

140 FERC ¶ 61,035
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Indiana Public Service Company

Docket No. EL12-49-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued July 19, 2012)

1. On March 16, 2012, Northern Indiana Public Service Company (NIPSCO) filed a petition for declaratory order, under Rule 207 of the Commission's Rules of Practice and Procedure,¹ section 219 of the Federal Power Act (FPA)² and Order No. 679.³ In the petition, NIPSCO seeks approval of certain transmission rate incentives in connection with the Reynolds to Burr Oak to Hiple Project that NIPSCO plans to construct under the Midwest Independent Transmission System Operator, Inc. (MISO) Transmission Expansion Plan (MTEP). Specifically, NIPSCO requests that the Commission authorize (1) inclusion of 100 percent of prudently incurred Construction Work in Progress (CWIP recovery) in rate base; and (2) recovery of 100 percent of prudently incurred costs of transmission facilities that are abandoned for reasons beyond the control of NIPSCO (abandoned plant recovery). In this order, we grant NIPSCO's petition, as discussed below.

¹ 18 C.F.R. § 385.207 (2012).

² 16 U.S.C. § 824s (2006).

³ *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).

I. Background

2. NIPSCO is an Indiana corporation and is a subsidiary of NiSource, Inc. (NiSource). NIPSCO serves approximately 786,000 natural gas customers and over 456,000 electric customers across Northern Indiana. NIPSCO owns and operates approximately 3,300 megawatts (MW) of electric generating capacity and approximately 2,800 miles of electric transmission lines. NIPSCO is a transmission owning member of MISO, and it has transferred functional control of its transmission system to MISO.

3. Through its open and transparent, stakeholder-driven MTEP process, MISO annually identifies transmission projects required to address system needs and produces an annual MTEP report. MISO included the Reynolds to Burr Oak to Hiple Project in its 2011 MTEP Report as part of a portfolio of 17 Multi-Value Projects (MVP) (MVP Portfolio).⁴ NIPSCO states that MTEP 2011 was approved by the MISO Board of Directors on December 8, 2011.

II. Description of the Filing

A. The Project

4. NIPSCO states that the Reynolds to Burr Oak to Hiple Project will be a single-circuit 345 kV line approximately 100 miles in length, originating at the Reynolds substation in White County, Indiana, proceeding to the Burr Oak substation near the Town of Burr Oak in Marshall County, Indiana, and terminating at the Hiple substation near the Town of Topeka in LaGrange County, Indiana. NIPSCO states that the project will be designed and constructed on structures capable of supporting two circuits to allow for future growth.

5. NIPSCO explains that the Reynolds to Burr Oak to Hiple Project is a critical component of the MVP Portfolio that allows for the movement of significant capacity through the eastern part of MISO. NIPSCO states that the project interconnects at NIPSCO's Reynolds substation, which has emerged as a key hub for the movement of renewable energy from west to east.

6. NIPSCO states that it expects the Reynolds to Burr Oak to Hiple Project will cost \$271 million, which represents a projected 62 percent increase to NIPSCO's current net

⁴ *MISO Transmission Expansion Plan 2011* (Sept. 22, 2011), available at <https://www.midwestiso.org/Library/Repository/Study/MTEP/MTEP11/MTEP11%20Draft%20Report.pdf> (2011 MTEP Report).

transmission plant in service.⁵ NIPSCO states that this expenditure amounts to the largest transmission investment the company has made in the last 30 years. NIPSCO states that the projected in-service date of the project is 2019.⁶

7. NIPSCO states that in the MTEP process, each project in the MVP Portfolio, including the Reynolds to Burr Oak to Hiple Project, was justified against MVP Criteria 1, which requires projects to reliably or economically enable the delivery of energy in support of documented energy policy mandates. More specifically, each project was shown to mitigate reliability constraints which would otherwise limit the renewable energy which may be delivered to system load. NIPSCO states that the new and upgraded facilities will benefit consumers by making it possible to integrate substantial amounts of power from new renewable resources located in MISO, and in particular, within the vicinity of the Reynolds substation.

