147 FERC ¶ 61,157
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C. and Commonwealth Edison Company — Docket No. ER14-1708-000

ORDER GRANTING TRANSMISSION RATE INCENTIVES AND ACCEPTING FORMULA RATE PROPOSAL

(Issued May 28, 2014)

1. On April 11, 2014,[1] PJM Interconnection, L.L.C. (PJM) submitted,[2] on behalf of Commonwealth Edison Company (Commonwealth Edison), a request for authorization to recover certain transmission incentive rate treatments pursuant to sections 205 and 219 of the Federal Power Act (FPA)[3] and Order No. 679 for Commonwealth Edison's investment in the Grand Prairie Gateway Transmission Line Project (Grand Prairie

[1] Commonwealth Edison had previously filed the request for these transmission incentives on March 21, 2014, but withdrew that filing, and resubmitted it to comply with the Commission's e-Tariff provisions. *See* Docket No. ER14-1556-000. Because the April 11, 2014 filing is substantively the same as the March 21, 2014 filing, Commonwealth Edison requests a waiver of the sixty-day notice requirement to maintain the May 21, 2014 effective date, as originally proposed.

[2] Pursuant to Order No. 714, this filing was submitted by PJM on behalf of Commonwealth Edison. PJM is making this filing in order to retain administrative control over the PJM Open Access Transmission Tariff (OATT). *See Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008). Thus, Commonwealth Edison states that it has requested PJM to submit this revised Attachment H-13A in the eTariff system as part of PJM's electronic Intra-PJM Tariff. Commonwealth Edison Transmittal at 1.

[3] 16 U.S.C. §§ 824d, 824s, respectively (2012).

Project or Project).[4] In addition, Commonwealth Edison submitted revisions to Attachment 6 of its transmission formula rate, which is Attachment 13-A to the PJM OATT to incorporate project-specific references through which incentive rates will be recoverable. Commonwealth Edison also requests authority to assign certain incentive rate treatments to an affiliate, if the construction and/or ownership of the Project are assigned to such an affiliate.

2. As discussed below, we grant Commonwealth Edison's request for transmission rate incentives, effective May 21, 2014, as requested, subject to Commonwealth Edison submitting a compliance filing within 30 days of the date of this order.

I. Background

3. Commonwealth Edison is a wholly-owned subsidiary of Exelon Corporation (Exelon), and a public utility that owns transmission and distribution systems that provide electric utility services in northern Illinois. Commonwealth Edison is also a market participant in the PJM region.

4. Pursuant to Schedule 6 of the PJM Operating Agreement, the PJM Board of Managers has the authority to approve portions of the Regional Transmission Expansion Plan (RTEP). On November 19, 2012, PJM notified Commonwealth Edison that the PJM Board of Managers approved the Grand Prairie Project to resolve projected constraints identified in the ten-year Stage 1A Auction Revenue Rights (ARR) analysis.[5]

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[4] *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007). The Commission provided additional guidance regarding the application of its transmission incentive policies in *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (Incentives Policy Statement).

[5] PJM awards Financial Transmission Rights (FTRs) in an auction process, with the quantity that can be auctioned limited by the actual physical capabilities of the transmission system. ARRs are financial entitlements allocated to transmission customers and are the mechanism by which the proceeds from the annual FTR auction are allocated. Stage 1A ARRs are long-term transmission rights intended to allow load serving entities to hedge energy market positions over a ten-year period by providing greater price certainty.

5. Commonwealth Edison states that when Stage 1A ARRs are infeasible, then revenues will not be sufficient for customers to hedge congestion, and customers' costs will rise.[6] In June 2012, PJM conducted its ten-year Stage 1A ARR feasibility analysis, which identified infeasibilities throughout the Commonwealth Edison zone. Commonwealth Edison states that PJM's Transmission Expansion Advisory Committee examined proposals to resolve the projected constraints.[7] Commonwealth Edison states that PJM determined through its RTEP process that the Grand Prairie Project was the only proposed solution that resolved all the Stage 1A ARR infeasibility issues.[8]

