for new projects that happen to receive incentives.¹³⁷ The

¹³⁴ See PHI Answer at n.10.

¹³⁵ In addressing International Transmission’s proposal to revise its Attachment O rate formula to use projected test-period data instead of historic test-period data, the Commission found the justness and reasonableness of the unchanged ROE component of the rate formula to be beyond the scope of that section 205 proceeding. *International Transmission Co.*, 116 FERC ¶ 61,036, at P 35 (2006) (*International Transmission*); *accord Boston Edison Co.*, 65 FERC ¶ 61,311, at 62,425-27 (1993), *reh’g denied*, 66 FERC ¶ 61,337 (1994). These holdings are on point in the instant proceeding, where PHI proposes to revise the PHI Companies’ formula rate to provide for 100 percent CWIP Recovery, but not the protocols. Moreover, like the switch to use of projected test-period data, 100 percent CWIP Recovery does not change the amount that the utility ultimately recovers for service, just the timing of such recovery. See, e.g., *International Transmission*, 116 FERC ¶ 61,036 at P 19; *Michigan Elec. Transmission Co.*, 117 FERC ¶ 61,314 (2006), *order on reh’g*, 118 FERC ¶ 61,139, *order on compliance*, 119 FERC ¶ 61,203, at P 17 (2007). With respect to 100 percent Abandoned Plant Recovery, no rate change is being sought at this time.

¹³⁶ See, e.g., *Pub. Serv. Comm’n of New York v. Federal Energy Regulatory Comm’n*, 866 F.2d 487, 488 (D.C. Cir. 1989) (upholding a statutory distinction between review of new filings and complaints challenging existing filings).

¹³⁷ Maryland People’s Counsel also incorrectly suggests that PHI’s existing protocols have never been applied before to an incentive rate project. In August, in
(continued...)

review of the costs and inputs associated with new projects that receive incentives are no different than those associated with other new projects that do not receive incentives.

4. Annual Reporting Requirement

114. Maryland People's Counsel protests the lack of an annual reporting requirement for PHI to provide the current status of the various components of the MAPP Project and their estimated or actual in-service dates. As a result of approving incentives in this order, however, our regulations will require PHI to file a FERC Form No. 730 report for incentive-based rate treatments for transmission, and we find this annual report to be sufficient. Form 730 provides, for each incentive project, the most up-to-date, expected completion date, percentage completion as of the date of filing, and reasons for delay. As the Commission previously has found, this report satisfies the Commission's requirement for an annual filing for CWIP recovery through a rate formula.

The Commission orders:

(A) PHI's request for incentives, as modified are granted, and proposed tariff sheets are hereby accepted for filing, effective November 1, 2008, subject to revision as discussed in the body of this order.

(B) PHI is ordered to file revised tariff sheets within 30 days of this order to reflect the ROE incentive granted herein.

By the Commission. Commissioner Kelly concurring with a separate statement to be issued at a later date.
Commissioner Wellinghoff concurring with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Pepco Holdings, Inc., 124 FERC ¶ 61,176 (2008), we granted PHI incentive rates for other projects using the same formula rate and related protocols.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pepco Holdings, Inc.

Docket No. ER08-1423-000

(Issued October 31, 2008)

WELLINGHOFF, Commissioner, concurring:

In today's order, the Commission approves a 150 basis point incentive ROE adder for PHI in connection with its Mid-Atlantic Power Pathway (MAPP) Project. I agree with that decision. I write separately to highlight important characteristics of this project that I believe warrant this significant incentive ROE adder.

I have dissented from numerous orders in which I felt that the majority undermined the nexus requirement that is an essential component of Order No. 679 and inappropriately granted incentive ROE adders.¹ By contrast, I agree that the MAPP Project satisfies the nexus requirement. It is noteworthy that this project is, as described in today's order, "a high voltage 500 kV line ... crossing through four states, and providing access to more than 1,300 MW of renewable generation in the western portion of PJM."² At least as important, I believe that this project is a non-routine investment worthy of the significant incentive ROE adder granted here because it will use advanced technologies that will benefit all users of the grid and ultimate consumers.

With respect to the use of advanced technologies, PHI provides substantial detail in its testimony and the technology statement required by Order No. 679.³ PHI Witness William Gausman states that "[t]he MAPP Project will be using the most state of the art and innovative electrical power equipment available today, and the project will allow PHI to be at the forefront of accepting, embracing and deploying new technologies."⁴ For example, Witness Gausman states that the portion of the MAPP Project that will cross under the Chesapeake Bay will likely be either "the highest capacity AC submarine cable system anywhere in the world" or "the highest voltage and highest capacity voltage

¹ See, e.g., *Commonwealth Edison Co.*, 122 FERC ¶ 61,037 (2008) (dissent in part of Commissioner Wellinghoff); *Pepco Holdings, Inc.*, 124 FERC ¶ 61,176 (2008) (dissent of Commissioner Wellinghoff); *Duquesne Light Co.*, 125 FERC ¶ 61,028 (2008) (dissent in part of Commissioner Wellinghoff).

² *Pepco Holdings, Inc.*, 125 FERC ¶ 61,130 at P 75 (2008).

³ PHI's required technology statement is Exhibit No. PHI-19.

⁴ Gausman Test. Ex. No. PHI-1 at 55.

source control DC submarine cable system, utilizing XLPE cable, anywhere in the world,” depending on whether PJM approves the use of VSC-based HVDC technology for the Project.⁵ Witness Gausman also describes key features of a “smart grid” at the transmission level,⁶ and he explains how various advanced technologies to be incorporated into the MAPP Project will promote those features.⁷ In addition, PHI Witness William Avera states that “the advanced technologies incorporated in the MAPP project will enhance its potential to provide dependable, efficient energy delivery, but the associated complexities also imply greater risks and uncertainties.”⁸

As I have discussed previously, I believe that consideration of advanced technologies and their associated risks and challenges is an appropriate component of the nexus analysis that the Commission conducts in evaluating applications for incentives under Order No. 679.⁹ Consistent with such consideration, today’s order accounts for technology-related risks in evaluating PHI’s incentives request.¹⁰

For these reasons, I concur with today’s order.

Jon Wellinghoff
Commissioner

⁵ *Id.* at 56, 65-66.

⁶ Among other “smart grid” features, Witness Gausman identifies the ability to: (1) optimize assets and operate efficiently; (2) monitor, self-analyze, and diagnose the health and condition of equipment and predict the malfunction or failure of a device before the event occurs in order to take preventative action; and (3) correct any problems quickly and with a minimum of intervention by the grid operator. *Id.* at 66.

⁷ *Id.* at 67-71.

⁸ Avera Test. Ex. PHI-24 at 91.

⁹ See, e.g., *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 (2008) (dissent in part of Commissioner Wellinghoff at 1-4); *Northeast Utilities Service Co.*, 124 FERC ¶ 61,044 (2008) (dissent of Commissioner Wellinghoff at 2-3).

¹⁰ *Pepco Holdings, Inc.*, 125 FERC ¶ 61,130 at P 57, 76-77 (2008).