8. NIPSCO explains that there are significant amounts of wind resources seeking to interconnect to the NIPSCO system in the vicinity of the Reynolds to Burr Oak to Hiple Project.⁷ NIPSCO notes that MTEP 2011 states the Reynolds to Burr Oak to Hiple line “offloads the existing 138 kV parallel circuits by connecting Reynolds station in Indiana’s wind heavy Tippecanoe County to Hiple in Northeast Indiana.”⁸ NIPSCO contends that the project will provide a critical west to east path that circumvents constrained paths in the Chicago area, allowing for the flow of significant wind resources from the Upper Midwest to load centers to the East. NIPSCO states that the project will also provide congestion relief to Northern Indiana and neighboring areas, and enhanced reliability. NIPSCO states that, as explained in Mr. Dehring’s testimony, the line relieves the constrained 138 kV parallel path. Further, NIPSCO states, the Reynolds to Burr Oak to Hiple Project will help to relieve loadings driven by direct wind injection in the Lafayette 138 kV system and will mitigate numerous NERC Category B and Category C violations. According to NIPSCO, the project is designed to alleviate a significant transmission bottleneck preventing the movement of a significant amount of MISO wind generation in the vicinity of the Reynolds substation.

⁵ NIPSCO Filing at 4.

⁶ *Id.* at 12.

⁷ *Id.* at 5.

⁸ *Id.* at 13 (citing 2011 MTEP Report at 107).

B. Request for Incentives

9. NIPSCO requests that the Commission authorize two incentive-based rate treatments pursuant to section 219 of the FPA and Order No. 679. First, NIPSCO seeks CWIP recovery during the development and construction period for the Reynolds to Burr Oak to Hiple Project. NIPSCO states that 100 percent CWIP recovery will be an important tool in managing the capital costs of the project. NIPSCO states that CWIP in rate base will also alleviate any rate shock associated with cost recovery for the new facilities.⁹

10. Second, NIPSCO requests approval for abandoned plant recovery in the event that the project must be abandoned for reasons outside of its control. NIPSCO states that abandoned plant recovery will help mitigate the development and financing risks associated with the project by ensuring that NIPSCO and its financing partners are not at risk for stranded investment if the project is abandoned, and NIPSCO's ratepayers are not at risk for higher than necessary capital costs.¹⁰

11. Order No. 679 requires an applicant seeking transmission incentives to provide a technology statement describing advanced technology considered for use in the subject projects. In light of that requirement, NIPSCO has provided a technology statement describing the advanced technologies that it plans to use in the project.¹¹ NIPSCO states that the Reynolds to Burr Oak to Hiple Project will use: microprocessor-based protective relays; synchrophasor technology; digital fault recorders; advanced conductor designs; fiber-optic based communication; cyber security reflective of the most current critical infrastructure protection standards; and double circuit mono-poles with a steel weathering finish.¹²

III. Notice of Filing and Responsive Pleadings

12. Notice of NIPSCO's filing was published in the *Federal Register*, 77 Fed. Reg. 19,279 (2012), with interventions and comments due on or before April 16, 2012. Timely motions to intervene were filed by Pioneer Transmission, LLC, the Indiana Office of Utility Consumer Counselor, and American Municipal Power, Inc. Indiana Utility

⁹ *Id.* at 16.

¹⁰ *Id.*

¹¹ *Id.* at 29-30.

¹² *Id.*

Regulatory Commission (Indiana Commission) filed a notice of intervention. Exelon Corporation (Exelon) filed a timely motion to intervene and comments.

13. Exelon states that it takes no position on NIPSCO's incentive requests. However, Exelon disagrees with NIPSCO's statement that "the project will also provide a critical west to east path that circumvents constrained paths in the Chicago area."¹³ Exelon states that because the line is totally in Indiana, it does not connect with Illinois to form a path around Chicago and notes that the project does not provide any congestion or reliability benefit to Commonwealth Edison Company or to the PJM Interconnection L.L.C. (PJM) system. Thus, Exelon requests that the Commission should not accept NIPSCO's statement for purposes of this petition or for any other purpose.

IV. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

1. Section 219 Requirement

15. In the Energy Policy Act of 2005,¹⁴ Congress added section 219 to the FPA and directed the Commission to establish rules providing incentives to promote capital investment in transmission infrastructure. The Commission subsequently issued Order No. 679, setting forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by NIPSCO.

16. Pursuant to Order No. 679, an applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."¹⁵ Also, as part of this demonstration, "section 219(d) provides that all rates approved under the Rule are subject to the requirements of sections

¹³ Exelon Comment at 2 (citing NIPSCO Filing at 13).

¹⁴ Pub. L. No. 109-58, § 1241 119 Stat. 594 (2005).