II. Description of the Filing

A. The Grand Prairie Project

6. The Grand Prairie Project will add a 345 kV transmission line across Commonwealth Edison's service area. Commonwealth Edison states that the line will run from the western portion of its service area to the eastern portion, will add a third path across its service area, and will increase route diversity and strengthen the west-to-east interconnection;[9] which would help alleviate issues related to severe weather disturbances, such as the November 2013 tornado that struck rural Illinois.[10] Specifically, the Project will involve the construction of approximately 60 miles of new 345 kV transmission line from the Byron substation to the Wayne substation, and the required expansion and upgrade of these two existing 345 kV substations. Commonwealth Edison also states that the customer benefits of the Grand Prairie Project are \$538 million,[11] with costs ranging from \$277 to \$366 million.[12] According to Commonwealth Edison, the Grand Prairie Project would begin construction in early 2015 and is expected to go into service June 1, 2017.[13]

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[6] Commonwealth Edison Ex. No. COM-103 at 23.

[7] Commonwealth Edison Transmittal at 5.

[8] *Id.* at 5-6.

[9] Commonwealth Edison Ex. No. COM-200 at 3.

[10] Commonwealth Edison Ex. No. COM-100 at 17.

[11] Commonwealth Edison Ex. No. COM-200 at 7.

[12] Commonwealth Edison Ex. No. COM-300 at 5.

[13] Commonwealth Edison Ex. No. COM-100 at 13.

B. Request for Incentives

7. Commonwealth Edison requests approval for two incentive-based rate treatments pursuant to sections 205 and 219 of the FPA and Order No. 679. First, Commonwealth Edison requests that the Commission allow it to include 100 percent of prudently incurred costs of construction work in progress (CWIP) in rate base. Commonwealth Edison explains that 100 percent CWIP will provide the cash flow necessary to allow the utility to stay on schedule.[14] Additionally, Commonwealth Edison states that 100 percent CWIP will mitigate any rate shock that would be associated with placing costs of the Grand Prairie Project in rates in a single year.[15] Commonwealth Edison also states that 100 percent CWIP will mitigate risk by providing up-front regulatory certainty for credit rating agencies and lenders.[16]

8. Second, Commonwealth Edison seeks recovery of 100 percent of prudently incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond its control (Abandonment Incentive). Commonwealth Edison states that the Abandonment Incentive would remove a potential disincentive for it to build necessary infrastructure, by removing the risk that it would bear the costs of the Grand Prairie Project if the project is cancelled for reasons beyond its control.[17] Also, according to Commonwealth Edison, the Abandonment Incentive would provide assurance to credit rating agencies and lenders.[18]

9. Although Commonwealth Edison is not seeking a stand-alone incentive return on equity adder for advanced technologies, it states that the Grand Prairie Project will include several advanced technologies, such as microprocessor-based protective relays, digital fault records, programmable logic controller-based control and annunciation for substations, tubular steel structures, fiber-optic based communication and advanced conductor design.[19]

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[14] Commonwealth Edison Transmittal at 14.

[15] Commonwealth Edison Ex. No. COM-300 at 7-8.

[16] *Id.* at 6-7.

[17] Commonwealth Edison Transmittal at 14.

[18] Commonwealth Edison Ex. No. COM-300 at 8.

[19] Commonwealth Edison Transmittal at 15.

10. Finally, Commonwealth Edison requests the authority to assign these rate incentives to an affiliate, if construction and/or ownership of the Grand Prairie Project are assigned to such an affiliate. Commonwealth Edison states that it has not designated or otherwise identified such affiliate.[20]

III. Notice of Filing and Responsive Pleadings

11. Notice of the filing was published in the *Federal Register*, 79 Fed. Reg. 22,131 (2014), with interventions and protests due by April 25, 2014.[21]

12. On April 28, 2014, LSP Transmission Holdings, LLC (LSP Transmission) filed an untimely motion to intervene. No other comments or protests were filed.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Given the early stage of this proceeding and the absence of undue prejudice or delay, we grant the unopposed out-of-time motion to intervene submitted by LSP Transmission.

