

149 FERC ¶ 61,181
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Xcel Energy Transmission Development
Company, LLC

Docket No. ER14-2752-000

ORDER ON TRANSMISSION FORMULA RATE PROPOSAL AND INCENTIVES

(Issued November 26, 2014)

1. In this order, we conditionally accept Xcel Energy Transmission Development Company, LLC's (XETD) proposed formula rate template and formula rate implementation protocols (protocols) to recover costs associated with transmission projects that it intends to own and develop as part of Midcontinent Independent System Operator, Inc.'s (MISO) Order No. 1000¹ competitive solicitation process. We accept the formula rates to be effective once filed with the Commission to become part of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), consistent with the effective date established in that future proceeding, subject to a further compliance filing. We conditionally accept XETD's proposed base return on equity (ROE) for filing to be effective November 1, 2014, as requested. We accept XETD's proposed effective date of November 1, 2014 for its requested regulatory asset incentive. We also grant XETD's request for authorization to defer as a regulatory asset its prudently-incurred costs, including pre-commercial and formation costs, effective November 1, 2014, as requested, and its request to use a hypothetical capital structure.

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, No. 762 F.3d 41 (D.C. 2014).

I. Background

2. In Order No. 1000, the Commission, among other things required public utility transmission providers to eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation. In addition, the Commission in Order No. 1000 required public utility transmission providers to revise their Open Access Transmission Tariffs to, among other things: (1) establish qualification criteria to determine whether an entity is eligible to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation; (2) identify information a prospective transmission developer must submit in support of a transmission project proposed for selection; and (3) describe a transparent and not unduly discriminatory process for evaluating proposals for selection in the regional transmission plan for purposes of cost allocation. The Commission noted that, although not mandatory, public utility transmission providers in a transmission planning region could use, for example, a non-discriminatory competitive bidding process as one method to comply with the requirements of Order No. 1000.² In response to the requirements of Order No. 1000, MISO has established a competitive solicitation process, under which qualified transmission developers can bid to develop transmission projects that have been selected in MISO's regional transmission plan for purposes of cost allocation.³

3. On August 29, 2014, XETD submitted for filing under section 205 of the Federal Power Act (FPA)⁴ a proposed formula rate template to recover costs associated with transmission projects that it intends to own and develop as part of the MISO competitive solicitation process. XETD states that it is a wholly owned subsidiary of Xcel Energy Transmission Holding Company, LLC (Xcel Energy Transmission Holdco), which in turn is a first tier subsidiary of Xcel Energy, Inc. (Xcel). XETD states that Xcel formed Xcel Energy Transmission Holdco in April 2014 to facilitate transmission investment by Xcel. XETD also states that Xcel Energy Transmission Holdco currently has two wholly owned subsidiaries – XETD and Xcel Energy Southwest Transmission Company, LLC

² Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 336.

³ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 (2013), *order on reh'g and compliance filings*, 147 FERC ¶ 61,127 (2014).

⁴ 16 U.S.C. § 824d (2012).

(XEST).⁵ XETD states that its primary focus is on participating in MISO's Order No. 1000 regional transmission planning and competitive solicitation process. XETD states that it does not currently own operational transmission facilities.⁶

4. XETD states that it is submitting the formula rate template for ultimate inclusion in Attachments O, MM and GG of MISO's Tariff, and that costs will not flow through the formula rate template to transmission customers until XETD becomes a MISO transmission owner. XETD explains that the formula transmission rate consists of two parts: (1) a formula rate template, which will calculate, on a project-by-project basis, an annual transmission revenue requirement (ATRR) that will be recoverable through the MISO Tariff and (2) an Annual True-Up, Information Exchange and Challenge Procedures (protocols). XETD is also submitting company specific versions of Attachments GG and MM to the MISO Tariff.⁷ XETD also proposes depreciation rates that are principally based on the depreciation rates of Northern States Power Company of Minnesota (Northern States), an operating company of Xcel.⁸ XETD also requests authorization to use the MISO base ROE, which is currently 12.38 percent, subject to the outcome of the pending complaint in Docket No. EL14-12-000.

5. XETD is also seeking, pursuant to section 205 of the FPA, an initial fixed or "hypothetical" capital structure of 55 percent equity and 45 percent long-term debt. In addition, XETD requests authorization to defer as a regulatory asset its costs prudently incurred prior to its rates taking effect, but which are not capitalized, including formation and pre-commercial costs. XETD states that it is not pursuing these incentives under section 219 of the FPA⁹ or Order No. 679.¹⁰

⁵ Transmittal at 4. XEST made a similar filing in Docket No. ER14-2751-000, and we address that filing in a concurrently issued order. *See Xcel Energy Southwest Transmission Company, LLC*, 149 FERC ¶ 61,182 (2014).

⁶ Transmittal at 4-5.

⁷ Under the MISO Tariff, the only projects that are subject to MISO Order No. 1000 competitive solicitation process are Market Efficiency Projects (MEP) and Multi-Value Projects (MVP). Costs for MEPs are recovered under MISO Tariff Attachment GG and costs for MVPs are recovered under MISO Tariff Attachment MM.

⁸ *Northern States Power Company, a Minnesota Corporation*, Docket No. ER14-1325-000 (June 10, 2014) (unpublished letter order); *Xcel Energy Servs., Inc.*, Docket No. ER08-224-000 (Jan. 4, 2008) (unpublished letter order).

⁹ 16 U.S.C. § 824s (2012).

II. Notice of Filing and Responsive Pleadings

6. Notice of XETD's filing was published in the *Federal Register*, 79 Fed. Reg. 53,700 (2014), with interventions and protests due on or before September 19, 2014.

7. Consumers Energy Company, Midcontinent Municipal-Cooperative Network, LLC, Dairyland Power Cooperative, Midwest TDUs,¹¹ MISO Transmission Owners,¹² Arkansas Electric Cooperative, and the Minnesota Department of Commerce, Division of Energy Resources filed timely motions to intervene. MISO filed a timely motion to intervene and comments. XETD submitted an answer in response to MISO's comments.