¹⁵ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

205 and 206 of the FPA, which require that all rates, charges, terms and conditions be just and reasonable and not unduly discriminatory or preferential.”¹⁶

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 219.¹⁷ Order No. 679 establishes a process for an applicant to follow to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) the transmission project has received construction approval from an appropriate state commission or state siting authority.¹⁸ 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.¹⁹

a. Proposal

18. NIPSCO contends that it meets the rebuttable presumption under Order No. 679. NIPSCO states that it has developed its transmission expansion plans in cooperation with MISO and that the project has been assessed by MISO as an MVP through the MTEP process. NIPSCO states that potential MVPs are identified in the MTEP process as projects that MISO identifies “to ‘enable the reliable and economic delivery of energy in support of documented energy policy mandates’ or laws that ‘address, through the development of a robust transmission system, multiple reliability and/or economic issues affecting multiple transmission zones.’”²⁰ Further, NIPSCO states that the MVP analysis

¹⁶ *Id.* P 8 (citing 16 U.S.C. §§ 824d, 824e (2006)).

¹⁷ 18 C.F.R. § 35.35(i) (2012).

¹⁸ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58.

¹⁹ Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

²⁰ NIPSCO Filing at 6-7 (citing Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners, Tariff revisions, Docket No. ER10-1791-000, at 1 (filed July 15, 2010)).

included a robust transmission study including power flow analysis, short circuit, voltage stability, production cost, transient stability and economic analysis.²¹

19. NIPSCO states that the Reynolds to Burr Oak to Hiple Project was one of 17 MVP projects approved under Criterion 1 of the MVP Criteria²² as part of the MISO MVP Portfolio during the December 2011 meeting. NIPSCO further states that the basis for that approval is that the MVP Portfolio reduces congestion and improves reliability. Specifically as to the Reynolds to Burr Oak to Hiple Project, NIPSCO notes that MISO provided a description of its benefits to reliability and congestion as justification for its inclusion in the MVP Portfolio. Therefore, NIPSCO maintains that approval of the project through the MTEP process satisfies the requirements for the rebuttable presumption established in Order No. 679.

b. Commission Determination

20. As stated above, Order No. 679, as modified by Order No. 679-A, provides that a rebuttable presumption can be applied to a transmission project that results from a fair and open regional planning process or one that has received construction approval from the appropriate state authority, if the process considers whether a project ensures reliability or reduces the cost of delivered power by reducing congestion.²³ In this case, the project has received approval through the MTEP process. The MISO Board of Directors approved the project under Criterion 1 during the December 2011 meeting. The Commission has previously found that projects approved under Criterion 1 are

²¹ NIPSCO Filing at 9. NIPSCO notes that, because MVPs are evaluated on a portfolio basis, most of MISO's analysis supporting development of the 17 MVPs identified benefits on an aggregate basis.

²² Under the MISO tariff, for a project to be designated as an MVP, among other things, it must satisfy one of three functional criteria. To satisfy Criterion 1, "[an MVP] must be developed through the [MTEP] process for the purpose of enabling the Transmission System to reliably and economically deliver energy in support of documented energy policy mandates or laws that have been enacted or adopted through state or federal legislation or regulatory requirement that directly or indirectly govern the minimum or maximum amount of energy that can be generated by specific types of generation. The MVP must be shown to enable the transmission system to deliver such energy in a manner that is more reliable and/or more economic than it otherwise would be without the transmission upgrade." MISO, FERC Electric Tariff, Fourth Revised Volume No. 1, Original Sheet No. 3451A.

²³ 18 C.F.R. § 35.35(i) (2012).

entitled to the rebuttable presumption established in Order No. 679.²⁴ Therefore, we find that the Reynolds to Burr Oak to Hiple Project is entitled to the rebuttable presumption to meet the section 219 requirement.

2. The Nexus Requirement

21. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant for a transmission rate incentive must demonstrate that there is a nexus between the incentive sought and the investment being made. 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.²⁵ In Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that incentives requested are “tailored to address the demonstrable risks or challenges faced by the applicant.”²⁶ The nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis.

22. As part of this evaluation, the Commission has found the question of whether a project is “routine” to be particularly probative.²⁷ In *BG&E*, 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 an applicant. For example, an applicant may present evidence on: (1) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (2) the effect of the project (e.g., improving reliability or reducing congestion costs); and (3) 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).²⁸ Additionally, the Commission clarified that “when an applicant has adequately demonstrated that the project for which it requests an incentive is not routine,

²⁴ *Ameren Servs. Co.*, 135 FERC ¶ 61,142, at P 31 (2011).