14. Commonwealth Edison also seeks waiver of the sixty-day prior notice requirement,[22] stating waiver is necessary to preserve an effective date of May 21, 2014 as originally requested in Docket No. ER14-1556-000. Because the parties were on notice of the information in the filing on March 21, 2014 as originally filed in Docket No. ER14-1556-000, we grant waiver of the sixty-day prior notice requirement.[23]

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[20] *Id.* at 2.

[21] *See* Errata Notice Shortening Comment Date, April 14, 2014.

[22] 18 C.F.R. § 35.3 (2013).

[23] *Central Hudson Gas & Electric Corporation, et al.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992), and *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

B. Substantive Matters

15. In the Energy Policy Act of 2005,[24] Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in certain transmission infrastructure. The Commission subsequently issued Order No. 679, which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219, including the incentives requested here by Commonwealth Edison. Additionally, in November 2012, the Commission issued a Policy Statement providing additional guidance regarding its evaluation of applications for transmission rate incentives under section 219 and Order No. 679.[25]

1. Section 219 Requirement

16. Pursuant to Order No. 679, an applicant may seek incentive rate treatment for transmission infrastructure investments that satisfy the requirements of section 219. The 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."[26] Order No. 679 established a process for meeting 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) a project has received construction approval from an appropriate state commission or state siting authority.[27] Order No. 679-A clarifies that an applicant invoking the rebuttable presumption must explain how the approval process has considered whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.[28]

a. Commonwealth Edison's Proposal

17. Commonwealth Edison contends that the Grand Prairie Project is entitled to the rebuttable presumption under Order No. 679 for three reasons. First, the Project has received approval through PJM's RTEP process as the only proposed solution that resolved all of the Stage 1A ARR infeasibility issues without creating new reliability

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

[25] Incentives Policy Statement, 141 FERC ¶ 61,129.

[26] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 76.

[27] *Id*. PP 57-58.

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

violations.[29] Second, the Project will open an additional pathway for lower-cost generation to reach customers, ultimately reducing energy congestion costs in the Commonwealth Edison zone.[30] Third, the Project will provide significant reliability and operational benefits to the bulk power system by increasing capacity and route diversity across the Commonwealth Edison zone.[31]

b. Commission Determination

18. We find that the Grand Prairie Project is entitled to the rebuttable presumption established in Order No. 679 and, therefore, satisfies the above-noted requirements of section 219. The Commission has previously held that the PJM RTEP constitutes "a fair and open regional planning process" that considers and evaluates projects for reliability and/or congestion for purposes of the rebuttable presumption provided in Order No. 679.[32] The Grand Prairie Project was vetted and approved as part of the 2012 PJM RTEP as a baseline project necessary to reduce congestion and resolve Stage 1A ARRs infeasibilities. This classification means that PJM made a determination that the Grand Prairie Project mitigates congestion or ensures PJM's ability to continue to serve load reliably.[33]

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[29] Commonwealth Edison Transmittal at 5-6 (citing Commonwealth Edison Ex. No. COM-103 at 28-30).

[30] Commonwealth Edison Transmittal at 6-7; *see also* Commonwealth Edison Ex. No. COM-200 at 6-7.

[31] Commonwealth Edison Transmittal at 7 (citing Commonwealth Edison Ex. No. COM-200 at 11-14).

[32] *See Potomac-Appalachian Transmission Highline*, 122 FERC ¶ 61,188, at P 29 (2008) (stating that "[p]rojects that are identified as 'baseline' projects in the PJM RTEP process are those that benefit customers in one or more transmission owner zones for the purpose of maintaining reliability or mitigating congestion on the PJM grid"); *see also* Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58; Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

[33] *See, e.g.*, *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,253, at P 19 (2011); *see also Duquesne Light Co.*, 118 FERC ¶ 61,087, at PP 62-66 (2007); *Balt. Gas & Elec. Co.*, 120 FERC ¶ 61,084, at P 41 (2007), *reh'g denied*, 122 FERC ¶ 61,034 (2008).

