



November 15, 2012

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Docket No. RM11-26-000

## FERC Policy Statement Provides Guidance on Electric Transmission Rate Incentives

The Federal Energy Regulatory Commission (FERC) today issued a Policy Statement to provide additional guidance on how it will evaluate applications for electric transmission incentives intended to encourage infrastructure investment while maintaining just and reasonable rates for customers.

Since issuing Order No. 679 to establish transmission rate incentives required by the Energy Policy Act of 2005, FERC has evaluated more than 85 incentive applications. Based on that experience and on 1,500 pages of public comments received in response to a May 2011 Notice of Inquiry on the scope and implementation of those policies, the Commission is now providing additional guidance and clarity with respect to certain aspects of its incentives policies under Order Nos. 679 and 679-A.

In particular, the Policy Statement reframes how the Commission implements the “nexus test.” Specifically, FERC no longer will rely on an analysis of whether a project is considered routine or non-routine as a proxy for the nexus test but instead will rely more directly on Order No. 679’s requirement that applicants demonstrate how the total package of incentives requested is tailored to address the risks and challenges of a project.

The Commission also will expect that before seeking an incentive return on equity (ROE) based on the risks and challenges of a project, an applicant would take all reasonable steps to mitigate risks, including seeking incentives designed to reduce those risks, such as construction work in progress, pre-commercial cost recovery and abandoned plant cost recovery. The Policy Statement provides examples of the types of projects that may merit an incentive ROE, including those using advanced technologies. FERC no longer will consider a separate ROE adder for an advanced technology.

The Policy Statement also provides general guidance regarding additional showings that FERC expects from an applicant seeking an incentive ROE based on a project’s risks and challenges. The Commission also expects an applicant for an incentive ROE to commit to cost containment in the application of that incentive, but is open to how an applicant structures that commitment. FERC will continue to monitor and evaluate its incentives policies to identify issues, trends and developments that may warrant modification.

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