¹⁰ *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).

¹¹ Midwest TDUs include Madison Gas & Electric, Midwest Municipal Transmission Group, Southern Minnesota Municipal Power Agency and WPPI Energy.

¹² MISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company; Ameren Illinois Company; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, Inc.; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept XETD's answer because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

9. As discussed below, we conditionally accept XETD's proposed formula rate template and protocols and grant its requests for a hypothetical capital structure and regulatory asset treatment of certain costs, subject to a compliance filing as described below. The Commission has accepted formula rates for nonincumbent transmission developers prior to the construction of transmission facilities.¹³ Although the formula rate template and protocols in this case do not yet apply to a specific project, we find that conditional acceptance of the proposed formula rate template, protocols, and the incentives requested in this filing is consistent with Commission precedent and with the objectives of Order No. 1000.

1. Capital Structure

a. Proposal

10. XETD proposes an initial fixed or "hypothetical" capital structure of 55 percent equity and 45 percent long-term debt, pursuant to section 205, and not as an "incentive" pursuant to section 219 and Order No. 679. XETD states that, once it owns commercially operational transmission facilities, XETD will target an actual capital structure of approximately 55 percent equity and 45 percent long-term debt, and its actual capital structure will be used in the formula rate template. XETD states that its proposed capital structure should allow XETD to achieve reasonable costs of capital and is similar to the target capital structures set by many other transmission-only entities. XETD contends that its requested capital structure will place XETD on an equal footing with other

¹³ See, e.g., *Transource Missouri*, LLC, 141 FERC ¶ 61,075 (2012); *RITELine Illinois LLC*, 137 FERC ¶ 61,039 (2011) (*RITELine*); *Green Power Express*, 127 FERC ¶ 61,031 (2009).

transmission-only companies, so that it can compete for projects in MISO's Order No. 1000 competitive solicitation process.¹⁴

11. XETD states that, due to the challenge of raising capital, XETD's actual capital structure may deviate from its target. XETD explains that it will initially receive equity infusions and intra-company loans from its parent, Xcel Energy Transmission Holdco. XETD states that a fixed 55 percent equity and 45 percent debt capital structure will help XETD achieve a strong credit profile and support an investment grade credit rating, which will in turn demonstrate that XETD is a sufficiently creditworthy entity, enabling it to secure additional loans.¹⁵

12. XETD argues that its proposed hypothetical capital structure is just and reasonable, and, in contrast, that the use of XETD's actual capital structure, which may be highly volatile in this early development stage, would be unreasonable and could undermine XETD's ability to secure credit and investment at a reasonable cost. XETD further states that, in recent incentives cases issued pursuant to section 219, the Commission has approved the use of such an initial fixed or "hypothetical" capital structure for other newly formed transmission companies.¹⁶

b. Commission Determination

13. We grant XETD's section 205 request to use a hypothetical capital structure consisting of 55 percent equity and 45 percent debt prior to its first transmission project going into service. The Commission has previously held that incentives identified in Order No. 679 can also be granted under the Commission's section 205 authority under certain circumstances, such as to promote important public policy goals.¹⁷ Here, we find that granting the requested hypothetical capital structure furthers the policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation process, thereby

¹⁴ Transmittal at 12.

¹⁵ *Id.*; Exhibit No. XET-200, Direct Testimony of George E. Tyson, II at 10-11.

¹⁶ Transmittal at 13 (citing *DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224, at P 76 (2012); *RITELine*, 137 FERC ¶ 61,039 at P 131; *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188, at P 55 (2008)).

¹⁷ See *Pacific Gas and Electric Company*, 123 FERC ¶ 61,067 (2008); *Southern California Edison Company*, 133 FERC ¶ 61,107 (2010).

encouraging competition.¹⁸ Nonincumbent transmission developers have a particular need for the hypothetical capital structure incentive because it establishes certain financial principles that incumbent transmission owners currently have in place but that remain undetermined for nonincumbent transmission developers. Therefore, allowing nonincumbent transmission developers to utilize a hypothetical capital structure would help level the playing field between incumbent and nonincumbent transmission developers in the Order No. 1000 competitive solicitation processes. We note that because the Commission's policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation process is only relevant to projects eligible for bidding through Order No. 1000. Consequently, XETD may only apply the hypothetical capital structure incentive to projects that are developed through Order No. 1000 competitive solicitation process. We also note that the Commission has previously granted hypothetical capital structures to transmission-only companies under section 205.¹⁹ The Commission has also approved, without reference to Order No. 679 incentives, hypothetical capital structures for transmission revenue requirements of public power regional transmission organization (RTO) members²⁰ and entities that have relied on non-equity financing to finance a transmission project.²¹

14. A hypothetical capital structure will provide XETD with the formula inputs needed to determine the rate for allowance for funds used during construction (AFUDC), which will improve the predictability of XETD's AFUDC accrual and its overall project costs.²² This improved predictability of costs will assist XETD in making informed bids in MISO's Order No. 1000 competitive solicitation process. Further, if XETD submits a

¹⁸ See, e.g., Order No. 1000-A, 139 FERC ¶ 61,132 at P 87 (“[T]he Commission seeks to make it possible for nonincumbent transmission developers to compete in the proposal of more efficient or cost-effective transmission solutions.”).

¹⁹ See, e.g., *Morongo Transmission LLC*, 148 FERC ¶ 61,139 (2014); *Western Area Power*, 99 FERC ¶ 61,306, *reh'g denied*, 100 FERC ¶ 61,331 (2002), *aff'd sub nom. Pub. Utils. Comm'n of the State of California v. FERC*, 367 F.3d 925 (D.C. Cir. 2004); *Michigan Elec. Transmission Co., LLC*, 105 FERC ¶ 61,214 (2003).

²⁰ *City of Vernon, California*, 109 FERC ¶ 63,057, at PP 110-119 (2004), *aff'd*, 111 FERC ¶ 61,092 (2005).

²¹ *Morongo Transmission LLC*, 148 FERC ¶ 61,139 at P 18.