2. 100 Percent CWIP in Rate Base

a. Commonwealth Edison's Proposal

19. Commonwealth Edison seeks to include 100 percent CWIP associated with the Grand Prairie Project in its transmission rate base. Commonwealth Edison explains that 100 percent CWIP will help mitigate the risk of developing multiple construction projects. Commonwealth Edison states that granting CWIP will assist with the cash flow necessary for constructing the first Stage 1A ARR congestion-relief project in the PJM service territory.[34]

20. Commonwealth Edison states the Project will require significant capital expenditures and that granting 100 percent CWIP, in accordance with established and consistently applied procedures, will help alleviate financial risks and challenges that the Project may face. Commonwealth Edison contends the incentive will provide upfront regulatory certainty and rate stability, benefits which credit rating agencies and capital market participants recognize. Commonwealth Edison explains that the Commission has recognized that approving the CWIP incentive enhances cash flow, reduces interest expense, assists with financing, and improves a utility's coverage ratios used by ratings agencies to determine credit quality by replacing non-cash Allowance for Funds Used During Construction (AFUDC) with cash earnings.[35]

21. Commonwealth Edison further contends that, by placing CWIP in rate base, customers will avoid the capitalization of financing costs, which lowers the cost of capital, thereby eliminating rate shock.[36]

22. Commonwealth Edison states that Order No. 679 requires an applicant to 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. Commonwealth Edison explains that to satisfy the accounting requirements it will not accrue AFUDC in Account 107, Construction Work in Progress. Further, Commonwealth Edison explains that it will use the PowerPlant system to maintain the accounting records for CWIP electric plant assets during construction and after the projects are placed in service. The PowerPlant system includes the capability to identify specific work orders or projects that should be included in the calculation and capitalization of AFUDC. Commonwealth Edison represents that the work orders related

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[34] Commonwealth Edison Transmittal at 14.

[35] *Id.*; *see* Commonwealth Edison Ex. No. COM-300 at 6-7.

[36] Commonwealth Edison Ex. No. COM-300 at 7.

to the project will be identified in the PowerPlant system, and no AFUDC will be calculated on their balances.[37]

b. Commission Determination

23. 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.[38] The Commission stated that this rate treatment will further the goals of FPA 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.[39]

24. We will grant Commonwealth Edison's request to include 100 percent CWIP in rate base. In Order No. 679, the Commission stated that it will consider each proposal on the basis of the particular facts of the case.[40] We find that Commonwealth Edison has shown a nexus between the proposed CWIP incentive and its investment in the Grand Prairie Project. This project is expected to cost between $277-336 million and is not expected to go into service until mid-2017.[41] Including 100 percent CWIP in rate base will provide Commonwealth Edison with a steady cash flow during the construction period, protecting the utility's financial metrics and relieving downward pressure on its credit rating. Furthermore, as the Commission has previously determined, the 100 percent CWIP incentive will help insulate Commonwealth Edison's customers from rate shock that might otherwise accompany the use of AFUDC.[42]

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[37] *Id.* at 10.

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

[39] *Id.* P 115.

[40] *Id.* P 117.

[41] Commonwealth Edison Ex. No. COM-100 at 10.

[42] *See, e.g.*, *PJM Interconnection, L.L.C. and Public Service Electric and Gas Co.*, 135 FERC ¶ 61,229, at P 78 (2011); *Oklahoma Gas and Electric Company*, 133 FERC ¶ 61,274, at P 48 (2010); *PPL Electric Utilities Corp.*, 123 FERC ¶ 61,068, at PP 40-43 (2008) (*PPL*); *American Elec. Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 59 (2006), *order on reh'g*, 118 FERC ¶ 61,041, at P 27 (2007).

25. Further, we find that Commonwealth Edison's proposed accounting procedures, filed in Exhibit No. COM-300, are sufficient to ensure that customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP included in rate base. We note that Commonwealth Edison must also have sufficient accounting controls and procedures to ensure that unpaid accruals properly recorded in the Grand Prairie Project work orders are excluded from transmission rate base.

26. A public utility may accrue AFUDC on eligible construction expenditures properly recorded in Account 107, Construction Work in Progress--Electric, or include such amounts in rate base when authorized by the Commission. This practice compensates a public utility for its out-of-pocket costs. However, it would be inappropriate to accrue AFUDC or include in rate base and earn a return on amounts charged to Account 107 that have not been paid. We grant Commonwealth Edison's proposal to recover 100 percent CWIP, subject to a compliance filing, within 30 days of the date of this order, which details the accounting procedures and controls it will use to identify and remove unpaid accruals from rate base. Further, Commonwealth Edison's proposal to recover 100 percent CWIP is granted, subject to a compliance filing to update its notes and disclosures in Attachment H-13A, to disclose that unpaid accruals are being used to reduce CWIP balances included in rate base.