²⁵ 18 C.F.R. § 35.35(d) (2012); Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 26.

²⁶ Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

²⁷ *Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084, at P 48 (2007) (*BG&E*).

²⁸ *Id.* PP 52-55.

that applicant has, for purposes of the nexus test, shown that the project faces risks and challenges that merit an incentive.”²⁹

a. Proposal

23. NIPSCO asserts that the incentives requested in connection with the Reynolds to Burr Oak to Hiple Project satisfies the nexus test established in Order No. 679 because the project is non-routine and the incentives are tailored to address the risks and challenges of the project. NIPSCO maintains that given its scope and effects, and the challenges and risks NIPSCO faces in developing it, the project is not routine. With respect to scope, NIPSCO states that it expects to invest between \$271 million on the Reynolds to Burr Oak to Hiple Project, which will increase NIPSCO’s current net transmission plant by 62 percent. NIPSCO further states that this expenditure amounts to the largest transmission investment the company has made in the last 30 years.³⁰

24. With respect to the effects of the project, NIPSCO states that the Reynolds to Burr Oak to Hiple Project is expected to mitigate five bulk electric system North American Electric Reliability Corporation (NERC) Category B thermal constraints and five NERC Category C constraints.³¹ NIPSCO expects that the project will provide transmission support and reliability benefits to neighboring utilities and the new line will also greatly enhance access to MISO’s regional markets by providing a vital east to west link.

25. NIPSCO also identifies risks and challenges associated with the project, including financial risks and the use of advanced technologies.³² NIPSCO states that it currently holds a corporate credit rating of BBB- from S&P, a long-term issuer rating of Baa2 from Moody’s and a senior unsecured debt rating of BBB from Fitch.³³ NIPSCO claims that while all of these ratings continue to be investment grade, a downgrade by Standard & Poor’s, Moody’s or Fitch would result in a rating that is below investment grade. Also, NIPSCO is a wholly-owned subsidiary of NiSource. As such, NIPSCO states that its access to capital is impacted by the financial health and credit rating of its parent, NiSource. According to NIPSCO, NiSource has substantial indebtedness which could

²⁹ *Id.* P 54.

³⁰ NIPSCO Filing at 16.

³¹ *Id.* at 20.

³² *Id.* at 20-24.

³³ *Id.* at 22.

adversely affect its financial condition. NIPSCO maintains that the parent company's substantial indebtedness could negatively impact its credit ratings in the future, thereby increasing its borrowing costs and even potentially limiting its access to capital, which in turn, can negatively impact NIPSCO's ability to borrow additional intercompany funds from the parent and/or increase the cost of its intercompany borrowings.

b. Commission Determination

26. Based on our review of NIPSCO's filing, we find that NIPSCO has demonstrated that the Reynolds to Burr Oak to Hiple Project meets the nexus test, as discussed below.

27. Regardless of whether the project provides any congestion or reliability benefit to Commonwealth Edison Company or to the PJM system, NIPSCO has demonstrated that the scope and effect of the Reynolds to Burr Oak to Hiple Project are significant, which contributes to our determination that the project is non-routine. As noted above, the project is large in scope compared to NIPSCO's current transmission plant in-service. Moreover, NIPSCO's investment in the project is significant and would challenge NIPSCO's ability to maintain adequate cash flows to prevent degradation of its credit metrics and ratings, which is critical to maintaining the availability of reasonably priced capital, as discussed further below regarding the CWIP recovery incentive.

28. For purposes of the nexus test, we also take note of the effects of the project. The Reynolds to Burr Oak to Hiple Project is expected to mitigate NERC contingencies, improve reliability, and integrate new renewable generation. A primary reason that NIPSCO is constructing the project is to allow for the integration of wind resources from the vicinity of the Reynolds substation, near an existing area of wind resources with opportunities for additional wind development. This effect of the project is consistent with the Commission's recognition in Order No. 679 of the importance of encouraging "investors to take the risks associated with constructing large new transmission projects that can integrate new generation and otherwise reduce congestion and increase reliability."³⁴

29. Accordingly, we will grant the incentives discussed herein for the Reynolds to Burr Oak to Hiple Project. As discussed below, we find that the requested incentives are tailored to the demonstrable risks and challenges associated with the project.

³⁴ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 25.