²² See Electric Plant Instruction No. 3 Components of Construction Cost, (A)(17) Allowance for Funds Used During Construction, 18 C.F.R. pt. 101 (2014).

later request to include construction work in progress (CWIP),²³ a hypothetical capital structure will improve cash flow predictability during the construction period. Such cash flow predictability could assist XETD in raising capital at more reasonable costs.

2. Request for Authorization to Establish Regulatory Asset

a. Proposal

15. XETD seeks to defer as a regulatory asset its prudently incurred costs that are not capitalized, such as pre-commercial and formation costs. XETD claims that, in order to participate in MISO's Order No. 1000 competitive solicitation process, a company must be formed earlier and incur costs well in advance of being selected to develop a transmission project. XETD states that it began to incur pre-commercial and formation costs in 2014 even though XETD's first transmission project, if it emerges from MISO's Order No. 1000 process, cannot be identified until late 2015 at the earliest. XETD also notes that, as a result of timing requirements in MISO's competitive solicitation process, XETD has incurred these costs too early to qualify for project-specific incentive rate treatment pursuant to section 219. XETD requests that these costs be considered eligible for recovery in rates to be collected after XETD wins and develops transmission projects, and XETD's rate goes into effect. XETD notes that the Commission has issued orders confirming that RTO-formation costs are eligible for recovery in rates to be collected after the RTO is formed. XETD argues that, without a Commission order granting XETD's request, it may be more difficult to recognize a regulatory asset for pre-commercial and formation costs for generally accepted accounting principles' financial reporting purposes, which would impose a real financial burden on XETD. XETD recognizes that, at the time it seeks to amortize and collect the regulatory asset account through rates, it will need to make another section 205 filing.²⁴

16. XETD states that, when the regulatory asset is recognized, it will accrue carrying costs at a rate equal to its AFUDC on the unamortized cost balances, including the balance of deferred carrying costs, until a rate is first charged by XETD through the MISO Tariff. XETD requests the Commission grant an effective date of November 1, 2014 for establishment of this regulatory asset.

²³ XETD is not seeking to include CWIP in rate base at this time but states that it may request such an incentive in the future and has included a placeholder in its formula rate template if it seeks and is granted this incentive in the future. *See* Transmittal at 2; Exhibit No. XET-200, Direct Testimony of George E. Tyson, II at 10.

²⁴ *Id.* at 17-18.

17. In the alternative, to the extent that the Commission denies regulatory asset authorization at this time, XETD asks that the Commission confirm that, if in the future XETD files a request for a regulatory asset rate incentive, nothing in this proceeding will bar XETD from including, within the scope of that request for incentives, a request to recover all prudently incurred costs not capitalized, such as pre-commercial and formation costs, including costs dating back to 2014.²⁵

b. Commission Determination

18. We grant XETD's request to defer as a regulatory asset all of its prudently incurred costs that are not capitalized, such as pre-commercial and formation costs. The Commission has granted regulatory asset incentives requested under section 205 in the past.²⁶ Granting this request under section 205 is appropriate because it furthers the policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in Order No. 1000 competitive solicitation processes. New nonincumbent transmission developers wishing to bid on regional transmission projects in MISO's competitive solicitation process must incur early pre-commercial and formation costs, but because they do not have plant in service and/or rates in effect, they do not have a mechanism to recover these costs as they are incurred, as do incumbent transmission owners whose transmission planning-related costs are expensed to transmission operations and maintenance accounts that are typically included in transmission formula rates. We note that because the Commission's policy goal of placing nonincumbent transmission developers on a level playing field with incumbent transmission owners in the Order No. 1000 competitive solicitation process is only relevant to projects eligible for bidding through Order No. 1000. Consequently, XETD may only apply the regulatory asset incentive to projects that are developed through Order No. 1000 competitive solicitation process.

19. We also approve XETD's request to accrue a carrying charge from the effective date of the regulatory asset and to apply this carrying charge to any amounts recorded in this regulatory asset account. Also, we direct XETD to restrict the compounding of carrying charges to no more frequently than semi-annually. Although, as discussed below, we find that XETD's proposed formula rate template and protocols will become effective on the date on which it files at the Commission to include them in the MISO

²⁵ *Id.* at 19-20.

²⁶ *See, e.g., ITC Great Plains LLC*, 126 FERC ¶ 61,223, at P 74 (2009) (allowing the deferral of project specific start-up and development costs through a regulatory asset where incentive was not requested under Order No. 679).

Tariff, we find that XETD may establish the regulatory asset and begin accruing a carrying charge on the requested effective date of November 1, 2014.

20. However, while in this order we provide XETD with the ability to record its prudently incurred costs as a regulatory asset, XETD must make a section 205 filing to demonstrate that the pre-commercial and formation costs are just and reasonable. In that filing, XETD must establish that the costs included in the regulatory asset are costs that would otherwise have been chargeable to expense in the period incurred but were deferred consistent with the authorization granted herein, and entities will be able to challenge the reasonableness of costs at that time. Until XETD becomes a transmission owner, it is unclear whether XETD will have any customers from which to recover its regulatory asset.

3. Accounting Treatment

a. Proposal

21. XETD states that its financial books and records will reflect the assets, liabilities, equity, and results of operations for XETD. XETD proposes to use the accrual method of accounting as required by generally accepted accounting principles to record revenues and expenses. Although XETD will be a pass-through entity and will not directly pay income taxes on earnings, it will maintain its books of account based on the Uniform System of Accounts as if it were a taxable corporation. All services provided to XETD by Xcel Energy Services will be priced at cost, as will all goods and services provided to XETD by the Xcel Energy Operating Companies.²⁷

22. Also, XETD states that it will incur both native costs, which it expects to consist primarily of billings from third parties pursuant to contracts entered into by XETD, and direct and allocated costs from its affiliates. According to XETD, it will not initially have any employees and so will have all of its services provided by its affiliates. XETD states that all costs that can be directly charged to XETD will be charged to XETD. XETD further states that allocated costs are comprised of its allocated share of centrally managed services that benefit all of its affiliates. XETD states that Xcel Energy Services has procedures in place for allocating these types of costs to companies and that all services provided to XETD will be priced at cost. XETD further states that costs incurred