27. In addition, Commonwealth Edison's changes to Attachment H-13A incorrectly identify the Grand Prairie Project's CWIP, and the corresponding footnotes do not adequately describe what the balances represent.[43] We grant Commonwealth Edison's proposal to recover 100 percent CWIP, subject to a compliance filing to revise Attachment H-13A to show all the updates necessary to include the Grand Prairie Project in its transmission rate base. We note that Commonwealth Edison's accounting procedures and controls may be subject to scrutiny through Commission audit or rate review.

3. <u>Abandonment Incentive</u>

28. In Order No. 679, the Commission permitted recovery of 100 percent of prudently-incurred costs associated with abandoned transmission projects, "if such abandonment is outside the control of management." The Commission concluded that this incentive "will be an effective means to encourage transmission development by reducing the risk of non-recovery of costs."[44]

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[43] Attachment H-13A, Attachment 6, Estimate and Reconciliation Worksheet. Specifically, Reconciliation Details, Line 2 Column E refers to Phase II West Loop CWIP.

[44] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 163.

a. Commonwealth Edison's Proposal

29. Commonwealth Edison seeks the Abandonment Incentive for the Grand Prairie Project to allow its sponsors to request recovery of 100 percent of prudently-incurred costs if the Project, in whole or in part, is abandoned before it is completed for any reason outside the reasonable control of the sponsors.[45] Commonwealth Edison argues that its request for risk-reducing incentives is consistent with the approach set forth in the Incentives Policy Statement.[46]

30. Specifically, Commonwealth Edison notes regulatory, physical and financial risks to the Grand Prairie Project. In its view, the Project—as the first Stage 1A ARR project to be selected by PJM and presented to a state commission for a certificate of public convenience and necessity— is non-routine and presents unique risks and challenges that the Abandonment Incentive could help mitigate.[47] For example, Commonwealth Edison claims that the Illinois Commerce Commission (ICC) has no precedent for addressing projects like the Grand Prairie Project, and that it is "facing opposition in the state certificating process, including from ICC Staff, on the issue of justification for the project," demonstrating very real risks facing the Project. In addition to risks associated with the state certificating process, Commonwealth Edison notes that it is subject to "multiple layers of review" by federal, state, and local agencies, and that the Project has attracted local opposition, adding to the risks of a delay.[48]

31. According to Commonwealth Edison, the "large multi-county" nature of the Grand Prairie Project poses risks to the significant investment required for the Project. For example, the proposed and alternate routes cross agricultural and more densely developed areas, but Commonwealth Edison has yet to acquire some "essential pieces of the route," which presents "a real and constant challenge" to developing the Project.[49]

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[45] Commonwealth Edison Transmittal at 13.

[46] *Id.* at 3-4 (citing Incentives Policy Statement, 141 FERC ¶ 61,129 at PP 11-16). For example, with regard to the Abandonment Incentive, the Incentives Policy Statement notes that "the Commission has previously stated that, in addition to the challenges presented by the scope and size of a project, factors like various federal and state siting approvals introduce significant elements of risk. Granting this incentive ameliorates such risk by providing companies with more certainty during the pre-construction and construction periods." Incentives Policy Statement, 141 FERC ¶ 61,129 at P 14).

[47] Commonwealth Edison Transmittal at 8-9, 13-14.

[48] *Id.* at 9-10; *see also* Commonwealth Edison Ex. No. COM-100 at 18-19.

[49] Commonwealth Edison Transmittal at 11.

