UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northeast Utilities Service Company
and National Grid USA

Docket No. ER08-1548-000

(Issued November 19, 2008)

Attached are the separate statements by Commissioner Kelly concurring in part and dissenting in part and Commissioner Wellinghoff dissenting in part, to an order issued on November 17, 2008, in the above-referenced proceeding, *Northeast Utilities Service Company and National Grid USA*, 125 FERC ¶ 61,183 (2008).

Kimberly D. Bose,
Secretary.

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KELLY, Commissioner, *concurring in part and dissenting in part:*

This order addresses an application filed by Northeast Utilities Service Company (Northeast Utilities), on behalf of its transmission-owning affiliates, and National Grid USA (National Grid), on behalf of its wholly-owned public utility subsidiaries. Northeast Utilities and National Grid request that the Commission authorize incentives for the New England East-West Solution (NEEWS Project). Northeast Utilities and National Grid seek three incentives: (1) an incentive return on equity (ROE) of 150 basis points; (2) inclusion of 100% Construction Work in Progress (CWIP) costs in rate base; and (3) recovery of 100% of prudently incurred costs if the NEEWS Project is abandoned for reasons beyond the control of Applicants.

I applied the project-based criteria that I have relied upon in previous transmission incentives proceedings in order to determine whether the NEEWS Project warrants incentive rate treatment.[1] Based on those criteria, I conclude that it does. Moreover, it is appropriate to consider the four components of the NEEWS Project as a single, integrated transmission project. However, I cannot support the full range of incentives granted by the majority. Consistent with decisions I have made in previous proceedings, I conclude that the NEEWS Project warrants incentive rate treatment in the form of the requested CWIP and abandoned plant incentives but not an incentive ROE adder.[2]

NRG Companies and the Massachusetts Attorney General question whether the NEEWS Project can be considered a unified, comprehensive project. In a recent transmission incentives proceeding, I warned against evaluating disparate

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[1] *American Electric Power Service Corporation*, 118 FERC ¶ 61,041 (2007).

[2] *PPL Electric Utilities Corporation and Public Service Electric and Gas Company*, 123 FERC ¶ 61,068 (2008), *Central Maine Power Company*, 125 FERC ¶ 61,079 (2008).

transmission projects as a single, integrated transmission project.[3] However, I believe that the four components of the NEEWS Project will function as a single integrated project and can be evaluated as such for the purposes of incentive rate treatment. National Grid, Northeast Utilities, and ISO New England (ISO-NE) formed a working group to study and develop a 10-year plan for transmission system improvements for southern New England and the NEEWS Project was found to be the most reliable solution for the region. Furthermore, ISO-NE's 2008 Regional System Plan states that transmission studies indicate that the NEEWS Project comprehensively addresses "a number of significant long-term reliability issues affecting Springfield, MA, Rhode Island, and the overall performance of the Connecticut-Rhode Island-Massachusetts area."[4]

The NEEWS Project merits incentive rate treatment. It will span three states, expand New England's 345 kV system, and affect the transmission systems of two New England transmission owners. In terms of absolute cost ($2.1 billion[5]) and relative to the transmission plant in service figures, the NEEWS Project represents a significant expansion of the southern New England transmission system. Additionally, the long lead time—the estimated in service date of the NEEWS Project is not expected until 2012-2013—supports incentive rate treatment.

I support the majority's decision to grant the CWIP and abandoned plant incentives. Inclusion of 100% of CWIP costs in rate base is appropriate given the large cost of the NEEWS Project (both in absolute terms and as a percentage of current transmission rate base) and the estimated in-services dates. Allowing for recovery of 100% of CWIP costs in rate base will help alleviate the financial risks associated with the large capital expenditures required during the construction period. Granting abandoned plant is appropriate given that Northeast Utilities and National Grid will be required to obtain siting approval from three states—Connecticut, Massachusetts and Rhode Island—and at the federal, state and local levels.

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[3] *Pepco Holdings, Inc.*, 124 FERC ¶ 61,176 (2008). See separate statement of Commissioner Kelly issued August 27, 2008.

[4] ISO New England, *2008 Regional System Plan*, at 10 (Oct. 16, 2008), *available at* http://www.iso-ne.com/trans/rsp/2008/rsp08_final_101608_public_version.pdf.

[5] Northeast Utilities' share is estimated to be $1.409 billion while National Grid's share is estimated to be $634 million.