²⁷ Transmittal at 16-17; Exhibit No. XET-300, Direct Testimony of Michael J. Rodriguez at 6.

by Xcel Energy Transmission Holdco on behalf of both XETD and XEST will be charged evenly to both XETD and XEST.²⁸

b. Commission Determination

23. To the extent that costs are allocated or directly-billed from XETD's parent company or any of its affiliates, we direct XETD to explain and provide the methodology for the allocation of those costs in a compliance filing.²⁹ In addition, to the extent there are sales of non-power goods and services among affiliates, we remind XETD of its obligations under section 35.44 (b)(1) of the Commission's Regulations.³⁰

4. Rate of Return on Equity

a. Proposal

24. XETD explains that it will become a transmission-owning member of MISO when its first transmission facilities become operational, at which point it will turn over control of its transmission facilities to MISO. Therefore, XETD requests permission to be treated like any other transmission-owning member of MISO and be permitted to use the "applicable" Commission approved MISO regional base ROE, which is currently 12.38 percent. XETD notes that the MISO regional base ROE has been challenged in a complaint proceeding in Docket No. EL14-12-000, therefore request authorization to use the "applicable" MISO base ROE.³¹

²⁸ Exhibit No. XET-300, Direct Testimony of Michael J. Rodriguez, at 4-6.

²⁹ See *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005*, Order No. 667, FERC Stats. & Regs. ¶ 31,197, at P 151 (2005), *order on reh'g*, Order No. 667-A, FERC Stats. & Regs. ¶ 31,213 at PP 39-42, *order on reh'g*, Order No. 667-B, FERC Stats. & Regs. ¶ 31,224 (2006), *order on reh'g*, Order No. 667-C, 118 FERC ¶ 61,133 (2007) (describing Commission's authority to require the filing of cost-allocation agreements).

³⁰ 18 C.F.R. § 35.44(b)(1)(2014).

³¹ Transmittal at 11.

b. Commission Determination

25. We grant XETD's request to use the MISO regional base ROE, subject to the outcome of the complaint proceeding in Docket No. EL14-12-000.³² Transmission-owning members of MISO are currently authorized to use a 12.38 percent ROE for calculating their annual transmission revenue requirement. If XETD becomes a transmission-owning member of MISO, it will also be entitled to receive the then-current ROE that the Commission has approved for MISO transmission owners, as long as it remains a transmission-owning member of MISO.

5. Depreciation Rates

a. Proposal

26. XETD explains that it has no direct historical data to perform a depreciation study because it has no specific proposed projects at this time. Instead, XETD proposes to use depreciation rates that are in large part identical to the depreciation rates currently in effect for Northern States, another Xcel subsidiary.³³ XETD states that the Northern States facilities are a good proxy for the transmission facilities that XETD is likely to own in the future. Specifically, XETD states that it plans to rely on the same service providers as Northern States and follow the same practices when constructing, operating and maintaining its own facilities in the future. In addition, XETD notes that the Northern States facilities cover the largest number of states, making them a good proxy for XETD, which could own facilities anywhere in the MISO region. XETD also states that it needs additional categories of depreciation rates that Northern States does not require; therefore XETD derived the rates from other Xcel Operating Companies' Commission-approved depreciation rates.³⁴

³² *Ass'n of Businesses Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049 (2014).

³³ Xcel references the depreciation rates accepted by the Commission in Docket No. ER14-1325-000, involving an interchange agreement between Northern States and Northern States Power Company of Wisconsin. These depreciation rates were supported by depreciation studies submitted to the state public utility commissions in Minnesota, North Dakota and South Dakota. Transmittal at 14 n.71.

³⁴ Transmittal at 16.

b. Commission Determination

27. We accept XETD's proposed depreciation rates. We recognize that because XETD's transmission facilities have yet to be identified, there is no historical data to support a depreciation study. In the past, the Commission has accepted formula rates that use a corporate affiliate's Commission-approved depreciation rates for a transmission joint venture start-up, and we do so here.³⁵ We find that, as Northern States is an affiliate company with transmission facilities located throughout the MISO region, Northern States' depreciation rates are an appropriate proxy for XETD to adopt in determining its proposed depreciation rates.

6. Formula Rate Template and Protocols

a. Proposal

28. XETD requests Commission approval of its formula rate template, which tracks increases and decreases in cost and investment. XETD notes that it will forecast the net revenue requirement for each year, including any discount, and assess the resulting rate in the same year pursuant to the MISO Tariff.³⁶ XETD explains that it forecasts average rate base balance and annual expenses for the subsequent year by October 1. The rate for the next year will be calculated based on these forecasts.³⁷ XETD explains that the formula rate template uses 13-month average plant balances to determine the rate base, upon which the return and the income tax components of the ATRR are calculated. XETD explains that forecasted values are subject to a subsequent true-up, with interest.³⁸ XETD states that it is not seeking Order No. 679 incentives in this filing, but has included placeholders in the formula rate template to accommodate project-specific incentives that may be granted in the future.³⁹

³⁵ See *RITELine*, 137 FERC ¶ 61,039 at P 124.

³⁶ Transmittal at 6-7.

³⁷ *Id.* at 7-8.

³⁸ *Id.* at 7. XETD explains that interest on any over-recovery is calculated pursuant to section 35.19a of the Commission's regulations while interest on any under-recovery is calculated using the interest equal to XETD's actual short-term debt costs capped at the Commission interest rate calculated pursuant to section 35.19a. *Id.* at 8.

³⁹ *Id.* at 9.