Commonwealth Edison contends that gaining access to some of these rights-of-way may require its obtaining eminent domain authority from the ICC, which poses substantial risks of delay.[50]

32. Commonwealth Edison considers the Project to be non-routine and will require significant cash flow to cover ongoing development costs, particularly in the early stages. Commonwealth Edison also states that it must maintain sufficient cash flow to simultaneously finance the Grand Prairie Project, baseline transmission upgrades, and significant upgrades to its distribution system under the Illinois Energy Infrastructure Modernization Act.[51]

33. Commonwealth Edison argues that, given the challenging market for attracting investment,[52] assurances of cost recovery in the event of abandonment have helped to convince investors to provide financing before a project has received all required regulatory approvals. This is particularly true for recovery of expenses that must be incurred before construction and the in-service date, such as equipment with long lead times and the costs of reserving labor and obtaining rights-of-way.[53] Commonwealth Edison concludes that, given the size of the investments that could be lost for reasons beyond its control, failing to receive the Abandonment Incentive "would impede and discourage the building of necessary transmission infrastructure."[54]

b. Commission Determination

34. We will grant the requested Abandonment Incentive for Commonwealth Edison's request to have the opportunity to recover its prudently incurred costs for the Grand Prairie Project if the Project is abandoned for reasons beyond Commonwealth Edison's control, subject to Commonwealth Edison filing under section 205 of the FPA for recovery of abandonment costs. In Order No. 679, the Commission found that the Abandonment Incentive is an effective means of encouraging transmission development

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[50] Commonwealth Edison Ex. No. COM-100 at 19-20.

[51] Commonwealth Edison Transmittal at 12; *see also* Commonwealth Edison Ex. No. COM-300 at 6. *See also, e.g., Baltimore Gas & Electric Co.*, 120 FERC ¶ 61,084 (2007).

[52] Commonwealth Edison Transmittal at 12.

[53] Commonwealth Edison Ex. No. COM-300 at 8.

[54] Commonwealth Edison Transmittal at 14.

by reducing the risk of non-recovery of costs.[55] We find that Commonwealth Edison 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 Project. In particular, we find persuasive Commonwealth Edison's argument that this incentive addresses financial risks and challenges that Commonwealth Edison could face with investors by assuring cost recovery for prudently incurred costs in the event of an abandonment that is beyond Commonwealth Edison's control.[56]

35. However, we note that, if the Grand Prairie Project is cancelled before it is completed, Commonwealth Edison would be 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 Commonwealth Edison commits to doing in the filing. Commonwealth Edison must also propose in its section 205 filing a just and reasonable rate to recover such costs. Order No. 679 specifically requires that any utility granted this Abandonment Incentive that then seeks to recover abandoned plant costs must submit such a section 205 filing.[57]

4. <u>Nexus Test and Total Package of Incentives</u>

36. An applicant for a transmission rate incentive must demonstrate a nexus between the incentives being sought and the investment being made. In Order No. 679-A, the Commission clarified that its 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.[58] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package.[59] The Commission noted that this nexus test is fact-specific and

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

[56] We are not persuaded, however, by Commonwealth Edison's use of the term "non-routine" as one justification for requesting the Abandonment Incentive. We reiterate here that, as discussed in the Incentives Policy Statement, the Commission will no longer rely on the routine/non-routine analysis as a proxy to determine if a project is deemed to face risks and challenges that merit incentive(s).

[57] *Id*. P 166.

[58] Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40; Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10.

[59] Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40).

requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases, approved multiple rate incentives for particular projects as long as each incentive satisfies the nexus test.[60] This is consistent with Order No. 679,[61] and our interpretation of FPA section 219 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 proposed and the investment made.

a. <u>Commonwealth Edison Proposal</u>

37. Commonwealth Edison contends that, consistent with FPA section 219 and Order Nos. 679 and 679-A, the 100 percent CWIP and Abandonment Incentives requested are narrowly tailored to the risks and challenges of the Grand Prairie Project.[62]

38. Commonwealth Edison states that the congestion-reducing Grand Prairie Project presents unique regulatory risks and challenges because it is the first Stage 1A ARR project to be selected through PJM's RTEP process, and thus the first Stage 1A ARR project to be presented to a state commission for a certificate of public convenience and necessity. Commonwealth Edison thus argues that the 100 percent CWIP and Abandonment Incentives will help Commonwealth Edison mitigate the risk of developing the first Stage 1A ARR congestion-relief project and will produce an end result that is just and reasonable.[63]

39. As discussed above,[64] Commonwealth Edison explains that the ICC does not have established precedent for addressing projects required to make ARRs feasible and that the opposition in the state certificating proceeding is "evidence of very real risks faced by the Project."[65] Commonwealth Edison also states that the Grand Prairie Project is also

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[60] *E.g.*, *Central Minnesota Municipal Power Agency*, 134 FERC ¶ 61,115, at P 34 (2011) (finding that inclusion of 100 percent CWIP, the Abandonment Incentive, and the use of a hypothetical capital structure were tailored to the unique challenges faced by the applicant).