However, I do not support an incentive ROE adder of 125 basis points as granted in the order. First, it is apparent from the record evidence that the primary driver of the NEEWS Project is resolution of a series of near-term reliability problems on the transmission system in southern New England. In their joint transmittal letter, Northeast Utilities and National Grid state that the NEEWS Project will "solve the urgent need for improvements of the southern New England transmission system…ensuring compliance with reliability standards in the future as load continues to grow."[6] Moreover, a needs analysis produced by ISO-NE found that "reliability problems will worsen over time as demand increases, and the southern New England system will not be able to meet the region's import requirements by as early as 2009."[7] In adopting Order 679, the Commission explained: "In many instances, an incentive-based ROE is appropriate because our traditional policies are not sufficient to encourage new investment."[8] Here, Northeast Utilities and National Grid have failed to explain why their standard returns on equity are insufficient to encourage the investment that they are required to undertake in order to meet near-term reliability needs. Second, in identifying the risks and challenges faced in undertaking the NEEWS Project, Northeast Utilities and National Grid fail to distinguish between the risks that necessitate the CWIP incentive and those that necessitate the requested ROE adder. Both companies reference significant financial risks in the form of pressure on their credit ratings in arguing for an incentive ROE adder as well as for authorizing the inclusion of 100% CWIP in rate base. I believe that, consistent with Order 679, the CWIP incentive adequately addresses such risks.

Finally, I note that Northeast Utilities and National Grid supplement their incentive ROE adder request by comparing the NEEWS Project to projects in previous proceedings.[9] These proceedings addressed incentives requests covering 19 different projects. With one exception, I did not approve ROE adders for those projects and, therefore, I do not find the comparison relevant.

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[6] Northeast Utilities and National Grid September 17, 2008 transmittal letter, Docket No. ER08-1548-000, at 2.

[7] *Id* at 7.

[8] *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 94, *order on reh 'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh 'g*, 119 FERC ¶ 61,062 (2007).

[9] *Virginia Electric and Power Company*, 124 FERC ¶ 61,207 (2008); *Pepco Holdings Inc.*, 124 FERC ¶ 61,176 (2008).

For these reasons, I respectfully concur in part and dissent in part.

Suedeen G. Kelly

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WELLINGHOFF, Commissioner, dissenting in part:

Northeast Utilities and National Grid have requested three incentives for their proposed New England East-West Solution (NEEWS) Project: (1) inclusion of 100 percent CWIP costs in rate base; (2) recovery of 100 percent of prudently incurred costs if the project is abandoned for reasons beyond their control; and (3) a 150 basis point incentive ROE adder. The majority grants each type of incentive, though it determines that an incentive ROE adder of 125 basis points is warranted. I dissent in part because I find that Northeast Utilities and National Grid have not satisfied the Commission's nexus requirement with regard to their request for an incentive ROE adder.

An essential aspect of Order No. 679 is the requirement that each applicant must demonstrate a nexus between the incentive sought and the investment being made.[1] I have dissented from numerous orders in which I felt that the majority applied an insufficiently rigorous version of the nexus requirement and, therefore, inappropriately granted incentive ROE adders.[2] I have similar concerns about this order. For example, the majority bases its finding that Northeast Utilities and National Grid have satisfied the nexus requirement, in part, on the statement that the NEEWS Project faces "internal competition for financing with other projects."[3] That statement is likely correct, but it would be equally true of any project that Northeast Utilities or National Grid may currently be contemplating. The majority's willingness to grant an incentive ROE adder based on a statement that, while factually accurate, would apply equally to any project presented to the Commission again demonstrates that the majority has set an inappropriately low bar for the nexus requirement of Order No. 679.

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[1] Order No. 679 at P 26.

[2] *See, e.g.*, *Commonwealth Edison Co.*, 122 FERC ¶ 61,037 (2008); *PPL Elec. Utilities Corp.*, 123 FERC ¶ 61,068 (2008); *Pepco Holdings, Inc.*, 124 FERC ¶ 61,176 (2008); *Virginia Elec. and Power Co.*, 124 FERC ¶ 61,207 (2008).

[3] *Northeast Utilities*, 125 FERC ¶ 61,183 at P 69 (2008).

The majority also states that the NEEWS project "is not a routine transmission investment," and thus satisfies the nexus requirement, because it "will ensure the southern New England grid is reliable and complies with the reliability standards of North American Electric Reliability Corporation [NERC], Northeast Power Coordinating Council, and ISO-NE."[4] By finding that Northeast Utilities and National Grid have not satisfied the nexus requirement with regard to their request for an incentive ROE adder, I do not intend to understate the importance of either the NEEWS Project or its sponsors' compliance with mandatory reliability standards. Nonetheless, I am concerned that by emphasizing the reliability benefits of the NEEWS project as a basis for satisfying both the nexus requirement and the requirements of FPA section 219, [5] the majority places inadequate emphasis on other components of the nexus analysis.

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.[6] Northeast Utilities and National Grid submitted a technology statement in accordance with an important requirement established in Order No. 679.[7] I do not believe, however, that the discussion in that technology statement or the companies' other arguments is sufficient to satisfy the nexus requirement with regard to their request for an incentive ROE adder.

For these reasons, I respectfully dissent in part.

Jon Wellinghoff
Commissioner

[4] *Id.* P 68.

[5] *Id*. P 57.

[6] *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).

[7] The Commission established this requirement in Order No. 679 at P 302. Northeast Utilities and National Grid submitted their technology statement in the joint testimony of Witnesses Boguslawski and Renaud. *See* Ex. No. NU/NG-100 at 62-67.