29. XETD contends that the formula rate template is reasonable because XETD plans to invest substantial amounts in transmission facilities in MISO. XETD contends that its formula rate template allows it to collect a rate that is representative of the costs in the current period, provides for greater certainty for cost recovery of capital expenditures, and ensures that customers pay no more than the cost to serve them over the lives of the projects.⁴⁰ XETD explains that the formula rate template is derived from the Commission-approved, forward-looking formula rate filed by American Transmission Company, LLC⁴¹ and that the Commission has approved numerous other transmission formulas that employ similar true-up mechanisms.⁴²

30. XETD also requests approval of its protocols, which contain its annual true-up, information exchange, and challenge procedures. XETD contends that the protocols clarify that project-specific revenue requirements determined by the formula rate template are ceiling rates and will allow XETD to discount its revenue requirements, if necessary, to recognize any cost commitments XETD makes during the competitive bidding process in connection with a specific project.⁴³ XETD claims that the protocols are consistent with recent Commission orders addressing the MISO Tariff Attachment O protocols for forward-looking formula rates.⁴⁴ In addition, XETD agrees to make any additional changes to its proposed protocols that the Commission may order in Docket No. ER13-2379-000, *et al.*⁴⁵

⁴⁰ *Id.* at 8.

⁴¹ *Id.* (citing *American Transmission Co., LLC*, 97 FERC ¶ 61,139 (2001)).

⁴² *Id.* (citing *Boston Edison Co.*, 91 FERC ¶ 61,198 (2000); *Northeast Utils. Serv. Co.*, 105 FERC ¶ 61,089 (2003), *reh'g denied*, 111 FERC ¶ 61,333 (2005); *San Diego Gas & Elec. Co.*, 103 FERC ¶ 61,115 (2003), *reh'g denied*, 104 FERC ¶ 61,149 (2003); *Commonwealth Edison Co.*, 122 FERC ¶ 61,030 (2008); *American Elec. Power Serv. Corp.*, 124 FERC ¶ 61,306 (2008); *Tallgrass Transmission, LLC*, 132 FERC ¶ 61,114 (2010); *American Elec. Power Transmission Co.*, 135 FERC ¶ 61,066 (2011); *RITELine*, 137 FERC ¶ 61,039).

⁴³ *Id.* at 9.

⁴⁴ *Id.* at 9-10 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013), *reh'g denied*, 146 FERC ¶ 61,209 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014)).

⁴⁵ Exhibit No. XET-500, Direct Testimony of Alan C. Heintz, at 17.

b. Comments

31. In its comments, MISO states that it takes no position with respect to the justness and/or reasonableness of XETD's filing. However, MISO requests four clarifications. First, MISO requests clarification as to how Attachment 3 will be used to calculate the Attachment O True-up because Attachment 3, Column C contains the description title of "MTEP Project Number" which would not appear to include any transmission assets to be recovered through the Attachment O-XETD. Second, MISO questions the purpose of Line 29a on Page 3 of the formula rate template because there are no incremental returns or discounts included and it is not clear to MISO why this line is being added. Third, MISO states that it has discussed with XETD potential modifications to Attachment 5 (Exhibit No. XET-502, Page 11 of 17) to clarify the inputs and calculations in the "Return" section of the Attachment. Fourth, MISO expresses concern that the format of XETD's proposed Attachment 1, Attachment GG, and Attachment MM differ. MISO states that XETD committed to providing clarification for each of these items.

c. Answer

32. XETD filed an answer confirming that it agrees to make clarifying revisions to its proposed formula rate template in an appropriate compliance filing. XETD believes that MISO's requested clarifications are not intended to alter the substance of the formula rate template, but are instead changes intended to enhance the formula rate template's transparency and clarity, making it easier for MISO to administer under its Tariff.

d. Commission Determination

33. We conditionally accept XETD's proposed formula rate template and protocols, subject to a compliance filing to be made within 30 days of the date of this order to address the matters discussed below. While the formula rate template and protocols generally conform to other Commission-accepted formula rates, there are several variances that XETD has not explained as well as errors that XETD would need to correct.

i. Formula Rate Issues

34. We find that XETD has not sufficiently justified its calculation of cost of debt during the construction period. Note DD⁴⁶ in the formula rate template states that the

⁴⁶ Note DD in the formula rate template states:

Prior to issuing any debt, a cost of debt of 2.4 [percent] will be used without true-up. After [i]ssuing any debt, the cost of debt is

(continued)

methodology to determine the cost of debt after issuing debt is provided on Attachment 8. Attachment 8 provides an estimate for the cost of debt with Note 2 stating “The [internal rate of return] is a discount rate that makes the net present value of a series of cash flows equal to zero. The [internal rate of return] equation can only be solved through iterations performed by a computer program (i.e. [net present value] function with goal seek in a spreadsheet program).” Neither this explanation nor the discussion in Mr. Tyson’s affidavit mathematically demonstrates how the internal rate of return is calculated, including how any calculations draw from the information in Attachment 8.

Accordingly, we direct XETD, in its compliance filing, to propose revisions to its formula rate template to explain its calculation of the cost of debt during the construction period and an explanation of how Attachment 8 will be implemented and updated each year. Specifically, it is not clear if the forecast through 2020 is illustrative and only forecasts and actual costs will be included for each year that the rate is implemented, or if XETD is instead going to forecast out for the construction period (2020) and then update each year based on actual interest, withdrawals, origination fees, commitment fees, as well as Commitment, Utilization, and Ratings Fees. We direct XETD to explain and support such calculations as well as specify their inputs. Additionally, we direct XETD to provide a narrative explanation of the basis for the proposed interest rate prior to issuing debt. XETD states that the 200 basis point spread over the LIBOR rate is “based on the expectation that XETD would not have a credit rating when it secures its internal revolving credit facility or construction financing.”⁴⁷ Although this statement explains why there is a spread over the LIBOR rate, XETD has not described why 200 basis points is the appropriate spread. We also note that there is a discrepancy between Note DD (2.4 percent) and Attachment 5 (2.24 percent), Attachment 8 (2.24 percent) and the testimony (2.24 percent), which we direct XETD to correct.⁴⁸

35. In addition, we find that XETD’s formula rate template should recognize unfunded operations and maintenance costs reserves. Utilities may accrue monies through charges

determined using the internal rate of return methodology shown on Attachment 8 until a project is placed in service obtained subject to true-up pursuant to Attachment 9. The cost of debt is determined using the methodology in Attachment 5 once a project is placed in service. Attachment 8 contains a hypothetical example of the internal rate of return methodology; the methodology will be applied to actual amounts for use in Appendix A.