[61] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 55.

[62] Commonwealth Edison Transmittal at 8.

[63] *Id.* at 8-9.

[64] *See supra* P 31.

[65] Commonwealth Edison Transmittal at 9-10.

subject to multiple layers of review, requiring numerous permits and approvals. Commonwealth Edison concludes that the risks that they will face in acquiring the land rights for such a project are a "real and constant challenge to developing the transmission project."[66] Additionally, as discussed above,[67] Commonwealth Edison states it faces significant challenges in constructing the Project due to the difficult terrain and construction path proposed for the Project.

40. Finally, Commonwealth Edison contends that the 100 percent CWIP and Abandonment Incentives are narrowly tailored to mitigate the financial risks presented.[68] Specifically, Commonwealth Edison explains that while it is using both internal and external financing sources to fund the Project, competing for investors is challenging without the assurance of cost recovery.[69]

b. Commission Determination

41. We find that Commonwealth Edison's request for incentives satisfies the nexus test for the Grand Prairie Project. Commonwealth Edison has shown that the Grand Prairie Project will resolve Stage 1A ARR deficiencies and will reduce congestion in the Commonwealth Edison system. Commonwealth Edison has also shown that this Project will bring other useful reliability and economic benefits. This 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."[70]

42. Commonwealth Edison has also demonstrated that the Grand Prairie Project poses significant risks and challenges. The Grand Prairie Project will require a number of siting and permitting processes at multiple jurisdictional levels, and may be met with particularly significant opposition at the state level. The Grand Prairie Project also faces significant physical and construction challenges, as well as large financial investments in coordination with requirements.

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[66] *Id.* at 9-10, Commonwealth Edison Ex. No. COM-100 at 18-20.

[67] *See supra* P 32.

[68] Commonwealth Edison Transmittal at 12-13.

[69] *Id.*

[70] Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 25.

43. We also find that the total package of incentives is tailored to address the risks and challenges of the Grand Prairie Project. Commonwealth Edison has demonstrated that each of the requested incentives will reduce the risk that it faces and will remove potential obstacles to the construction of the Grand Prairie Project.

5. Transfer of Incentives to Affiliates

a. Commonwealth Edison Proposal

44. Commonwealth Edison requests authority to assign these incentive rate treatments to an affiliate, if construction and/or ownership of the Project are assigned to an affiliate in the future.

b. Commission Determination

45. We grant Commonwealth Edison's request for authority to transfer the 100 percent CWIP and Abandonment Incentives to an affiliate, if construction and/or ownership of the Grand Prairie Project are assigned in the future to such an affiliate. As mentioned above, Commonwealth Edison states that it has not designated or otherwise identified such affiliate.[71] Consistent with precedent,[72] the Commission grants Commonwealth Edison's request for authority to assign the above-granted incentives to an affiliate, subject to the requirements of section 203 and section 205 of the FPA.

The Commission orders:

(A) Commonwealth Edison's request for authorization for 100 percent CWIP for the Grand Prairie Project is granted, subject to a compliance filing being submitted within 30 days of the date of this order, as discussed in the body of this order.

(B) Commonwealth Edison's request for the Abandonment Incentive for the Grand Prairie Project is granted as discussed in the body of this order.

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[71] *See supra* at P 10.

[72] *See PJM Interconnection , L.L.C. and Public Service Electric and Gas Company*, 135 FERC ¶ 61,229 at P 81; *PPL*, 123 FERC ¶ 61,068 at P 51-52; *Public Service Electric and Gas Co.*, 126 FERC ¶ 61,219 at P 70 (2009).

(C) Commonwealth Edison is granted authority to assign these incentives to an affiliate, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.