3. Construction Work in Progress

a. Proposal

30. NIPSCO seeks inclusion of 100 percent of CWIP in rate base for the Reynolds to Burr Oak to Hiple Project. NIPSCO states that including 100 percent of CWIP in rate base will address financial pressures by providing predictable and stable levels of cash flow during the construction period. According to NIPSCO, increased cash flow provides an earlier return for NIPSCO's financial partners and should decrease interest expense, and helps offset any negative impact on key financial ratios resulting from the large capital outlay. NIPSCO further states that the return on CWIP would allow NIPSCO to begin generating cash with which to service debt and reduce the required amount of external capital.³⁵ Unlike the traditional capitalized allowance for funds used during construction (AFUDC) method, NIPSCO states that CWIP recovery is a revenue neutral ratemaking treatment and improves a utility's cash flows which would alleviate pressure during construction. NIPSCO explains that CWIP recovers costs earlier, thereby eliminating the compounding of carrying costs. Finally, NIPSCO asserts that CWIP recovery also benefits ratepayers because it prevents the "rate shock" associated with the ratemaking impact of adding a large capital investment to plant in service accounts at one time.³⁶

31. Under Order No. 679 and the Commission's regulations, an applicant must propose accounting procedures that ensure customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP in rate base.³⁷ To satisfy this requirement, NIPSCO explains, should the Commission grant the request for 100 percent CWIP recovery, it has developed procedures to ensure that it does not double recover through AFUDC and a return on CWIP in rate base.³⁸ NIPSCO describes that it will not accrue AFUDC in Account 107, Construction Work in Progress, for this project. NIPSCO continues that it will specifically track the work orders or projects in the PowerPlant accounting system and no AFUDC will be calculated on their balances.

³⁵ NIPSCO Filing at 24; Exhibit No. 2 at 5.

³⁶ NIPSCO Filing at 25.

³⁷ 18 C.F.R. § 35.25 (2012).

³⁸ NIPSCO Filing at 31; Exhibit No. 2 at 7-9.

NIPSCO requests to use footnote disclosures to show the impact of the incentive similar to the method approved in *Trans-Allegheny Interstate Line Company*.³⁹

32. Finally, NIPSCO proposes to annually file the FERC-730 form, Report of Transmission Investment Activity, with the Commission in order to satisfy the annual filing requirement for applicants granted CWIP recovery.⁴⁰ NIPSCO states that the annual FERC-730 form requires it to provide information regarding transmission investment costs and project construction status, including estimated completion dates.⁴¹ Further, as part of the annual customer notification and information procedures in its formula rate protocols, NIPSCO will develop and post Open Access Same-Time Information System work papers that show the cost information and in-service date assumptions regarding the transmission projects and CWIP recovery amounts to be included in its estimates for each year.⁴²

b. Commission Determination

33. We will grant NIPSCO's request for CWIP recovery. 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.⁴³ The Commission stated that this rate treatment will further the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.⁴⁴

34. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.⁴⁵ We find that NIPSCO has shown a nexus between the proposed CWIP recovery and its investment in the Reynolds to Burr Oak to Hiple Project. As discussed above, the Reynolds to Burr Oak to Hiple Project is expected

³⁹ 119 FERC ¶ 61,219 (2007).

⁴⁰ NIPSCO Filing at 32.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 29, 117.

⁴⁴ *Id.* P 115.

⁴⁵ *Id.* P 117.

to cost \$271 million and be in service by the end of 2019. The cost and timing for completing the project will put pressure on NIPSCO's finances. Granting CWIP recovery will help ease this pressure by providing upfront certainty, improve cash flow, and reduced interest expense as NIPSCO moves forward with the Reynolds to Burr Oak to Hiple Project. Considering the relative size of NIPSCO's investment, as compared to its current transmission rate base, we find that authorization of CWIP recovery is appropriate to assist in the construction of new transmission facilities.

35. Further, we find that the proposed accounting procedures that NIPSCO filed in Exhibit No. 2 sufficiently demonstrate that it has appropriate accounting procedures and internal controls in place to prevent recovery of AFUDC to the extent CWIP has been allowed in rate base. NIPSCO has also committed to making, in its annual form FERC-730 report, the annual filing required by the Commission for applicants seeking CWIP recovery.⁴⁶ The Commission has previously found that filing a FERC-730 form satisfies the Commission's requirement for an annual filing for CWIP recovery through a rate formula.⁴⁷ Accordingly, we find that the project is eligible to receive the incentive for inclusion of 100 percent of prudently incurred CWIP in rate base. We approve NIPSCO's proposed accounting procedures, use of footnote disclosures to provide comparability of financial information, and proposal to annually file the FERC-730 form.