⁴⁷ Exhibit XET-200, Direct Testimony of George E. Tyson II, at 12.

⁴⁸ Exhibit XET-200, Direct Testimony of Alan C. Heintz, at 13.

to operation and maintenance expense to fund contingent liabilities, and such accrued reserves should be deducted from rate base until they are used to fund the liabilities because such reserves represent a cost-free form of financial capital from customers to utilities, not unlike Accumulated Deferred Income Taxes (ADIT), which are deducted from rate base. Accordingly, we direct, XETD to propose revisions to its formula rate template to credit any unfunded reserves against rate base.

36. Note F of the formula rate template states:

The balances in Accounts 190, 281, 282, 283, as adjusted by any amounts in contra accounts identified as regulatory assets or liabilities related to FASB [Financial Accounting Standards Board] 106 or 109. Balance of Account 255 is reduced by prior flow throughs and excluded if the utility chose to utilize amortization of tax credits against taxable income. Account 281 is not allocated. The maximum deferred tax offset to rate base is calculated in accordance with the proration formula prescribed by IRS regulation section 1.167(l)-1(h)(6).⁴⁹

XETD has also included reference to the Internal Revenue Service (IRS) regulation in Attachment 4, Note B. However, in calculating ADIT Accounts 190, 281, 282, and 283 in Columns D, E, F, and G of Attachment 4, respectively, XETD cites to Note D, which states “ADIT is computed using the average of beginning of the year and the end of the year.” This note appears to contradict Note F included in the formula rate template and Note B in Attachment 4. XETD is directed to propose revisions that explain how it will calculate the ADIT inputs in the compliance filing due within 30 days of this order.

37. The Commission’s policy has been to use beginning and end of year ADIT balances to calculate an average balance to be used for ADIT.⁵⁰ In a recent order, the Commission found the use of the proration formula prescribed by IRS regulation section 1.167(l)-1(h)(6) to be an issue of first impression.⁵¹ In that order, the Commission stated that the decision on usage of the proration formula would greatly benefit from a private letter ruling from the IRS on the specific matters of tax law in order to obtain the IRS’s

⁴⁹ Exhibit No. XET-502 at 5 Note F.

⁵⁰ 18 C.F.R § 35.13(h)(6).

⁵¹ See *PJM Interconnection, L.L.C.*, 147 FERC ¶ 61,254, at P 18 (2014).

interpretation of how its Normalization Rules apply in the context of formula rates.⁵² While the Commission set the tariff sheets for hearing, it held the proceedings in abeyance until the applicant in that proceeding receives and supplements the record with a private letter ruling from the IRS. In this order, to the extent XETD is proposing to use the proration formula as prescribed by the IRS, we conditionally accept the usage of the proration formula, subject to XETD receiving a private letter ruling from the IRS stating that XETD must use the proration formula in its formula rate template to comply with IRS regulations and, in the compliance filing due within 30 days of this order, providing workpapers and a narrative explanation of how XETD intends to implement the proration formula. If XETD seeks but does not receive such a ruling, it must submit a compliance filing within 30 days of receiving notice of the IRS' determination to remove references to the proration formula from the formula rate template and instead use beginning and end of year balances to calculate an average ADIT balance. If XETD does not seek such a ruling, in the compliance due within 30 days of this order, XETD is directed to remove references to the proration formula from the formula rate template and instead use beginning and end of year balances to calculate an average ADIT balance.

38. We note that XETD's Attachment 1, Attachment GG and Attachment MM are not the same format; XETD should make corrections so that the format of all three templates is the same. In particular, Attachment 1, Page 2 of XETD's formula rate template includes Column 16a for the Ceiling Rate. However, XETD has not included the same column in Attachments GG and MM which appear to be identical spreadsheets for calculating the revenue requirements even though discounting is possible for MVP and MEP projects whose costs are recovered through these schedules. We share the concern MISO raised in its comments that the format of these attachments are not identical. In its discussions with MISO, XETD confirmed that their intent was for Attachment 1, Attachment GG and Attachment MM to be calculated identically and committed to making the format of all three attachments identical.⁵³ Therefore, we direct XETD to add the ceiling rate elements of Attachment 1 to Attachments GG and MM. In addition, Column 16 of Page 2 of both Attachment GG and MM references "Attachment O, Attachment 1" but does not provide a specific line or column number as a source reference. For sufficient specificity of the formula rate, we direct XETD to include a specific cite. Further, we direct XETD to clarify the mechanics of calculating the discounts in Attachments 1, GG and MM, and to specify whether the amount in Column 17 of Page 2 of XETD's proposed Attachments 1, GG and MM, equal the amount by

⁵² *Id.*

⁵³ MISO Comments at 4.

which the annual revenue requirement is reduced from the ceiling rate, or reflects some other basis.

39. Furthermore, XETD's Attachment 3 Column C references "MTEP Project Number," however, it is unclear from the column description how this would include all of the transmission assets whose costs are to be recovered through the Attachment O formula rate template ATRR. Also, Attachment 3 Column D references, "as Reported in Form No. 1," but does not include a specific page and line reference. We direct XETD to correct these deficiencies. We direct XETD to include in Attachment 3 a detailed narrative explanation of how it calculates the true-up adjustment.

