

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pioneer Transmission, LLC

Docket Nos. ER09-75-000
ER09-75-001

(Issued March 31, 2009)

Attached is the separate statement by Commissioner Kelly dissenting in part, to an order issued on March 27, 2009, in the above-referenced proceeding, *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 (2009).

Kimberly D. Bose,
Secretary.

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Kelly, Commissioner, *dissenting in part*:

This order addresses proposed tariff sheets filed by Pioneer Transmission, LLC (Pioneer). In the instant filing Pioneer seeks four rate incentives for its project: (1) a return on equity (ROE) of 13.5% percent; (2) recovery of 100% of its costs for construction work in progress (CWIP); (3) recovery of prudently-incurred costs if the Pioneer project is abandoned for reasons outside of Pioneer's control; and (4) permission to establish a regulatory asset for costs incurred prior to the effective date of the formula rate. As elements of the overall requested ROE, Pioneer requests a 50 basis point incentive adder for transferring functional control over the Project to PJM and the Midwest, a 150 basis point investment adder that is consistent with Commission precedent, and a 50 basis point incentive adder for utilizing multiple advanced technologies.

I applied the project-based criteria that I have relied upon in previous transmission incentives proceedings in order to determine whether the MAPP Project warrants incentive rate treatment.¹ Based on those criteria, I conclude that it does. First, Pioneer's application indicates that there are significant public interest benefits that result from the project including installation of the first 765 kV interconnection between PJM and the Midwest ISO. Transmission infrastructure of this size will not only provide for over 4,000 MW of capacity but will also relieve transmission congestion and reduce losses on the underlying lower voltage networks. Moreover, neither the applicant nor its corporate parents are under any obligation to construct the project. Finally, the long lead time (expected in-service date of 2014) and the significant overall cost (estimated to be \$1 billion) are factors in my decision.

I support the order's decision to approve the CWIP, abandoned plant and regulatory asset incentives. Pioneer identifies regulatory and siting risks associated with approvals in the PJM and Midwest ISO transmission expansion

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

plans as well as the challenges of siting a transmission line in Indiana. Consistent with Order no. 679, granting Pioneer the authority to recovery of prudently-incurred costs if the project is abandoned for reasons outside of its control adequately addresses these risks and challenges. Given the long lead time and estimated costs of the project, granting the CWIP and regulatory assets incentives is appropriate.

However, I cannot support an incentive ROE adder of 150 basis points for the Pioneer project. As articulated by the applicant, the three primary areas of risks and challenges are: risks associated with the financing of the project, routing and permitting challenges and technological challenges. The three non-ROE incentives granted in this order adequately address these risks and challenges. For example, Pioneer notes in its application that the “CWIP and Regulatory Asset Incentives are designed to alleviate Pioneer's cash flow difficulties associated with the large capital requirements and the long lead time for building the Project.”² Granting the abandoned plant incentive applies directly to risks associated with “failure to have the Project included in either PJM's or the Midwest ISO's regional expansion plan, failure to obtain regulatory approvals, or a failure to obtain the rights-of-way necessary to route the Project.”³ While the order does not grant an incentive directly applicable to technology risks, it does provide Pioneer an opportunity to make a fresh demonstration with respect to its technologies in a potential future filing.

Several intervenors request that the incentive ROE be set for hearing.⁴ As I have noted in previous proceedings, I do not support a finding that the applicants' initial base ROE is reasonable in the absence of an evidentiary hearing.

For these reasons, I dissent in part.

Suedeem G. Kelly

² Pioneer Transmission LLC October 15, 2008 Transmittal letter, Docket No. ER09-75-000, at 37.

³ *Id.* at 34.

⁴ The Midwest TDUs, American Municipal Power – Ohio, Hoosier Energy Rural Electric Cooperative, and Old Dominion Electric Cooperative.