4. Abandoned Plant Recovery

a. Proposal

36. NIPSCO requests abandoned plant recovery in the event that the Reynolds to Burr Oak to Hiple Project is abandoned for reasons outside of its control. NIPSCO states that granting this incentive is appropriate because it mitigates risks by ensuring that it and its financing partners are not at risk for stranded investment if the project is abandoned for factors outside of NIPSCO's control, and ratepayers are not at risk for higher than unnecessary capital costs.⁴⁸ NIPSCO states that the risk associated with the Reynolds to Burr Oak to Hiple Project includes unprecedented size and scope for NIPSCO in terms of complexities, long lead time, and capital cost.⁴⁹ For this incentive, NIPSCO states that it

⁴⁶ NIPSCO Filing at 32.

⁴⁷ *MidAmerican Energy Co. and Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,250, at P 56 (2011); *see also The United Illuminating Co.*, 119 FERC ¶ 61,182, at P 92 (2007); *Xcel Energy Servs., Inc.*, 121 FERC ¶ 61,284, at P 68 (2007).

⁴⁸ NIPSCO Filing at 17.

⁴⁹ *Id.*; Exhibit No. 2 at 11.

is only seeking approval to revise its formula rate to add placeholders in Attachment O that would allow abandoned plant recovery.

b. Commission Determination

37. We grant the requested incentive for NIPSCO to have the opportunity to recover its prudently incurred costs for the Reynolds to Burr Oak to Hiple Project if the project is abandoned for reasons beyond NIPSCO's control. In Order No. 679, the Commission found that the abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.⁵⁰ We find that NIPSCO has demonstrated, consistent with Order No. 679, a nexus between the recovery of 100 percent of prudently incurred abandonment costs and its planned investment in the Reynolds to Burr Oak to Hiple Project.

38. We find that this incentive will be an effective means to encourage the project's completion. Approval of the abandonment incentive will both attract financing and protect NIPSCO from further losses if the project is cancelled for reasons outside its control. Granting this abandoned plant incentive will help ameliorate this risk by providing NIPSCO with some degree of certainty as it moves forward.

39. We note, however, that if the Reynolds to Burr Oak to Hiple Project is cancelled before it is completed, NIPSCO is required to make a filing under section 205 of the FPA to demonstrate that the costs were prudently incurred before it can recover any abandoned plant costs, as NIPSCO commits to doing in the filing.⁵¹ NIPSCO must also propose in its section 205 filing a just and reasonable rate to recover these costs. Order No. 679 specifically requires that any utility granted this incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.⁵²

5. Nexus with Total Package of Incentives

40. We find that there is a nexus between the incentives requested and the investment and find that NIPSCO has shown that the total package of incentives is tailored to address the demonstrable risks or challenges faced by NIPSCO in investing in the Reynolds to Burr Oak to Hiple Project.⁵³ As we have stated above, the incentives requested must be

⁵⁰ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 163-166.

⁵¹ NIPSCO Filing at 27.

⁵² Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 166.

⁵³ See Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at PP 21, 27.

tailored to address the demonstrable risks or challenges faced by the applicant. This nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. Consistent with Order No. 679, the Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test.⁵⁴

41. Our finding is based upon our interpretation of section 219 as authorizing the Commission to approve more than one incentive rate treatment for an applicant proposing a new transmission project, as long as each incentive is justified by a showing that it satisfies the requirements of section 219, and that there is a nexus between the incentives being proposed and the investment being made.

42. Here, we find that the total package of incentives requested by NIPSCO is tailored to the risks that it faces in investing in the Reynolds to Burr Oak to Hiple Project. As discussed above, NIPSCO has demonstrated that each of the requested incentives will reduce the risks that NIPSCO faces and will remove potential obstacles to the construction of the project.

The Commission orders:

NIPSCO's petition is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵⁴ See Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 55; see, e.g., *Allegheny Energy, Inc., et al.*, 116 FERC ¶ 61,058, at PP 60, 122 (2006) (approving ROE at the upper end of the zone of reasonableness and 100 percent abandoned plant recovery); *Duquesne Light Co.*, 118 FERC ¶ 61,087, at P 55 (2007) (granting an enhanced ROE, 100 percent CWIP, and 100 percent abandoned plant recovery); *PPL Elec. Utils. Corp.*, 123 FERC ¶ 61,068, at PP 39, 42, 46 (2008) (approving ROE at the upper end of the zone of reasonableness, 100 percent CWIP, and 100 percent abandoned plant recovery).