40. In Attachment 7, XETD calculates the post-retirement benefits other than pension (PBOP) costs which will be included on Page 3, Lines 5b and 5c of the formula rate template. XETD has included amounts in Line 2 which based on Note A are reflective of amounts from 2015 data from the May 7, 2014 actuarial report. However, XETD did not provide the May 7, 2014 actuarial report in the instant filing for the Commission to evaluate the proposed PBOP costs, nor has it previously been filed with the Commission for use by XETD's affiliates. The Commission has stated in the past that future PBOP recovery filings must include the actuarial reports and all pertinent rate sheets.⁵⁴ We therefore direct XETD to file the actuarial report referenced in Note A in its compliance filing. In addition, Attachment 7 is unclear of the source (page and/or line number cite) for those costs on Lines 2, 3, and 5 and how the costs from Lines 4, 6 and 8 are to be calculated. In order to ensure sufficient specificity in calculations and the source for data, we direct XETD to provide those clarifications in Attachment 7. Further, we direct XETD to propose revisions to its formula rate template explaining what Note B relates to and who "former NMC" is. We also note that PBOP amounts can only be changed pursuant to a section 205 or 206 filing.

41. XETD includes in Attachments 1, GG and MM, Note D which states, "Project Net Plant is the Project Gross Plant Identified in Column 3 less the associated Accumulated Depreciation. Net Plant includes Unamortized Abandoned Plant and any FERC approved Regulatory Asset,"⁵⁵ and Note E states, "Project Depreciation Expense is the actual value booked for the project and included in the Depreciation Expense in Attachment O page 3 line 12. Project Depreciation Expense includes the amortization of Abandoned Plant and

⁵⁴ *Boston Edison Co.*, 74 FERC ¶ 61,178 (citing *Maine Yankee Atomic Power Co.*, 66 FERC ¶ 61,375, *clarified*, 68 FERC ¶ 61,190 (1994)).

⁵⁵ Exhibit No. XET-504 at 9.

any FERC approved Regulatory Asset,”⁵⁶ However, XETD’s formula rate template also includes Amortization of Regulatory Asset in the Annual Allocation factor for Other Operations and Maintenance (O&M) Expense. It is unclear how XETD proposes to identify project-specific costs related to Amortization of Regulatory Asset and Unamortized Regulatory Asset for inclusion in Attachments 1, GG and MM, since the proposed regulatory asset costs are not associated with specific projects. In addition, under XETD’s proposal, Amortization of Regulatory Asset would be double recovered in the project-specific revenue requirements, once through Project Depreciation Expense and again through the application of Annual Allocation Factor for Other O&M Expense to gross transmission plant. We direct XETD to provide clarification on how it proposes to identify the project-specific regulatory asset costs and include an explanation in Attachments 1, GG and MM, and to address the double recovery identified above; in the alternative, XETD could propose a means to recover the regulatory asset costs that is not a project-specific basis (e.g., through the annual expense and return allocators). In addition, we direct XETD in a compliance filing, to attribute notes A, B, C, and G, which describe Gross Transmission Plant, Net Transmission Plant, Project Net Plant, and the Total General and Common Depreciation Expense, respectively, to specific columns.

42. In addition, on Page 3, Line 29a, XETD’s proposed formula rate template calculates “Incremental Return from Incentives Less Discounts.” MISO stated in its comments that based on its understanding of the filing, there are no incremental returns of discounts and the inclusion of this line is unclear and that XETD committed in their conversations to provide clarification.⁵⁷ Because Lines 30 and 30a account for the Attachment GG and MM revenue requirements that do include incremental return from incentives less discounts, the adjustment on Line 29a appears necessary to ensure that the Attachment O revenue requirement does not take away incentive returns or allow for XETD to make up discounts agreed upon for transmission projects. We direct XETD to provide a narrative explanation to confirm our understanding of the inclusion of Line 29a in the formula rate template, or to otherwise clarify its intents, and to satisfy its commitment to MISO.

ii. Formula Rate Corrections

43. On Page 1, Line 6b of XETD’s proposed formula rate template, “True-up Adjustment with Interest,” references Attachment 3 but does not cite a specific line or column number. We direct XETD to propose a specific cite, including line number. On

⁵⁶ *Id.* at 9.

⁵⁷ MISO Comments at 4.

Page 2, Line 24 (Total Adjustments) of the proposed formula rate template, XETD references the sum of Lines 19 through 23c. However, there is no Line 23c. We direct XETD to correct this error. On Page 2, Line 30, XETD lists the total Rate Base as the “Sum of Lines 18, 24, 25 & 29.” However, this calculation does not include the placeholder for CWIP that XETD included on Line 18a. In order to correctly recover CWIP, as XETD potentially intends to do if it receives Commission approval in the future, the equation in the source column for Rate Base would need to include Line 18a. If we accepted the formula rate template as filed, XETD would need to make a section 205 filing to alter the formula rate once it has costs in CWIP to recover. To avoid the need to make that additional filing, we direct XETD to correct Page 2, Line 30 to include Line 18a in the calculation of Rate Base.

44. On Page 3 of XETD’s proposed formula rate template, both Lines 1a and 1b contain erroneous FERC Form No. 1 line references. Line 1a (Less LSE Expenses Included in Transmission O&M Accounts), references line 97 of page 321 of the FERC Form No. 1, which relates to Account 566, Miscellaneous Transmission Expenses, therefore is the incorrect source for LSE Expenses. Line 1b (Less Account 566), incorrectly references Line 96 of Page 321 of the FERC Form No.1 which relates to Account 565-Transmission of Electricity by Others. XETD would also need to correct Page 3 Line 7d (Total Account 566). XETD lists the source for Total Account 566 as, “(Line 11 plus Line 12) Ties to 321.97b.” However, Lines 11 and 12 reference common depreciation expense and total depreciation that are not considered components of Account 566. We direct XETD to correct these errors. XETD’s proposal also includes separate line items on Page 3 of the formula rate template for Amortization of Regulatory Asset, Line 7b, and Miscellaneous Transmission Expense, Line 7c, which reference Columns I and J of Attachment 5. Because Amortization of Regulatory Asset is a component of Miscellaneous Transmission Expense, both of these columns reference Line 97 of page 321 of the FERC Form No. 1. We direct XETD to revise the labeling of Line 7c and Attachment 5, Column J to “Miscellaneous Transmission Expense (less Amortization of Regulatory Asset)” to ensure that the amounts in Line 7b are not included in Line 7c.

45. On Page 3, Line 5b (“Less PBOP [Post-Employment Benefits other than Pensions] Expense in Year”) and Line 5c (“Plus PBOP Expense Allowed Amount”), reference as the source, Attachment 7, Line 8 and Line 6, respectively. However, XETD needs to provide a specific column number as a reference to ensure specificity of the source data. On Line 8 of the proposed formula rate template, XETD calculates the Total Operation and Maintenance (Total O&M) costs. However, XETD incorrectly includes Line 7 twice in calculating Total O&M. Also, it appears that Line 8 also fails to include Line 2-Less Account 565 and Line 6-Common Operations and Maintenance Costs in the calculation of Total O&M. Further, on Page 3, Line 12-Total Depreciation, XETD also appears to incorrectly calculate total depreciation by including the Line 12 in the sum. We direct XETD to correct these errors.

46. On Page 3, Line 30 (Less Attachment GG Adjustment) of XETD's proposed formula rate template, references Page 2, Lines 2, 23a, 23b, and 23c. However, the reference to Line 23c of Page 2 appears in error because there is no Line 23c of Page 2. This error also appears in Line 30a (Less Attachment MM Adjustment). We direct XETD to correct these errors.

47. Page 4 of XETD's proposed formula rate template, Line 16, totals the components of the wages and salaries allocator. However, XETD incorrectly references Lines 7 through 10 instead of Lines 12 through 15. Similarly, Line 20 which totals the components of Common Plant allocator, incorrectly references Lines 13 through 15, instead of Lines 17 through 19. Additionally, Line 30, which totals the components for calculating the Return incorrectly, references Lines 20 through 22, instead of Lines 27 through 29. We direct XETD to correct these errors.

48. In Attachment 4, Column E, XETD references "205.5.g and 207.90.g" as the source for "General and Intangible." The second source, Line 90 of Page 207 of the FERC Form No. 1 incorrectly references "Stores Equipment," which is one type of general plant. The correct line reference with respect to total general plant should be 207.99.g, which is "Total General Plant" in the FERC Form No. 1. In addition, Columns B through H of the Adjustments to Rate Base section of Attachment 4 does not include the FERC Form No. 1 references. We direct XETD to propose revisions to correct these errors in a compliance filing to ensure sufficient specificity in the calculation of the costs included in Attachment 4.

49. On Attachment 5, of XETD's proposed formula rate template, Column G, Transmission Related Regulatory Commission Expenses, references Line 5b of Page 3 of the formula rate template. This reference appears incorrect because Line 5b of Page 3 is related to PBOP Expense in Year. Similarly, Column H, Transmission Lease Payments, appears to incorrectly reference Line 5a of Page 3, Transmission Related Regulatory Commission Expenses. Additionally, Column I, Amortization of Regulatory Asset, appears to incorrectly reference Line 7 of Page 3, Transmission Lease Payments. Column J, Miscellaneous Transmission Expenses, appears to incorrectly reference Line 7b of Page 3, Amortization of Regulatory Assets. Column K, Depreciation Expense – Transmission appears to incorrectly reference Line 7c of Page 3, Miscellaneous Transmission Expense. Finally, Column J, Less LSE Expenses included in Transmission O&M Accounts, appears to incorrectly reference Line 9 of Page 3, Transmission Depreciation. In addition, Attachment 5 fails to include a column for Depreciation Expense – Common. We direct XETD to correct these errors.

50. Also, on Line 34, Common Stock of Attachment 5 of the XETD's proposed formula rate template, XETD appears to incorrectly calculate Common Stock by including the Line 34 in the sum. Additionally, Line 38, incorrectly references Lines 20 through 22 instead of Lines 35 through 37. We direct XETD to correct these errors.

51. XETD's Attachments GG and MM, Column 16, Incentive Returns, references "Attachment O Attachment 1." This reference, in addition to lacking line or column numbers, appears in error because the incentive return is calculated in Attachment 2, not Attachment 1. We direct XETD to correct this error and provide a reference.

52. In addition, as XETD committed to in its answer, we direct that XETD also make the clarifying revisions MISO requested in its comments and to submit them in the compliance filing for Commission review.

53. Lastly, as agreed to by XETD, we accept the protocols subject to the outcome of MISO's formula rate protocols proceedings currently pending in Docket No. ER13-2379-000, *et al.*

7. Request for Waivers

54. XETD asks that the Commission find that the formula rate template satisfies the requirement of 18 C.F.R. § 35.13 to file detailed cost of service schedules, or waive the requirement because the rates are formulary and will be based on actual costs. We grant XETD's request for waiver of section 35.13 requirements, consistent with our prior approval of formula rates.⁵⁸

55. XETD also asks for a limited partial waiver, to the extent necessary, of the Commission's regulations regarding the filing of rate schedules in eTariff. XETD states that after it becomes a transmission owner, it will ask MISO to incorporate XETD's formula rate template into the MISO Tariff at which time an eTariff filing will be made. Given that the formula rate template cannot be used to charge customers before the formula rate template is incorporated into MISO's Tariff, we waive the eTariff requirement at this time.

The Commission orders:

(A) XETD's request for a hypothetical capital structure is hereby granted, as discussed in the body of this order.

(B) XETD's request to defer as a regulatory asset all of its prudently incurred costs that are not capitalized, including pre-commercial and formation costs, is hereby granted, effective November 1, 2014, as discussed in the body of this order.

⁵⁸ See *RITELine*, 137 FERC ¶ 61,039 at P 134.

(C) XETD's request to use the ROE approved for MISO transmission owners is hereby granted, subject to the outcome of the pending complaint proceeding in Docket No. EL14-12-000, as discussed in the body of this order.

(D) XETD's proposed formula rate template and protocols are hereby conditionally accepted for filing, subject to a compliance filing to be made within 30 days of the date of this order, and subject to the formula rate protocols proceedings currently pending in Docket No. ER13-2379-000, *et al.* as discussed in the body of this order.

(E) XETD's proposed formula rate template and protocols will take effect once filed with the Commission to become part of MISO's Tariff, consistent with the effective date established in that future proceeding.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.